Abstract

Allusion or Illusion?

The Literary Relationship between the Holiness Code and other Pentateuchal Legal Corpora

The present study analyzes the literary relationship between the Holiness Code (H) and other legal corpora in the Pentateuch, namely, the Covenant Code (CC), the Priestly Code (P), and the Deuteronomic Code (D). After surveying the current state of research on how H relates to other pentateuchal legal corpora, this study develops a method for analyzing the literary relationship between two or more texts by focusing on the linguistic features of the texts, such as lexical, syntactic, semantic, and structural-thematic features. This method is then applied to three passages in H proper, namely, the laws of cultic centralization and animal slaughter in Lev 17, the laws of the festivals in Lev 23, and the laws of the Sabbatical and Jubilee Years in Lev 25. These laws in H are compared with their parallel laws in CC, P, and D to identify the presence of a literary connection, to assess the nature of the literary connection, and to determine the direction of the literary dependence.

The analyses of these passages demonstrate that the degrees of literary connections between H's laws and their parallel laws in the Pentateuch vary. The literary relationship between H and P is extensive and systematic, as evidenced by the high degree of literary borrowing of the latter by the former. By contrast, the literary relationship between H and non-Priestly pentateuchal legal corpora is less salient. Despite claims that H overtly revises non-priestly legislation, the present study finds that H's reuse of non-Priestly legislation is generally covert, if present at all. Moreover, while the knowledge of P is required to understand H, it is not necessary for the reader of H to consult or be aware of CC and D to comprehend its laws. This

study further discusses the compositional method and exegetical purpose of H's legal innovation, or lack thereof, as exemplified by the three laws in Lev 17, 23, and 25 vis-à-vis their parallels in the other pentateuchal legal corpora. The findings do not support the notion that H was intended to be a "super law" that supersedes or replaces *all* other pentateuchal legal corpora. Instead, these laws in H were composed to supplement P with occasional reuse of materials from CC and little to no interest in D.

Allusion or Illusion?

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Chapter 1

The Relationship between the Holiness Code and other Pentateuchal Legal Corpora:

A History of Research and The Problem of Literary Dependence

1. Introduction

What would later be recognized as the Holiness Code (*das Heiligkeitsgesetz*),[1] a corpus distinct

from the rest of the priestly material in Leviticus, was first identified by Karl Heinrich Graf in

1866 based on linguistic features, such as distinctive vocabulary and formulae.[2] In his proposal,

Graf isolated Leviticus 18–23 and 25–26 as an independent legal collection authored by Ezekiel.[3]

Graf's hypothesis on the original independence of this corpus was later refined by August

Kayser, who included Leviticus 17 as a part of the Holiness Code (H).[4] While various theories

have been proposed to explain the composition of Lev 17–26, one central question continues to

be debated in the scholarship: what is the nature of its relationship with other legal corpora in the

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[1] The term "Holiness Code" (das Heiligkeitsgesetz) was first coined by August Klostermann in "Ezechiel und das Heiligkeitsgesetz," *Zeitschrift für die Gesammte Lutherische Theologie und Kirche* 38 (1877): 401–45; Cf. August Klostermann, "Ezechiel und das Heiligkeitsgesetz," in *Der Pentateuch: Beiträge zu seinem Verständnis und seiner Entstehungsgeschichte* (Leipzig: Böhne, 1893).

[2] Karl Heinrich Graf, *Die geschichtlichen Bücher des Alten Testaments: zwei historisch-kristische Untersuchungen* (Leipzig: T.O. Weigel, 1866), 75. For lists of H's distinctive vocabulary and formulae, see S. R Driver, *An Introduction to the Literature of the Old Testament* (New York: Charles Scribner's Sons, 1914), 49–50; Israel Knohl, *The Sanctuary of Silence: The Priestly Torah and the Holiness School* (Minneapolis: Fortress, 1995), 106–10.

[3] Graf, *Die geschichtlichen Bücher*, 75–83.

[4] August Kayser, *Das Vorexilische Buch der Urgeschichte Israels und seine Erweiterungen: ein Beitrag zur Pentateuch-Kritik* (Strassburg: C. F. Schmidt's Univeritäts-Buchhandlung, 1874), 64–79.

Pentateuch, namely, the Covenant Code (CC), the Priestly Code (P), and the Deuteronomic Code (D).[5]

2. Theories of the Literary Relationship between H and other Pentateuchal Legal Corpora

2.1. The Relationship between H and P

Before delving into the issue of literary priority in the case of H and P, it should first be noted that the relationship between H and P is closely linked to the question of whether or not the original version of H was an independent document prior to its insertion into Leviticus. Scholars have noticed that, despite the original proposal on H's independence as a legal code, H does not have a comparable introduction as in CC and D, which begin with similar formulaic introductions (ואלֹה המשפטים in Exod 21:1 and אלֹה החקים והמשפטים in Deut 12:1). Furthermore, in addition to what seems to be a lack of subject order, there are passages that contain H-like material outside of H proper (Lev 17–26).[6] Against the consensus on H's independence that had been widely held since its introduction by Graf, Karl Elliger argued that H was never an independent body but was originally written as a sequel to the original P, namely, the narrative P (P[G]).[7] Volker Wagner, in his seminal article, contended that Lev 17–26 was part of a larger

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[5] For a more comprehensive history of scholarship on H, see Klaus Grünwaldt, *Das Heiligkeitsgesetz Leviticus 17-26: Ursprüngliche Gestalt, Tradition und Theologie*, BZAW 271 (Berlin; New York: De Gruyter, 1999), 5–22; Andreas Ruwe, *"Heiligkeitsgesetz" und "Priesterschrift": Literaturgeschichtliche und rechtssystematische Untersuchungen zu Leviticus 17,1-26,2* (Tübingen: Mohr Siebeck, 1999), 5–35; Michael A. Lyons, *From Law to Prophecy: Ezekiel's Use of the Holiness Code* (New York: T&T Clark, 2009), 19–29.

[6] Joseph Blenkinsopp, for instance, observes, "The chapters assigned to H come without a title and manifest too little internal coherence to suggest a quite distinct document" (*The Pentateuch: An Introduction to the First Five Books of the Bible* [New York: Doubleday, 1992], 224).

[7] Karl Elliger, *Leviticus*, HAT 1:4 (Tübingen: J. C. B. Mohr [Paul Siebeck], 1966), 14–20. This theory is followed by other scholars, such as, Alfred Cholewiński, *Heiligkeitsgesetz und Deuteronomium: Eine vergleichende Studie*, AnBib 66 (Rome: Biblical Institute Press, 1976), 334–38.

structure of Leviticus, without which the whole structure becomes incomprehensible.[8] This

hypothesis has gained support from scholars like Erhard Blum[9] and Andreas Ruwe.[10]

A growing number of scholars now regard H as a discrete corpus and not a series of

redactional layers. Jacob Milgrom, for instance, despite not calling it an independent corpus,

believe that the authors of H, who were also the redactors of P, composed this legal collection

and prefaced the corpus with P material in Leviticus 1–16.[11] Similar to Milgrom, Christophe

Nihan argues that H was a single literary composition because Lev 17–26, except for Lev 18:7–

17a, "form a remarkably complex and elaborate set of legislation, that is nevertheless

homogeneous and coherent."[12] However, he maintains that this corpus has never existed as a

distinct document outside of Leviticus.[13]

2.1.1. The Priority of H over P

Following the prevalent opinion during his time that H preceded P, Julius Wellhausen posited

that Lev 17–26 was an older, independent legal collection reworked and added to the priestly

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[8] Volker Wagner, "Zur Existenz des sogenannten »Heiligkeitsgesetzes«," *ZAW* 86 (1974): 307–16.

[9] Erhard Blum, *Studien zur Komposition des Pentateuch*, BZAW 189 (Berlin; New York: de Gruyter, 1990), 318–32; Erhard Blum, "Issues and Problems in the Contemporary Debate Regarding the Priestly Writings," in *The Strata of the Priestly Writings: Contemporary Debate and Future Directions* (Zürich: Theologischer Verlag Zürich, 2009), 31–44.

[10] Ruwe, *Heiligkeitsgesetz*, 39–52.

[11] Jacob A. Milgrom, "H$_R$ in Leviticus and Elsewhere in the Torah," in *The Book of Leviticus: Composition and Reception*, ed. Rolf Rendtorff and Robert A. Kugler (Atlanta: SBL Press, 2006), 24.

[12] Christophe Nihan, *From Priestly Torah to Pentateuch: A Study in the Composition of the Book of Leviticus*, FAT 25 (Tübingen: Mohr Siebeck, 2007), 545.

[13] Nihan, *From Priestly Torah*, 546.

material.[14] According to Wellhausen's theory, which is succinctly summarized by Israel Knohl,

"H constitutes an intermediate stage between the J, E, and D sources and the P source; thus it still

contains some of the spirit of popular ritual worship, but it also shows signs of the Priestly

conception that was to reach its full consolidation in the creation of P."[15] However, Wellhausen

also admitted that the last edition of H might have postdated P.[16] Similar to Wellhausen's

position is that of Abraham Kuenen, who postulated that there was an older priestly stratum

underlying the composition of H.[17] In his opinion, this earlier version of H was later fused into

the current form of P by the scribes from the Priestly school.

The priority of H over P continues to find support in the current scholarship. Baruch A.

Levine, for example, in his analysis of Leviticus 23, posits that the presentation of the display

offerings in the passage (vv. 9–11, 14, 15–17, 20–22) has been modified by a later priestly writer

to conform to the sacrificial prescriptions in P, namely, in Leviticus 1–7. Thus, he states, "This

source-critical analysis argues for the primacy of H in the *Priesterschrift*, showing that the rites

as prescribed in H, representing the earlier mode, were adapted to the later mode, which became

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[14] Julius Wellhausen, *Die Composition des Hexateuchs und der historischen Bücher des Alten Testaments*, 3rd ed. (Berlin: Druck und Verlag von Georg Reimer, 1899), 150. The hypothesis that H was an independent corpus has been subject to much criticism. Already in 1912, Bernardus D. Eerdmans pointed out several indications that H was never an independent corpus, namely, (1) the lack of a superscription that marks the beginning of a new unit as found in Exod 21:1 and Deut 12:1, (2) the lack of structural integrity, (3) the lack of indication of an exilic adaptation of the laws in this corpus, (4) the theme holiness does not govern the corpus as a whole, and (5) the use of H's vocabulary outside of H, including in the prophetic literature (*Das Buch Leviticus*, Altentestamentliche Studien 4 [Giessen: Alfred Töpelman, 1912], 83–87).

[15] Knohl, *Sanctuary*, 4.

[16] Julius Wellhausen, *Prolegomena to the History of Israel*, trans. J. Sutherland Black and Allan Menzies (Edinburg: Black, 1885), 376–80.

[17] Abraham Kuenen, *An Historico-Critical Inquiry into the Origin and Composition of the Hexateuch (Pentateuch and Book of Joshua)*, trans. Philip H. Wicksteed (London: Macmillan, 1886), 87. So Driver, *An Introduction to the Literature of the Old Testament*, 47–48.

normal thereafter."[18] H (Lev 17–27), in his opinion, is "the primary stratum of Leviticus."[19] In a similar vein, Graeme Auld also argues for the priority of H over P based on his observation that the priestly composition in the book of Numbers shows a considerable interest in the role of the Levites (chs. 1, 2, 3, 4, 7, 8, 16, 17, 18, 26, 31, 35), whereas the Levites are only mentioned once H in Lev 25:32–33.[20] Since the role of the Levites became more prominent during the time of Chronicles, Ezra, and Nehemiah, Auld suggests that the rare mention of the Levites in H indicates its priority over P.

2.1.2. The Priority of P over H

Against the widely-held consensus during his time on the priority of H over P, Karl Elliger argued that H was never an independent body but originally written as a sequel to the original P, namely, P[G].[21] This view is rejected by Klaus Grünwaldt, who posits that, although H was written later than P, it was not originally composed as a sequel of P[G].[22] He further asserts that the original H corpus was disconnected from P[G], and the divine addresses to Moses and Aaron in H were the results of interpolation in the later redactional stage to connect it to P instead of indicators that H was an integral part of P.

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[18] Baruch A. Levine, "Leviticus: Its Literary History and Location in Biblical Literature," in *The Book of Leviticus: Composition and Reception*, eds. Rolf Rendtorff and Robert A. Kugler (Leiden; Boston: Brill, 2003), 17.

[19] Levine, "Leviticus," 21.

[20] Graeme Auld, "Leviticus: After Exodus and Before Numbers," in *The Book of Leviticus: Composition and Reception*, eds. Rolf Rendtorff and Robert A. Kugler (Leiden; Boston: Brill, 2003), 41–54.

[21] Elliger, *Leviticus*, 14–20. This theory is followed by other scholars, such as, Cholewiński, *Heiligkeitsgesetz*, 334–38.

[22] Grünwaldt, *Heiligkeitsgesetz*, 121–30.

Nihan rejects Grünwaldt's theory as "not only speculative but also difficult to accept" and offers several points of criticism.[23] He points out that Moses and Aaron are not only mentioned in the divine addresses but also in the body of the laws, which implies that H may have contained narratives in its original version.[24] Also, if H as an independent legal collection was not connected to any narrative, Nihan asks, why was it addressed to a community in Sinai in a narrative setting? He does not believe that Grünwaldt has any convincing answer to this problem. Furthermore, Nihan also refutes the view that H was originally a supplement to only P[G] and not the legal material of P. He observes that H seems to depend on several P laws and posits that the dependence of H upon P cannot be systematically explained as later interpolations.[25] In other words, H is composed initially as a supplement to P in Leviticus 1–16.[26]

Alternatively, Nihan follows Milgrom and Knohl and regards the tension between P and H is best explained as an indicator that H is a "later, *post*-P composition," which was composed to correct or revise the older P legislations.[27] In Nihan's model, H is not only post-P, but also all other legal corpora. He contends, "[H] has never existed as a separate document but was intended as a supplement to P, combining it with the systematic reception of other codes in the

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[23] Christophe Nihan, "The Holiness Code between D and P: Some Comments on the Function and Significance of Leviticus 17–26 in the Composition of the Torah," in *Das Deuteronomium zwischen Pentateuch und Deuteronomistischem Geschichtswerk*, eds. Reinhard Achenbach and Eckart Otto (Vandenhoeck & Ruprecht, 2004), 99–100. Reinhard Achenbach also offers substantial criticisms of Grünwaldt's theory ("Das Heiligkeitsgesetz im nachpriesterschriftlichen Pentateuch: Zu einem Buch von Klaus Grünwaldt," *ZABR* 6 [2000]: 341–50).

[24] Aaron is mentioned in Lev 21:17ba, 21aα; 22:3ab, 4aα, whereas Moses in Lev 24:11, 13, 23 (Nihan, "The Holiness Code Between D and P," 99).

[25] Nihan, "Holiness Code," 100.

[26] Nihan, *From Priestly Torah*, 546.

[27] Nihan, *From Priestly Torah*, 546. Emphasis original. Cf. Jacob Milgrom, *Leviticus 17–22: A New Translation with Introduction and Commentary* (New York: Doubleday, 2000), 1349–52; Knohl, *Sanctuary*, 200.

Pentateuch, the Decalogue, the 'Covenant Code' (CC), and the Deuteronomic Code. These codes are not replaced but rather harmonized, supplemented, and even revised in H."[28]

Furthermore, as has been pointed out by Milgrom and Knohl, H has a distinct vocabulary and differs in many instances from P.[29] This observation, therefore, renders it impossible for many scholars to think of H as the work of the same school as P.[30] This position, for example, is followed by Nihan, who, despite his agreement with Ruwe that the content of H is informed by P, rejects that H stems from the same hand as P.[31] By using various examples in H that he believes are the combination of D and P legal traditions, Nihan claims that the model attributing the composition of H to P cannot explain the influence of both P and D in H's legislations.[32] As an alternative model, he postulates, "H is unlikely to stem from the same hand as P, and is best explained as a post-P composition, which presupposes P but corrects it, in particular in order to harmonize it with the D tradition."[33] Julia Rhyder develops Nihan's theory and argues that H, which is a late priestly stratum from the Persian period, inherited various elements of cultic centralization from P and developed them into a more expansive and distinct logic of centralization.[34]

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[28] Nihan, *From Priestly Torah*, 616.

[29] Knohl, *Sanctuary*, 106–10; Jacob Milgrom, *Leviticus 1–16: A New Translation with Introduction and Commentary* (New York: Doubleday, 1991), 35–42; Milgrom, *Leviticus 17–22*, 1325–32.

[30] Knohl, *Sanctuary*, 111–22.

[31] Cf. Ruwe, *Heiligkeitsgesetz*, 90–120.

[32] Nihan, "Holiness Code," 103–5.

[33] Nihan, "Holiness Code," 102–3.

[34] Julia Rhyder, *Centralizing the Cult: The Holiness Legislation in Leviticus 17–26*, FAT 134 (Tübingen: Mohr Siebeck, 2019), 189.

2.2. The Relationship between H and CC

2.2.1.   The Priority of CC over H

In his *Prolegomena*, Wellhausen claimed that the legislations in CC reflects an older legal

tradition, which he believed to be indicators of the literary priority of CC over other legal codes

in the Pentateuch. He based this claim on his evolutionary model of the ancient Israelite religion

from an agricultural religion to a more complex religion. According to Wellhausen, the historical

development of the Israelite cult can be divided into three periods based on its history of sacrifice

as reflected in the three main legal collections in the Pentateuch: (1) The Book of the Covenant,

which allows multiplicity of altars, (2) Deuteronomy, which specifies a centralized cultic site,

and (3) the Priestly Code, which neither allows multiplicity of altars nor emphasizes the

importance of a centralized altar.[35] Wellhausen argued for the priority of CC because he viewed

D as correcting the earlier practice of non-centralized worship in CC. In the later development of

Israelite religion, the centralized worship introduced by D was considered as orthodoxy that P,

including H, no longer dealt with; rather, it was simply presupposed.[36] Furthermore, Wellhausen

claimed that the legislations in H originated from the Jehovistic legislation of Sinai, namely,

CC.[37]

Despite various modifications by later scholars, Wellhausen's model that prioritizes CC

over other pentateuchal laws has become a widely accepted hypothesis until recent years. Frank

Crüsemann, for example, regards the priority of CC over all other legal codes as an "indisputable

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[35] Wellhausen, *Prolegomena*, 28–38.

[36] Wellhausen, *Prolegomena*, 35.

[37] Wellhausen, *Prolegomena*, 376.

fact."[38] He further claims, "This temporal sequence [that CC is the earliest legal code] remains valid for the essential portions even when, as is occasionally suggested, a few passages of the Book of the Covenant (e.g., the parenetic bases for law) are said to be deuteronomistic, and hence dependent upon Deuteronomy."[39] In other words, except for various parts of CC that may be considered as later interpolations, CC is believed to be the earliest legal corpus in the Pentateuch.

It should be noted, however, that, although the majority of scholars believe that H is dependent upon CC, the nature of dependence and the purpose of H's use of CC nevertheless remain subjects of debate. In his study on the relationship between D and other legal corpora in the Pentateuch, in which the relationship between H and CC is also examined, Kilchör finds that H is directly dependent upon CC at several places without any mediation by D, and their relationship is complementary and not subversive in character.[40] Similarly, Nihan argues that older codes, such as CC, are "not replaced, but rather harmonized, supplemented, and even revised in H."[41] This view, however, is in disagreement with that of Jeffrey Stackert, who avers "The Holiness legislators, then, who reconceptualize the Covenant Collection and Deuteronomy, exploit the precedent of their sources to introduce further revisions aimed at undermining the

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[38] Frank Crüsemann, *The Torah: Theology and Social History of Old Testament Law* (Minneapolis: Fortress, 1996), 109. Cf. Leonard E. Elliott-Binns, "Some Problems of the Holiness Code," *ZAW* 67 (1955): 29; Brevard S. Childs, *The Book of Exodus*, OTL (Philadelphia: Westminster, 1974), 452.

[39] Crüsemann, *Torah*, 109.

[40] Benjamin Kilchör, *Mosetora und Jahwetora: Das Verhältnis von Deuteronomium 12–26 zu Exodus, Levitikus und Numeri*, BZABR 21 (Wiesbaden: Harrassowitz, 2015), 340.

[41] Nihan, *From Priestly Torah*, 616.

existing legal tradition."[42] Nevertheless, despite the disagreements concerning the nature and the purpose of H's reworking of CC, the priority of CC over H seems to be the near-consensus in recent scholarship.

2.2.2.   The Priority of H over CC

John Van Seters breaks from the widely held consensus that CC is the oldest legal code in the Pentateuch by arguing that CC is, in fact, the latest one, composed in the exilic period for the Jewish diaspora community. One of Van Seters's examples is the law of Hebrew slave in Exod 21:2–11, which, according to Van Seters, reflects the situation in the exilic and post-exilic conditions of Hebrew enslavement.[43] He vehemently argues that CC is later than D and H because he believes that Exod 21:2–11 deals with purchasing Hebrew slaves from foreigners, a practice that was common in the exilic and post-exilic periods as indicated in the book of Nehemiah. Moreover, Van Seters also suggests that CC makes a distinction between male and female slaves. He argues that the absence of these concerns in either D or H indicates that D and H are earlier compositions than CC.

Van Seters further develops this idea in his book, *A Law Book for the Diaspora*, in which he comprehensively discusses not only the law of slavery but also various laws in CC. He concludes,

> It is the Covenant Code that has extended the laws of Deuteronomy and the Holiness Code to new situations and not the reverse as has so often been stated. These new situations have to do with life in the Babylonian diaspora . . . the Hebrew legal tradition

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[42] Jeffrey Stackert, Rewriting the Torah: Literary Revision in Deuteronomy and the Holiness Legislation, FAT 52 (Tübingen: Mohr Siebeck, 2007), 224.

[43] John Van Seters, "The Law of the Hebrew Slave," *ZAW* 108 (1996): 534–46.

of Deuteronomy and the Holiness Code was used and modified to resemble the casuistic style of Babylonian law and included within the mishpatim.[44]

In other words, he avers that CC, which was composed as a law book for the diaspora community during the exile in Babylonia, "draws upon and imitates the laws of the Hebrew legal tradition of Deuteronomy and the Holiness Code to construct a humanitarian ethic in the prophetic tradition."[45]

Van Seters's thesis has been criticized heavily by many scholars, for example, Bernard M. Levinson, who challenges Van Seters's idea that CC was composed in the exilic period and restates the idea that the most logical setting for the composition of CC before its redactional insertion into the Sinai pericope is the pre-exilic period.[46] Levinson also calls into question Van Seters's conclusion by demonstrating that the manumission law in Exodus 21 has been reworked twice by the authors of Leviticus 25, which strongly indicates the priority of CC over H.[47] Criticisms also come from Bernard Jackson, who dedicates one section in his article to review Van Seters's view on CC's law of slavery.[48] In this piece, he criticizes not only the content of

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[44] John Van Seters, *A Law Book for the Diaspora: Revision in the Study of the Covenant Code* (Oxford; New York: Oxford University Press, 2003), 95.

[45] Van Seters, *A Law Book for the Diaspora*, 175.

[46] Bernard M. 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* (London; New York: T&T Clark International, 2004), 317.

[47] Bernard M. Levinson, "The Birth of the Lemma: The Restrictive Reinterpretation of the Covenant Code's Manumission Law by the Holiness Code (Leviticus 25:44–46)," *JBL* 124 (2005): 630.

[48] Bernard S. Jackson, "Revolution in Biblical Law: Some Reflections on the Role of Theory in Methodology," *JSS* 50 (2005): 86–98. Jackson especially reviews Van Seters, "The Law of the Hebrew Slave."

Van Seters's arguments but also his methodology.[49] Jackson points out that Van Seters's criteria

to determine the literary dependence are used arbitrarily because of his compositional model that

assumes the priorities of D and H over CC:

> [Van Seters's] criteria are so broad, and generally related to theme rather than specific content, that the case for such dependency may always be made. Thus, if the Covenant Code is shorter than its 'antecedents', it is a summary, if longer, an expansion. If it treats an entirely new issue, it is filling a 'gap', though where it fails to address issues in D and H, that is not seen as a problem.[50]

In other words, Jackson believes that Van Seters's commitment to his particular theory of

pentateuchal composition has influenced his data analysis.

2.3. The Relationship between H and D

2.3.1. The Priority of D over H

Already in 1893, Bruno Baentsch suggested the priority of D over H based on his comparison of

the two legal corpora.[51] Christian Feucht provided a more sophisticated analysis, arguing for two

layers of H, namely, Lev 18–23 (H1) and Lev 25-26 (H2).[52] According to Feucht, H1 is older

than D, whereas H2 is later and dependent upon D. In 1976, Alfred Cholewiński published one

of the most comprehensive analyses of H and D.[53] In addition to various minor parallels between

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[49] Van Seters responds to Jackson's criticisms on his exegesis of the laws of slavery but does not address Jackson's criticisms of his methodology ("Law of the Hebrew Slave: A Continuing Debate," *ZAW* 119 [2007]: 169–83).

[50] Jackson, "Revolution," 90–91.

[51] Bruno Baentsch, *Das Heiligkeits-Gesetz Lev. XVII-XXVI* (Erfurt: H. Güther, 1893), 76–80.

[52] Christian Feucht, *Untersuchungen zum Heiligkeitsgesetz*, Theologische Arbeiten 20 (Berlin: Evangelische Verlagsanstalt, 1964), 166–80.

[53] Cholewiński, *Heiligkeitsgesetz*.

H and D, he compared and analyzed three major parallels between the two corpora, namely, the laws of cultic centralization and animal slaughter (Lev 17 and Deut 12), the legislations on various festivals (Lev 23 and Deut 16), and the Sabbatical year and manumission laws (Lev 25 and Deut 15).[54] Based on his examination of these parallels, he concluded that H is later than and dependent upon D.[55]

Although many aspects of Cholewiński's analysis have failed to gain wide acceptance, his conclusions that there is a direct literary relationship between H and D and that the direction of dependence is from D to H has found a considerable amount of acceptance. Following Cholewiński, many recent studies, predominantly in European and American scholarship, have attempted to argue for the priority of D over H with more refined methods.[56] After a comprehensive analysis of H and D, Nihan concludes,

> The analysis of Lev 17–26 has also reasserted the traditional view of the dependence of this collection on earlier biblical codes, including D. Detailed examination of the reception of these codes in H does not merely indicate that H is chronologically posterior, as classically held since Graf, Kuenen and Wellhausen. Rather, as was already suggested by Cholewiński, the nature of the dependence implies a *systematic*, comprehensive reception and reinterpretation of these codes in H. This applies not only to the formulation on individual laws in lev 17–26, but also, in several instances, to the arrangement of these laws.[57]

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[54] Cholewiński, *Heiligkeitsgesetz*, 145–320.

[55] For criticisms of Cholewiński's method, see Stackert, *Rewriting*, 9.

[56] For example, Stephen A. Kaufman, "Deuteronomy 15 and Recent Research on the Dating of P," in *Das Deuteronomium: Entstehung, Gestalt und Botschaft*, 1985, 273–76; Grünwaldt, *Heiligkeitsgesetz*, 376; Levinson, "The Birth of the Lemma," 630. Even Van Seters, who differs from the mainstream scholarship on the relationship between CC and H, believes that H is dependent upon D in the case of slavery laws ("The Law of the Hebrew Slave," 537).

[57] Nihan, *From Priestly Torah*, 547. Emphasis original. See also Nihan, "Holiness Code."

Similarly, Stackert also argues for the direct literary relationship between H and D, in which H revises regulations in D with the purpose of replacing them.[58] This position is, however, contra that of Nihan, who argues that H seeks to supplement and not replace D.[59]

2.3.2. The Priority of H over D

The prevalent opinion that D predates and functions as the source for the composition of H was challenged by various scholars, particularly those who largely stand in Yehezkel Kaufmann's school of thought. Sara Japhet, for example, having examined the manumission laws in both H and D, agrees that the similarities between these two laws indicate the existence of a literary relationship between them. However, she argues that the direction of dependence only works one way, i.e., D being dependent upon H:

> A close study of the laws of manumission of slaves in the collections of laws in the Pentateuch, proves that the legislation in Deuteronomy is the latest of all the laws and is dependent on its predecessors in both subject matter and literary form. We have here a piece of reform legislation, originating in the overall views of Deuteronomy, and intending to replace the law that preceded it, that of the Holiness Code.[60]

In other words, D is dependent upon H, and the nature of the reusing of H in D is subversive.

Besides Japhet, Milgrom is one of the staunchest proponents of the dependence of D upon H. He contends, "It is indisputable that there are no traces of D's language or concepts in H. However, the reverse proves otherwise: there is ample evidence that D is dependent on and

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[58] Stackert, *Rewriting*, 209–11; 213–14.

[59] Nihan, "Holiness Code," 105–6.

[60] Sara Japhet, "The Relationship between the Legal Corpora in the Pentateuch in Light of Manumission Laws," *ScrHier* 31 (1986): 88. Japhet's conclusion is challenged by Levinson, who accuses Japhet of misunderstanding the syntax of Lev 25:46 ("The Birth of the Lemma," 629, n. 40).

reacting to H."[61] As evidence, he lists eleven instances, in which he compares legislations in H

and D, that support his thesis. However, since the verbal dependence between the two corpora

are rare, Milgrom asserts, "Thus D is certainly cognizant of the content of P, but not necessarily

of the language of P."[62] For Milgrom, H, with the exception of H^R (23:2aβ–3, 39b, 42–43;

26:33b–35, 43–44), is a pre-exilic composition that predates D.[63]

 A more recent work by Benjamin Kilchör also supports the priority of H over D. In his

published dissertation, Kilchör proposes a new literary approach to analyze the relationship

between D with other legal corpora in the Pentateuch.[64] According to his study, although the

guiding text for D is CC, D also uses other parallel texts such as texts from Exodus, Numbers,

and H, which he finds to be "extensively quoted throughout the Deuteronomic law, often as a

supplementary text besides the Covenant Code."[65] This position stands in contrast to the view,

such as that of Japhet, that D is subverting H.

2.3.3. Reciprocal Relationship between H and D

A less popular view argues that H and D are influencing each other reciprocally. Giuseppe

Bettenzoli advocates for this view and asserts that Deut 14:2–21, 18:9–12a, and 25:13–16 should

be regarded as precursors to the composition of H. On the other hand, Deut 15:1–18 and 23:10–

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[61] Milgrom, *Leviticus 17–22*, 1357.

[62] Jacob Milgrom, "Profane Slaughter and a Formulaic Key to the Composition of Deuteronomy," *HUCA* 47 (1976): 12. Cf. Jacob Milgrom, *Leviticus 1–16: A New Translation with Introduction and Commentary* (New York: Doubleday, 1991), 9.

[63] Milgrom, *Leviticus 17–22*, 1361–64.

[64] Kilchör, *Mosetora*, 31–41.

[65] Kilchör, *Mosetora*, 339.

18, 19–22 are developed from the legislations in H. He concludes that H and D are neither

dependent or independent but rather interdependent of each other. He writes,

> Das Verhältnis Dtn./Hg. weist eine komplizierte Geschichte auf, wo man weniger von
> theologischer Selbständigkeit beider Gesetzeskorpora als vielmehr von innerer
> Verflechtung der entsprechenden Schreiberschulen sprechen muss, so dass die
> Überlegungen der einen Ausgangspunkt für weitere theologische Entfaltung durch die
> andere wurden.[66]

This view, however, has failed to convince the scholarship.

2.3.4.   No Literary Dependence between H and D

Over a century ago, Samuel R. Driver, after comparing several parallel legislations in D and H,

found that "the resemblances [between D and H], it will be observed, never extend beyond one

or two common terms, which so belong to the subject-matter of the law, that their occurrence in

both could hardly be avoided."[67] Based on this observation, he thus concluded,

> It follows that the legislation of Dt. cannot be said to be based upon this Code, or
> connected with it organically, as it is with the code of JE: the laws of Dt. and H are
> frequently parallel in substance, they must therefore be derived ultimately from some
> common source, but they are formulated without reference to each other.[68]

Despite this assertion, Driver also admitted that there is one case in which the parallels between

H and D are remarkable, namely, the laws of clean and unclean animals in Deut. 14:3–20 and

Lev. 11:2–23, which he assigned to H. In this case, and only in this case, he conceded that the D

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[66] Giuseppe Bettenzoli, "Deuteronomium und Heiligkeitsgesetz," *VT* 34 (1984): 397–98.

[67] Samuel R. Driver, *A Critical and Exegetical Commentary on Deuteronomy*, 3rd ed., ICC (Edinburgh: T&T Clark, 1902), x.

[68] Driver, *Deuteronomy*, xi.

legislation might have derived from either H or older priestly legislation, which he assumed to be

the immediate source for both H and D.[69]

In a similar vein, Kaufmann argued that the three legal corpora in the Pentateuch, i.e.,

CC, P (including H), and D, were distinct and independent of each other as "evident from their

duplications, discrepancies, and distinct terminology and style."[70] Particularly on the relationship

between H and D, he contended that the absence of D's centralization idea in P could only mean

that P predated D.[71] Furthermore, citing various examples from H and D, he posited that the

parallel laws between these two legal corpora "exhibit divergences that cannot be ascribed to

differences in viewpoint."[72] Thus, for Kaufmann, P cannot be regarded as a revision or

adaptation of D, as suggested by Wellhausen. Instead, the differences between these codes

suggest an independent literary-historical development for each of them.[73]

A number of other scholars have also advocated for the view that no literary dependence

exists between H and D, albeit with some modifications. Leonard E. Elliott-Binns, for instance,

proposes a slightly different approach to the relationship between the pentateuchal legal corpora.

He asserts that, although there may not be literary dependence between H and D, both of them

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[69] Driver, *Deuteronomy*, xi.

[70] Yehezkel Kaufmann, *The Religion of Israel from Its Beginnings to the Babylon Exile* (Chicago: University of Chicago Press, 1960), 166.

[71] Kaufmann, *Religion*, 176–77.

[72] Kaufmann, *Religion*, 170. For the differences between H and D, see Elliott-Binns, "Some Problems of the Holiness Code," 29.

[73] Similarly, Rosario Pius Merendino also rejects the idea of direct literary dependence among the pentateuchal legal corpora (*Das deuteronomische Gesetz: Eine literarkritische, gattungs- und uberlieferungsgeschichtliche Untersuchung zu Dt 12–26* [Bonn: Peter Hanstein, 1969], 401–2). Kaufmann's view that P/H and D are independent of each other is rejected by Japhet, "Relationship."

nevertheless depend on older material such as CC and the same or similar *tōrōth*.[74] Moshe

Weinfeld also argues that P (including H) does not depend on D. He rejects Wellhausen's

assumption that P depends on D because he believes that no verbal or conceptual parallels have

been convincingly demonstrated. Alternatively, he states:

> It is here suggested that the divergencies between the two schools stem from a difference
> in their sociological background rather than from a difference in their chronological
> setting. The problem at hand concerns two different ideologies arising from two different
> circles but not necessarily from two distinct historical periods. We would therefore regard
> the literary compositions of these schools as concurrent rather than successive
> documents. In support of this view we point to the fact that there are no significant
> ideological or linguistic ties between these two literary *corpora*.[75]

In brief, Weinfeld postulates that P/H and D are contemporaneous literary compositions from the

seventh century BCE.

Even Pekka Pitkänen, who contends that there are good reasons for D's dependence on

the priestly material [including H], admits, "Whereas Deuteronomy is generally seen to be

verbally dependent upon the Covenant Code, one cannot speak of a verbal dependency between

the Priestly material [including H] and Deuteronomy."[76] Baruch J. Schwartz takes a more radical

approach by positing, "Without minimizing the real differences between P and H in emphasis,

expression, and even 'theology,' it still appears that on this issue, as on most substantive,

practical issues, the Priestly Code is internally consistent, and it is likely that no relationship at

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[74] Elliott-Binns, "Some Problems of the Holiness Code," 29.

[75] Moshe Weinfeld, *Deuteronomy and the Deuteronomic School* (Oxford: Clarendon, 1972), 180. Emphasis original.

[76] Pekka Pitkänen, *Central Sanctuary and Centralization of Worship in Ancient Israel: From the Settlement to the Building of Solomon's Temple* (Gorgias Press, 2004), 108–9.

all exists between it and D."[77] In a similar vein, Jeffrey Tigay claims that there is unlikely a

direct literary relationship between H and D in the case of the manumission laws in Lev 25 and

Deut 15. He postulates,

> It therefore seems likely that Leviticus 25 represents a system for the relief of poverty that is independent of the one in Exodus and Deuteronomy. This conclusion is consistent with the fact that Leviticus 25 seems textually unrelated to Exodus 21–23. It lacks the terminological similarities, noted above, that connect Deuteronomy to Exodus, and it uses different terms to say the same things.[78]

In other words, the lack of similarity in literary features suggests the lack of direct literary

connections between H and D, at least in the case of the manumission laws.

3. The Limitations of the Previous Research on the Literary Relationships among the Pentateuchal Laws

The survey of previous studies on the literary relationships between H and other pentateuchal

legal corpora above has demonstrated the wide range of views on the issue. The results of these

studies, however, are often in conflict with each other as a result of the problems of

methodology. In the previous studies, scholars have employed various methodologies with a

number of limitations and shortcomings. First, some studies rely on and prioritize non-lexical

data in determining the literary relationship between two or more texts. Jeffery M. Leonard

warns, "To the degree that the search for allusions departs from the lexical data, however, it

introduces an element of subjectivity that tends to undermine the strength of any supposed

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[77] Baruch J. Schwartz, "'Profane' Slaughter and the Integrity of the Priestly Code," *HUCA* 67 (1996): 15.

[78] Jeffrey H. Tigay, *Deuteronomy* (Philadelphia: The Jewish Publication Society, 1996), 467.

connection."[79] In a similar vein, Stackert insists that textual evidence is the most reliable

foundation for analyzing legal texts in Pentateuch.[80] However, he also argues

> Some textual features, such as common sequence and extended syntactic parallels, are more reliable indicators of literary connection, but the absence of such features does not necessarily preclude dependence…. differences in detail do not *a priori* undermine arguments for literary dependence between texts. This study instead confirms that biblical legislators reserve for themselves great freedom in their reconceptualizations of source material. Their revisions are often quite complex and so extensive that the final product differs markedly from its legal patrimonies.[81]

While Stackert is correct that the absence of textual features does not in itself preclude

dependence, the argument for a direct literary connection between two texts is severely

undermined if both texts are markedly different to the extent that they only share a few to no

literary features.

Second, when two texts deal with a similar topic and share a degree of literary features,

the presence of a literary connection or its nature is sometimes assumed too prematurely. In

many cases, the importance of lexical data in such cases is often overstated. For example,

arguing for the literary connection between the manumission laws in H and D, Japhet point out

the similarities between the introductory formula of the laws in Lev 25:39 and Deut 15:12. She

lists five points of similarity as follows: (1) the use of the conjunction כי "if" to introduce the

conditional clause, followed by a third person imperfect verb; (2) the use of the word אחיך "your

brother" instead of איש "a man" in the casuistic formula; (3) the use of the prepositional phrase

לך "to you" to highlight the identity of the buyer; (4) the use of the verbal root מכר "to sell"; and

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[79] Jeffery M. Leonard, "Identifying Inner-Biblical Allusions: Psalm 78 as a Test Case," *JBL* 127 (2008): 246.

[80] Stackert, *Rewriting*, 19.

[81] Stackert, *Rewriting*, 26.

(5) the use of the niphal stem for the verb מכר.[82] Based on only these observations, Japhet

concludes, "It seems that the strong similarity between the two passages should be explained as a

result of direct contact between them."[83] While a certain degree of similarity exists between the

two texts, the nature of their connection is yet to be determined. One should not immediately

posit that the nature of their relationship is one of direct literary connection since alternate

explanations may exist for their similarity.[84] In addition to analyzing the points of similarities

between the texts, it is also important to assess the degree of dissimilarity between them to

determine whether the points of dissimilarity render the direct literary connection possible. As

pointed out by Samuel Sandmel, "Two passages may sound the same in splendid isolation from

their context, but when seen in context reflect difference rather than similarity."[85] The literary

relationship between texts cannot be generalized for the whole text based on only one sentence

of the text, which may or may not have a direct literary connection. Thus, Sandmel argues

"Detailed study is the criterion, and the detailed study ought to respect the context and not be

limited to juxtaposing mere excerpts."[86] A more comprehensive literary analysis of the texts that

includes the entirety of the texts is required to establish the literary connection, or lack thereof,

between them.

      Third, the studies on the literary relationship among pentateuchal laws are often

hampered by the tendency to prioritize historical reconstructions of ancient Israel over the

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[82] Japhet, "Relationship," 73–74.

[83] Japhet, "Relationship," 74.

[84] Cf. Meir Malul, *The Comparative Method in Ancient Near Eastern and Biblical Legal Studies*, AOAT 227 (Kevelaer/Neukirchen-Vluyn: Butzon and Bercker/Neukirchener, 1990), 87–91.

[85] Samuel Sandmel, "Parallelomania," *JBL* 81 (1962): 2.

[86] Sandmel, "Parallelomania," 2.

literary analysis of the texts, especially when attempting to determine direction of dependence of

the pentateuchal laws. As Michael Lyons points out, "Disagreements about the direction of

literary dependence exist because of prior commitments to a particular theory of composition,

different standards of evaluating evidence, and the inherent difficulty in working with texts that

show evidence of a complex compositional process."[87] In many cases, the analyses of the

relationship between texts are driven by the presuppositions of scholars on the compositional

history of the Pentateuch based on the historical reconstruction of Israel's history. Stackert

observes the scholarly tendency to neglect literary analysis in favor of historical analysis:

> In their analyses of biblical law, many scholars follow Wellhausen in directing their
> attention primarily toward the reconstruction of Israelite religion. Comparative
> investigations of legislative topics thus center upon the recovery of real, historical
> Israelite religion and ethics and not upon the literary interaction of biblical texts.
> Considerations of literary interactions between texts in such studies are often abbreviated
> or undetailed.[88]

In other words, many studies tend to determine chronological priority based on their historical

reconstruction of ancient Israel, which prioritizes the analysis of content over the analysis of

lexical and syntactical data for determining the direction of dependence.

Kilchör correctly points out the unfortunate reality that "comparisons of content can

usually be explained in both directions."[89] One such example of this problem is the differing

views of Otto and Milgrom regarding the compositional history of the laws of animal slaughter

in H and D. Instead of first establishing the possibility of literary dependence, Otto immediately

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[87] Michael A. Lyons, *From Law to Prophecy: Ezekiel's Use of the Holiness Code* (New York: T&T Clark, 2009), 59.

[88] Stackert, *Rewriting*, 11.

[89] Benjamin Kilchör, "The Direction of Dependence between the Laws of the Pentateuch," *ETL* 89 (2013): 4.

posits that Lev 17 borrows and interprets the materials from Deut 12.[90] He views D's

centralization program as the cause for the allowance of profane animal slaughter in Deut 12,

while he understands Lev 17 as presuming D's centralization program and intends to repeal the

older deuteronomic law by intentionally omitting the concession that allows non-cultic animal

slaughter in Deut 12.[91] Based on the different sequence of the topics in Lev 17 compared to Deut

12, Otto claims,

> Die Umgruppierung der Gesetze aus Dtn 12 in Lev 17 unterstreicht das
> Revisionsint:eresse. In Dtn 12 steht die Zentralisierung des Opferdienstes im Vordergrund
> und also an der Spitze, während die Freigabe der profanen Schlachtung als Konsequenz
> der Opferzentralisation folgt. In Lev 17,3-9 rückt diese Thematik an die Spitze, da der
> Hauptakzent des Interesses auf der Korrektur von Deuteronomium und Priesterschrift
> liegt: Jede Schlachtung ist kultisch, so wird festgesetzt.[92]

He further posits, "Die Differenzierung zwischen profaner Schlachtung bei großer Entfernung

vom Heiligtum und ritueller Schlachtung am Heiligtum für diejenigen, die in der Nähe des

Heiligtums wohnen, wird in Lev 17,3–5 ausdrücklich aufgehoben und somit Dtn 12 korrigiert."[93]

Otto argues for the chronological priority of Deut 12 because he believes that Lev 17 shows

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[90] Eckart Otto, "Innerbiblische Exegese im Heiligkeitsgesetz Levitikus 17–26," in Levitikus als Buch (Berlin: Philo, 1999), 142–46.

[91] Here Otto follows Wellhausen who explained the absence of centralization of the cultic place in P by famously postulating, "In that book [Deuteronomy] the unity of the cultus is *commanded*; in the Priestly Code it is *presupposed*" (*Prolegomena*, 35; emphases original).

[92] Otto, "Innerbiblische," 143.

[93] Otto, "Innerbiblische," 143.

polemical intent against Deut 12.[94] Therefore, according to Otto, "Die Richtung der Rezeption verläuft eindeutig vom Deuteronomium zum Heiligkeitsgesetz."[95]

Interestingly, Milgrom reaches the opposite conclusions by using the same approach, namely, content analysis. Without comparing the textual data in Lev 17 and Deut 12 to establish the possibility of a literary connection, he directly discusses the issue of chronological priority based on the contents of the texts. Milgrom believes that H was not aware of the cultic centralization and presumed the multiplicity of altars, and that D's corrections of H were driven by D's centralization program. He states, "H bans all nonsacrificial slaughter, forcing the people to bring their animals to the sanctuary where the preliminary sacrificial rites performed by the offerer—including slaughtering—would be supervised by the priests. D, however, polemicizes with H and restores the right of nonsacrificial slaughter."[96] Moreover, concerning the rationales for H's permission of nonsacrificial slaughter and D's concession of it, he argues, "H believes that the charge of murder against an Israelite who takes the life of an animal can be expiated if the animal's blood is returned to its divine creator via the sacrificial altar. D, on the contrary, permits nonsacrificial slaughter because it has no choice: it is mandated by centralization."[97] In other words, what Otto considers as the evidence for the chronological priority of D, namely the

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[94] In a later publication, however, Otto argues for a more complex relationship among the laws of animal slaughter, in which the composition of Lev 17 postdates Exod 20:24 and most of Deut 12, except for vv. 8–12, 20–28, which are composed after and as a reaction to Lev 17 (*Deuteronomium 12,1–23,15* [Freiburg im Breisgau: Herder, 2016], 1147–67).

[95] Otto, "Innerbiblische," 146.

[96] Jacob Milgrom, *Leviticus 17–22: A New Translation with Introduction and Commentary*, AB 3A (New Haven: Yale University Press, 2000), 1454.

[97] Milgrom, *Leviticus 17–22*, 1454.

absence of D's concession in H, is by contrast understood by Milgrom as evidence for the chronological priority of H.

In his analysis of Otto's and Milgrom's methods for determining literary connection, Esias E. Meyer points out that the disagreements between these two scholars concerning the chronological priority of the laws of animal slaughter and cultic centralization in H and D "are not primarily based on the texts of Lev 17 and Deut 12 as such but rather are based on the two authors' broader views of the development of the Pentateuch."[98] Meyer further points out that "deciding on a specific chronological order of texts from D, P, and H not only depends on the details of these texts. Rather this decision is also influenced by scholarly presuppositions regarding the broader development of the Pentateuch."[99] He then concludes, "The difference between Otto and Milgrom ultimately lies with 'prior commitments to a particular theory of composition.'"[100] It is in this sense that "the most difficult problem in evaluating direction is the inherent subjectivity of evaluation."[101]

The difficulty of analyzing the content of the texts for determining the directionality of literary dependence is further exacerbated by the practice of dating biblical texts with an absolute date instead of a relative date when there is insufficient information in the text to support it.[102]

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[98] Esias E. Meyer, "Leviticus 17, Where P, H, and D Meet: Priorities and Presuppositions of Jacob Milgrom and Eckart Otto," in *Current Issues in Priestly and Related Literature: The Legacy of Jacob Milgrom and Beyond* (Atlanta: SBL Press, 2015), 363.

[99] Meyer, "Leviticus 17," 367.

[100] Meyer, "Leviticus 17," 367.

[101] Lyons, *From Law*, 59.

[102] Otto, for example, assigns various parts of Deut 12 to various periods in ancient Israel's history (*Deuteronomium 12,1–23,15*, 1166–67). In his estimation, the oldest layer of Deut 12 is vv. 13–19, which was composed in the seventh century BCE. In the sixth century BCE, another legislation on animal slaughter and cult centralization was composed as found in vv. 1–7 and 29–31. After the return from the exile, the remainder of Deut

While the comparison of parallel texts in the Pentateuch may allow a relative dating in many cases, the same method may not be used to determine the absolute dating of the texts. Nevertheless, in many cases where there is no identifying information as to the compositional date of a text, scholars resort to the method of dating of a text absolutely based the assumption that a text is most likely composed during a certain period of time when the ideas in the text match that period. The arguments for absolute dating of the pentateuchal laws based the historical reconstruction of ancient Israel's history, then, will in turn affect the argument for a relative dating of the laws.[103]

For many scholars, the correspondence between ideas in a text and a historical period suggests that the text may have been composed during that period. Thomas Römer, for example, argues,

> The most secure date for the existence of pentateuchal texts is the Persian period, because this setting can be deduced from hard evidence. The earlier one moves, the more complicated and hypothetical dates become. One should therefore start by considering whether a text fits the Persian period, as well as whether it is composite and what would allow for the identification of older layers.[104]

For Römer, if the content of a pentateuchal text fits the Persian period, the text is probably from this time period. However, if the text does not fit with the Persian period, one can begin to examine the content of the text against the situation in other historical periods to determine its

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12, namely vv. 8–12 and 20–28, was composed in the fifth and fourth centuries BCE. In addition, he also dates Exod 20:24 to the eight century BCE, upon which Deut 12:13–19 and Lev 17:1–14 are dependent. Furthermore, the law in Lev 17:1–14 was composed before the last addition to the deuteronomic legislation in 12:8–12, 20–28, which based its legal interpretation on the preceding laws, including Lev 17.

[103] On the other hand, the relative dating of a text has also been used to argue for its absolute dating. See Thomas C. Römer, "How to Date Pentateuchal Texts: Some Case Studies," in *The Formation of the Pentateuch: Bridging the Academic Cultures of Europe, Israel, and North America*, ed. Jan Christian Gertz et al., FAT 11 (Tübingen: Mohr Siebeck, 2016), 369–70.

[104] Römer, "How to Date," 370.

compositional date. The problem with this kind of argument for dating biblical texts is a methodological one.[105] Benjamin D. Sommer observes that many biblical scholars "insist on one or both of the following methodological propositions: (1) We may discover a text's historical setting by speculating about what audience would have found the text's ideas most meaningful. (2) We should interpret texts first and foremost on the basis of what we speculate may have been their historical contexts."[106] These propositions, he explains, reflect the reductionistic approach in historicism, which he designates as pseudo-historicism.[107] In Sommer's understanding, historicism involves the assessment of the origin of *many* ideas based on historical processes without eliminating the possibility that an idea may be a product of an individual's genius that does not necessarily match its historical setting. Pseudo-historicism, by contrast, believes that *all* ideas are products of their distinct historical settings and ignores or even denies the possibility that original thinkers may produce ideas that do not fit the historical period in which they originate.

Sommer claims that the method of dating texts based on pseudo-historicism "holds no validity whatsoever."[108] He first points out that "it is always possible that an author at one period came up with ideas that turned out to be peculiarly relevant at another period."[109] Sommer observes that the scholars who argue that a certain text fits a particular historical period are often

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[105] For the survey of the various ways to date the pentateuchal texts, see Römer, "How to Date."

[106] Benjamin D. Sommer, "Dating Pentateuchal Texts and the Perils of Pseudo-Historicism," in *The Pentateuch: International Perspectives on Current Research* (Tübingen: Mohr Siebeck, 2011), 101.

[107] Sommer, "Dating," 103–4.

[108] Sommer, "Dating," 85.

[109] Sommer, "Dating," 85.

correct, but the same text is also appropriate for other moments in history.[110] To illustrate his

point, he offers criticisms of the method used by some scholars to hypothesize that the

conceptions of divine presence in P and D, respectively, are the results of the events leading to

and after the destruction of Jerusalem in 586 BCE, during which the authors of both pentateuchal

traditions were forced to admit that God was not always immanent in his residence in Zion.[111]

Despite the claim that this development is primarily the result of the historical events during this

period, Sommer notes that this idea is not necessarily unique to this particular period of Israel's

history but "various Israelites in every generation had had manifold occasions to become aware

of this fact."[112] Since the idea that God does not always reside in Zion may not necessarily have

originated in the early sixth century BCE, the analysis of the texts cannot be exclusively based

on the dating to this period. Textual analysis that starts with the presumption of a text's absolute

dating can even sometimes result in readings that are not supported by textual data. For example,

Frank Moore Cross's assumption that P dates to the exilic period after the destruction of the first

temple prompted him to argue that P uses the term שֹׁכֵן to refer to the "covenant presence" in the

impermanent earthly shrine in the tabernacle and the term יֹשֵׁב to refer to a more permanent

dwelling.[113] Having pointed out that there is nothing in P that supports Cross's understanding of

these terms, Sommer concludes, "It seems to me that it is not the content of the P documents that

leads Cross to his reading of these technical terms but his presumption as to their exilic or

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[110] Sommer, "Dating," 94.

[111] Sommer, "Dating," 87–91.

[112] Sommer, "Dating," 91.

[113] Frank Moore Cross, *Canaanite Myth and Hebrew Epic: Essays in the History of the Religion of Israel* (Cambridge, MA: Harvard University Press, 1973), 299.

postexilic date…. Cross begins with the exilic date and then interprets the P documents' use of technical terminology to produce a meaning that he thinks fitting for that historical setting."[114]

The same method of comparing H's ideas and the settings of particular historical periods has also been employed to date H. Levine, for example, asserts, "Methodologically, it is research into the political, religious, and institutional history of cities and provinces under Persian imperial administration that may ultimately reveal the *Sitz im Leben* of priestly literature."[115] In his estimation, since H's legislation is realistic in the Persian period, therefore it must have been originated from that particular period. He believes,

> The central role ascribed to the priesthood and the functions of the Jerusalem temple projected in Leviticus 25–27 accord well with what is known of Persian administration elsewhere. A give-away of post-exilic provenance is the exceptional provision of Lev 25:47 enjoining clan relatives to redeem land lost through forfeiture to non-Israelites. This would be realistic in the post-exilic period, as it reflects the problems of a mixed population such as existed in Jerusalem and Judea, and the coastal areas during the Persian period.[116]

This argument has been critiqued by Lyons, who points out that H "seems equally 'realistic' in the pre-exilic period, in which there were also mixed people groups in the land."[117] In other words, the same idea may be appropriate for more than one historical period.

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[114] Sommer, "Dating," 90.

[115] Baruch A. Levine, "Leviticus: Its Literary History and Location in Biblical Literature," in *The Book of Leviticus: Composition and Reception*, ed. Rolf Rendtorff and Robert A. Kugler (Leiden; Boston: Brill, 2003), 20.

[116] Levine, "Leviticus," 20–21.

[117] Lyons, *From Law*, 33, n. 69. See also the critiques of this idea by Milgrom, *Leviticus 23–27*, 2241–45; John S. Bergsma, "The Jubilee: A Post-Exilic Priestly Attempt to Reclaim Lands?," *Bib* 84 (2003): 225–46.

The notion that a text can be equally appropriate for more than one historical period also poses the problem of a lack of a control in determining the absolute date of its composition with precision. Sommer notes,

> Even if a text's ideas do somehow correspond to the date of its composition, there is no one way of deciding how they correspond—through a logic of presence, according to which a text's ideology reflects its setting positively, or through a logic of absence, according to which a text's author yearns for what is missing. In fact both types of reasoning are possible—and consequently reasoning of this sort ends up providing no data that is usable for dating a text.[118]

The subjectivity in using the "logic of presence" or "logic of absence" in determining the correspondence between a text and its date of composition is well illustrated in Rhyder's dating of H to the Persian period.[119] Notwithstanding her acknowledging the risk of circularity in the dating of pentateuchal texts, Rhyder insists that H should be dated to the Persian period. She builds her theory of H's dating on Nihan's argument for the postexilic dating of P. Nihan rejects the dating of P to the exilic period and hypothesizes that P was produced in the beginning of the Persian period.[120] He argues that the content of P fits the beginning of the Achaemenid era in at least three ways. First, P's use of the term גרים "resident aliens" for the Israelites reflects the situation in the Achaemenid period, during which the Israelites were able to settle in the land but without political control. Second, the table of nations in Gen 10 reflects the new world order in the Persian period. Nihan surmises that Yahweh's division of nations parallels that of the creator and highest deity in the Persian religion of Zoroastrianism. Furthermore, the criteria used in Gen 10 to classify the nations are believed to be the same criteria by which the Achaemenid

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[118] Sommer, "Dating," 101.

[119] Rhyder, *Centralizing*, 59–63.

[120] Nihan, *From Priestly Torah*, 383.

administration divided the satrapies. Based on these observations, Nihan concludes that P was composed as a response to the situation during the return from the exile.

Having dated P in the postexilic period, Rhyder believes that H's knowledge of P supports the view that H was composed in the Persian era.[121] Here, she follows Nihan in employing the logic of presence to relate P, and consequently H, to the postexilic period. With the same logic, she argues that the reference to the exile and the return to the land in Lev 26:27–45 "constitutes strong evidence that H presupposed the Babylonian invasion of Judah and the deportation of a significant portion of its population in 587 BCE, as well as the (limited) return of the exiles to Yehud in the early Persian period."[122] One problem with this theory, as also acknowledged by Rhyder, is that Lev 26:27–45 can only be used as "corroborating evidence" for H's composition in the Persian period since it may be a late addition.[123] Another issue is that Rhyder denies the possibility that it may be a threat of exile in general[124] or the threat of the Assyrian exile in the eight century BCE in particular.[125] She insists that Lev 26 refers specifically to the Babylonian exile based on the shared parallels between this passage and Ezekiel, especially in ch. 34. Here, she might have assumed that Lev 26 borrowed materials from Ezekiel and not the other way around. If that is the case, it is certainly possible that Lev 26 refers specifically to the Babylonian exile. However, some scholars have suggested that the direction of

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[121] Rhyder, *Centralizing*, 61–62.

[122] Rhyder, *Centralizing*, 62.

[123] Rhyder, *Centralizing*, 63, n. 117. Some scholars who argue for an earlier date for this passage believe that there may be later redactional layers in the passage. Milgrom, for example, argues that Lev 26:33b–35, 43–44 are later additions (*Leviticus 23–27*, 2322–23).

[124] See, e.g., the view of Sommer, "Dating Pentateuchal Texts," 91–94.

[125] See, e.g., the view of Milgrom, *Leviticus 23–27*, 2363.

dependence in the case of H and Ezekiel might have been from the former to the latter, that is,

the later text of Ezekiel borrowed materials from the older text of H.[126] If this is true, the

reference to the exile and return in Lev 27:27–45 cannot be used as definitive proof of a Persian

origin. Furthermore, while using the logic of presence to argue for the consistency between the

content of the text with the historical realities of the Persian period, Rhyder also oddly notes that

numerous aspects of H's discourse, such as the ban on animal slaughter, the festal calendar, and

a centralized economy, do not mirror the historical realities of the Persian period.[127] Even when

there is little to no historical evidence that H's discourse matches the historical period that she

assigns it to, she stands by her proposed absolute dating of H in the Persian period by positing

that the text was used merely as a propaganda.[128] In this case, the logic of absence is used to

relate the text with its proposed historical period. The logics of presence and absence are,

therefore, used arbitrarily to support her proposed postexilic date of H.

Despite the various problems with attempting to ascertain an absolute date for biblical

texts, and thus the results derived therein, scholars nevertheless continue to employ this method

of dating on the pentateuchal laws. The more recent research on the relationship among

pentateuchal laws, however, has recognized the need for a more comprehensive literary method

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[126] See, e.g., Israel Knohl, *The Sanctuary of Silence: The Priestly Torah and the Holiness School* (Minneapolis: Fortress, 1995), 206, n. 22; Risa Levitt Kohn, *A New Heart and a New Soul: Ezekiel, the Exile and the Torah* (Sheffield: Sheffield Academic Press, 2002); Lyons, *From Law*.

[127] Rhyder, *Centralizing*, 251–52, 322, 380.

[128] The notion that a text may not reflect the historical realities of the period of its composition is not entirely incorrect, and other scholars have also pointed out this possibility. Arguing a similar thesis about H's slavery and manumission laws, Stackert asserts that the laws in Lev 25:39–55 "are a 'learned text,' reflecting not the historical realm of ancient Israelite social practice but instead a particular intellectual engagement with the religious and cultural (textual) tradition" (*Rewriting*, 164). If texts do not necessarily reflect historical realities, the practice of dating them based on the comparison of the contents of the texts and the reconstruction of ancient Israel's history becomes invalid.

for analyzing the connection among the pentateuchal laws instead of allowing the historical

reconstruction of ancient Israel to guide the process of determining the literary dependence.

Given the shortcomings associated with using historical reconstruction to determine the

relationships among pentateuchal legal corpora, Stackert approaches this issue primarily from the

literary perspective.[129] He explains his method as follows:

> My historical determinations, however, are based upon the available evidence, i.e., the
> texts themselves, and not upon a reconstructed history of Israel and its religion. While the
> latter may appear helpful for interpreting texts, and may even be useful in the formulation
> of theories concerning the relationship between the legal corpora, to rely upon a
> reconstruction of the history of Israel and its religion is to rely upon a scholarly construct
> and not upon real, tangible evidence. The most reliable foundation, therefore, from which
> to proceed is one that is squarely centered in the biblical text itself. Moreover, if the
> relationship between the pentateuchal legal corpora can be established at the literary
> level, reconstructions of Israelite history can proceed from such analyses with greater
> certainty.[130]

Without denying the importance of a reconstructed history of ancient Israel, Stackert prioritizes

literary analysis and subordinates historical reconstruction to it.

Nevertheless, while appreciating the various sets of criteria for analyzing literary

dependence, he chooses "not to apply any existing set of criteria for characterizing the legal

revisions" because "the contingencies of each example of revision necessitate a slightly different

approach."[131] He proceeds to defend his method,

> This flexibility is methodologically justifiable because, as noted already, the purpose of
> this study is not to apply a modern method of interpretation consistently but rather to
> discover the various techniques undertaken by biblical authors to revise their sources. I

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[129] Stackert, *Rewriting*, 20–21.

[130] Stackert, *Rewriting*, 19.

[131] Stackert, *Rewriting*, 25. Following Stackert, Kilchör contends "Sowohl für die Frage, ob eine literarische Abhängigkeit überhaupt besteht, wie auch für die Frage nach der Richtung und der Art dieser Abhängigkeit, macht es also wenig Sinn, sich zu stark auf einen Kriterienkatalog zu fixieren" (*Mosetora*, 40).

will therefore seek to create an explanation that plausibly accounts for both the connections perceived between the texts in question and the process by which such literary ties were formed.[132]

Stackert also believes that the absence of textual features such as word sequence and parallels does not preclude dependence. He contends that "biblical legislators reserve for themselves great freedom in their reconceptualizations of source material. Their revisions are often quite complex and so extensive that the final product differs markedly from its legal patrimonies."[133] Although it is true that the authors of biblical texts are free to use their sources, the degree of the difference between a borrowing text and its source text signifies the degree of difficulty of detecting their literary connection. In other words, the more dissimilar two texts are, the more difficult it is to argue for their literary connection with certainty. The question is how different two texts should be before one can confirm that literary connection does not exist between them? In cases such as described by Stackert, namely in which the degree of dissimilarity between the borrowing and source texts is significant, scholars may run into the danger of subjectivity in their analyses because the textual evidence for any literary connection may be too inconclusive.

4. Statement of Research Problem

Having observed the different approaches to analyzing the relationship among the pentateuchal laws, Kilchör argues for the primacy of a literary approach in identifying the relationship between legal codes in the Pentateuch and determining its direction. He correctly points out,

> Any theory about the relationship of the different laws and legislations in the Pentateuch should start with comparisons of all available texts on a literary level. Any approach that starts either from theories won out of the narratives of the Pentateuch or from religio-

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[132] Stackert, *Rewriting*, 27.

[133] Stackert, *Rewriting*, 26.

historical development models as well as any approach that starts not by comparing *all* available texts, is less objective than the [literary] approach presented here.[134]

Future studies on the relationship between H and other pentateuchal legal corpora will benefit from Kilchör's proposed approach that prioritizes literary analysis and does not start with any model of the composition of the Pentateuch or any theory of the development of Israelite history and religion.[135] Furthermore, the conflicting conclusions regarding the literary relationships among the pentateuchal legal corpora may be attributed to the imprecise definition of what constitutes literary dependence. Thus, a refinement of the definition of "literary dependence" is crucial for determining the kind of relationships shared among the pentateuchal legal corpora.

The present study will attempt to analyze the relationship between H proper and other pentateuchal legal corpora from a literary perspective.[136] Specifically, I intend to focus my literary analysis on three topics covered in H proper, namely, the laws of cultic centralization and animal slaughter in Lev 17, the laws of the festivals in Lev 23, and the laws of the Sabbatical and Jubilee Years in Lev 25. These three passages in H are selected as test cases because the same topics are extensively dealt with in other pentateuchal legal corpora.[137] To that end, I shall first

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[134] Kilchör, "Direction," 13. Emphasis is original.

[135] Kilchör, "Direction," 4.

[136] H compositions and/or redactions have been shown to be present outside of H proper in Lev 17–26 (cf. Knohl, *Sanctuary*; Bill T. Arnold, "The Holiness Redaction of the Flood Narrative [Genesis 6:9–9:29]," in *Windows to the Ancient World of the Hebrew Bible: Essays in Honor of Samuel Greengus*, ed. Bill T. Arnold, Nancy L. Erickson, and John H. Walton [Winona Lake, IN: Eisenbrauns, 2014]; Paavo N. Tucker, *The Holiness Composition in the Book of Exodus* [Tübingen: Mohr Siebeck, 2017]). While these Holiness redactions are also the products of the Holiness School, they do not necessarily stem from the same compositional stratum as H proper. In light of this phenomenon, this study limits its analysis to only H proper in Lev 17–26.

[137] Stackert warns against the tendency of overgeneralization studies on legal correspondences in the Pentateuch, "Some scholarly discussions of legal correspondences in the Pentateuch, though they attempt to draw such comprehensive conclusions, are too limited to deduce anything meaningful about the larger relationship among the law collections.… The result is a lack of consistent and thoroughgoing analysis and thus unsubstantiated generalizations concerning the pentateuchal legal collections" (*Rewriting*, 10-11). Since this study will only analyze

define what constitutes literary dependence used in my research and then propose a method for analyzing the literary relationship between two or more texts before applying it in my analysis of the relationship between these passages in H proper and other pentateuchal legal corpora. The purpose of this study is to identify the degree to which these three laws in H proper were literarily connected with their parallels in CC, P, and D, and what the nature of their literary connections might have been. This study will also analyze the compositional methods and motivations behind the similarities and differences between these laws in H proper and their parallels in other pentateuchal legal codes. In other words, the techniques and purpose of the reuse and reworking of older legal materials will be assessed based on the analyses of the literary dependence among these legal corpora, particularly with regard to these three laws.

While historical questions concerning these three laws are important for understanding the development of ancient Israel's history and religions, this study will neither deal extensively with historical issues surrounding the implementation of these laws in ancient Israel nor hypothesize the historical settings that may or may not have been the impetus for the composition of these laws. Instead, the focus of this research will be on the literary interaction among these laws in order to understand the nature, method, and motivation of their literary connection. In addition, discussions on the dating of texts will be predominantly limited to relative dating since this study is primarily concerned with establishing literary connections based on the textual evidence and, furthermore, since it acknowledges the intractable problems inherent in the absolute dating of texts.[138] In sum, the present study will "exhaust possible

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three laws in H and their parallels in other Pentateuch legal corpora, it will not draw comprehensive conclusions concerning the larger relationship among the pentateuchal legal codes but only the relationship between these three laws and their parallels in the Pentateuch.

[138] Kilchör also prioritizes relative dating over absolute dating in his analysis of the relationships among pentateuchal legal texts: "Von dieser Erkenntnis ausgehend ist es das Ziel dieser Studie, das diachrone Verhältnis

literary/textual explanations *before* attempting to offer an historical explanation for which there is no direct evidence."[139]

5. Outline of the Study

This chapter has surveyed the current state of research on H in pentateuchal studies, particularly how the relationships between H with other pentateuchal legal corpora have been understood. It has also discussed the limitation of previous studies, particularly concerning their methods for analyzing the relationship among the pentateuchal laws. Therefore, in Chapter Two, "Method for Analyzing Literary Relationships among the Pentateuchal Legal Texts," I will describe the theoretical and methodological framework employed in this study. I will first address the problem of terminology in the study of literary relationship. Here, the issues of intertextuality, influence, and allusion, as well as the distinction between literary and conceptual dependences will be defined. Then, the chapter will propose a method for analyzing literary dependence, which includes a step-by-step procedure for analyzing the literary relationship between two or more texts by comparing the linguistic features of the texts. This chapter will also incorporate insights from modern studies that address the question of literary dependence.

The method developed in Chapter Two will then be applied to various corpora in the following three chapters: Chapter Three focuses on the laws of cultic centralization and animal slaughter in Lev 17 while Chapter Four examines the festival laws in Lev 23 and, lastly, Chapter

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des Deuteronomiums als Mosetora zur Jahwetora in Exodus-Levitikus-Numeri neu zu überprüfen. Im Rahmen dieser Arbeit bleibt es freilich bei der Klärung des relativen Verhältnisses der Gesetze zueinander. Auf eine Thesenbildung zur absoluten Datierung wird verzichtet. Diese Reihenfolge ist m.E. die einzige, die methodisch verantwortbar ist: Vor der absoluten Datierung muss die relative Reihenfolge festgestellt werden, nicht umgekehrt" (*Mosetora*, 3).

[139] Stackert, *Rewriting*, 21. Emphasis original.

Five analyzes the Sabbatical and Jubilee Year laws in Lev 25. Each of these chapters will begin with an analysis of the compositional unity of the texts. This step is necessary to determine the possibility of these laws influencing their parallel laws, or vice versa, in the different stages of composition. These chapters will then analyze the literary relationship between these three laws in H proper and their parallels in other pentateuchal legal corpora.

The last chapter, "The Compositional Method and Logic of H," will discuss the compositional method and exegetical purpose of H's legal innovation, or lack thereof, as exemplified by the three laws in Lev 17, 23, and 25 vis-à-vis their parallels in the other pentateuchal legal corpora. The existing models for the relationship among the pentateuchal laws, such as the replacement, supplement, and amendment models, will be examined in light of the analyses in the previous three chapters. Here, the contributions of the present study to the pentateuchal studies, especially for understanding the compositional history of H in relation to other pentateuchal legal corpora, will be addressed.

Chapter 2

Method for Analyzing Literary Relationships Among the Pentateuchal Legal Texts

1. Introduction

The subject of literary relationships among legal texts in the Pentateuch is one of the most debated issues in studies of the pentateuchal laws. Due to the density of the parallels among legal codes in the Pentateuch, scholars have long suspected, albeit without consensus, that some types of connections must be present among them. Not only is it challenging to explain the types of connection among these legal codes, but in many cases, scholars cannot even agree on whether or not any literary connections are present between two texts. Even when the presence of literary dependence can be confidently established, scholars are faced with an even more difficult question pertaining to the direction of the dependence. Naturally, questions regarding appropriate methodology undergird the determination of literary influence: what criteria should be used to identify the literary relationship between one text and another text? Furthermore, if a literary connection between two texts can be identified, what are the criteria to determine the direction of the dependence?

This study employs a literary method for analyzing the relationship of the Pentateuchal legal texts, which consists of three steps in analyzing the relationship between two or more biblical texts: (1) identifying the presence of a literary connection, (2) assessing the type of the connection, and (3) determining the direction of the literary dependence. Nevertheless, before discussing these steps, it is necessary to first discuss the tension between synchronic and diachronic approaches to analyzing the relationship of the pentateuchal laws and clarify the issue of terminology used in this study.

2. The Twofold Approach: Diachronic and Synchronic

Diachronic analysis of Pentateuchal laws, as attempted in this study, is a complicated enterprise. Many scholars who are frustrated with the diachronic study of the Pentateuchal laws have abandoned the diachronic author-oriented method and have decided to approach the texts synchronically. The source of this frustration, according to Geoffrey David Miller, is the speculative nature of diachronic studies due to the impossibility of recovering the past or accessing the author's mind.[1] Furthermore, this problem is exacerbated by the difficulty in dating biblical texts, which more often than not are products of multiple redactional activities. However, many biblical scholars remain committed to the diachronic study because they "are accustomed to traditional methods rooted in historical concerns and diachronic analyses. In their view, an ancient text is necessarily affected by contemporaneous events and by the culture in which it was written."[2] Furthermore, for these scholars, "reader-oriented studies that exclude or minimize these concerns will always appear to be creative intellectual exercises that fail to yield meaningful results for biblical scholarship."[3]

David McLain Carr, despite his defense of the author-oriented approach, concedes that "any human author only imperfectly puts their conscious stamp on their work."[4] In other words, although one can argue that an author may consciously choose certain words, word sequences, structures, plots, or motifs and not others, it is difficult to ascertain how many unconscious

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[1] Geoffrey David Miller, "Intertextuality in Old Testament Research," *CBR* 9 (2011): 304.

[2] Miller, "Intertextuality," 304.

[3] Miller, "Intertextuality," 304.

[4] David McLain Carr, "The Many Uses of Intertextuality in Biblical Studies: Actual and Potential," in *Congress Volume Helsinki 2010*, ed. Martti Nissinen, VTSup 148 (Leiden; Boston: Brill, 2012), 512.

elements are included in a text by the author.[5] It is in that sense that the question of how to differentiate conscious textual connections from incidental ones becomes pertinent. Concerning this issue, the impossibility of accessing the author's mind should be first acknowledged. Cynthia Edenburg argues that, since there is no possible way to verify the author's compositional intention by interrogating the author, "the text itself remains the only witness to authorial intent. Since this is so, criteria for establishing direct literary relation between texts must center on textual evidence for authorial intent."[6] In other words, a diachronic approach is one that primarily centers on the text.

Furthermore, it is extremely difficult, if not impossible, to distinguish between intentional and unintentional borrowing from a text. Miller has correctly observed that, with explicit quotation as the only possible exception, the evaluation of textual connections is subjective since what seems to be an instance of intentional borrowing may be understood by others as an instance of a coincidental parallel. He concludes, "The subjectivity of the reader, then, which is a linchpin of the reader-oriented approach, is thus a crucial component of the author-oriented approach as well. Like any work of art, beauty—or in this case intertextuality—is very much in

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[5] John Barton similarly observes that the distinction between diachronic and synchronic approaches is not necessarily due to the focus of diachronic studies on authorial intent. He argues that designating the diachronic approach as "author-oriented" and synchronic approach as "reader oriented" "may be misleading if it implies that 'diachronic' study insists on authorial intention. Allusion or quotation of earlier texts is indeed often seen as a matter of deliberate decision by the later author, but this is not essential—earlier texts may be simply 'in the air.' Equally, a 'synchronic' approach is not necessarily the same as a 'reader-response' theory, even though the two are often linked, because it is possible to postulate that links between two texts are somehow 'objectively' present, and not simply generated by the reader" ("Déjà Lu: Intertextuality, Method or Theory?," in *Reading Job Intertextually*, ed. Katharine J. Dell and William L. Kynes, LBHOTS 574 [New York: Bloomsbury, 2013], 2–3).

[6] Cynthia Edenburg, "How (Not) to Murder a King: Variations on a Theme in 1 Sam 24; 26," *SJOT* 12 (1998): 70–71. Emphasis original.

the eye of the beholder."[7] It is in this sense that a pure author-oriented approach is not possible since the subjectivity of the reader is always involved in identifying possible authorial intent in the text. The difficulty to objectively identify authorial intent, however, should not stop the reader from suggesting the possible motivations for the reuse of materials from an earlier text into a later one.

3. The Problem of Terminology

3.1. Intertextuality, Influence, and Allusion

Approaches to textual relationship, according to the literary critics Jay Clayton and Eric Rothstein, can be divided into two broad categories: influence and intertextuality.[8] The former category concerns how a later author is influenced by and depends upon an earlier author, and how a hypertext utilizes and innovates on a hypotext. This approach is diachronic and author-oriented because, according to this method, textual priority and authorial intent are crucial in understanding the meaning of a text. By contrast, intertextuality, which was coined by Julia Kristeva in the late 1960s, is synchronic and reader-oriented because it concerns the manifold relationship that a text has with other texts in a web of linguistic and cultural systems whether or not the connections result from the author's conscious intention.[9] Carr summarizes,

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[7] Miller, "Intertextuality," 298.

[8] Jay Clayton and Eric Rothstein, "Figures in the Corpus: Theories of Influence and Intertextuality," in *Influence and Intertextuality in Literary History*, ed. Jay Clayton and Eric Rothstein (Madison, WI: University of Wisconsin Press, 1991), 3.

[9] See Julia Kristeva, *Desire in Language: A Semiotic Approach to Literature and Art*, ed. Leon Samuel Roudiez, trans. Thomas Gora, Alice A. Jardine, and Leon Samuel Roudiez (New York: Columbia University Press, 1980); Julia Kristeva, *Revolution in Poetic Language*, trans. Margaret Waller (New York: Columbia University Press, 1984). For an overview of the history and development of intertextuality in literary studies, see Graham Allen, *Intertextuality* (London; New York: Routledge, 2000).

In sum, as a distinctive concept in literary studies, "intertextuality" at least in its origination point was quite specifically directed against a focus on texts in any kind of canon, against the identification of any specific source or sources behind a text, and uninterested in conscious authorial imagination.[10]

In that sense, textual priority and the author are irrelevant for understanding a text since a textual connection can be established by the reader regardless of the author's intention as well as the sources used in the composition stage.

Although scholars such as Clayton and Rothstein have attempted to reserve the term intertextuality for synchronic and reader-oriented approach, the term has been used to refer to both synchronic and diachronic approaches. Because of this confusion, Kristeva avoids the use of the term "intertextuality." According to her,

The term *inter-textuality* denotes this transposition of one (or several) sign system(s) into another; but since this term has often been understood in the banal sense of 'study of sources,' we prefer the term *transposition* because it specifies that the passage from one signifying system to another demands a new articulation of the thetic—of enunciative and denotative positionality.[11]

In a similar vein, Leon S. Roudiez insists in his introduction to Kristeva's *Desire in Language* that the original meaning of the term "intertextuality" has been misunderstood and abused to refer to author-oriented approach. He writes that Kristeva's concept of intertextuality "has been generally misunderstood. It has nothing to do with matters of influence by one writer upon another, or with the sources of a literary work."[12] Like Clayton and Rothstein, Roudiez believes

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[10] Carr, "Many Uses," 515.

[11] Kristeva, *Revolution*, 59–60. Emphases original.

[12] Leon Samuel Roudiez, "Introduction," in *Desire in Language: A Semiotic Approach to Literature and Art*, trans. Thomas Gora, Alice A. Jardine, and Leon Samuel Roudiez (New York: Columbia University Press, 1980), 15. Similarly, Jonathan D. Culler, *The Pursuit of Signs: Semiotics, Literature, Deconstruction* (Ithaca, NY: Cornell University Press, 1981), 103–4.

that the term "intertextuality" needs to be reserved for synchronic and reader-oriented

approaches, as intended by the creator of the term, Kristeva.

Roudiez's insistence to understand the terminology "intertextuality" only as intended by

Kristeva is criticized by Susan Stanford Friedman, who exposes the irony of rejecting the

appropriation of the term "intertextuality" to refer to author-oriented approach. She points out,

> Roudiez's disturbance at the "abuse" of Kristeva's term—authorized by Kristeva's own
> disparaging remarks—reflects the wish for intellectual clarity and precision in
> terminology, but it also engages in a desire to maintain a fixed meaning, a signified, for
> intertextuality. The concern for the purity of Kristeva's concept—the critique of its
> "abuse"—insists upon the operation of influence in the dissemination of her concept in its
> *original* form on "both sides of the Atlantic." Kristeva *authored* the term, which should
> be used with the *meaning* she *intended.* I highlight these words, which are either
> explicitly or implicitly present in Roudiez's glossary entry, to emphasize the irony of the
> discourse of anonymous intertextuality being promoted within the discourse of
> influence.[13]

By pointing out this irony, Friedman argues, "The discourse of influence and intertextuality have

not been and cannot be kept pure, untainted by each other."[14] In any case, there seems to be no

consensus with regard to this terminological issue.

As in literary studies, the term "intertextuality" has been used in biblical studies,

including in Old Testament research, to refer to both synchronic and diachronic analyses of

texts.[15] Biblical scholars, such as Michael Fishbane, Patricia K. Tull, and Steve Moyise, use the

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[13] Susan Stanford Friedman, "Weavings: Intertextuality and the (Re)Birth of the Author," in *Influence and Intertextuality in Literary History*, ed. Jay Clayton and Eric Rothstein (Madison, WI: University of Wisconsin Press, 1991), 154. Emphases original.

[14] Friedman, "Weavings," 154.

[15] These two camps have been referred to with various designations. Patricia K. Tull, for example, uses the label "traditionalists" to refer to those who use intertextuality for diachronic analysis, and "radically theoretical radicalists" for those who practice intertextuality as a strictly synchronic approach ("Intertextuality and the Hebrew Scriptures," *Currents in Research: Biblical Studies* 8 [2000]: 62). Miller criticizes Tull's labels as misleading since "the radical approach would only be considered as such when viewed from the perspective of a traditionalist" ("Intertextuality," 286). According to Miller, more appropriate designations for the opposing methods in

term "intertextuality" to refer to their diachronic studies, whereas others like Benjamin Sommer

and JiSeong James Kwon argue that it has to be used to refer solely to a synchronic approach.[16]

Although it may be justifiably used to refer to both methods, Carr, following Clayton and

Rothstein, suggests that biblical scholars reserve the term "intertextuality" for the synchronic

approach and use the term "influence" instead to refer to the diachronic approach. In his words,

> I would urge the use of the term "influence" for cases where biblical scholars can establish a specific relationship between two biblical texts. Furthermore, I propose reserving the term "intertextuality" to designate a broader realm of often unreconstructable ways in which all biblical texts depend on already-used language from a variety of canonical and often non-canonical, even unwritten, sources in a variety of conscious and unconscious ways.[17]

Although Carr's suggestion is helpful to avoid methodological confusion pertaining to the term

"intertextuality," the term "influence" has been used to describe a broad phenomenon in the

diachronic approach since it is not confined to text-specific issues, such as words, word

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intertextuality are "reader-oriented" and "author-oriented." For examples of how intertextuality has been practiced in biblical scholarship, see Johannes Cornelis de Moor, ed., *Intertextuality in Ugarit and Israel* (Leiden; Boston: Brill, 1998); B. J. Oropeza and Steve Moyise, eds., *Exploring Intertextuality: Diverse Strategies for New Testament Interpretation of Texts* (Eugene, Oregon: Cascade Books, 2016).

[16] Michael Fishbane, "Types of Biblical Intertextuality," in *Congress Volume Oslo 1998*, ed. André Lemaire and Magne Sæbø (Leiden; Boston; Köln: Brill, 2000), 39–44; Tull, "Intertextuality and the Hebrew Scriptures"; Steve Moyise, "Intertextuality and Biblical Studies: A Review," *Verbum et Ecclesia* 23 (2002): 418–31; Benjamin D. Sommer, *A Prophet Reads Scripture: Allusion in Isaiah 40–66*, 1st ed. (Stanford, CA: Stanford University Press, 1998), 6–10; JiSeong James Kwon, *Scribal Culture and Intertextuality: Literary and Historical Relationships between Job and Deutero-Isaiah* (Tübingen: Mohr Siebeck, 2016), 30–37.

[17] Carr, "Many Uses," 523.

sequences, or imageries between two texts.[18] Instead, the term refers to "relations between authors, whole words, and even traditions."[19]

A more specific term to refer to a narrower phenomenon of diachronic textual relationship that focuses more on intentional textual borrowing is "allusion." This term has been defined differently and used in various theoretical models.[20] One of the most prominent models is proposed by Ziva Ben-Porat, who defines literary allusion as follows:

> The literary allusion is a device for the simultaneous activation of two texts. The activation is achieved through the manipulation of a special signal: a sign (simple or complex) in a given text characterized by an additional larger "referent." This referent is always an independent text. The simultaneous activation of the two texts thus connected results in the formation of intertextual patterns whose nature cannot be predetermined.[21]

Furthermore, in Ben-Porat's model, the special signal or marker of literary allusion does not always have to be formal but can also be non-formal as long as it is "recognizable as belonging to a certain system in spite of a new form."[22] However, as will be discussed later, formal markers are more reliable indicators for identifying a literary connection than non-formal markers.

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[18] This is the reason why, Michael A. Lyons, for example, rejects the use of the term "influence" to describe his study that focuses on "the mechanics of and strategy behind the use of certain shared locutions" between two texts (*From Law to Prophecy: Ezekiel's Use of the Holiness Code* [New York: T&T Clark, 2009], 51). He posits that influence is a broad term that covers the relationship between two texts that is not limited to the use of shared words or syntactical constructions. In other words, the term "influence" is not an appropriate designation for studies of the relationship between two texts that only investigate formal markers.

[19] Sommer, *Prophet*, 15.

[20] Cf. Sommer, *Prophet*, 10–11; Lyons, *From Law*, 51.

[21] Ziva Ben-Porat, "The Poetics of Literary Allusion," *PTL: A Journal for Descriptive Poetics and Theory of Literature* 1 (1976): 107–8.

[22] Ben-Porat, "Poetics," 110.

3.2. Literary Dependence and Conceptual Dependence

Before discussing further how to detect literary dependence, it is necessary to define what constitutes such dependence. The discussion on the means of detecting literary dependence depends naturally on definitions of our terms. Travis B. Williams argues that for literary dependence to occur, "The hypertext need not reproduce the hypotext exactly…. While points of detailed correspondence aid in the process of identification, the ancient world provides plenty of examples in which an author borrowed from and freely modified a given source."[23] This understanding of literary dependence, however, suggests no limitations as to how freely an author may reuse the materials from a source text in a borrowing text for it to still be considered literary dependence. Here, the reuse of older materials in a new text may be beyond recognition and still be rendered as a case of literary dependence. By contrast, John S. Bergsma emphasizes the importance of distinguishing between *literary* and *conceptual* dependence. According to him, "*Literary dependence* will describe one text's (the hypertext's) use of the very *words* of an earlier text (the hypotext); *conceptual dependence* will describe the use of the hypotext's *concepts*."[24] In defining these two terms, Bergsma opts for the use of the term "literary dependence" in a narrow sense to describe only textual dependence marked by lexical similarities although he realizes that some scholars may have used the same term in a broader sense to include not only lexical similarities but also conceptual ones.[25]

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[23] Travis B. Williams, "Intertextuality and Methodological Bias: Prolegomena to the Evaluation of Source Materials in I Peter," *JSNT* 39 (2016): 174.

[24] John S. Bergsma, "The Biblical Manumission Laws: Has the Literary Dependence of H on D Been Demonstrated?," in *A Teacher for All Generations: Essays in Honor of James C. Vanderkam*, JSJSup 153 (Leiden: Brill, 2012), 66. Emphases original.

[25] Bergsma, "Biblical Manumission Laws," 66, n. 4.

Bergsma's distinction of literary and conceptual dependence in his study on the literary relationship between the manumission laws in H and D has been criticized by Benjamin Kilchör, who demands a more precise elaboration on these terms.[26] For the sake of clarity, I propose the following points with regards to what I mean by literary dependence and conceptual dependence. First, literary dependence is the dependence of the hypertext upon the hypotext by mimicking its literary features, whereas conceptual dependence is the dependence of the hypertext's concepts upon the hypotext without mimicking its literary features. In conceptual dependence, no literary features are borrowed from the source text, yet "the reader is forced to supply information from the source text in order to understand the borrowing text."[27] Second, conceptual connection between two texts that do not know each other but share the same social settings or source is not referred to as conceptual dependence in this study since the dependence is not upon each other but upon the same setting or source. Third, conceptual and literary dependencies are not necessarily exclusive to each other since the presence of one may be accompanied and reinforced by the other. Fourth, shared literary features between two texts do not necessarily indicate literary dependence. However, a connection between two texts without the presence of shared literary features is not to be referred to as literary dependence. Bergsma accurately describes why this is so:

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[26] Kilchör asks, "Versteht Bergsma unter konzeptioneller Abhängigkeit, dass ein Text den anderen kennt, die Thematik aber aufgreift, ohne wörtlich zu zitieren? Oder bedeutet konzeptionelle Abhängigkeit im Gegenteil, dass der eine Text den anderen nicht kennt, dass beiden aber ein gesellschaftlich verankertes, als bekannt vorausgesetztes Konzept zugrunde liegt? Wozu ist es zu rechnen, wenn keine Zitierung beabsichtigt wird, ein Text aber das Konzept eines anderen integrieren oder korrigieren will und darum punktuell denselben Wortschatz verwendet? Ist der Umstand, dass in beiden Texten der שכיר im Kontext der Sklavenfreilassung erwähnt ist, reinem Zufall zuzuschreiben? Oder kann der gemeinsame Wortgebrauch auf konzeptionelle, nicht aber auf literarische Abhängigkeit zurückgeführt werden?" (Benjamin Kilchör, *Mosetora und Jahwetora: Das Verhältnis von Deuteronomium 12–26 zu Exodus, Levitikus und Numeri*, BZABR 21 [Wiesbaden: Harrassowitz, 2015], 32).

[27] Lyons, *From Law*, 61.

> Literary dependence is, after all, one text's reuse of the *language* of another text. Therefore, for literary dependence to be demonstrated, the two texts must show similarity of language, and not just any *similarity of language*, but a greater similarity than can readily be explained by other factors—such as common subject matter, common literary tradition, a common source text on which both subject texts depend, or simple coincidence. The similarity of language between the two texts must be unusual, i.e. statistically improbable; thus the stress is on low-frequency (statistically improbable) phenomena.[28]

Thus, while the use of common words in the same context may be attributed to conceptual dependence and not literary dependence, the identification of literary dependence cannot be established without shared literary features.[29]

Furthermore, it should be noted that literary dependence does not necessarily require the author of a borrowing text to have physical access to the source text in order to mimic its language.[30] The source text's literary features may also be reproduced in the borrowing text from memory, either as the result of previous visual contact with the written source materials or previous auditory contact with those materials. Focusing on the problem of the Synoptic Gospels. Andrew Gregory avers that visual contact with the source text is not the only explanation for the similarity between two texts.[31] Instead, the similarity of the content may also

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[28] Bergsma, "Biblical Manumission Laws," 67.

[29] Bergsma, however, limits the similarity of language to only vocabulary and word order ("Biblical Manumission Laws," 66). This limitation is too narrow because literary features are more than lexical and syntactic aspects. Other literary features such as semantic and structural aspects may be useful to identify literary connection.

[30] Susan B. Niditch, for example, criticizes the hypothetical reconstruction of ancient authors/redactors cutting and pasting material by physically accessing the various documents when composing a text. She then states, "This is not to deny that many sources, oral and written, lie behind the Hebrew Bible…. The library may be held in the memory. But how do the works of the implicit library come to be? Questions about orality and literacy are extremely relevant in this matter"(*Oral World and Written Word: Ancient Israelite Literature*, LAI [London: SPCK, 1997], 114).

[31] Andrew Gregory, "What Is Literary Dependence?," in *New Studies in the Synoptic Problem: Oxford Conference, April 2008: Essays in Honour of Christopher M. Tuckett* (Leuven: Peeters, 2011), 90.

be explained at least in two other ways, namely, the independent use of stable oral tradition and the use of memory, both of which may be used in verbatim reproduction of source materials.[32] In addition to intentional modification of source materials, the phenomenon of citation from memory may explain the less-than-exact citation in some cases.[33]

4. Analyzing Textual Connections in the Pentateuchal Legal Corpora

An approach for examining the relationship between the Pentateuchal laws, according to Kilchör, should:

a. ... not be based on any kind of model of the composition of the Pentateuch, which is won out of the narratives, esp. the Patriarch narratives.

b. ... not presuppose a certain religio-historical theory and then just assign the different laws to particular religio-historical strata, for the religio-historical theories must come out of the texts (and archaeological surveys), not *vice versa*.

c. ... start with the final text.

d. ... exploit the full comfort of having not just two parallel traditions, but often three, sometimes even more.

e. ... survey the literary relationship between the texts prior to the relationship of content, for comparisons of content can usually be explained in both directions.

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[32] Gregory, "What Is Literary Dependence?," 90–103.

[33] John Dominic Crossan, for example, argues, "Orality is structural rather than syntactical. Apart from short items that are retained magically, ritually, or metrically verbatim, it remembers gist, outlines, and interaction of elements rather than detail, particular, and precision of sequence" (*The Birth of Christianity* [New York; San Francisco: HarperCollins, 1998], 54).

f.   ... look for the larger context and see whether the order of one text can be explained by the

order of the other text.[34]

Kilchör correctly criticizes the tendency in the Pentateuchal scholarship that assumes a certain

compositional theory and then reads the data from this biased perspective.[35] He is also correct to

assert that the literary approach should be prioritized over this tendency. Kilchör argues, "Any

theory about the relationship of the different laws and legislations in the Pentateuch should start

with comparisons of all available texts on a *literary* level."[36] In the following sections, I address

three methodological issues in analyzing textual connections between two texts or more that

prioritize the literary approach based on Kilchör's guidelines: (1) identifying the presence of a

literary connection, (2) assessing the nature of the literary connection, (3) determining the

direction of the literary dependence.

4.1. Identifying the Presence of a Literary Connection

According to Ben-Porat, there are four stages in the actualization of allusion: (1) recognition of a

marker, (2) identification of the evoked text, (3) modification of the initial local interpretation of

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[34] Benjamin Kilchör, "The Direction of Dependence between the Laws of the Pentateuch," *ETL* 89 (2013): 4. The same set of guidelines is also employed in Kilchör's dissertation (*Mosetora*, 35–36).

[35] Kilchör highlights John Van Seters's approach to analyzing Pentateuchal laws as an example of biased interpretation. He points out that Van Seters "started with the stories of the patriarchs and continued then with the narratives around Moses until he finally surveyed the laws [and when he] turned to the laws, his Pentateuch model was already achieved, and he tried to confirm it rather than to examine the relationship between the laws open and unbiased" (Kilchör, "Direction of Dependence," 1–2). Another example is Eckart Otto's and Jacob Milgrom's different interpretations of the relationship between Leviticus 17 and Deuteronomy 12 concerning cultic centralization and animal slaughter laws. Esias Meyer astutely points out that their differences are not primarily based on literary evidence but their different theories of the composition of the Pentateuch ("Leviticus 17, Where P, H, and D Meet: Priorities and Presuppositions of Jacob Milgrom and Eckart Otto," in *Current Issues in Priestly and Related Literature: The Legacy of Jacob Milgrom and Beyond* [Atlanta: SBL Press, 2015], 349–67).

[36] Kilchör, "Direction," 13. Emphasis original.

the signal, and (4) activation of the evoked text as a whole, in an attempt to form maximum intertextual patterns.[37] In the first stage, the reader of a text recognizes the allusion markers, which "is always identifiable as an element or pattern belonging to another independent text" but "are never referred to directly."[38] In the second stage, the reader identifies the source text from which the alluding text borrows its materials. Although it seems evident from the first stage, there are situations where a reader is able to recognize a marker but unable to identify the evoked text, for example, because the marker has been part of established cultural collocations. After identifying the evoked text, the reader reaches stage three, in which the meaning of the alluding text is altered because the reader brings the elements from the evoked text into the interpretation of the alluding text. In the final stage, the reader may be able to activate the evoked text as a whole in the interpretation of the alluding text. In this stage, the interpretation of the alluding text is influenced by elements from the evoked text that are not limited to only the marker in the alluding text or the marked in the evoked text.[39] Ben-Porat's model is suitable for analyzing the relationship of the Pentateuchal legal texts because the texts never explicitly refer to their sources but contain markers for identifying allusion, which in turn affects the interpretation of the alluding text.

In seeking to establish textual connections, one approach which has shown promise in analyzing markers for identifying allusion is the modern practice of plagiarism detection. It should be first acknowledged here that plagiarism in a modern notion, and applying the standard

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[37] Ben-Porat, "Poetics," 110–11.

[38] Ben-Porat, "Poetics," 108–9.

[39] According to Sommer, the reader is not always required to reach the fourth stage (*Prophet Reads Scripture*, 12).

of modern plagiarism to ancient texts without qualifications would be an anachronism. Modern

plagiarism detection is developed because of the modern notion of intellectual property and for

the main purpose of exposing academic dishonesty.[40] The motive for the reuse of older texts by

ancient authors, by contrast, cannot be evaluated based on the modern notion of intellectual

property. Furthermore, the methods of textual composition in ancient times, especially the ways

source materials were reused in a borrowing text, may be different than the ones used in modern

times. Lastly, in the case of comparing specific legal texts in the Pentateuch, the corpus is much

smaller than the modern dataset so that it does not require computer-assisted analysis. In fact,

computer-assisted plagiarism detection may only be effective for long documents with a length

of at least a few thousand words.[41] In addition, pentateuchal legal texts were not composed by

only one or two individuals at one time period but multiple authors or redactors in an extended

period of time. This composite nature of the pentateuchal legal texts further complicates the

matter when trying to compare large blocks of textual material as is the case in computer-assisted

analyses.

Nevertheless, the principles that underlie plagiarism detection methods are useful in

identifying the degree of similarity between two or more texts or parts of texts. The

presupposition behind plagiarism detection is that "there are no two humans, no matter what

languages they use and how similar thoughts they have, [who] write exactly the same text. Thus,

written text, which is stemmed from different authors, should be different, to some extent, except

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[40] Salha M. Alzahrani, Naomie Salim, and Ajith Abraham, "Understanding Plagiarism Linguistic Patterns, Textual Features, and Detection Methods," *IEEE Transactions on Systems, Man, and Cybernetics, Part C (Applications and Reviews)* 42 (2012): 134.

[41] Cf. Benno Stein, Nedim Lipka, and Peter Prettenhofer, "Intrinsic Plagiarism Analysis," *Language Resources and Evaluation* 45 (2011): 63–82.

for cited portions."[42] The same presupposition has also been employed by biblical scholars to propose various compositional layers of biblical texts with their different authors.[43] Nevertheless, since the ancient authors may modify source materials when reusing them in their compositions, textual reuse is not always apparent. Based on the way materials from the source text are used, plagiarism is divided into two types: literal plagiarism and intelligent plagiarism.[44] In literal plagiarism, the shared content in the borrowing text is an exact copy, a near exact copy, or a modified copy of the materials in the source text. In this category, the materials from the source text are only slightly modified in the borrowing texts, for example, by insertion, deletion, substation, phrase reordering, and syntax reordering. By contrast, in intelligent plagiarism, the materials from the source text are substantially modified to minimize detection. In the case of the pentateuchal laws, although the motivation for substantial modifications of older legislation in the younger one may not necessarily be to minimize detection, literary dependence in this setting is unquestionably more difficult to detect than when a borrowing text uses a source text with little to no modification.

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[42] Alzahrani, Salim, and Abraham, "Understanding Plagiarism," 133–34.

[43] The use of writing style has been one of the primary bases for identifying various sources in the Pentateuch since the birth of the documentary hypothesis theory. Jean Astruc argued for at least three separate sources or documents based on the different preferences for the divine names, namely, Yahweh and Elohim (*Conjectures sur les mémoires originaux dont il parait que Moyse s'est servi pour composer le livre de la Genèse* [Brussels, 1753]). The use of distinctive phraseology has also been used to identify various authors or schools responsible for the composition of the Pentateuch. Moshe Weinfeld, for instance, includes an appendix listing various phrases that he believes to be a distinctive writing style of the Deuteronomistic School (*Deuteronomy and the Deuteronomic School* [Oxford: Clarendon, 1972], 320–65. The notion that differing writing styles and vocabulary is evidence for different sources has been criticized, for example, by John Van Seters, *In Search of History: Historiography in the Ancient World and the Origins of Biblical History* [New Haven: Yale University Press, 1983]; R. N. Whybray, *The Making of the Pentateuch: A Methodological Study* [Sheffield: JSOT Press, 1987].

[44] Alzahrani, Salim, and Abraham, "Understanding Plagiarism," 134–37.

Based on the language used by the texts analyzed, there are two types of plagiarism detection: monolingual and cross-lingual. The former identifies content similarity within a homogenous language setting whereas the latter a heteronomous one.[45] Since the pentateuchal laws are written in the same language, that is, Biblical Hebrew, monolingual plagiarism detection is the most relevant for the present study. Monolingual plagiarism detection is further divided into two types: intrinsic and extrinsic. The extrinsic approach compares a text against other external sources to detect potential plagiarism, whereas the intrinsic approach attempts to detect potential plagiarism without using external sources by analyzing the sections of a text for consistency in the writing style of the author. While the goal of both approaches is to detect plagiarism, their methods are different.[46] The extrinsic approach compares a text suspected of plagiarism against a set of external texts to identify its degree of similarity with other possible source texts. By contrast, the intrinsic approach typically employs stylometric analysis, which is valuable for identifying writing style shifts among segments within a text.

Salha M. Alzahrani et al. list various textual features that characterize a text before applying a method of plagiarism detection. In extrinsic plagiarism detection, textual features that

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[45] An example of cross-lingual comparison of texts is Moshe Weinfeld, "Traces of Assyrian Treaty Formulae in Deuteronomy," *Bib* 46 (1965): 417–27; Bernard M. Levinson, "'But You Shall Surely Kill Him!': The Text-Critical and Neo-Assyrian Evidence for MT Deuteronomy 13:10," in *"The Right Chorale": Studies in Biblical Law and Interpretation* (Tübingen: Mohr Siebeck, 2008), 166–94; Bernard M. Levinson, "The Neo-Assyrian Origins of the Canon Formula in Deuteronomy 13:1," in *Scriptural Exegesis: The Shapes of Culture and the Religious Imagination: Essays in Honour of Michael Fishbane*, ed. Deborah A. Green and Laura S. Lieber (Oxford: Oxford University Press, 2009); Markus Zehnder, "Building on Stone?: Deuteronomy and Esarhaddon's Loyalty Oaths (Part 1) Some Preliminary Observations," *BBR* 19 (2009): 341–74; Markus Zehnder, "Building on Stone?: Deuteronomy and Esarhaddon's Loyalty Oaths (Part 2) Some Additional Observations," *BBR* 19 (2009): 511–35; Bernard M. Levinson, "Esarhaddon's Succession Treaty as the Source for the Canon Formula in Deuteronomy 13:1," *JAOS* 130 (2010): 337–47; Joshua A. Berman, "CTH 133 and the Hittite Provenance of Deuteronomy 13," *Journal of Biblical Literature* 130 (2011): 25–44; Carly L. Crouch and Jeremy M. Hutton, *Translating Empire: Tell Fekheriyeh, Deuteronomy, and the Akkadian Treaty Tradition* (Tübingen: Mohr Siebeck, 2019).

[46] Alzahrani, Salim, and Abraham, "Understanding Plagiarism," 137.

characterize a text are "*lexical* features, such as character n-gram and word n-gram; *syntactic*

features, such as chunks, sentences, phrases, and POS [part of speech], *semantic* features, such as

synonyms and antonyms; and *structural* features that takes [*sic*] contextual information into

account."[47] By comparing these four categories of features, the extrinsic approach attempts to

measure the degree of similarity between the texts to determine whether a literary connection

exists. They also point out various textual features that are important for intrinsic plagiarism

detection:

> 1) text statistics via various lexical features, which operate at the character or word level;
> 2) syntactic features, which work at the sentence level, quantify the use of word classes,
> and/or parse sentences into part of speech; 3) semantic features, which quantify the use of
> synonyms, functional words, and/or semantic dependencies; and 4) application-specific
> features, which reflect text organization, content-specific keywords, and/or other
> language-specific features.[48]

In short, the textual features used in both extrinsic and intrinsic approaches are similar, namely,

(1) lexical features, (2) syntactic features, (3) semantic features, and (4) structural-thematic

features.[49] In both approaches, the practice of stylometry is helpful for analyzing these textual

features for content similarities with the underlying presupposition that writing style is unique to

each author "since they employ, consciously or subconsciously, patterns to construct sentences,

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[47] Alzahrani, Salim, and Abraham, "Understanding Plagiarism," 139. Emphasis original.

[48] Alzahrani, Salim, and Abraham, "Understanding Plagiarism," 140. Jacques Savoy similarly observes, "The linguistic items defining a particular style can be found at the lexical, syntactical, grammatical, and semantical level, as well as in the text layout" (*Machine Learning Methods for Stylometry: Authorship Attribution and Author Profiling* [Cham, Switzerland: Springer Nature, 2020], 6).

[49] Cf. Gary Edward Schnittjer, who identifies three linguistic features that "make allusion more likely include—verbal: distinctive terms and/or rare terms; a set of terms used in ironic manner; contextual: common terms and phrases used in distinctive ways or in distinct combinations; syntactical: ungrammatical elements in the receptor context because of adapting the donor context with its syntax and vice versa" (*Old Testament Use of Old Testament: A Book-by-Book Guide* [Grand Rapids: Zondervan, 2021], xxiv).

and use an individual vocabulary."[50] Stylometry emphasizes the importance of various linguistic features not only for identifying the writing style of an author but also for establishing a possible literary connection between texts.[51] Therefore, stylometric analysis may be employed both for analyzing textual uniformity in a document in the intrinsic approach and for comparing textual similarity among documents in order to detect any literary connections in the extrinsic approach.

Furthermore, the textual features analyzed in plagiarism detection method are similar to the metalanguage in the linguistics analysis of language structure. Linguists argue that, when analyzing a language, including Biblical Hebrew, "it is necessary to know the metalanguage (i.e. the technical terminology used to describe the observed features of the language) because it provides the means for explaining language structure (e.g. the terminology of linguistic categories)."[52] As pointed out by Christo H. J. van der Merwe et al.,

> Language structure can be described in terms of the phonetic and phonological, morphological, syntactic, semantic and pragmatic, and textual aspects. These core aspects of language are influenced by matters like style (the way a specific author make [*sic*] a unique selection from the range of grammatical possibilities to the purpose of the communication), the relation of language to society (the way language is constructed by and in turn helps to construct society) and the mental or cognitive processes underlying the production, perception and comprehension of speech.[53]

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[50] Alzahrani, Salim, and Abraham, "Understanding Plagiarism," 140.

[51] Douglas Biber, for example, lists sixty-seven linguistic features grouped into sixteen grammatical categories that may be useful for textual comparison, and the frequencies of these linguistic features are normalized so that they may be proportionally compared with other texts to determine the degree of (dis)similarity between texts (*Variation Across Speech and Writing* [New York: Cambridge University Press, 1988], 71-78).

[52] Christo H. J. van der Merwe, Jacobus A. Naudé, and Jan Kroeze, *A Biblical Hebrew Reference Grammar*, 2nd ed. (London; New York: T&T Clark, 2017), 47.

[53] van der Merwe, Naudé, and Kroeze, *A Biblical Hebrew Reference Grammar*, 47.

In addition to the same syntactic and semantic aspects, the other aspects of language structure are practically the same as the textual features in the plagiarism detection method albeit with different names. The phonetic, phonological, and morphological aspects operate on the level of individual words and correspond to the lexical features in the plagiarism detection method. The textual aspect in language structure, which is how sentences are organized to form a larger unit and text, is the same analysis of the structural-thematic features in the plagiarism detection method. All these aspects, which reflect the distinctive circumstances under which a text is produced, could be used to identify the unique characteristics of a text and to compare them to those of other texts in order to determine the degree of similarity among texts and their possible literary relationships.

Among the various textual features or aspects, the most important marker of literary dependence is the presence of lexical similarity between two texts. Arguing for the priority of shared vocabulary in identifying textual connections between texts over other methods, Risto Nurmela states, "As the other methods are less objective and less verifiable, analyses based on verbal similarities should be preferred in the face of contradictory results."[54] As Nurmela also acknowledges, although verbal similarities are not the only marker for literary dependence, they are the primary evidence for the presence of literary dependence. However, despite the primacy of shared vocabulary in identifying literary dependence, Miller warns that they should not all be regarded as markers of literary dependence since "the presence of the same word or phrase in two or more texts could be a reflection of conventional biblical parlance, or at least language

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[54] Risto Nurmela, "The Growth of the Book of Isaiah Illustrated by Allusions in Zechariah," in *Bringing Out the Treasure: Inner Biblical Allusion in Zechariah 9-14* (London; New York: Sheffield Academic, 2003), 247.

typical of a particular genre, and not literary dependence.[55] In a similar vein, Richard L. Schultz

distinguishes between verbal parallel, verbal dependence, and quotation. According to him, the

term verbal parallel is used "to designate any verbal correspondence between two texts in which

actual dependence is either impossible or unnecessary (for the sake of argument) to

demonstrate."[56] By contrast, the term verbal dependence is employed when referring to "any

'verbal parallel' in which, for the sake of argument, or, as a result of a careful examination of the

data, it is concluded that [the hypertext] is dependent on the words of another, without stating

anything about the nature or form of the 'source' or suggesting any reason for [the hypertext's]

drawing upon it."[57] The third category, quotation, refers to the use of earlier material that

influences the understanding or interpretation of the alluding text.[58] Schultz focuses on the

presence of verbal and syntactical correspondence between two texts and excludes non-formal

markers such as motifs, themes, images, and concepts.[59] These distinctions make it clear that not

all shared formal markers may be attributed to literary dependence or may influence the meaning

of the hypertext.

Since shared vocabulary does not always indicate literary dependence, Sommer develops

a set of criteria to determine whether the shared vocabulary between two texts is by coincidence

or due to intentional borrowing. He argues,

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[55] Miller, "Intertextuality," 295.

[56] Richard L. Schultz, *The Search for Quotation: Verbal Parallels in the Prophets* (Sheffield: Sheffield Academic, 1999), 217.

[57] Schultz, *Search for Quotation*, 217.

[58] Schultz, *Search for Quotation*, 221.

[59] Schultz, *Search for Quotation*, 222–23.

> If two texts share vocabulary items that are commonplace in Biblical Hebrew, the parallel between them is most likely coincidental. If they share terms that often appear together in biblical or ancient Near Eastern texts, then there is a strong likelihood that they independently draw on traditional vocabulary clusters. If the vocabulary is neither common nor part of a known vocabulary cluster, then the possibility of genuine borrowing is strong. If a text repeatedly alters the wording or ideas of earlier texts in certain ways, or if it displays a particular preference for certain texts, then examples of shared vocabulary which display those tendencies are likely to represent genuine cases of borrowing.[60]

Jeffery M. Leonard similarly proposes eight methodological guidelines for identifying the presence of literary dependence: (1) Shared language is the single most important factor in establishing a textual connection; (2) Shared language is more important than nonshared language; (3) Shared language that is rare or distinctive suggests a stronger connection than does language that is widely used; (4) Shared phrases suggest a stronger connection than do individual shared terms; (5) The accumulation of shared language suggests a stronger connection than does a single shared term or phrase; (6) Shared language in similar contexts suggests a stronger connection than does shared language alone; (7) Shared language need not be accompanied by shared ideology to establish a connection; (8) Shared language need not be accompanied by shared form to establish a connection.[61] Particularly relevant for the purpose of weighing the importance of shared words and word sequences is the third criterion. Here, the distinctiveness of shared language indicates a stronger literary connection.

In a similar vein to Leonard's criterion of distinctiveness of shared language, Bergsma suggests two criteria that indicate literary dependence: shared low-frequency vocabulary and/or

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[60] Benjamin D. Sommer, "Exegesis, Allusion and Intertextuality in the Hebrew Bible: A Response to Lyle Eslinger," *VT* 46 (1996): 484–85.

[61] Jeffery M. Leonard, "Identifying Inner-Biblical Allusions: Psalm 78 as a Test Case," *JBL* 127 (2008): 246.

shared low-frequency word sequence.[62] He emphasizes the importance of these two criteria in determining literary dependence:

> It is difficult to imagine a situation in which it would be possible to demonstrate the presence of literary dependence (understood as the hypertext's reuse of the language of a hypotext) in the complete absence of either shared low-frequency words or sequences. At best, one might argue for conceptual dependence between the two texts in such a situation.[63]

Bergsma, however, cautiously states that these criteria "are *necessary* but not always *sufficient* to demonstrate literary dependence" particularly when the frequency of the shared words is not very low and the word sequence is not very long.[64] In such cases, other criteria, such as those of Hays and MacDonald, are still necessary for determining literary dependence.[65]

While low-frequency vocabulary is crucial in determining textual connection between texts, stylometry has demonstrated that high-frequency words can provide clues for detecting a composite document or identifying literary dependence among texts. In particular, function words like conjunctions, prepositions, articles, all of which are topic-independent, may be useful for identifying the unique style of an author.[66] These function words "serve to relate other words

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[62] Bergsma, "Biblical Manumission Laws," 66. Edenburg also proposes a similar criterion, namely, "unique recurrence of peculiar formulation" ("How [Not] to Murder a King," 72).

[63] Bergsma, "Biblical Manumission Laws," 68.

[64] Bergsma, "Biblical Manumission Laws," 68. Cf. Dennis Ronald MacDonald, "Introduction," in *Mimesis and Intertextuality in Antiquity and Christianity*, ed. Dennis Ronald MacDonald (Harrisburg, PA: Trinity Press International, 2001), 2–3; Richard B. Hays, *Echoes of Scripture in the Letters of Paul* (New Haven; London: Yale University Press, 1989), 29–32.

[65] Cf. MacDonald, "Introduction," 2–3; Hays, *Echoes of Scripture in the Letters of Paul*, 29–32.

[66] Patrick Juola, "Authorship Attribution," *Foundations and Trends® in Information Retrieval* 1 (2007): 265.

and to provide cues to the grammatical and semantic structure of the rest of the sentence."[67] In analyzing the use of function words, in addition to other combinations of words in texts, both syntactic and semantic features are examined and compared between texts for similarity. In addition to function words, other common words may also be useful for identifying the peculiar writing style of a writer. As pointed out by Savoy, "The stylistic markers do not appear only at the lexical and grammatical stage. At the semantics level, one can analyze the context of some words to define the particular idiosyncrasy of an author."[68] Common words, when understood in their literary contexts, may shed light on how they are used semantically by a writer compared to other writers and how closely a later author follows an earlier one in the case of literary dependence. When shared words between texts are used in similar contexts, the claim of literary dependence is stronger than when they are used in completely different contexts. Gary T. Manning, Jr. avers, "The proposed allusion is stronger the more that the shared vocabulary is used in similar ways. That is, the allusion is clearer if the allusive words and phrases have the same narrative role or theological purpose in the two passages. If two passages use similar words, but those words have different functions in the two passages, then the parallel is relatively weak."[69] Furthermore, semantic aspects may be used to link two documents when they do not use the same words but instead different words within the same range of meaning are used. Manning asserts, "The allusion is clearest when the two works share common words, but the later work may also allude to the earlier via synonyms or cognate words. In some cases, the use of

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[67] Juola, "Authorship Attribution," 255. See also J. F. Burrows, "Word-Patterns and Story-Shapes: The Statistical Analysis of Narrative Style," *Literary and Linguistic Computing* 2 (1987): 61–70.

[68] Savoy, *Machine*, 6.

[69] Gary T. Manning Jr., *Echoes of a Prophet: The Use of Ezekiel in the Gospel of John and in Literature of the Second Temple Period* (London; New York: T&T Clark International, 2004), 10–11.

synonyms or cognates may be due to different text traditions, to an allusion to either the Greek or

Hebrew text, or to faulty memory by the later author. In other cases, the words or syntax may

have been intentionally altered for stylistic reasons, to update older language, or to fit the

language or theology of the later context."[70] The use of memory may also explain the use of

semantically synonymous parallel words or phrases.[71]

In addition to the various linguistics features mentioned above, connections between texts

may be indicated by the presence of structural-thematic parallels. An example of thematic

connections between texts is demonstrated by John S. Vassar. In addition to two verbal parallels

between Psalm 1 and Deuteronomy 30, namely, the words הלך "walking" and אבד "destruction,"

he observes six thematic markers shared by both texts: prevalence of legal language, the use of

covenantal language, the central element of choice, the sequence of blessing and cursing, the

concern for didacticism, and emphasis on the word of God.[72] Manning refers to this phenomenon

as "resonance." He avers, "Two texts can be said to resonate when their *contexts* deal with

similar themes and ideas. A proposed allusion extending only to a short phrase may seem rather

weak; but if the surrounding contexts of the phrase in both passages touch on the same themes

and ideas, the allusion may be rather strong."[73] It should be noted that the presence of thematic

parallels does not necessarily indicate a textual connection. However, the density of the thematic

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[70] Manning Jr., *Echoes of a Prophet*, 9–10.

[71] For the effects of memory in the reproduction of earlier documents in a later one, see David McLain Carr, *Writing on the Tablet of the Heart: Origins of Scripture and Literature* (Oxford; New York: Oxford University Press, 2005).

[72] John S. Vassar, *Recalling a Story Once Told: An Intertextual Reading of the Psalter and the Pentateuch* (Macon, GA: Mercer University Press, 2007), 36–43.

[73] Manning Jr., *Echoes of a Prophet*, 13.

parallels, as Vassar's example above, suggests a textual connection between the two texts.

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when their contexts deal with similar themes and ideas. A proposed allusion extending only to a

short phrase may seem rather weak; but if the surrounding contexts of the phrase in both

passages touch on the same themes and ideas, the allusion may be rather strong"[74] Intertextual

connection between texts is even stronger when thematic parallels are accompanied by structural

parallels, that is, when a hypertext does not only borrow the themes of the hypotext but also

arrange the thematic parallels based on the hypotext's structure.[75] According to Dennis R.

MacDonald's fourth criterion for detecting mimesis in ancient texts, two texts may share a

literary connection when they display similar sequences for the parallels.[76] As an example, he

demonstrates how the story of the burial of Jesus in Mark 15:42–16:2 sequentially parallels the

story of the burial of Hector in *Iliad* 24.[77]

The use of thematic and structural markers as indicators of textual connection is not

without problems, however. Edenburg, for example, cautions against the use of structural

similarity for identifying literary dependence since it may be due to shared form without any

direct literary dependence. She explains, "Texts belonging to a common genre or literary pattern

display structural similarity, which may cause the reader to associate them together; but such an

association is like that existing between one business letter and another; all are written according

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[74] Manning Jr., *Echoes of a Prophet*, 13.

[75] Cf. Edenburg's second criterion for determining textual interrelatedness, i.e., similarity of context and/or structure ("How [Not] to Murder a King," 72).

[76] MacDonald, "Introduction," 2.

[77] MacDonald, "Introduction," 5–6.

to the same form, even though they may derive from different hands, writing at different times about different matters."[78] Similarly, Nurmela objects to the use of thematic or structural parallels as evidence of textual connections. He argues, "It is hard to prove a relation between two literary units on the basis of structural or thematic parallels, since there may be further literary units which share the same structure or thematic [*sic*]."[79] Although he admits that the same can be said about verbal parallels, he argues that the issue can be resolved with the use of a concordance.

The concerns raised by Edenburg and Nurmela are valid; shared structure should not be used solely to argue for a textual connection. However, the presence of a similar structure strengthens the likelihood of literary connections if it is present in addition to other criteria. As contended by Miller, the similarity in form or structure "might not present a strong case for intertextuality by themselves. However, when combined with the parallels of the other two types [i.e., lexical and content parallels], they contribute to the 'density' of the shared features and thus bolster the argument in favor of literary dependence."[80] An excellent example of how the combination of verbal and structural parallels may indicate a textual connection is Bernard M. Levinson's work on the literary relationship between the apostasy laws in Deuteronomy 13 and Esarhaddon Succession Treaty (EST) §10.[81] He argues that Deut 13:1–12 is a structural reworking of select elements of EST. Although the Deuteronomic authors do not precisely

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[78] Edenburg, "How (Not) to Murder a King," 65.

[79] Risto Nurmela, *The Mouth of the Lord Has Spoken: Inner-Biblical Allusions in Second and Third Isaiah* (Lanham, MD: University Press of America, 2006), v.

[80] Miller, "Intertextuality," 297. Cf. MacDonald, "Introduction," 2; Manning Jr., *Echoes of a Prophet*, 12.

[81] Levinson, "Esarhaddon's Succession Treaty," 344–46. It should be noted here that the comparison between EST and Deut 13 is cross-lingual, namely, the comparison between an Akkadian text and a Hebrew text.

follow the structure of EST and not every section of EST has a correspondent section in Deut

13:1–12, Levinson convincingly shows that Deut 13:1–12 might have mimicked EST to

emphasize loyalty to Yahweh rather than the king of Assyria. Two things, however, need to be

clarified about the structural similarities between EST and Deut 13:1–12. First, instead of

following the structure of EST in the original order, the Deuteronomic authors inverted the

structural elements of EST. This technique to mark intentional citations is commonly referred to

as Seidel's law.[82] The themes and structures of the texts in comparison may not necessarily be

identical in order to posit a literary connection. Instead, as pointed out by Christopher Hays,

"biblical authors often adopted foreign forms and themes precisely in order to *subvert* them; in

such a case there is an *inverse* thematic coherence."[83] Second, the structural and thematic

similarities are enforced by the verbal parallels between the two texts.

4.2. *Assessing the Nature of the Literary Connection*

After a connection between two or more texts can be established, the next step is to analyze the

nature of the textual relationship since there are various types of textual connection. Meir Malul

identifies at least four types of connection between two or more texts.[84] The first type is direct

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[82] This principle was first introduced by Moshe Seidel, "Parallels between Isaiah and Psalms," *Sinai* 38 (1955): 149–72, 229–40, 272–80, 335–55. Cf. Pancratius C. Beentjes, "Inverted Quotations in the Bible: A Neglected Stylistic Pattern," *Bib* 63 (1982): 506–23; Bernard M. Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation* (New York: Oxford University Press, 1997), 18–20; Isaac Kalimi, *The Reshaping of Ancient Israelite History in Chronicles* (Winona Lake, IN: Eisenbrauns, 2005), 232–74.

[83] Christopher B. Hays, "Echoes of the Ancient Near East? Intertextuality and the Comparative Study of the Old Testament," in *The Word Leaps the Gap: Essays on Scripture and Theology in Honor of Richard B. Hays*, ed. J. Ross Wagner, C. Kavin Rowe, and A. Katherine Grieb (Grand Rapids: Eerdmans, 2008), 38. Emphases original.

[84] Meir Malul, *The Comparative Method in Ancient Near Eastern and Biblical Legal Studies*, AOAT (Kevelaer/Neukirchen-Vluyn: Butzon & Bercker/Neukirchener, 1990), 91.

connection, that is, a direct dependence of text A upon text B. The second type is mediated connection, that is, text A does not depend directly upon text B but through text C, which is literarily dependent upon text B. The next is common source, where both text A and text B literarily dependent upon a common source, namely, text C. The final type is common tradition, that is, both text A and text B share a common tradition, e.g., literary, religious, legal, historiographic, or any other. In light of these possibilities, the presence of allusion markers does not necessarily suggest a direct literary dependence between texts. It is crucial to eliminate other possible types of connection before arguing for a specific type of connection.

Here, Kilchör's fourth rule is of paramount importance. Kilchör states that the analysis of literary dependence should "exploit the full comfort of having not just two parallel traditions, but often three, sometimes even more."[85] By comparing more than two texts, whenever possible, one can have a better understanding of the nature of the textual connection among all the texts being studied. As an example, Kilchör discusses the relationship between the laws of Passover found in Lev 23:5–8 and Deut 16:1–8. He criticizes Alfred Cholewiński, who contends that H's Passover laws are literarily dependent upon that of D, for not considering all Passover texts in the Pentateuch in reaching his conclusion. Kilchör demonstrates that, when Exod 12:1–20 is taken into account, it is apparent that "Lev 23,5-8 in no way depends on Deut 16,1-8 but rather on Exod 12,1-20 and 23,15."[86] In other words, the similarities between H and D in the case of the Passover laws may not be due to direct connection but rather because they share a common source, namely, CC. Despite this observation, Kilchör warns that postulating a common source to explain the similarities between texts is not always preferable:

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[85] Kilchör, "Direction," 4.

[86] Kilchör, "Direction," 8.

> Natürlich ist eine gemeinsame Quelle nicht prinzipiell auszuschhessen, aber das Postulat einer älteren, verlorengegangenen Quelle ist methodisch nur dann zulässig, wenn mit dieser hypothetischen Quelle wirklich etwas für das Verständnis der Texte gewonnen wird. Solange man mit der Annahme einer direkten Abhängigkeit den Befund gleich gut zu erklären vermag wie unter dem Postulat einer älteren Quelle, ist darum die direkte Abhängigkeit als Erklärung vorzuziehen. Dies gilt für parallele Gesetze innerhalb des Pentateuch in besonderem Masse, da die Texte Teil desselben Kanonisierungs- und somit auch Tradierungsprozesses gewesen sind und nun innerhalb desselben Erzählbogens anzutreffen sind.[87]

In short, a direct literary dependence is more preferable than a common source as the explanation for the similarities between texts if the direct literary dependence can explain the connection between the two texts and the common source is only hypothetical and does not add any further understanding of the texts.

In addition to a common source, a shared setting may explain similarities between texts in some cases. Kwon, in his published dissertation entitled "Scribal Culture and Intertextuality: Literary and Historical Relationship between Job and Deutero-Isaiah," argues that shared ideas and linguistic connections between Job and Deutero-Isaiah may be attributed not to a literary relationship but "the result of cultural values and insights which the literati of the Persian period inherited and practiced."[88] In other words, Kwon believes that both Job and Deutero-Isaiah share similar vocabularies, styles, and themes because they stem from the same scribal tradition. Although the validity of Kwon's thesis is open to debate, it is undoubtedly the case that some similarities between two texts may be due to their shared settings. As argued by Sommer, when arguing for a textual connection between two texts, one "must be reasonably sure that a similarity does not result from common use of an Israelite or ancient Near Eastern literary

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[87] Kilchör, *Mosetora*, 40.

[88] Kwon, *Scribal Culture*, 225.

topos."[89] However, when two texts share particular parallels that are not shared by other texts from the same period or settings, common tradition or background alone may not be able to explain the exclusive parallels satisfactorily.

4.3. Determining the Direction of the Literary Dependence

Although Ben-Porat's stages in identifying an allusion are helpful, the model lacks the criteria for determining the direction of literary dependence. To fill the gap in this model, I propose the following method for determining directionality. In cases where there are more than two parallel texts, conflation is one of the indicators of lateness since a later text is the one that shows conflations of the other texts.[90] The conflation of other texts suggests knowledge of these texts during the compositional stage.[91] This criterion, however, is not without its limitations. A later text, for example, may omit parts of an earlier text and thereby create an illusion that the earlier text contains a more expanded text by means of conflation. Nevertheless, although conflation cannot be used as a foolproof criterion for determining the direction of literary dependence, it is

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[89] Sommer, *Prophet*, 219–20, n. 12.

[90] This criterion is similar to Carr's second criterion for determining literary dependence. It states that a text tends to be later when it "appears to enrich its parallel (fairly fully preserved) with fragments from various locations in the Bible (less completely preserved)" (David McLain Carr, "Method in Determination of Direction of Dependence: An Empirical Test of Criteria Applied to Exodus 34,11-26 and Its Parallels," in *Gottes Volk am Sinai: Untersuchungen zu Ex 32-34 und Dtn 9-10*, Veröffentlichungen der Wissenschaftlichen Gesellschaft für Theologie [Gütersloh: Chr. Kaiser, 2001], 126).

[91] Examples of conflation in the Old Testament can be found in Moshe Anbar, "Genesis 15: A Conflation of Two Deuteronomic Narratives," *JBL* 101 (1982): 39; Jeffrey H. Tigay, "Conflation as a Redactional Technique," in *Empirical Models for Biblical Criticism*, ed. Jeffrey H. Tigay (Philadelphia: University of Pennsylvania Press, 1985), 53–95; Robert P. Gordon, "Compositeness, Conflation and the Pentateuch," *JSOT* 16 (1991): 57–69; Joshua Berman, "The Legal Blend in Biblical Narrative (Joshua 20:1-9, Judges 6:25-31, 1 Samuel 15:2, 28:3–25, 2 Kings 4:1–7, Jeremiah 34:12–17, Nehemiah 5:1–12)," *JBL* 134 (2015): 105–25; Paavo N. Tucker, "The Priestly Grundschrift: Source or Redaction? The Case of Exodus 12:12-13," *ZAW* 129 (2017): 205.

still a strong indication of lateness when no apparent reason for textual omission in a later text can be established. Therefore, in this study, conflation of other texts will be used as an indicator for lateness unless other explanations are available and more compelling.

However, when only two parallel texts are analyzed, the criteria proposed by Lyons are helpful for determining directionality.[92] First, a later text may introduce modifications to demonstrate polemical intent against the source text.[93] In this case, the hypertext contains polemical adjustments of the source text that "conceptually move away from the one context to another."[94] Lyons further explains that the hypertext may display variations from the hypotext because of "differences in dialect, differences in register, or differences due to changes in language over time.[95] However, he is more interested in the possible reasons for intentional modification, which include interpretation of the source text, integration of the source text into the new context, and disagreement with ideas presented in the source text.[96] Furthermore, as demonstrated by Sommer, while a later text may contain polemical intent against an earlier text, "polemic depends on the older text even while rejecting it."[97] Building on this argument, Carly

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[92] Lyons, *From Law*, 59–66.

[93] Long before Lyons, Sandmel argued that it is essential to ask how a proposed parallel functions in its new setting ("Parallelomania," *JBL* 81 [1962]: 5). According to Sandmel, a borrowing text does not necessarily have to conform to the content of the source text.

[94] Lyons, *From Law*, 61.

[95] Lyons, *From Law*, 80–81.

[96] Lyons, *From Law*, 81–88. Furthermore, modification of the source text can take various forms. Lyons lists seven techniques of modification: (1) modification of word order, (2) creation of word pairs, (3) splitting and recombination into parallel lines, (4) creation of word clusters, (5) combination and conflation, (6) wordplay, and (7) reversals (From Law to Prophecy, 88–109).

[97] Sommer, *Prophet*, 29.

Crouch contends, "From the perspective of literary textual relations … if the intention of an author is to reject the message of his or her source, it is critical that the audience be able to (and actually does) recognize the new work's allusions to the older source, so that it is able to appropriately modify its interpretation."[98] In other words, the use of polemical intent as an indicator for lateness can be properly used only when the reader is able to recognize the modification of literary features of the older text in the later text.

Second, a later text may introduce expansions of the source text. This criterion, however, is not always reliable for determining directionality because of the possibility that a later text may also abbreviate an earlier text.[99] Therefore, the rationale behind an expansion or abbreviation in a text should be explained before this criterion can be used to determine the direction of literary dependence. There are various types of expansion that may be introduced by a later text. Five of Carr's six criteria for determining the direction of literary dependence concern expansions of the source text by a later text.[100] According to Carr, a borrowing text may introduce: (1) substantial pluses vis-à-vis that text; (2) expansion of the source text (fairly fully preserved) with fragments from various locations in the Bible (less completely preserved); (3) expansion that fills what could have been perceived as an apparent gap in its parallel; (4) expansive material in character speeches, particularly theophanic speech; and (5) an element which appears to be an adaptation of an element in the other text to shifting

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[98] Carly L. Crouch, *Israel and the Assyrians: Deuteronomy, the Succession Treaty of Esarhaddon, and the Nature of Subversion* (Atlanta: SBL Press, 2014), 28.

[99] Carr, "Method," 121; Kilchör, *Mosetora*, 39.

[100] Carr's sixth criterion states that a later text "combines linguistic phenomena from disparate strata of the Pentateuch" ("Method," 126). This criterion does not deal with expansion of the source text and assumes a certain kind of compositional theory of the Pentateuch.

circumstances/ideas.[101] It should be pointed out that the second criterion concerns conflation of multiple sources in a later text, a criterion that can only be used in cases where there are more than two texts involved. Furthermore, Carr's fourth criterion is not helpful in the study of the relationship of the Pentateuchal legal corpora because of the nature of the legal codes. For example, the laws in the H are framed as direct commandments from Yahweh, whereas the Deuteronomic laws are put into the mouth of Moses because the context of the law-giving is the final speech of Moses.

Third, a later text may contain incongruous elements because of partial integration of elements from the source text. According to Lyons, borrowed elements in a later text may "display indications of its original context that are *incongruous* with the new context."[102] Although he believes that the criterion of incongruity might still be helpful in some cases, Carr is hesitant to use this criterion because it assumes "such negative things about late texts."[103] Edenburg, however, contends that ungrammatical elements in a text may be "intentionally employed to mark allusion" and, therefore, "may be considered a deciding factor in establishing literary interrelation between texts."[104] In this study, therefore, this criterion will still be used as an indicator of lateness unless other explanations can be proposed as to why incongruous elements are present in an earlier text.

Incongruity in a text, however, may not always mean ungrammatical elements but may also represent a different writing style than the rest of the text. Here, stylometry may also be

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[101] Carr, "Method," 126.

[102] Lyons, *From Law*, 61.

[103] Carr, "Method," 113.

[104] Edenburg, "How (Not) to Murder a King," 73.

useful for determining the direction of textual influence based on writing style. Prasha Shrestha

and Thamar Solorio, for example, suggest the use of stylometric analysis in the case of two

documents with similar content to compare "the shared part with the remaining text in both of

the documents by treating them as bag of words."[105] They delineate their step-by-step method for

determining the source text out of two texts:

> We first separate the content shared by them from both documents. We then divide the
> rest of the text in the documents into segments and create a bag of word representation of
> these segments and also of the segment with the shared content. We then extract the top
> most frequent words from each of these segments. The next step is to find the overlap
> between the top words from the shared content and the top words of all of the segments
> of both documents. The document whose segments have the higher average overlap with
> the shared content will be classified as the original document. Similarly, from the
> perspective of document provenance, the shared segment will have originated from this
> document and thus will be the predecessor of the other document.[106]

According to this approach, the other segments of the source text will demonstrate a more

consistent use of vocabulary with the shared content than the borrowing text. This idea of

consistency between a source text and the content that it shares with a borrowing text, however,

may be expanded to not only include lexical features but also other textual features, such as

syntactic, semantic, and structural-thematic features.

Finally, a later text may be conceptually dependent upon the source text. This criterion

states, "The borrowing text may be conceptually dependent on the source text in such a way that

the reader is forced to supply information from the source text in order to understand the

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[105] Prasha Shrestha and Thamar Solorio, "Identification of Original Document by Using Textual Similarities," in *Computational Linguistics and Intelligent Text Processing: 16th International Conference, CICLing 2015, Cairo, Egypt, April 14–20, 2015, Proceedings, Part II*, ed. Alexander Gelbukh (Switzerland: Springer International Publishing, 2015), 643.

[106] Shrestha and Solorio, "Identification," 644.

borrowing text."[107] In this case, a borrowing text may be more difficult to understand without prior knowledge of the source text since the necessary information for understanding the later text is available in the earlier text.

5. Conclusion

In this chapter, I have argued that, although the nature of the proposed method in this study is diachronic, namely, to identify the way that a later author uses and innovates on an earlier text, the author-oriented approach as attempted in this study cannot fully escape the reader's subjectivity. Furthermore, for the purpose of this study, I have also distinguished between conceptual dependence, which does not require the reuse of a source text's literary features in a borrowing text, and literary dependence, which necessitates the sharing of literary features between the source text and the borrowing text. To analyze the *literary* relationship between H and other pentateuchal legal corpora, I have proposed a three-step method based on insights from modern literary studies, especially from the modern plagiarism detection method that examines linguistic features between texts, such as lexical, syntactic, semantic, and structural-thematic features, to detect their degree of similarity and direction of literary dependence: (1) identifying the presence of a literary connection, (2) assessing the nature of the literary connection, and (3) determining the direction of the literary dependence. In the first step, these literary features of the texts are compared to determine if a literary connection exists between them. A literary connection is more likely when the texts share more literary features, especially ones that are unique to the compared texts. The connection is also stronger when the shared features are used in similar contexts rather than unrelated ones. In the next step, it is also necessary to determine

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[107] Lyons, *From Law*, 61.

whether the shared literary features are the result of a direct literary dependence or other factors, such as mediated dependence, common source, and common tradition. The more unique a shared literary feature is, the more likely it is the result of a direct literary dependence. In the last step, the direction of a literary dependence is determined by analyzing the differences between the compared texts, such as modifications, expansions, and incongruous elements in the texts.

In the end, however, the analysis of the literary relationship of biblical texts, including the Pentateuchal legal corpora, is an enterprise that always involves a measure of uncertainty. As Sommer succinctly summarizes:

> The argument that an author alludes, then, is a cumulative one: assertions that allusions occur in certain passages become stronger as patterns emerge from those allusions. The critic must weigh evidence including the number of markers and their distinctiveness, the presence of stylistic or thematic patterns that typify the author's allusions, and the likelihood that the author would allude to the alleged source. The weighing of such evidence (and hence the identification of allusions) is an art, not a science.[108]

It is in this sense that, even after an extensive and careful examination of evidence, a claim of literary connection between two texts remains a hypothesis living in the realm of probability rather than of certainty.

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[108] Sommer, *Prophet*, 35. Cf. Sommer, "Exegesis, Allusion and Intertextuality," 485–86; Schnittjer, *Old Testament Use*, xxi.

Chapter 3

The Laws of Cultic Centralization and Animal Slaughter

1. Introduction

One of the key texts for understanding the literary relationship between H and other pentateuchal legal corpora is the law of cultic centralization at the beginning of H proper in Lev 17.[1] Scholars have long observed the similarity of this text, which prohibits both animal slaughter outside of the central sanctuary and the consumption of blood, with other pentateuchal laws because of their similar themes and shared linguistic features. Most notably, Lev 17 seems to share certain similarities with D, particularly Deut 12:1–28, both of which deal with the issue of cultic centralization and contain legislation on animal slaughter and blood consumption. While most scholars believe that some connection exists between these texts, they disagree on the direction of the literary dependence.[2] That a literary connection exists between Lev 17 and CC has also been argued, primarily due to the similarities in their formulations of the ban on eating carrion

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[1] The beginning of H that regulates the place for sacrifice is similar to the beginning of other biblical law codes, which indicates that H may have been composed as a distinct corpus.

[2] For scholars who argue for the literary priority of Deut 12 over Lev 17, see, e.g., Julius Wellhausen, *Prolegomena to the History of Israel*, trans. J. Sutherland Black and Allan Menzies (Edinburg: Adam & Charles Black, 1885), 50; Alfred Cholewiński, *Heiligkeitsgesetz und Deuteronomium: Eine vergleichende Studie*, AnBib 66 (Rome: Biblical Institute Press, 1976), 149–78; Eckart Otto, "Innerbiblische Exegese im Heiligkeitsgesetz Levitikus 17–26," in *Levitikus als Buch* (Berlin: Philo, 1999), 125–96. Scholars who argue for the literary priority of Lev 17 over Deut 12 include, e.g., Christophe Nihan, *From Priestly Torah to Pentateuch: A Study in the Composition of the Book of Leviticus*, FAT 25 (Tübingen: Mohr Siebeck, 2007), 411; Moshe Weinfeld, *Deuteronomy and the Deuteronomic School* (Oxford: Clarendon, 1972), 213–14; Jacob Milgrom, *Leviticus 17–22: A New Translation with Introduction and Commentary*, AB 3A (New Haven: Yale University Press, 2000), 1453.

(Lev 17:15–16; Exod 22:30; Deut 14:21).[3] Furthermore, Lev 17 also shares various similar topics, expressions, and motifs with other priestly materials, such as Gen 9:3–7; Lev 3:16b–17; 7:22–27; and 16:1–34.[4]

In this chapter, the literary connections between the laws of cultic centralization in Lev 17 and its parallel laws in other pentateuchal legal corpora are reexamined by comparing the linguistic elements shared among these texts. The comparison of the lexical, syntactical, semantic, and structural-thematic features of these texts will be used to determine the level of similarity between them. Based on the level of similarity or dissimilarity between Lev 17 and its parallel laws, this chapter will identify the possibility of a literary connection between them and the nature of the connection. This chapter will also examine the compositional technique of Lev 17, i.e., how the authors of Lev 17 might or might *not* have used and innovated on other texts to formulate its legislation of cultic centralization and animal slaughter.

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[3] See, e.g., Ludger Schwienhorst-Schönberger, *Das Bundesbuch (Ex 20,22-23,33): Studien zu seiner Entstehung und Theologie*, BZAW 188 (De Gruyter, 1990), 375; Klaus Grünwaldt, *Das Heiligkeitsgesetz Leviticus 17-26: Ursprüngliche Gestalt, Tradition und Theologie*, BZAW 271 (Berlin; New York: de Gruyter, 1999), 171; Otto, "Innerbiblische," 144; Nihan, *From Priestly Torah*, 427–28; Thomas Hieke, *Levitikus 16–27*, HThKAT (Freiburg: Herder, 2014), 637–39.

[4] See e.g., Cholewiński, *Heiligkeitsgesetz*, 29, 177; Baruch J. Schwartz, "The Prohibitions Concerning the 'Eating' of Blood in Leviticus 17," in *Priesthood and Cult in Ancient Israel* (Sheffield: JSOT Press, 1991), 43–44; Andreas Ruwe, *"Heiligkeitsgesetz" und "Priesterschrift": Literaturgeschichtliche und rechtssystematische Untersuchungen zu Leviticus 17,1–26,2* (Tübingen: Mohr Siebeck, 1999), 141–57; Milgrom, *Leviticus 17–22*, 1448–90; Nihan, *From Priestly Torah*, 412–13; Erich Zenger, "Das Buch Levitikus als Teiltext der Tora/des Pentateuch. Eine synchrone Lektüre mit diachroner Perspektive," in *Levitikus als Buch*, ed. Heinz-Josef Fabry and Hans-Winfried Jüngling, BBB 119 (Bodenheim: Philo, 1999), 65–73; Erich Zenger and Christian Frevel, "Die Bücher Levitikus Und Numberi Als Teile Der Pentateuchkomposition," in *The Books of Leviticus and Numbers*, ed. Thomas C Römer (Leuven: Peeters, 2008), 41–45; Benedikt Jürgens, *Heiligkeit und Versöhnung. Leviticus 16 in seinem literarischen Kontext*, Herders biblische Studien 28 (Freiburg: Herder, 2001), 126–86; Hieke, *Levitikus 16–27*, 611–39.

2. The Structure of Leviticus 17

Earlier scholarship tended to question the compositional unity of Lev 17 and, correspondingly, different parts of Lev 17 were assigned to different compositional layers and schools.[5] More recent scholarship, however, has convincingly argued for the compositional unity of the text in its entirety.[6] The chapter begins with an introductory remark (vv. 1–2), followed by five literary units (vv. 3–7, 8–9, 10–12, 13–14, 15–16).[7] Each of these literary units begins with the subject of the legislation in *casus pendens* (vv. 3, 8, 10, 13, 15), followed by the commandments (vv. 3–4, 8–9, 10, 13, 15), punishments for violating the laws (vv. 4, 9, 10, 14, 16), and, in some instances, the rationales for the laws (vv. 5–7, 11, 14).[8] While there are five literary units in Lev 17, each

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[5] See e.g., Lewis Bayles Paton, "The Original Form of Leviticus Xvii-Xix," *JBL* 16 (1897): 31–77; Karl Elliger, *Leviticus*, HAT 1:4 (Tübingen: J. C. B. Mohr (Paul Siebeck), 1966), 219–25; Cholewiński, *Heiligkeitsgesetz*, 16–31. Erhard S. Gerstenberger, *Leviticus: A Commentary*, trans. Douglas W. Stott, OTL (Louisville: Westminster John Knox, 1996), 239. For a history of scholarship on the composition of Lev 17, see Henry T. C. Sun, "An Investigation into the Compositional Integrity of the So-Called Holiness Code (Leviticus 17–26)" (The Claremont Graduate School, Ph.D. Diss., 1990), 87–106.

[6] Schwartz, "Prohibitions," 34–43; Grünwaldt, *Heiligkeitsgesetz*, 24–34; Ruwe, *Heiligkeitsgesetz*, 157–59; Milgrom, *Leviticus 17–22*, 1448–49; Nihan, *From Priestly Torah*, 402–6; Hieke, *Levitikus 16–27*, 620; Julia Rhyder, *Centralizing the Cult: The Holiness Legislation in Leviticus 17–26*, FAT 134 (Tübingen: Mohr Siebeck, 2019), 196–203.

[7] See e.g., Schwartz, "Prohibitions," 36–38; Grünwaldt, *Heiligkeitsgesetz*, 24; John E. Hartley, *Leviticus*, WBC 4 (Dallas: Word, 1992), 263–65; Milgrom, *Leviticus 17–22*, 1448–49; Nihan, *From Priestly Torah*, 402–30; Rhyder, *Centralizing*, 197. Cf. Gordon J. Wenham, *The Book of Leviticus*, NICOT (Grand Rapids: Eerdmans, 1979), 240–41.

[8] Despite the similar formulation of these literary units, there are at least three notable differences between the fifth literary unit and the first four. First, the first four literary units (vv. 3–7, 8–9, 10–12, 13–14) begin with איש איש as the subject of the law, whereas in the fifth literary unit (vv. 15–16) this phrase is absent and the phrase כל־נפש is used instead. Second, the threat of כרת appears in the first four literary units but not in the fifth. Instead, the punishment for violating the law is that the offender shall נשא עונו "bear his iniquity" (v. 16c). Third, some scholars argue that this literary unit is a later addition because the connection between vv. 15–16 and the rest of the chapter seems to be unclear, and therefore is a later addition. Despite these differences, recent scholarship generally agrees that the fifth literary unit does not need to be considered as an appendix or a later addition. Many scholars now argue that vv. 15–16 may still be thematically related to the prohibition against eating blood in vv. 13–14 because the blood of an animal that is torn by wild beasts (תרפה) or an animal that dies of itself (נבלה) is not properly disposed of. See. e.g., S. R. Driver, *A Critical and Exegetical Commentary on Deuteronomy*, 3rd ed., ICC

with different concerns, the legislation consists of two major parts: the rules concerning animals slaughtered at the sanctuary (vv. 3–9) and the law concerning animals slaughtered outside of the sanctuary (vv. 10–16). The first major part consists of the first two literary units, whereas the second major part consists of the last three literary units (Figure 2.1).

Figure 2.1: The Structure of Leviticus 17

A. The rules concerning animal slaughtered at the central sanctuary (vv. 3–9)

- The prohibition against local animal slaughter (vv. 3–7)

- The prohibition against local animal sacrifice (vv. 8–9)

B. The rules concerning animal slaughtered outside the central sanctuary (vv. 10–16)

- The prohibition of blood consumption (vv. 10–12)

- The rules concerning game (vv. 13–14)

- The rules concerning animals not killed by humans (vv. 15–16)

Scholars often compare the structure of Lev 17:3–9 with Deut 12, especially vv. 13–28, to argue for a literary dependence. Thematically speaking, Deut 12:1–28 deals with similar issues addressed in Lev 17, namely, the issues of cultic centralization and animal slaughter.[9]

(Edinburgh: T&T Clark, 1902), 164–65; Schwartz, "Prohibitions," 64–65; Nihan, *From Priestly Torah*, 426; Rhyder, *Centralizing*, 199. Furthermore, Schwartz argues the use of the word נפשׁ, which tends to appear in laws concerning eating and drinking, connect the third, fourth, and fifth literary units of Lev 17 ("Prohibitions," 41). Nevertheless, this chapter argues that the thematic connection between the fifth literary unit and the rest of the chapter is not the concern for blood, as evidenced by the lack of mention of blood in this unit. Instead, this unit concerns what to do with animals that are not slaughtered due to death from natural causes.

[9] Deuteronomy 12:29–32 is excluded from this analysis because it deals with the topic of idolatry, which is more thematically connected with Deut 13 than Deut 12:1–28. Cf. Bill T. Arnold, "Israelite Worship as Envisioned and Prescribed in Deuteronomy 12," *ZABR* 22 (2016): 162, n. 8. However, the possible thematic connection between this section in Deut 12 and Lev 17 as suggested by Nihan will be discussed later.

More specifically, the last two sections of the passage (vv. 13–19 and vv. 20–28) regulate the proper procedures of animal slaughter, the location for presenting sacrifices and offerings, and the ban on blood consumption, all of which are the concerns addressed in Lev 17.[10] Some scholars suggest that Lev 17 and Deut 12:13–19 share structural similarity, only in the reverse order: Deut 12:13–19 addresses the issue of sacrificial slaughter before profane slaughter, whereas Lev 17 deals with the issue of profane slaughter before sacrificial slaughter. Eckart Otto, for example, avers,

> Die Umgruppierung der Gesetze aus Dtn 12 in Lev 17 unterstreicht das Revisionsinteresse. In Dtn 12 steht die Zentralisierung des Opferdienstes im Vordergrund und also an der Spitze, während die Freigabe der profanen Schlachtung als Konsequenz der Opferzentralisation folgt. In Lev 17,3-9 rückt diese Thematik an die Spitze, da der Hauptakzent des Interesses auf der Korrektur von Deuteronomium und Priesterschrift liegt: Jede Schlachtung ist kultisch, so wird festgesetzt.[11]

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[10] Deuteronomy 12 begins with an introductory statement in v. 1, followed by four distinct sections (vv. 2–7, vv. 8–12, vv. 13–19, and vv. 20–28), each with its own centralization formula. Some scholars, however, consider vv. 20–28 not as a distinct section but as an expanded version of the third section in vv. 13–19, due to their similar concerns in what could be eaten in the sanctuary and the ban on blood consumption. This section, however, was believed to be added at a very late stage of Deut 12's composition. Cf. Gerhard von Rad, *Deuteronomy: A Commentary* (Philadelphia: Westminster Press, 1966), 89; Bernard M. Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation* (New York: Oxford University Press, 1997), 24–25; Thomas C. Römer, "Cult Centralization in Deuteronomy 12: Between Deuteronomistic History and Pentateuch," in *Das Deuteronomium Zwischen Pentateuch Und Deuteronomistischem Geschichtswerk*, ed. Reinhard Achenbach and Eckart Otto (Göttingen: Vandenhoeck & Ruprecht, 2004), 169; Reinhard G. Kratz, *The Composition of the Narrative Books of the Old Testament*, trans. John Bowden (London: T&T Clark, 2005), 119–21; Kevin Mattison, *Rewriting and Revision as Amendment in the Laws of Deuteronomy*, FAT 2. Reihe 100 (Tübingen: Mohr Siebeck, 2018), 49–50; Rhyder, *Centralizing*, 224.

[11] Otto, "Innerbiblische," 143. See also Erhard Blum, *Studien Zur Komposition Des Pentateuch*, BZAW 189 (Berlin; New York: de Gruyter, 1990), 338; Christophe Nihan, "The Holiness Code between D and P: Some Comments on the Function and Significance of Leviticus 17–26 in the Composition of the Torah," in *Das Deuteronomium zwischen Pentateuch und deuteronomistischem Geschichtswerk*, ed. Reinhard Achenbach and Eckart Otto (Göttingen: Vandenhoeck & Ruprecht, 2004), 93.

For Otto, Lev 17 reverses the structure of Deut 12 to highlight its correction of D's (and P's) legislation, which allows profane slaughter outside of the central sanctuary.[12] Christophe Nihan also believes a structural similarity exists between Lev 17 and Deut 12 and argues that Lev 17 follows the sequence of Deut 12:13–19; 20–27, i.e., the permission for profane slaughter (v. 15; vv. 21–22) immediately followed by the prohibition against ingesting blood (v. 16; vv. 23–25).[13]

The structures and contents of these texts, however, are not as similar as has been assumed (see Table 2).[14] The laws concerning animal slaughter appear twice in Deut 12, namely, in vv. 13–19 and vv. 20–28.[15] In the former, sacrificial slaughter for burnt offerings (vv. 13–14) is discussed before profane slaughter (v. 15), with the ban on blood eating placed at the end of the unit (v.16). After the ban on eating blood, this section continues with the commandment not to consume other sacrifices, vegetables, or animals, anywhere but in the central sanctuary (vv. 17–18). In Deut 12:20–28, profane slaughter is mentioned first (v.v. 20–22), followed by the ban on eating blood (vv. 23–25), and then the sacrificial slaughter of animals (vv. 26–27). By

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[12] The section in Deut 12 with a structure reversed in Lev 17, according to Otto, is vv. 13–19. He considers this section to be the oldest layer of Deut 12 and older than Lev 17 (Eckart Otto, *Deuteronomium 12,1–23,15* [Freiburg im Breisgau: Herder, 2016], 1189). The idea that Lev 17 critically corrected D's authorization of profane slaughter was long proposed by Julius Wellhausen, *Die Composition des Hexateuchs und der historischen Bücher des Alten Testaments*, 3rd ed. [Berlin: Druck und Verlag von Georg Reimer, 1899], 150. This view is followed by many scholars, e.g., Martin Noth, *Leviticus: A Commentary* [Philadelphia: Westminster Press, 1965], 129–30; Elliger, *Leviticus*, 226; Cholewiński, *Heiligkeitsgesetz*, 149–78; Ruwe, *Heiligkeitsgesetz*, 141.

[13] Nihan, "Holiness Code," 93.

[14] The blood prohibition is listed independently in the table because it functions differently in Lev 17 and Deut 12.

[15] Many scholars identify vv. 13-19 as the earliest compositional layer of Deut 12. See e.g., Rosario Pius Merendino, *Das deuteronomische Gesetz: Eine literarkritische, gattungs- und überlieferungsgeschichtliche Untersuchung zu Dt 12-26* (Bonn: Peter Hanstein, 1969), 12–41; Mattison, *Rewriting*, 53–62. Reinhard G. Kratz includes vv. 20–28 as part of vv. 13–19 as the earliest core of Deut 12 (*Composition*, 118–119); Otto, *Deuteronomium 12,1–23,15*, 1147–67.

contrast, Leviticus 17 begins with the prohibition against profane slaughter (vv. 3–7), followed by the prohibition against local sacrifices (vv. 8–9), after which the ban on blood eating is prescribed (vv. 10–12, 14). Furthermore, other than the reverse order that Otto proposes as an indication of a literary dependence, Deut 12:13–19 shares little to no other linguistic features with Lev 17 that could indicate a literary dependence. By contrast, Lev 17 shares more linguistic features with Deut 12:20–27, but their structures are not in reverse sequence. Similarly, the sequence of the authorization of profane slaughter followed by blood prohibition in Deut 12 is not precisely followed by Lev 17 since they are interrupted by the prohibition of local animal sacrifice. Finally, even if the structural similarity argument were accepted, the literary priority of Deut 12 does not necessarily follow since polemical intent may be posited in both directions.

Table 2. Comparison of the Structures of Lev 17 and Deut 12

Lev 17	Deut 12:13–19	Deut 12:20–28
Profane slaughter of domestic animals (vv. 3–7)	Sacrifice of burnt offerings (vv. 13–14)	Profane slaughter of domestic and wild animals (vv. 20–22)
Sacrifice of burnt offerings and other animal sacrifices (vv. 8–9)	Profane slaughter of domestic and wild animals (v. 15)	Blood prohibition (vv. 23–25)
Blood prohibition (vv. 10–12, 14)	Blood prohibition (v. 16)	Sacrificial slaughter of burnt offerings and other animal sacrifices (vv. 26–27)
Profane slaughter in the case of hunting game (vv. 13–14)	Other sacrifices of vegetables and animals (vv. 17–18)	

In the next part of this chapter, the content of each literary unit of Lev 17 will be discussed, and its literary features will be linguistically compared with its parallel laws in other pentateuchal legal corpora. Each section of Lev 17 will be compared with other legal texts in the Pentateuch that are thematically paralleled. In addition, other texts that contain similar linguistic features, such as the use of the same low-frequency words or word orders, will also be compared even if the topics of the texts are different.

3. The Rules concerning Animal Slaughtered at the Central Sanctuary (Lev 17:3–9)

The first part of Lev 17 consists of two legislations: the prohibition against local animal slaughter (vv. 3–7) and the prohibition against local animal sacrifice (vv. 8–9).

3.1. The Prohibition of Local Animal Slaughter (Lev 17:3–7)

In the first literary unit, Lev 17 begins with the legislation in vv. 3–7 that prohibits the slaughter of שׁוֹר אוֹ־כֶשֶׂב אוֹ־עֵז "an ox or a lamb or a goat" outside of the central sanctuary.[16] The rule dictates that any Israelite, who kills any of these sacrificeable animals and does not bring it אֶל־ פֶּתַח אֹהֶל מוֹעֵד "to the entrance of the tent of meeting" to offer it as קָרְבָּן "an offering" to Yahweh,

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[16] Many scholars understand the list of animals in v. 3—ox, lamb, and goat—as representing all sacrificeable domestic animals. See. e.g., Hartley, *Leviticus*, 271; Baruch A. Levine, *Leviticus* (Philadelphia: Jewish Publication Society of America, 1989), 112–13; Baruch A. Levine, *Numbers 1–20: A New Translation with Introduction and Commentary*, AB 4A (New Haven: Yale University Press, 1993), 448; Jacob A. Milgrom, *Leviticus: A Book of Ritual and Ethics*, CC (Minneapolis: Fortress, 2004), 190; Richard S. Hess, "Leviticus," in *The Expositor's Bible Commentary: Genesis–Leviticus*, ed. Tremper Longman III and David E. Garland, Rev. Ed., vol. 1 (Grand Rapids: Zondervan, 2008). Nihan, *From Priestly Torah*, 407–8. However, Milgrom argues that Lev 17 bans the slaughter of all sacrificeable animals, both for sacrificial and non-sacrificial purposes, outside of the sanctuary (Milgrom, *Leviticus 17–22*, 1452-1454). The same view is shared, for example, by Nihan, *From Priestly Torah*, 410–11.

shall be cut off from his people (v. 4).[17] The motivational clause states that the purpose of this

legislation is to end illegitimate sacrificial practices to שׂעירם "the satyrs or goat demons" in the

open field (vv. 5, 7). Therefore, the authors of this legislation ban the slaughter of animals

outside of the sanctuary by introducing the entrance of the tent of the meeting, and more

specifically, לפני משכן יהוה "before the tabernacle of Yahweh," as the only legitimate place for

slaughtering animals. Furthermore, the legists also prescribe that these animals be offered as זבחי

שלמים ליהוה "sacrifices of peace offerings to Yahweh," their blood thrown on the altar of the

Yahweh, and their fat burned as a pleasing aroma to Yahweh (vv. 5–6).

Besides Lev 17:3–7, legislations concerning animal slaughter are also found in other

pentateuchal legal corpora, namely, in the altar law of Exod 20:22–26, the cultic centralization

law in Deut 12, the law for peace offerings in Lev 3, and the ban on eating fat and blood in Lev

7:22–27.

3.1.1. Leviticus 17:3–7 and CC

While there is no specific law concerning animal slaughter in CC, the prohibition against the

decentralized animal slaughter in Lev 17:3–7 may be thematically contrasted with the permission

to offer burnt offerings and peace offerings in any place in Exod 20:24–26. Since CC does not

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[17] In general, scholars believe that this passage prohibits all extra-sanctuary profane slaughter of sacrificeable animals for meat consumption and introduces the novel idea that all slaughter, including for meat consumption, is sacrificial. See e.g., Wellhausen, *Composition*, 150; Bruno Baentsch, *Das Heiligkeits-Gesetz Lev. XVII-XXVI* (Erfurt: H. Güther, 1893), 16; Christian Feucht, *Untersuchungen zum Heiligkeitsgesetz*, Theologische Arbeiten 20 (Berlin: Evangelische Verlagsanstalt, 1964), 30; Cholewiński, *Heiligkeitsgesetz*, 165; Blum, *Studien*, 337–38; Nihan, "Holiness Code," 93; Nihan, *From Priestly Torah*, 402–13. It should be pointed out, however, that Lev 17:3–7 does not seem to be primarily concerned with the slaughter of an animal for meat consumption as evidenced by the absence of the words אכל and בשׂר in this literary unit (cf. Deut 12:15, 20). Nevertheless, that these animals are slaughtered for the purpose of meat consumption is obvious by the fact that they are to be offered as sacrifices of peace offerings, which is the only sacrifice wherein the offerer may have a share.

assume the existence of a central sanctuary, the legislation in Exod 20:24 states that the Israelites shall offer their animals as sacrifices of burnt offerings and peace offerings בכל־המקום אשר אזכיר את־שמי "in any place where I cause my name to be remembered." The offering of animal sacrifices in any place assumes decentralized animal slaughter, which is banned in Lev 17:3–7. By contrast, Lev 17:5–6 prescribes that the sacrifice of peace offerings must be offered at the entrance of the tent of meeting (cf. Lev 3:2, 8, 13). In addition to the thematic contrast, Lev 17:3–7 and Exod 20:24 also share several lexical parallels. For example, both texts employ the verb זבח "to offer," which is a common word in texts dealing with sacrificial procedures. Another lexical parallel shared by both texts is the use of the word שלם "peace offering," which is also a common word. While Lev 17:5 refers to the sacrifice of peace offerings using the word pair זבהי שלמים "the sacrifices of peace offerings," Exod 20:25 only has the word שלם without being paired with the word זבח. In addition, the word שלם appears in the phrase את־עלתיך ואת־שלמיך "your burnt offerings and your peace offerings," whereas it appears in Lev 17:5 without the word עלה.

Furthermore, while the word מזבח "altar" appears in both texts, Exod 20:24 mentions it in the context of altar building, whereas Lev 17:6 employs it in the context of blood disposal. Besides these common words, these texts do not share any low-frequency words. There is also no syntactical parallel between these texts, as indicated, for example, by the lack of shared word orders. Therefore, while Lev 17:3–7 and Exod 20:24–26 display some similarities, the differences indicate that no literary dependence exists between them.

3.1.2. Leviticus 17:3–7 and D

The topic of local animal slaughter in Lev 17:3–7 also finds its parallel in Deut 12, particularly in v. 15 and vv. 20–22 (see Table 3.1.2).[18] The comparison between Lev 17:3–7 and Deut 12:15, 20–22 yields the following results. First, thematically speaking, while Lev 17 prohibits decentralized animal slaughter, Deut 12 allows it. Nevertheless, the main concern in Lev 17 is the banning of the decentralized slaughter of animals represented by the animal list of "an ox or a lamb or a goat" (v. 3) to discontinue the practice of offering sacrifices to other gods. By contrast, the primary concern of Deut 12:15, 20–22 is the permission of decentralized slaughter of all animals for meat consumption. Moreover, neither text shows any concern for the main issue addressed by the other text. Leviticus 17 does not deal with the issues of the practicality of the ban on profane slaughter or the issue of meat consumption,[19] although it may be implicitly deduced from the commandment to offer the animal as a sacrifice of peace-offerings. In contrast, H's concern regarding the connection between decentralized animal slaughter with idolatry is not addressed in Deut 12.[20]

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[18] Only shared content words are underlined in the table. The shared function words are not underlined and will only be discussed in this work when they display similar usages in compared texts. Content words are "words which have stateable lexical meaning," whereas function words are words "whose role is primarily to express grammatical relationships" (David Crystal, "Content," *A Dictionary of Linguistics and Phonetics*, 108). Content words includes nouns, verbs, adjectives, and adverbs, whereas function words include pronouns, prepositions, conjunctions, etc.

[19] This point is also made by William K. Gilders, *Blood Ritual in the Hebrew Bible: Meaning and Power* (Baltimore: The Johns Hopkins University Press, 2004), 161.

[20] The keywords אכל and בשׂר are used multiple times in Deut 12:15, 20–22, but receive no mention in Lev 17:3–7. By contrast, the warning against the practice of idolatry in Deut 12 is not connected with the practice of local animal slaughter, as in Lev 17:3–7.

Table 3.1.2. Comparison between Lev 17:3–7 and Deut 12:15, 20–22

Lev 17:3–7	Deut 12:15, 20–22
³ אִישׁ אִישׁ מִבֵּית יִשְׂרָאֵל אֲשֶׁר יִשְׁחַט שׁוֹר אוֹ־כֶשֶׂב אוֹ־עֵז בַּמַּחֲנֶה אוֹ אֲשֶׁר יִשְׁחַט מִחוּץ לַמַּחֲנֶה: ⁴ וְאֶל־פֶּתַח אֹהֶל מוֹעֵד לֹא הֱבִיאוֹ לְהַקְרִיב קָרְבָּן לַ<u>יהוה</u> לִפְנֵי מִשְׁכַּן <u>יהוה</u> דָּם יֵחָשֵׁב לָאִישׁ הַהוּא דָּם שָׁפָךְ וְנִכְרַת הָאִישׁ הַהוּא מִקֶּרֶב עַמּוֹ: ⁵ לְמַעַן אֲשֶׁר יָבִיאוּ בְּנֵי יִשְׂרָאֵל אֶת־<u>זִבְחֵיהֶם</u> אֲשֶׁר הֵם <u>זֹבְחִים</u> עַל־פְּנֵי הַשָּׂדֶה וֶהֱבִיאֻם לַ<u>יהוה</u> אֶל־פֶּתַח אֹהֶל מוֹעֵד אֶל־הַכֹּהֵן <u>וְזָבְחוּ</u> <u>זִבְחֵי</u> שְׁלָמִים לַ<u>יהוה</u> אוֹתָם: ⁶ וְזָרַק הַכֹּהֵן אֶת־הַדָּם עַל־מִזְבַּח <u>יהוה</u> פֶּתַח אֹהֶל מוֹעֵד וְהִקְטִיר הַחֵלֶב לְרֵיחַ נִיחֹחַ לַ<u>יהוה</u>: ⁷ וְלֹא־<u>יִזְבְּחוּ</u> עוֹד אֶת־<u>זִבְחֵיהֶם</u> לַשְּׂעִירִם אֲשֶׁר הֵם זֹנִים אַחֲרֵיהֶם חֻקַּת עוֹלָם תִּהְיֶה־זֹּאת לָהֶם לְדֹרֹתָם:	¹⁵ רַק בְּכָל־אַוַּת נַפְשְׁךָ תִּ<u>זְבַּח</u> וְאָכַלְתָּ בָשָׂר כְּבִרְכַּת <u>יהוה</u> אֱלֹהֶיךָ אֲשֶׁר נָתַן־לְךָ בְּכָל־שְׁעָרֶיךָ הַטָּמֵא וְהַטָּהוֹר יֹאכְלֶנּוּ כַּצְּבִי וְכָאַיָּל: ²⁰ כִּי־יַרְחִיב <u>יהוה</u> אֱלֹהֶיךָ אֶת־גְּבוּלְךָ כַּאֲשֶׁר דִּבֶּר־לָךְ וְאָמַרְתָּ אֹכְלָה בָשָׂר כִּי־תְאַוֶּה נַפְשְׁךָ לֶאֱכֹל בָּשָׂר בְּכָל־אַוַּת נַפְשְׁךָ תֹּאכַל בָּשָׂר: ²¹ כִּי־יִרְחַק מִמְּךָ הַמָּקוֹם אֲשֶׁר יִבְחַר <u>יהוה</u> אֱלֹהֶיךָ לָשׂוּם שְׁמוֹ שָׁם וְ<u>זָבַחְתָּ</u> מִבְּקָרְךָ וּמִצֹּאנְךָ אֲשֶׁר נָתַן <u>יהוה</u> לְךָ כַּאֲשֶׁר צִוִּיתִךָ וְאָכַלְתָּ בִּשְׁעָרֶיךָ בְּכֹל אַוַּת נַפְשֶׁךָ: ²² אַךְ כַּאֲשֶׁר יֵאָכֵל אֶת־הַצְּבִי וְאֶת־הָאַיָּל כֵּן תֹּאכְלֶנּוּ הַטָּמֵא וְהַטָּהוֹר יַחְדָּו יֹאכְלֶנּוּ:

Second, despite addressing a similar issue, namely, the permission or prohibition of decentralized animal slaughter, these texts share neither low-frequency words nor any word order, low-frequency or otherwise, that would indicate the presence of a literary connection. In fact, Lev 17:3–7 only shares two content words with Deut 12:15, i.e., the noun זבח and the divine name יהוה. Similarly, Lev 17:3–7 only shares two content words with Deut 12:20–22: the name יהוה but the verbal form זבח. Second, even when the exact words are used, they are not utilized in similar ways or contexts. For example, the divine name יהוה "Yahweh" is almost always followed by אלֹהֶיךָ in Deut 12 but never in Lev 17. The mention of the name יהוה in Deut 12 is in

the context of Yahweh's blessing (vv. 15; 21), Yahweh's enlarging of the territory (v. 20), and Yahweh's choosing of a central sanctuary (v. 21). By contrast, the name יהוה is used in Lev 17 to refer to the recipient of sacrifices (vv. 4, 5, 6), and the name is in the construct relationship with the word משכן "tabernacle," in front of which the Israelites have to offer animal sacrifices (v. 4).

Also noteworthy is how the verb זבח "to offer" is used in Deut 12:15, 21 to refer to the act of profane slaughtering instead of the more common meaning in Biblical Hebrew, namely, the act of sacred slaughtering.[21] By contrast, Lev 17 uses the verb שׁחט for the act of slaughtering, which is not limited to only a sacrificial context, but also includes non-sacrificial slaughtering as well.[22] Jacob Milgrom attributes Deut 12's use of the word זבח for slaughtering, instead of the more technical term שׁחט, to "D's ignorance of its technical meaning as developed by P."[23] Although this theory is possible, it is based on an unfounded negative view of D. Alternatively, Bernard M. Levinson offers a better explanation for the use of the verb זבח for profane slaughter in D by positing that Deut 12:21 textually reworks the older legislation of Exod 20:24 and uses the same verb זבח but with a new meaning. According to Levinson, "In its paradoxical reuse of the Exodus altar law to sanction local secular slaughter, Deuteronomy has appropriated and deliberately redefined the original verb. In the new context, it no longer retains its original meaning—cultic sacrifice—but instead denotes its opposite—slaughter, but not at an altar."[24] By

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[21] Jacob Milgrom, "Profane Slaughter and a Formulaic Key to the Composition of Deuteronomy," *HUCA* 47 (1976): 1.

[22] Milgrom, *Leviticus 17–22*, 1453. Norman Henry Snaith argues that the verb שׁחט is a method of cutting the throat and is "the most effective way of ensuring that the minimum of blood remains in the body of the victim" ("Verbs Zābaḥ and Sāḥat," *VT* 25 [1975]: 244-245).

[23] Milgrom, "Profane Slaughter," 15, n. 49.

[24] Levinson, *Deuteronomy*, 38.

using lexical elements, including the verb זבח, from Exod 20:24, it becomes easier for the reader

of Deut 12 to identify its literary source. Consequently, if Deut 12 intended to mark its textual

reuse of Lev 17, it would have used the verb שחט instead of זבח.

The switch from the verb שחט in Lev 17:3–4 to the verb זבח in Lev 17:5–7 has been

posited as an indication of H's use of D's language to criticize D's theology which distinguishes

between sacral and profane slaughters.[25] According to this view, Lev 17 rejects Deut 12's use of

the verb זבח to refer to profane slaughter by using the same verb in conjunction with the verb

שחט, which refers to profane slaughter. By doing so, Lev 17 restores the traditional

understanding of the verb זבח, that is, as a sacrificial action. This argument is hardly convincing

since the verb זבח is also used in other places in H when the object of the action is the noun זבח

(Lev 19:5; 22:29). In other words, the verb is used in texts that do not deal with the issue of local

or centralized animal slaughter. This argument would only work if the literary priority of D and

H's dependence over D were first accepted. It is, therefore, unnecessary to posit that H employs

this verb to respond to the use of the same verb in D. The switch from שחט to זבח in Lev 17:3–7

may simply be explained by the need to differentiate between the act of slaughtering and the act

of offering sacrifices that follows it.

Third, the list of animals in Lev 17:3 is different from the list of animals in Deut 12:21. In

the former, three animals are mentioned: שׁור או־כשׂב או־עז "an ox or a lamb or a goat." By

contrast, there are only two animals in the latter: מבקרך ומצאנך "from your herd or from your

flock." Concerning the list of animal in Deut 12:21, Levinson demonstrates that the word pair צאן

and בקר are borrowed from Exod 20:24, and that only the word order is reversed to mark its

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[25] Otto, "Innerbiblische," 143; Nihan, *From Priestly Torah*, 411; Rhyder, *Centralizing*, 235.

textual borrowing.[26] In other words, there is no similarity between Lev 17:3 and Deut 12:21 in their animal lists that would suggest the presence of a literary dependence.

The procedure for blood disposal at the altar in Lev 17:6 may also be compared with Deut 12:27 (see Table 3.1.2.a). Two observations can be made from this comparison. First, Lev 17:6 employs the verb זרק "to dash/sprinkle/throw" to denote the act of placing the blood of sacrifice at the altar, whereas Deut 12:27 uses the verb שָׁפַךְ "to throw." Concerning this different choice of word, Milgrom claims, "D ignores (or does not know) P's technical term for the ritual aspersion of the blood on the altar זרק (e.g., Lev. 1:5, 11; 3:2, 8, 13) and instead uses שָׁפַךְ (12:27) which in P, however, is not a sacral act but, to the contrary, refers to the discarding of the blood (e.g., Lev. 4:7, 15, 25, 30, 34; 17:13)."[27] Again, Milgrom's argument is based on speculation and a negative view of D. Regardless of the reason for the use of שָׁפַךְ instead of זרק in Deut 12, it is evident that the authors of D did not attempt to mimic the language of Lev 17 in this case if they had known the legislation of Lev 17. The use of זרק in Lev 17, on the other hand, is not surprising since it is a technical term in the priestly circle.

Table 3.1.2.a. Comparison between Lev 17:6 and Deut 12:27

Lev 17:6	Deut 12:27
וזרק הכהן את־הַדם עַל־מזבח יהוה פתח אהל מועד והקטיר החלב לריח ניחח ליהוה׃	ועשׂית עלתיך הבשׂר והַדם עַל־מזבח יהוה אלהיך וַדַם־ זבחיך ישׁפך עַל־מזבח יהוה אלהיך והבשׂר תאכל׃

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[26] Levinson, *Deuteronomy*, 36.

[27] Milgrom, "Profane Slaughter," 15, n. 49.

Second, both Lev 17:6 and Deut 12:27 share the phrase על־מזבח יהוה "on the altar of

Yahweh," although the phrase does not appear exactly in Lev 17:6 as in Deut 12:27 (or any other

texts in D, i.e., 16:21; 26:4; 27:5, 6), in which the name "Yahweh" is followed by the word אלהיך

"your God." In fact, all occurrences of the word מזבח in D is always followed by אלהיך (12:27;

16:21; 26:4; 27:5, 6), except for one occasion in which the word refers to the altars of other gods

(12:3). The absence of this phrase elsewhere in H proper and its use in connection with the word

הדם in both texts strengthen the possibility that a literary connection may have existed between

the texts. However, Milgrom points out that this term is not exclusively Deuteronomic since it

also occurs in Josh 22:19, 28, 29, which stems from the Holiness School (HS).[28] This phrase is

also used in texts outside of the Pentateuch, such as in 2 Kgs 7:22, 54, 18, and more commonly

in later texts, i.e., Neh 10:35; Mal 2:13; 1 Chr 21:18, 22, 26; 2 Chr 6:12; 8:12; 15:8; 29:19;

29:21; 33:16; 35:16. In other words, the phrase is neither exclusively deuteronomic nor priestly.

Furthermore, Israel Knohl also notes that the phrase מזבח יהוה "accords well with HS's tendency

to create grammatical construct forms consisting of cultic institutions conjoined with the name of

God."[29] In light of these observations, while the possibility of literary borrowing in the case of

על־מזבח יהוה cannot be simply dismissed, it is not sufficient to securely establish a literary

connection between Lev 17:6 and Deut 12:27.

Lastly, it has also been suggested that Lev 17 links the ban on non-sacrificial slaughter

with the practice of idolatry, which is a critical response to Deut 12. Nihan, for example, argues,

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[28] Milgrom, *Leviticus 17–22*, 1461. It is notable that both the phrases מזבח יהוה (Lev 17:6; Josh 22:28) and מזבח יהוה אלהינו (Josh 22:19, 29) occur in the context of contrasting between the worship of Yahweh and the worship of other gods. Therefore, the use of the divine name that genitively modifies the word מזבח is intended to emphasize the ownership of the altar, namely Yahweh, as opposed to the other altars.

[29] Israel Knohl, *The Sanctuary of Silence: The Priestly Torah and the Holiness School* (Minneapolis: Fortress, 1995), 113. As examples, Knohl lists לחם אלהיו, מקדש אלהיו, and משכן יהוה.

According to H, therefore, the permission of profane slaughter is responsible for the religious idolatry continuously denounced in D, *starting with Deut 12:29–31*, the conclusion to the law of centralization and the transition towards Deut 13. The polemical intent is enhanced through the use, in Lev 17:7, of the terminology of cultic prostitution (זנה אחר-X) that is unmistakably reminiscent of the Deuteronomistic and prophetic condemnation of idolatry. Thus, the reassertion in Lev 17 of the prohibition of profane slaughter culminates in v. 7 with subtle polemics that borrow from Dtr theology and language, *but in order to back the rejection of D's innovation.*[30]

Despite claiming that Lev 17 employs the language of D, Nihan acknowledges that the expression זנה אחר-X "to whore after-X" is also found elsewhere, most commonly in the prophetic tradition, and especially in Ezekiel and Hosea. He asserts that the expression was "apparently received at some stage in the Dtr circles" and cites Ex 34:15, 16; Deut 31:16; and Judg 2:17; 8:27, 33 as examples.[31] Nihan further points out that the terminology זנה אחר-X only occurs one more time in Lev 20:5–6 and is foreign to P, except for Num 15:39. Notably, the expression does not occur in Deut 12, not even in Deut 12–26, while it appears three times in H proper (Lev 17:7, 20:5–6).

Moreover, if Lev 17 was composed to reject D's innovation by borrowing D's language, it is surprising that the authors of H did not use the language of D from Deut 12:29–31 that deals specifically with idolatry. In fact, Lev 17:7 and Deut 12:29–31 do not share any content words (see Table 3.1.2.b). On the other hand, Deut 12 does not address H's concern on the relationship between decentralized slaughter and idolatry. That said, Lev 17 certainly deals with the same issue as Deut 12, in that both texts are opposed to the practice of idolatry. Nevertheless, in dealing with this issue, it is apparent that neither text attempts to mimic the literary features of the other. Thus, a literary connection between them cannot be established.

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[30] Nihan, *From Priestly Torah*, 141–2. Emphases original.

[31] Nihan, *From Priestly Torah*, 412, n. 71.

Table 3.1.2.b. Comparison between Lev 17:7 and Deut 12:29–31

Lev 17:7	Deut 12:29–31
⁷ ולא־יזבחו עוד את־זבחיהם לשׂעירם אשר הם זנים אחריהם חקת עולם תהיה־זאת להם לדרתם:	²⁹ כי־יכרית יהוה אלהיך את־הגוים אשר אתה בא־שׁמה לרשׁת אותם מפניך וירשׁת אתם וישׁבת בארצם: ³⁰ השׁמר לך פן־תנקשׁ אחריהם אחרי השׁמדם מפניך ופן־תדרשׁ לאלהיהם לאמר איכה יעבדו הגוים האלה את־אלהיהם ואעשׂה־כן גם־אני: ³¹ לא־תעשׂה כן ליהוה אלהיך כי כל־תועבת יהוה אשר שׂנא עשׂו לאלהיהם כי גם את־בניהם ואת־בנתיהם ישׂרפו באש לאלהיהם:

In conclusion, despite certain linguistic features shared between Lev 17:3–7 and Deut 12, there is almost no indication of any literary imitation in the formulation of the law of animal slaughter in these texts, except for the use of the phrase על־מזבח יהוה in Lev 17:6 and Deut 12:21, which is not sufficient to argue for literary dependence. Furthermore, Lev 17 does not address Deut 12's concern about the practicality of the ban on local slaughter when the distance to the central sanctuary is too great to travel. On the other hand, Deut 12 does not address Lev 17's concerns that profane animal slaughter outside of the central sanctuary constitutes murder (v. 4) and that decentralized slaughter might potentially lead to idolatry (v. 5). Due to the different concerns of Lev 17:3–7 and Deut 12 and their lack of linguistic correspondences, the literary connection between them cannot be established.

3.1.3. Leviticus 17:3–7 and P

In contrast to CC and D, with which Lev 17 shares only a few linguistic features, the language of

Lev 17 echoes that of P, especially in the use of technical terms to describe the procedure for

offering זבח שלמים "a sacrifice of peace offering" (Lev 3:1–17; 7:11–21). The ritual for offering

the sacrifice of peace offerings in Lev 17:5b–6 follows the procedure described in, and uses the

vocabulary of, Lev 3:1–17. The structure of Lev 3:1–17 is based on the three kinds of animals

offered to Yahweh as the sacrifice of peace offering: offerings מן־הבקר "from the herd" (vv. 1–5),

offerings מן־הצאן "from the flock," of which כשׂב "a sheep" is mentioned as an example (vv. 6–

11), and offerings of עז "a goat" (vv. 12–16). This structure of Lev 3 is reflected in the list of

animals in Lev 17:3, i.e., שׁור וכשׂב ועז "an ox or sheep or goat." Since no example of an animal

from the "herd" group is provided in Lev 3, the author of Lev 17:3 appropriately uses שׁור as an

example from the first group.[32] This triad of sacrificial quadrupeds—ox, sheep, and goat—is also

found in other texts in H proper, namely, in Lev 22:27, and in priestly texts outside of H proper

in Lev 7:23 and Num 18:17, albeit with slight variations.[33]

Besides these lexical, semantic, and structural parallels in the animal list, the texts of Lev

17:3–7 and 3:1–17 also share other lexical items: זבח שלמים "sacrifice of peace offering," קרבן

"offering," שחט "slaughter," פתח אהל מועד "the entrance of the tent of meeting," דם "blood," על־

מזבח "on the altar," חלב "fat," כהן "priest," קטר "to burn," and ריח ניחח ליהוה "a pleasing aroma to

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[32] Cf. Jacob Milgrom, *Leviticus 1–16: A New Translation with Introduction and Commentary*, AB 3 (New Haven: Yale University Press, 1991), 427.

[33] Lev 17:3 connects the animals with the conjunction ו and not או as in Lev 7:23, whereas they are used in construct with the word בכור "the firstborn" in Num 18:17. Many scholars assign these texts to the Holiness School, e.g., Knohl, *Sanctuary*, 49–51; Milgrom, *Leviticus 1–16*, 426; Milgrom, *Leviticus 17–22*, 1454; Nihan, *From Priestly Torah*, 260–61. The list of these three animals also occurs in Deut 14:4, but with more variations: שׁור שׂה כשבים ושׂה אזים.

Yahweh." Although these lexical parallels are not unique to Lev 3, it is clear that Lev 17 uses the language of P, and the concentration of these lexical parallels in Lev 3 suggests a direct literary connection between Lev 17:3–7 and Lev 3. Another P text that deals with the sacrifice of peace offerings is Lev 7:11–21, but its similarity with Lev 17:3–7 is less salient.[34] While Lev 17 mimics the language of P, especially of Lev 3, it adds an essential element absent in P, namely, the idea that extra-sanctuary slaughter of these animals constitutes murder and is punishable with the כרת penalty (v. 4).[35] Here, P's silence on the issue of profane slaughter is supplemented by Lev 17, which is an explicit claim that all slaughters are sacrificial.[36]

The text of Lev 17:3–7 may also be compared more specifically with Lev 3:16b–17 and Lev 7:22–27, which ban the eating of fat and blood.[37] While there are more correspondences

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[34] However, the literary connection between Lev 7:11–21 and H is supported by its similarity with Lev 19:5–8 and 22:17–30.

[35] The notion that extra sanctuary slaughter constitutes murder is Lev 17's innovation on Gen 9:4–6, which will be discussed in §4.1.2.

[36] Knohl observes, "It appears that, unlike PT, which ignored the issues of the centralization of the cult and nonsacrificial slaughtering, HS takes a firm position prohibiting nonsacrificial animal slaughter and permitting sacrifice only at the entrance to the Tabernacle" (*Sanctuary*, 113).

[37] Although traditionally Lev 3:16b–17 and Lev 17:22–27 were assigned to P, many recent scholars consider this passage as a later insertions to P by an H redactor. Scholars who assign these texts to P include Wellhausen, *Prolegomena*, 51; Cholewiński, *Heiligkeitsgesetz*, 177; Baruch J. Schwartz, "'Profane' Slaughter and the Integrity of the Priestly Code," *HUCA* 67 (1996): 27–31; Otto, "Innerbiblische," 142. Scholars who argue that these passages bear the mark of the HS and assign these addition to an H redactor include Knohl, *Sanctuary*, 49–51; Milgrom, *Leviticus 1–16*, 261, 426; Milgrom, *Leviticus 17–22*, 1454; Nihan, *From Priestly Torah*, 260–61. The secondary nature of these passages has long been argued by scholars based on the changes in writing style compared to their immediate literary contexts, most notably the switch from the third person singular address to the second person singular address. See e.g., Bruno Baentsch, *Exodus – Leviticus – Numeri*, HKAT 2 (Göttingen: Vandenhoeck & Ruprecht, 1903), 308; Noth, *Leviticus*, 26, 64–65; Elliger, *Leviticus*, 51, 90–93; Hartley, *Leviticus*, 4, 95; Gerstenberger, *Leviticus: A Commentary*, 48–49; Samuel R. Driver, *An Introduction to the Literature of the Old Testament* (New York: Charles Scribner's Sons, 1914), 44; Nihan, *From Priestly Torah*, 261; Erhard Blum, "Issues and Problems in the Contemporary Debate Regarding the Priestly Writings," in *The Strata of the Priestly Writings: Contemporary Debate and Future Directions* (Zürich: Theologischer Verlag Zürich, 2009), 38, n. 26. Rolf Rendtorff suggests that the switch to the second person address in Lev 3:17 is a compositional technique to create an inclusio with the second person address in 1:2, thereby marking Lev 1–3 as a discrete unit (*Leviticus*, BKAT 3 [Neukirchen-Vluyn: Neukirchener Verlag, 1985], 134). This suggestion is followed by Milgrom, *Leviticus 1–16*, 216; Wilfried

between these passages and Lev 17 in general that will be addressed later (see §4.1 and §4.2), there are at least two points to be presently addressed, specifically regarding the ban on profane slaughter. First, these texts share several lexical items. As aforementioned, the list of animals that appears in Lev 17:3, i.e., ox, sheep, and goat, is also used in Lev 7:23. In addition, the clause חקת עולם תהיה־זאת להם לדרתם "This shall be an eternal statue for them throughout their generations" in Lev 17:7 closely resembles the clause חקת עולם לדרתיכם בכל מושבתיכם "an eternal statue throughout your generations in all your settlements" in Lev 3:17. These linguistic affinities indicate that Lev 3:16b–17 and Lev 7:22–27 may have been literarily connected with H.

Second, scholars have proposed different theories concerning the relationship between Lev 17 and Lev 3:16b; 7:22–27. According to Knohl, an H-redactor composed Lev 3:16b–17 and 7:22–27 to supplement the legislations concerning the sacrifice of peace-offering in Lev 3:1–16a and 7:11–21 in light of the ban on the profane slaughter in Lev 17. He avers,

> The original version of the sacrifice of wellbeing passages in PT (Lev 3:1-16; 7:11-21) included commands to burn the fat of the sacrifices of well-being on the altar, but did not prohibit the eating of all fat, as PT did not entertain the possibility of nonsacral slaughter of cattle or flocks. However, after HS innovated the injunction barring profane slaughter and demanded that all appropriate animals be slaughtered only as sacrifices, the next logical step was to prohibit eating all fat and to assign it to the altar. The HS editors did this by adding to the margins of older Priestly scrolls dealing with sacrifices of well-being the new prohibition against eating any fat (Lev 3:17; 7:22-25).[38]

In Knohl's view, later H editorial activities added the phrase כל־חלב in Lev 3:16 and inserted the concluding formula in v. 17 to justify the ban on the local slaughter in Lev 17:3–7. Similarly, Lev 7:22–27 is inserted to prepare the reader for the legislation in Lev 17 that all animal

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Warning, *Literary Artistry in Leviticus*, BibInt 35 [Leiden; Boston; Köln: Brill, 1999], 69–70; Hieke, *Levitikus 16–27*, 225.

[38] Knohl, *Sanctuary*, 50.

slaughter is only legitimate at the central sanctuary. In other words, Lev 17 is literarily dependent

upon the older legislations in Lev 3:1–16; 7:11–21 in formulating its new legislation, and the

later additions in Lev 3:16–17; 7:22–27 are the work of an H editor to justify Lev 17's new

legislation.

Other scholars argue that Lev 3:16b–17 and 7:22–27 approve profane slaughter, which

Lev 17 later corrects by banning it.[39] Baruch J. Schwartz, however, criticizes the notion that these

texts approve of profane slaughter. He surmises instead that these texts assume that all

slaughtered animals for meat consumption must be first sacrificed.[40] According to Schwartz's

reading, Lev 7:22–27, in particular, only recognizes two ways of consuming the meat of an ox or

sheep or goat, namely, after these animals are sacrificed or in the form of נבלה or תרפה.[41]

Nevertheless, this legislation only bans the eating of the fat of these animals without prescribing

the location of slaughter or commanding that the animals be offered to Yahweh. In other words,

Lev 7:22–27 and the similar legislation in Lev 3:16b–17 are silent about profane slaughter.[42]

Here, the ambiguous attitude toward profane slaughter in both passages is closer to P than to H,

although the writing style is closer to H than to P. One could certainly argue that Lev 7:22–27

was written by an H-redactor, who already knew about Lev 17, to prepare the reader for the ban

on profane slaughter. However, if Lev 17 were assumed in this passage, it would be unnecessary

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[39] E.g., Abraham Kuenen, *An Historico-Critical Inquiry into the Origin and Composition of the Hexateuch (Pentateuch and Book of Joshua)*, trans. Philip H. Wicksteed (London: Macmillan, 1886), 90, n. 28; Wellhausen, *Composition*, 151; Driver, *Introduction*, 51; Elliger, *Leviticus*, 101; Cholewiński, *Heiligkeitsgesetz*, 177; Otto, "Innerbiblische," 142.

[40] Schwartz, "Profane," 27–30.

[41] Schwartz, "Profane," 29. This view is shared by Nihan, *From Priestly Torah*, 236, n. 566.

[42] For a similar argument, see Rhyder, *Centralizing*, 245, n. 141.

to ban eating the fat of ox or sheep or goat since the fat of these animals has to be burned at the altar as part of the sacrificial ritual (Lev 17:5). Therefore, it is more likely that Lev 17 assumes the ban on fat in Lev 7:22 and supplements it by what to do with the fat if it cannot be eaten. In sum, Lev 17 supplements Lev 7:22–27, which is silent about profane slaughter, by making it evident that there are only two ways to consume the meat of domestic animals, namely, after the animals have been sacrificed as a sacrifice of peace offerings or in the form of נבלה or תרפה.[43]

3.2. The Prohibition of Local Animal Sacrifice (Lev 17:8–9)

Whereas the first literary unit addresses the issue of local animal slaughter, the following literary unit in vv. 8–9 concerns the issue of local animal sacrifice. The legislation prescribes that any Israelite or resident alien who offers עלה או־זבח "a burnt offering or sacrifice" must bring it to the central sanctuary and offer it to Yahweh under the threat of כרת.[44]

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[43] *Pace* Schwartz, who believes that P's prohibition against profane slaughter is obvious ("Profane," 31). Cf. Knohl, *Sanctuary*, 50, n. 10.

[44] Scholars disagree concerning which sacrifices or offerings are included in the expression עלה או־זבח. Ruwe, for example, argues that only the burnt offering (עלה) and the sacrifice (זבח) are included but not the sin offering (חטאת) and the guilt offering (אשׁם) (*Heiligkeitsgesetz*, 149–50). Alternatively, Nihan states that the expression עלה או־זבח is a "merism to designate the entirety of the sacrificial cult" which include "absolutely any type of offering" (*From Priestly Torah*, 415). A more compelling reading is offered by Milgrom, who argues that this phrase only refers to blood offerings, including the sin and guilt offerings, but not to other offerings, such as the cereal offering (*Leviticus 1–16*, 199). Rhyder supports Milgrom's view based on two reasons [*Centralizing*, 217-218). First, the term זבח, when used individually, refers to animal sacrifices (cf. זֶבַח, *HALOT* 1:262). Second, the expression אלה או־זבח is used in Num 15:1–10 as distinct offerings, separate from vegetal offerings that accompanied them. Despite her agreement with Milgrom that זבח refers to only animal sacrifice, Rhyder rejects Milgrom's claim that other offerings may be offered to Yahweh outside of the central sanctuary.

3.2.1. Leviticus 17:8–9 and CC

While CC contains no specific passage which specifically addresses the place of animal

slaughter, it does nevertheless mention the issue of the location of sacrifice. The prohibition in

Lev 17:8–9 against sacrificing animal outside the central sanctuary may be contrasted with the

permission to build an altar and offer sacrifices בכל־המקום אשר אזכיר את־שמי "in every place where

I cause my name to be remembered" in Exod 20:22–26 (here v. 24). Whereas CC's altar law

does not assume a centralized cultic space, Lev 17 assumes the centrality of the tent of meeting

as the sole legitimate cultic place in which animals should be slaughtered and offered as

sacrifices to Yahweh. Although both texts may be contrasted in their views concerning where the

legitimate cultic space is located, these texts are composed without a literary connection with

each other. In other words, one text does not mimic or reuse the literary features of the other text

to express their opposing views.[45] Despite their differing views concerning the location of

sacrifice, the primary concern of Exod 20:22–26 is not to prescribe the legitimate place to offer

sacrifices as in Lev 7:8–9, but to regulate the proper way of constructing and using an altar.

In addition to the opposing views of the texts on the location of sacrifice and the different

concerns addressed in the texts, both Lev 17 and Exod 20:22–26 do not seem to share literary

features that indicate the presence of a literary connection. For example, the sacrificial animal list

in Lev 17:3 mentions שׁור או־כשׂב או־עז "an ox or a lamb or a goat," whereas Exod 22:24 lists את־

צאנך ואת־בקרך "your sheep and your cattle," as animals to be offered as את־עלתיך ואת־שׁלמיך "your

burnt offerings and your peace offerings." Also, while עלה and שׁלם, both of which are common

words, appear as a word pair in Exod 20:24, they are not used together in Lev 17. Instead, the

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[45] Compare with D's lemmatic transformation of CC's permission to sacrifice in any place, as proposed by Levinson, *Deuteronomy*, 34–36.

word עלה is paired with זבח (עלה או־זבח "a burnt offering or sacrifice; v. 8) and שׁלם is used in a construct relationship with זבח (זבחי שׁלמים "sacrifices of peace offerings"; v. 5). The verb עלה is also used differently in both texts: Exod 20:26 employs the verb to denote the act of going up, whereas it is used in Lev 17:8 to denote the act of offering a sacrifice. In other words, besides a minor thematic similarity concerning the legitimate place of worship, Lev 17 and Exod 20:22–26 do not seem to be literarily connected.

3.2.2. Leviticus 17:8–9 and D

The second literary unit in Lev 17:8–9 concerning the prohibition of local sacrifice may also be compared with its parallel laws in Deut 12:5–6, 11, 13–14, 17–18, 26–27. Like Lev 17:3–7, the legislation concerning the ban on local sacrifice in Lev 17:8–9 is formulated very differently from its parallel laws in Deut 12. From the textual comparison between Lev 17:8–9 and its parallel laws in Deut 12, several observations are noteworthy (Table 3.2.2).

Table 3.2.2. Comparison between Lev 17:8–9 and Deut 5–6, 11, 13–14, 17–18, 26–27

Lev 17:8–9	Deut 12:5–6, 11, 13–14, 17–18, 26–27
8 ואלהם תאמר איש איש מבית ישראל ומן־הגר אשר־יגור בתוכם אשר־יעלה עלה או־זבח: 9 ואל־פתח אהל מועד לא יביאנו לעשׂות אתו ליהוה ונכרת האיש ההוא מעמיו:	5 כי אם־אל־המקום אשר־יבחר יהוה אלהיכם מכל־שבטיכם לשׂום את־שׁמו שׁם לשׁכנו תדרשו ובאת שׁמה: 6 והבאתם שׁמה עלתיכם וזבחיכם ואת מעשׂרתיכם ואת תרומת ידכם ונדריכם ונדבתיכם ובכרת בקרכם וצאנכם: 11 והיה המקום אשר־יבחר יהוה אלהיכם בו לשׁכן שׁמו שׁם שׁמה תביאו את כל־אשׁר אנכי מצוה אתכם עולתיכם

	וזבחיכם מעשׂרתיכם ותרמת ידכם וכל מבחר נדריכם אשׁר תדרו ליהוה:
	¹³ השׁמר לך פן־תעלה עלתיך בכל־מקום אשׁר תראה: ¹⁴ כי אם־במקום אשׁר־יבחר יהוה באחד שׁבטיך שׁם תעלה עלתיך ושׁם תעשׂה כל אשׁר אנכי מצוך:
	²⁶ רק קדשׁיך אשׁר־יהיו לך ונדריך תשׂא ובאת אל־ המקום אשׁר־יבחר יהוה: ²⁷ ועשׂית עלתיך הבשׂר והדם על־מזבח יהוה אלהיך ודם־זבחיך ישׁפך על־מזבח יהוה אלהיך והבשׂר תאכל:

First, there are only a few content words that Lev 17:8–9 share with its parallel laws in Deut 12, namely, עלה "to offer" (verb), עלה "burnt offering" (noun), זבח "sacrifice" (noun), בוא "to enter/to bring," עשׂה "to do," and יהוה "Yahweh," but none of them are low-frequency words. Since these texts are dealing with the same issue, namely, how to offer sacrifices, the use of the words עלה and זבח (both noun and verb) in both texts is not surprising. The use of the verb עשׂה in conjunction with the noun עלה as in Deut 12:27 is too common to be considered an indication of a literary borrowing in this case (cf. Exod 1:25; Lev 5:10; 9:7, 16, 22; 16:24; Num 15:3, 5, 8), and they do not appear in the same word order in Lev 17:9.[46] Similarly, the use of the verb בוא in the Hiphil stem in the context of sacrifice is not uncommon in the Pentateuch, especially in the

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[46] Levinson points out that the use of the verb "to do, make" in a sacrificial context is common in Akkadian (*Deuteronomy*, 38, n. 31).

priestly literature (cf. Gen 4:3, 4; Exod 23:19; 34:26; Lev 4:4, 5, 28, 32; 5:6, 7, 8, 11; 7:29, 30; 10:15; 14:23; 15:29), and therefore cannot be used as an evidence for a literary dependence.

Second, there is no low-frequency word order that may be used to identify the presence of a literary connection. In Lev 17:8, עלֹה אוֹ־זבח appears as a word pair in a singular form, connected with the conjunction אוֹ "or." While these two words are often paired (e.g., Exod 10:25; 18:12; 24:5; Num 10:10), this unique combination of words with this exact same order and conjunction only occurs here and in Num 15:3, 8. These two words also appear in Deut 12, but always in plural form, with a second person pronominal suffix, either singular or plural. Furthermore, when these words are paired in Deut 12, it is always with the conjunction ו and followed by a list of other offerings (vv. 6, 11). This long list of offerings shows the interest of Deut 12:1–12 in offerings in general and not specific animal offerings as in Lev 17:8–9.[47] In both cases, the list of the offerings, which include the word pair עלֹה and זבח, is not the direct object of the verb עלֹה as in Lev 17:8 but the Hiphil verb בוא. Interestingly, the word זבח is absent in the third section of Deut 12 (vv. 13–19), and the words עלֹה and זבח do not appear as a word pair but are used independently in different clauses in the fourth literary unit of Deut 12 (vv. 20–28).

Third, Lev 17:8–9 and Deut 12 do not show other linguistic similarities, especially in the way they use shared words. The verb בוא in Lev 17:9 is used in the Hiphil stem with the 3 ms pronominal suffix, with עלֹה אוֹ־זבח in v. 8 as its antecedent. In Deut 12, by contrast, this verb is used in its first and second sections (vv. 6, 11) with the same Hiphil form in the command to

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[47] The inclusion of other non-blood sacrifices, in addition to the lack of instructions as to how to dispose of animal blood, in the first two sections of Deut 12 (vv. 2–7 and 8–12) indicates that proper blood disposal is not the main concern of the sections. This concern is only mentioned in the third and fourth sections of Deut 12 (vv. 13–19 and vv. 20–28). Moreover, if the view that Lev 17 focuses on animal offerings is correct, it would be difficult for those who argue that Lev 17 postdates Deut 12:2–12 to explain why Lev 17 omits the requirement to bring non-animal offerings to the central sanctuary.

bring all kinds of offerings to the central sanctuary. However, it is not used in the Hiphil stem in the third and fourth literary units. Instead, the verb בוא is used in the Qal form in the clause ובאת אל־המקום אשר־יבחר יהוה "you shall go to the place that Yahweh shall choose" with the meaning "to go." Moreover, unlike in Lev 17, Deut 12:26 does not use the Hiphil form of בוא to convey the meaning "to bring." Instead, it employs the verb נשׂא with the similar meaning when commanding the people of Israel to bring their offerings to the central sanctuary. While semantically this verb is equivalent to the Hiphil form of בוא, the direct object of the verb is not עלה or זבח but קדשׁיך אשׁר־יהיו לך ונדריך "your holy things that are due from you and your vow offerings" (Deut 12:26).

Based on these observations, the similarities between Lev 17:8–9 and Deut 12 seem to be incidental due to topical similarity and not a result of intentional literary borrowing.

3.2.3. Leviticus 17:8–9 and P

While it only appears in Deut 12 in D, the commandment to bring and offer sacrifices in the central sanctuary is not foreign in the priestly literature, such as in the laws concerning the burnt offering in Lev 1 and the sin offering in Lev 4. In Lev 1:3, for example, the burnt offering or עלה has to be brought אל־פתח אהל מועד "the entrance of the tent of meeting." Similarly, the Israelites are also required to bring (בוא) their sin offerings to the entrance of the tent of meeting (Lev 4:4; cf. 12:6; 15:29). In other words, the requirement to bring sacrifices to the central sanctuary is not a new invention of Lev 17. The main innovation of H on the older legislation is the expansion of the rule to include the גר "resident alien," which is not mandated in P. Furthermore, Lev 17:9 also adds the threat of כרת for those who violate the prohibition against local sacrifices, an element also not found in P.

4. The Rules concerning Animal Slaughtered outside the Central Sanctuary (Lev 17:10–16)

After legislating the slaughter of animals in the sanctuary (vv. 3–9), the authors of Lev 17 now address the rules for the consumption of animals that are slaughtered or die outside of the sanctuary. This second part of Lev 17 begins with the general principle that governs the consumption of animals slaughtered outside of the sanctuary, namely, the prohibition against blood consumption (vv. 10–12). Following the general prohibition in blood consumption in the third literary unit, Lev 17 applies this rule to a specific case of animals that die outside of the sanctuary, namely, in the case of game (vv. 13–14). While animals slaughtered at the central sanctuary would ensure proper disposal of blood, the slaughter of animals outside of the sanctuary, such as during hunting, poses the danger of improper disposal of blood. Finally, Lev 17 deals with an additional case concerning how to deal with animals that die naturally or are killed by beasts (vv. 15–16).[48]

4.1. The Prohibition of Blood Consumption (Lev 17:10–12) and the Rules concerning Game (Lev 17:13–14)

In this section, the fourth and fifth literary units (vv. 10–14) are discussed together because they are united by the concern for blood. The third literary unit of Lev 17 prohibits both the Israelites

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[48] Gordon J. Wenham combines vv. 13–14 and vv. 15–16 and considers them rules about hunting game (*Leviticus*, 240). Milgrom, however, rejects this view and argues that vv. 15–16 deals not only with animal killed from hunting, but also with the carcasses of all animals, including domesticated animals [*Leviticus 17–22*, 1484–87]. Schwartz considers vv. 15–16 as dealing with nonsacrificeable animals ("Prohibitions," 43).

and the resident aliens from eating blood under the threat of כרת.[49] The rationale for the

prohibition is also stated: the life of the flesh is in the blood, which is given for atonement at the

altar. Many scholars take this section as the center of Lev 17.[50] Schwartz, for example,

postulates, "At the center, between the first two and the last two, stands the axiom upon which all

four depend: that partaking of blood is prohibited. The first two lead to this axiom and provide its

rationale; the last two derive from this axiom and implement it."[51] However, as astutely observed

by Nihan, the sacrifice of peace offerings in vv. 3–7 does not have the *kipper* function, and the

motif of proper blood disposal is not clearly mentioned in the second and fifth literary units (vv.

8–9, 15–16). Therefore, the notion that vv. 10–12 serves as the pivot or general axiom of the

other four laws is not convincing. As an alternative, Nihan believes that this section is "a general

comment on the function of blood in Israel's cult."[52] Furthermore, he argues that this section

deals with sacrifices not covered in the previous sections in vv. 3–9 and "extends the prospect to

all the sacrifices with which a *kipper* function is associated, i.e., in the first place, the purification

and reparation offerings." However, Nihan's proposal would render the blood prohibition

unnecessary since all these sacrifices must be offered at the central sanctuary (cf. vv. 8–9), and

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[49] Schwartz avers that in Lev 17 "it is an eating of blood, not a drinking of it, a consumption of blood in the process of eating, that is intended. The possibility that one might drain off and drink up the blood is not contemplated" ("Prohibitions," 44).

[50] See e.g., Elliger, *Leviticus*, 218; Jacob Milgrom, "Prolegomenon to Leviticus 17:11," *JBL* 90 (1971): 155–154; Milgrom, *Leviticus 17–22*, 1448–49; Schwartz, "Prohibitions," 42–43; Jay Sklar, *Sin, Impurity, Sacrifice, Atonement: The Priestly Conceptions* (Sheffield: Sheffield Phoenix Press, 2015), 164; Gilders, *Blood Ritual*, 160–61.

[51] Schwartz, "Prohibitions," 43.

[52] Nihan, *From Priestly Torah*, 424.

the proper ritual for offering these sacrifices would ensure proper blood disposal and eliminate the possibility of blood consumption.

It is more likely that, instead of dealing with sacrifices, the prohibition in vv. 10–12 may have been added to include how to deal with the slaughter of other sacrificeable animals not covered in vv. 3–7. There are at least two functions of the general prohibition against blood eating in vv. 10–12 in relation to the issue of animal slaughter in vv. 3–7. First, while vv. 3–7 only deals with the slaughter of animals that are suitable for the sacrifice of peace offerings, vv. 10–12 anticipates the slaughter of sacrificeable animals not included in that category, particularly domesticated birds, which are still allowed to be killed outside of the sanctuary. Second, this general prohibition is crucial because resident aliens are not the subject of the ban on the local slaughter in vv. 3–7 and, therefore, are still permitted to slaughter sacrificeable animals locally. While they may still slaughter all sacrificeable animals outside of the central sanctuary, they may not eat the blood of the animals. In other words, the prohibition against eating blood in vv. 10–12 anticipates the slaughter of sacrificeable animals outside of the central sanctuary. Although these sacrificeable animals are still allowed to be killed outside of the sanctuary, their blood may not be consumed (cf. Lev 7:26).

The treatment of sacrificable animals that are allowed to be slaughtered outside of the sanctuary (vv. 10–12) is complemented by the rule concerning non-sacrificial animals in the case of game (vv. 13–14). Like the third literary unit, vv. 13–14 also concerns with blood but deals specifically with the blood of game. Again, in this literary unit, the prohibition against eating blood is pronounced, albeit differently. Here, the consumption of blood is banned even in the case of game, and the rule requires the hunter to pour out the blood of game and cover it with

earth (v. 13).[53] For the legists, while game may be killed outside of the central sanctuary, the

blood still needs to be properly drained before the meat may be consumed.

4.1.1.   Leviticus 17:10–14 and D

While the legislation in Lev 17:10–14 does not find a parallel in CC, similar legislation appears

in D. The blood prohibition appears in three different texts in D, namely, in Deut 12:16, 23–24,

and 15:23 (see Table 4.1.1). The comparison between the blood prohibition in Lev 17:10–12, 14

and these D texts shows that they share some linguistic features, most notably, lexical items.[54]

The text of Lev 17:10–12, 14 shares the words לֹא, אכל, and דם with Deut 12:16 and Deut 15:23.[55]

The shared words לֹא, אכל, and דם in these texts are not unique to Lev 17 and Deut 12 since all

other blood prohibitions in the Pentateuch contain these words (Gen 9:1–6; Lev 3:17; 7:26–27),

and they may be attributed to the topical similarity shared among these texts. In addition, Lev

17:10–12, 14 also shares the direct object marker את with Deut 15:23. Although the direct object

marker is used in both texts in conjunction with the word דם, this particle is too common to be

used as evidence for a literary borrowing.

    More similarities exist between Lev 17:10–12, 14 and Deut 12:23–24. Besides the words

לֹא, אכל, and דם, these texts also share other lexical items, i.e., the nouns נפש, בשׂר, the conjunction

כי, and the third person independent personal pronoun הוא. The words נפש and בשׂר cannot be

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[53] For the various views on the rationale behind the requirement to cover the blood with earth, see Milgrom, *Leviticus 17–22*, 1482–83.

[54] It should also be pointed out that, unlike the blood prohibition in P or H, all the blood prohibitions in D begin with the particle רק and concludes with the exact same instruction concerning how to dispose of blood properly.

[55] This list excludes the shared words between the instructions for blood disposal in both texts, which will be discussed independently.

confidently used to argue for a direct literary dependence between these texts because they are also used in the prohibition against blood eating in Gen 9:4. While this observation does not rule out the possibility of a literary dependence between Lev 17:10–12, 14 and Deut 12:23–24, it demonstrates that a direct literary dependence between the two is not the only explanation for the shared lexical items. However, the use of the conjunction כי to introduce the rationale for the prohibition, in which the personal pronoun הוא appears, is unique to the prohibitions in Lev 17 and Deut 12:23–24, in that, they are not shared with any other texts that contain the blood prohibition. This unique use of the conjunction כי and the personal pronoun הוא in the rationale for the blood prohibition has been marshalled as evidence for the direct literary dependence between Lev 17 and Deut 12.

Table 4.1.1.a. Comparison between Lev 17:10–12 and Deut 12:16, 23–24; 15:23

Lev 17:10–12	Deut 12:16, 23–24; 15:23
¹⁰ ואיש איש מבית ישראל ומן־הגר הגר בתוכם אשר יאכל כל־דַם ונתתי פני בנפש האכלת אֶת־הַדָם והכרתי אתה מקרב עמה:	¹⁶ <u>רַק הַדם לֹא תאכלו עַל־הָארץ תשפכנו כמים:</u> (Deut 12:16)
¹¹ כי נפש הבשר בְדָם הוא ואני נתתיו לכם עַל־המזבח לכפר עַל־נפשתיכם כי־הדם הוא בנפש יכפר:	²³ <u>רַק</u> חזק לבלתי אכל הדם כי הדם הוא הנפש ולא־תאכל הנפש עם־הבשר:
¹² <u>עַל־</u>כן אמרתי לבני ישראל כל־נפש מכם לֹא־תאכל דם והגר הגר בתוכם לֹא־יאכל דם: (Lev 17:10-12)	²⁴ לא תאכלנו <u>עַל־הָארץ תשפכנו כמים:</u> (Deut 12:23-24)
	²³ <u>רַק אֶת־דמו לֹא תאכל עַל־הָארץ תשפכנו כמים:</u> (Deut 15:23)

The shared lexical items point to the presence of a literary connection between Lev 17:10–12, 14 and Deut 12, although the nature of the connection is not immediately apparent. In addition to the fact that the blood prohibition is also found in other texts outside of H and D, the formulations of the prohibition in Lev 17 and Deut 12 are hardly the same (see Table 4.1.1.b). In Lev 17:10 the prohibition is formulated as a punishment for the violator, whereas the other prohibitions are formulated as negative commands. The other two blood prohibitions in Lev 17:12, 14 also differ in word choice, word order, and verbal form. Similarly, the prohibition against blood eating is never worded in the same fashion in D. In the first occurrence in 12:16, the prohibition uses the plural verb תאכלו, which is incongruent in a string of singular verbs. The same plural form of אכל is also used in Lev 17:14, but a direct connection between them cannot be confidently established since it also appears in Gen 9:4, which may be the common source for both Lev 17 and Deut 12. In Deut 12:23–24, the prohibition is repeated three times, and each time with a different syntax and word choice. Similarly, in the last occurrence in Deut 15:23, the formula is worded differently than the previous ones. Like the prohibition, the rationale for the prohibition is also freely rendered in each occurrence, both syntactically and semantically (see Table 4.1.1.c). Interestingly, while the blood prohibitions in D are not formulated the same, they all begin with the same particle רק and conclude with the same instruction regarding how to properly dispose of blood, that is, על הארץ תשפכנו כמים "on the earth you shall pour it out like water." Finally, the motivations for obeying the commandment not to eat blood in Lev 17 and Deut 12 are different: the former prescribes the כרת punishment for those who violate the prohibition (Lev 17:10, 14), whereas the latter promises blessings for those who keep the prohibition (Deut 12:25).

Table 4.1.1.b. The Blood Prohibitions in Lev 17 and Deut 12

Lev 17:12	כל־נפשׁ מכם לא־תאכל דם והגר הגר בתוככם לא־יאכל דם
Lev 17:14	דם כל־בשׂר לא תאכלו
Deut 12:16	הדם לא תאכלו
Deut 12:23a	חזק לבלתי אכל הדם
Deut 12:23c	ולא־תאכל הנפשׁ עם־הבשׂר
Deut 15:23	את־דמו לא תאכל

Table 4.1.1.c. The Rationales for the Blood Prohibition in Lev 17 and Deut 12

Lev 17:11a	כי נפשׁ הבשׂר בדם הוא
Lev 17:11c	כי־הדם הוא בנפשׁ יכפר
Lev 17:14a	כי־נפשׁ כל־בשׂר דמו בנפשׁו הוא
Lev 17:14c	כי נפשׁ כל־בשׂר דמו הוא
Deut 12:23b	כי הדם הוא הנפשׁ

The question naturally arises, then, regarding how to account for both the similarities and dissimilarities of these blood prohibitions and their rationales. While the similarities in the formulation of the prohibition in Lev 17:10–12, 14 and Deut 12, especially as indicated by the use of the words כי and הוא in both texts, might suggest a direct literary dependence, the similarities may also be attributed to a shared tradition. The prohibition against blood eating is common among the Semitic people and the identification of blood and life is "a matter of

ordinary observation; as the one ebbed, so did the other."[56] Given the strong possibility that the

prohibition against blood eating was well known in ancient Israel, the similarity in the

formulation of this prohibition is not unexpected. In other words, the similar formulation of the

ban is attributed to content familiarity and not textual familiarity. This possibility is supported by

the fact that, except for this prohibition, which appears in other places outside of Lev 17 and

Deut 12, almost no other linguistic feature is shared between Lev 17 and Deut 12 that may

indicate a direct literary dependence.

Even if a direct literary dependence between Lev 17 and Deut 12 were granted in the

blood prohibition case, the direction of the literary dependence could not be established. J.

Gordon McConville observes that the blood prohibition in Deut 12 is used incidentally and as a

reminder of an already well-known law on blood consumption, whereas the blood prohibition in

Lev 17 is more detailed and programmatic. He then concludes, "Granted then that Dt. 12

presupposes an already known blood-prohibition, it is possible that it is that of Lev. 17."[57] In

other words, Lev 17 is earlier legislation, which is presupposed and summarized in Deut 12.

However, this conclusion does not consider the possibility that the programmatic legislation on

blood consumption in Lev 17 may be an elaboration of the shorter legislation in Deut 12. In other

words, the direction of dependence of these texts cannot be settled based on the length of the

legislation on blood consumption.

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[56] G. A. Smith, *The Book of Deuteronomy* (Cambridge: Cambridge University Press, 1918), 117.

[57] J. Gordon McConville, *Law and Theology in Deuteronomy*, JSOTSup 33 (Sheffield: JSOT Press, 1984), 50.

Rhyder, by contrast, argues that the blood prohibition in Deut 12:23 is D's response to the ban on the profane slaughter in Lev 17, which indicates the literary priority of Lev 17 over Deut 12:20–28. She posits,

> By both affirming H's claim that there is a connection between blood and life and allowing local slaughter in limited circumstances, [Deut 12:23] employs H's logic against it – that is, it qualifies H's assertion that a total ban on local butchery is necessary by reminding the Israelites that the link between blood and life is not violated so long as blood is never consumed. Because the chief issue is to ensure that the Israelites abstain from ingesting the blood of their butchered animals, the practice of local slaughter can be permitted for those who live at a distance from the central place.[58]

Rhyder further suggests, "The author [of H] acknowledges the importance of the manipulation of blood on the altar, stressed by H (and the priestly traditions more generally), by including a reference to blood disposal in the case of *sacrifices* presented at the central place."[59] However, the difficulty with this reading is that the prohibition against blood eating is not the rationale for the ban of local slaughter. Instead, H considers the shedding of animal blood outside the central sanctuary as bloodguilt (Lev 17:4). This concern of H is not addressed by D, which suggests that D may not have formulated its arguments to address H's objection to extra sanctuary slaughter.

In addition to the blood prohibition, Lev 17 also legislates the proper procedure for blood disposal. The instruction in v. 13 reads ושפך את־דמו וכסהו בעפר "he shall pour out its blood and cover it with dust." A similar procedure also appears in Deut 12:16, 24; 15:23, and in all occurrences, the procedure is formulated precisely the same, namely, על־הארץ תשפכנו כמים "you shall pour it out on the earth like water." Kilchör argues that the command to pour out animal's

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[58] Rhyder, *Centralizing*, 234.

[59] Rhyder, *Centralizing*, 234. Emphasis original.

blood like water in D is based on Lev 17:13.[60] Nevertheless, D's instruction for proper disposal

of blood is not the same as the one in Lev 17. For H, since blood is equated with life, it has to be

covered with earth, probably to mimic the process of proper burial for the dead. While it is a

necessary step in Lev 17:13, D does not require covering the animal blood with earth, although D

also considers blood as life (Deut 12:23).

It is also worth pointing out that the procedures for disposing of animal blood in Lev 17

and D do not show evidence of a literary mimicking (see Table 4.1.1.d). Besides the verb שׁפך "to

pour out," there is nothing similar about the formulation of the procedure in these texts. It is not

necessary to posit that there is a literary dependence for the use of the word שׁפך because the use

of the word שׁפך is a common word used in the context of blood-shedding. In other words, both H

and D have their distinct ways of disposing of animal blood, and neither seems to mimic the

other's formulation of the procedure.

Table 4.1.1.d. The Procedures for Proper Blood Disposal in Lev 17 and Deut 12

Lev 17:13	וְשָׁפַךְ אֶת־דָּמוֹ וְכִסָּהוּ בֶּעָפָר
Deut 12:16, 24; 15:23	עַל־הָאָרֶץ תִּשְׁפְּכֶנּוּ כַּמָּיִם

Even if the literary dependence between these texts were accepted in this case, there is no

linguistic evidence that might be useful for determining the direction of dependence. Without

linguistic evidence, the literary priority may be argued for both directions. On the one hand, one

could propose that Lev 17 borrows the procedure of blood disposal from D and limits it to only

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[60] Benjamin D. Kilchör, "The Reception of Priestly Laws in Deuteronomy and Deuteronomy's Target Audience," in *Exploring the Composition of the Pentateuch*, ed. Leslie Scott Baker et al., BBRSup 27 (University Park, PA: Eisenbrauns, 2020), 218. Here, Kilchör refers specifically to the instruction in Deut 12:16.

the disposal of blood in the case of game.[61] On the other hand, it is also possible to posit that D

borrows the procedure for disposing wild animal blood from Lev 17 and applies it to all extra

sanctuary slaughter for meat consumption.[62] Moreover, the commandment to cover the blood

with dust in Lev 17 may be read as Lev 17's correction of D's theology that desacralizes blood in

non-cultic settings. However, D's instruction to pour out animal blood from profane slaughter

like water could be read as D's rejection of H's view that blood has sacral value in non-cultic

settings.[63]

The rule concerning the slaughter of game in Lev 17:13 parallels the rule concerning the

consumption of wild animals in Deut 12:15–16, 21–23. There are several similarities between

these texts. First, all three texts address the consumption of non-domesticated animals. Second,

the prohibition against blood eating appears in all texts, although the rule concerning the proper

disposal of animal blood only appears in Lev 17:13–14 and Deut 12:21–23. However, the

differences between them are more significant. First, Lev 17:13–14 legislates on animal

slaughter outside of the sanctuary, with specific reference to game, whereas Deut 12:15–16, 21–

23 legislates on the slaughter of domesticated animals based on the assumed permission for

slaughtering wild animals outside of a central sanctuary without specifically dealing with the

case of game. Second, the animal lists are different. Whereas Lev 17:13 does not mention

specific animals, only employing the general terms חיה או־עוף "animal or bird," Deut 12:15, 22

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[61] E.g., Blum, *Studien*, 338; Otto, "Innerbiblische," 143; Nihan, *From Priestly Torah*, 426.

[62] E.g., Kilchör, *Mosetora*, 85–86.

[63] Weinfeld, *Deuteronomy and the Deuteronomic School*, 214; Moshe Weinfeld, *The Place of the Law in the Religion of Ancient Israel* (Leiden: Brill, 2004), 22; Michael Fishbane, *Biblical Interpretation in Ancient Israel* (Oxford: Clarendon, 2004), 294, n. 665).

lists צבי "gazelle" and איל "deer" to refer to non-domesticated animals.[64] Despite the lack of

linguistic similarity, Kilchör argues that the legislation on the wild animal slaughter in Deut 12

responds to Lev 17. Following Fishbane, he postulates that the authors of Deut 12 had Lev 17 in

mind because the "naheliegendste Referenz" of the phrase כאשר צויתך in Deut 12:21 is Lev 17.[65]

Despite Kilchör's claim, Lev 17 is not necessarily the most obvious reference of the phrase since

Deut 12:15 could also be a potential candidate.[66] In sum, no linguistic feature is shared between

Lev 17:13 and Deut 12:15–16, 21–23 beyond thematic similarity.

4.1.2. Leviticus 17:10–14 and P

In the priestly literature, the blood prohibition appears for the first time in Gen 9:4–6, with which

Lev 17:10–12, 14 share several lexical items, i.e., איש, לא, בשר, כי, את, כל, אכל, נפש, and דם.[67] If

Lev 17:13 is included in this comparison, two more words are shared between these texts,

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[64] The same animal list used in Deut 12:15, 22 also appears in 15:22. In all cases, this list is used in conjuction with the prohibition against blood eating and an instruction on the proper disposal of blood. However, unlike in Deut 12:15–16, 21–23 which concerns the slaughter of all livestock outside of a central sanctuary, Deut 15:22 deals with the consumption of a blemished firstborn of livestock. Nevertheless, all these D texts permit the local slaughter of domesticated animals in a similar, but distinct, manner from Lev 17:13–14.

[65] Kilchör, *Mosetora*, 90. Cf. Fishbane, *Biblical Interpretation*, 534.

[66] Cf. Richard D. Nelson, *Deuteronomy: A Commentary*, OTL (Louisville: Westminster John Knox, 2004), 161; Otto, *Deuteronomium 12,1–23,15*, 1192.

[67] Bill T. Arnold argues that Gen 9:17 is the work of H ("The Holiness Redaction of the Flood Narrative (Genesis 6:9–9:29)," in *Windows to the Ancient World of the Hebrew Bible: Essays in Honor of Samuel Greengus*, ed. Bill T. Arnold, Nancy L. Erickson, and John H. Walton [Winona Lake, IN: Eisenbrauns, 2014], 28–30; "The Holiness Redaction of the Primeval History," *ZAW* 129 [2017]: 493-494). According to Arnold, Gen 9:1–7 shares similar style and phraseology with Gen 1, which he categorizes as H. However, the connection between these two texts with H is based largely on the thematic correspondences, such as Sabbath observance, animal taxonomy, and sacred festivals, with little to no linguistic evidence to support this reconstruction (See Bill T. Arnold, "Genesis 1 as Holiness Preamble," in *Let Us Go Up: Essays in Honour of H. G. M. Williamson on the Occasion of His Sixty-Fifth Birthday*, ed. Iain W. Provan and Mark J. Boda, VTSup 153 [Leiden: Brill, 2012], 331–43).

namely, חיה and שפך. The connection between these two texts is strengthened by the topical similarities, namely, the prohibition against eating blood and the prohibition against shedding (שפך) blood. The rationale to justify the ban on local animal slaughter and sacrifice in Lev 17:3–9 appears to be an innovation on Gen 9:5–6. After the prohibition of blood eating, Gen 9 includes the warning that God will demand a reckoning for the shedding of the blood of a human being, either done by an animal or a human being, but it does not consider the shedding of animal's blood as a sin. The author of Lev 17 expands the ban on the shedding of blood in Gen 9 to include the shedding of animal's blood and considers it bloodguilt if the animal is slaughtered outside of the central sanctuary.[68] It is true that Gen 9 allows profane slaughter, and Lev 17 limits it. However, it does not necessarily follow that H polemically corrects the permission for profane slaughter in P. Instead, these texts need to be "read in sequence as a developing narrative."[69] Profane slaughter was allowed in Gen 9 because the sanctuary cult had not yet existed in the narrative context, and its permission in Gen 9 supplies "the general background for further developments, to provide the necessary contrast to what later was enacted in Israel."[70] Furthermore, P's silence about the issue of profane slaughter after the establishment of the cult is supplemented by H's legislation that explicitly bans the slaughter of domestic animals outside of the central sanctuary.

The prohibition against blood eating also appears in Lev 3:17 and 7:26–27, both of which may have been a later addition to P (see §3.1). The prohibition in Lev 17:10–14 shares the words

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[68] Rhyder, *Centralizing*, 248–49.

[69] Paavo N. Tucker, *The Holiness Composition in the Book of Exodus* (Tübingen: Mohr Siebeck, 2017), 61. Cf. Blum, *Studien*, 336 n. 10; Schwartz, "Profane," 27; Rhyder, *Centralizing*, 246.

[70] Schwartz, "Profane," 27.

כל, דם, לֹא, and אכל with Lev 3:17 although the word orders are not the same. As in the case of Lev 17 and D, these shared lexical items between Lev 17:10–12, 14 and Lev 3:17 may be attributed to topical similarity, although it does not preclude the possibility of a direct literary dependence between these texts. More words are shared between Lev 17:10–14 and Lev 7:26–27, including כל, דם, לֹא, אכל, עוף, נפֹש, אשֹׁר, כרת, הוא, and עם.[71] Here, a direct literary connection is plausible, primarily because in addition to the shared lexical items in the blood prohibition, Lev 7:22–27 as a whole shares other lexical items with Lev 17, such as the list of animals (7:23; 17:3) and the word pair נבלֹה and תרפה in (7:24; 17:15).

The ban on eating fat in Lev 3:16b–17 and 7:22–27 may indicate an expansion of the blood prohibition in P and H proper since the ban on eating fat does not appear anywhere else. According to Knohl, both passages are H's addition to complement its ban on profane slaughter.[72] He avers,

> The original version of the sacrifice of wellbeing passages in PT (Lev 3:1–16; 7:11–21) included commands to burn the fat of the sacrifices of well-being on the altar, but did not prohibit the eating of all fat, as PT did not entertain the possibility of nonsacral slaughter of cattle or flocks. However, after HS innovated the injunction barring profane slaughter and demanded that all appropriate animals be slaughtered only as sacrifices, the next logical step was to prohibit eating all fat and to assign it to the altar.[73]

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[71] Although Lev 17:13 shares the word עוף "bird" with Lev 7:26, several important differences are notable. First, the word עוף is paired with the word חיה "beast" in Lev 17:13, whereas the word בהמה "animal" is used in Lev 7:26. Second, the orders of the animals are different, with אוף mentioned first in Lev 7:26 but last in Lev 17:13. Third, the conjunction used are different: the animals appear with the preposition לֹ and are connected with the conjuction ו in Lev 7:26, whereas they are connected with the conjunction או without any attached preposition.

[72] Knohl, *Sanctuary*, 50.

[73] Knohl, *Sanctuary*, 50.

Against this idea, Schwartz argues that the phrase כל־חלב in Lev 3:16b–17 refers to only the fat

of the animal offered as a sacrifice of peace offerings but not the fat of other animals.[74] In a

similar vein, Kilchör rejects the notion that Lev 3:17 as a later addition by an H redactor and

points out that Lev 3:17 serves as the proper conclusion for the whole of chapter 3, which

prescribes that the blood of sacrificed animals be thrown at the altar (vv. 2, 8, 13), and the fat be

burned on the altar (vv. 3, 9, 14–16).[75] The structural unity of Lev 3, including vv. 16b–17, is

also suggested by Wilfred Warning by showing that the word כל and חלב appear seven and

twelve times respectively, which is "possibly meant to signify completion and perfection."[76]

Moreover, following Rolf Rendtorff, Warning explains the switch to the second person plural

address in v. 17 as an intentional way to mark the unity of Lev 1–3 by pointing out that the

second person plural address is also used in 1:2.[77]

Indeed, the ban on eating the fat of sacrificeable animals does not appear in Lev 17,

which suggests that Lev 3:16b–17; 7:22–27 may have introduced an expansion to the prohibition

to supplement Lev 17. Nevertheless, it is more likely that the legislation in Lev 17 which

prescribes sacrificeable animals to be offered to Yahweh as a sacrifice of peace offerings

eliminates the need to repeat the ban on eating the fat of these animals (see §3.1). By contrast,

while Lev 17 lacks the prohibition against eating fat, it contains elements absent in Lev 3:16b–17

and 7:26–27. For instance, the blood prohibition in Lev 17 applies not only to the Israelites but

also to the resident aliens. Also, Lev 17 is more sophisticated in the formulation of the

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[74] Schwartz, "Profane," 31–32.

[75] Kilchör, *Mosetora*, 313, n. 6. Similarly, Schwartz, "Profane," 28.

[76] Warning, *Literary*, 70.

[77] Warning, *Literary*, 70. Cf. Rendtorff, *Leviticus*, 134.

prohibition, for example, by providing the rationale for the prohibition. Thus, it is more likely that the blood prohibition in Lev 17:10–12, 14 is later than the prohibition against eating blood and fat in Lev 3:16b–17 and 7:22–27.

The possible connection between Lev 17 and Lev 16 has also been argued by scholars based on similar motifs and expressions.[78] Notably, Erich Zenger identifies Lev 16–17 as an integrated unit that forms the middle of the book of Leviticus.[79] The similarities between the two chapters include the use of shared phrases such as דבר אל־אהרן "he said to Aaron" in the introductions (Lev 16:2; 17:2), פתח אהל מועד "the entrance of the tent of meeting" (Lev 16:7; 17:4, 5, 6, 9), מחוץ למחנה "outside of the camp" (Lev 16:27; 17:3), כפר על "to make atonement for" (Lev 16:10, 16, 34; 17:11), and the centrality of blood manipulation in both texts. All the listed shared lexical items, however, are not unique to these two chapters. Furthermore, as Rhyder correctly asserts, the thematic and linguistics links between these chapters do not justify reading them as an integrated unit.[80]

Nevertheless, despite her rejection of Zenger's theory, Rhyder agrees that Lev 17 echoes Lev 16 based on the shared terms and motifs between the passages. For example, she points out that both texts share the words דם, the root כפר, and the phrase כפר על, which she believes to be "reminiscent of the ritual instructions in Lev 16."[81] Again, these words are not exclusive to Lev

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[78] See e.g., Brian Britt and Patrick Creehan, "Chiasmus in Leviticus 16,29–17,11," *ZAW* 112 (2000): 398–400; Zenger, "Das Buch Levitikus," 65–76; Zenger and Frevel, "Bücher," 41–45; Jürgens, *Heiligkeit*, 126–86; Hieke, *Levitikus 16–27*, 557–642.

[79] Zenger, "Das Buch Levitikus," 71–76.

[80] Rhyder, *Centralizing*, 39. For more criticisms of Zenger's model, see Nihan, *From Priestly Torah*, 86–87.

[81] Rhyder, *Centralizing*, 238.

16 and 17. The ritual potency of blood for atonement is mentioned in other places in P, i.e., in Lev 6:23, and in particular Lev 8:15, in which the phrase כפר על is also used. Moreover, while it is not very common, the use of the root כפר in connection with דם is also not unique to Lev 17 and Lev 16; other priestly passages also connect these two words, for example, Exod 30:10, Lev 6:23, and Num 35:33.

Rhyder also surmises that Lev 17 draws upon motifs from Lev 16, for example, the exclusive ritual agency of Aaron and the invoking of peripheral beings, that is, עזאזל "Azazel" in Lev 16 and שׂעירם "goat-demons, satyrs" in Lev 17.[82] Rhyder also adds that the word שׂעירם appears in both passages (Lev 16:5, 7, 8 and 17:7). However, these links are weak. First, unlike Lev 16, in which the centrality of Aaron as the high priest is emphasized, Lev 17 does not mention the role of the high priest. Instead, Lev 17 focuses on the role of priests in general in the sacrificial ritual, which is closer to Lev 1–7 than to Lev 16. Second, there are too many differences between Azazel and שׂעירם: they may not be the same entity, they do not occupy the same space, and the rituals associated with them are different.[83] Also, the shared word שׂעירם does not necessarily suggest a literary connection given the different uses of the word.[84] In Lev 16, one of the שׂעירם is offered to Yahweh, whereas the same word is used to refer to a foreign god in

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[82] Rhyder, *Centralizing*, 238–44.

[83] Some scholars argue that Azazel was a goat based on the idea that the etymology of word עזאזל is from עז אל, which means "mighty goat." See e.g., Levine, *Leviticus*, 102, 251; Milgrom, *Leviticus 1–16*, 1021. Others, however, suggest that עזאזל is derived from the words אזז and אל "angry/fierce god." See e.g., Hayim Tawil, "Azazel, the Prince of the Steepe: A Comparative Study," *ZAW* 92 (1980): 43–59; David P. Wright, *The Disposal of Impurity: Elimination Rites in the Bible and in Hittite and Mesopotamian Literature* (Atlanta: Scholars Press, 1987), 22; Bernd Janowski, "Azazel," *DDD*, 128–31; Nihan, *From Priestly Torah*, 351–52.

[84] Lev 17 and Lev 16 share other lexical items, such as נפשׁ, בשׂר, מזבח, בגד, עם, רחץ, etc., but none of them are unique enough to suggest a direct literary connection.

Lev 17. Here, Lev 17 does not attempt to parallel its usage of the word with Lev 16. Despite

these fundamental differences, Rhyder insists that Lev 17 intentionally echoes Lev 16:

> These differences in the depiction of Azazel in Lev 16 and the שׂעירם in Lev 17 do not
> weaken the argument that H appears to be intentionally echoing the spatial dynamics of
> this earlier P text when it describes the dangers of local butchery. The strength of the
> similarities between the depictions of Azazel and the שׂעירם, and their associations with
> chaotic, noncultic space suggest that H is again developing the core ideas and oppositions
> of Lev 16 in order to enhance its case for the centralization of animal slaughter.[85]

Nevertheless, due to the lack of literary evidence that would indicate the presence of a direct

literary connection between these two chapters and the significant differences between them, the

shared language between Lev 16 and Lev 17 is better attributed to Lev 17's use of P's language

in general.

4.2. The Rules concerning Animals not Killed by Humans (Lev 17:15–16)

The fifth literary unit (vv. 15–16) discusses the consumption of animals that are not killed by

humans, namely, נבלׂה "an animal that dies naturally" and תרפה "an animal torn by beasts." These

animals are not suitable for sacrificial purposes, but they are allowed for human consumption,

even though eating the meat of נבלׂה or תרפה causes ritual impurity. As a result, anyone who does

so has to undergo ritual purification, comprising of washing clothes and self-bathing in water.

Only when this purification ritual is not performed will the person be considered guilty and bear

his iniquity.

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[85] Rhyder, *Centralizing*, 243.

Many scholars argue that this rule concerning נבלֹה and תרפה was added because Lev 17 is concerned with the blood that is not properly drained in animal carcasses.[86] Nevertheless, this reading remains speculative since the concern for blood is entirely absent in this particular literary unit. Also, the consumption of נבלֹה or תרפה is never linked to the concern for eating blood in other texts (cf. Exod 22:31; Lev 7:24, 11:39–40; 22:8; Deut 14:21; Ezek 4:14; 44:31). Furthermore, if eating blood were the main concern in vv. 15–16, it would have made more sense for H to ban the eating of נבלֹה and תרפה completely (cf. Exod 22:30; Deut 14:21) instead of allowing the Israelites and resident aliens to eat blood in the carcasses, which would carry the penalty of כרת in all other cases. Instead of the issue of eating blood, the primary concern of this literary unit is ritual impurity caused by physical contact with carcasses, which is unclean in the theologies of P and H (cf. Lev 11:39–40).[87]

4.2.1. Leviticus 17:15–16 and CC

The rules about consuming תרפה is mentioned both in Lev 17:15 and Exod 22:30 (also cf. Exod 22:12). Exodus 22:30 commands, ואנשי־קדש תהיון לי ובשׂר בשׂדה טרפה לא תאכלו לכלב תשׁלכון אתו, "You shall be consecrated people to me, and meat in the field, what is torn by wild beasts, you shall not eat; you shall throw it to the dog." By contrast, Lev 17:15 prescribes that וכל־נפשׁ אשׁר תאכל נבלֹה וטרפה באזרח ובגר וכבס בגדיו ורחץ במים וטמא עד־הערב וטהר "Every person who eats what dies by itself or what is torn by wild beasts, whether a native or resident alien, shall wash his

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[86] Schwartz, "Prohibitions," 64–66; Ruwe, *Heiligkeitsgesetz*, 158; Milgrom, *Leviticus 17–22*, 1484; Nihan, *From Priestly Torah*, 426; Rhyder, *Centralizing*, 199; Cf. K. van der Toorn, *Sin and Sanction in Israel and Mesopotamia: A Comparative Study* (Assen: Van Gorcum, 1985), 35.

[87] Similarly, physical contact with human corpses also results in ritual impurity (cf. Lev 21:1; Num 19:14, 16)

clothes and bathe in water, and be unclean until the evening, and then he shall be clean." Only two lexical items are shared between these two passages, namely, אכל and תרפה, and they reflect the concern of the texts, that is, the proper use of meat from an animal torn by wild beasts. The use of the term תרפה is significant since, in the Pentateuchal legal corpora, it is only used in CC (Exod 22:12, 30) outside of the priestly materials (Lev 7:24, 17:15; 22:8).[88] The similar theme and the use of the low-frequency word תרפה indicate a possible direct literary relationship between H and CC in this case, although this claim is weakened if Lev 7:24, which contains the word תרפה, is earlier than Lev 17.

Despite the thematic and lexical similarities, there are several notable differences between Lev 17:15 and Exod 22:30. First, whereas Exod 22:30 prohibits the ingestion of תרפה without exception, Lev 17:15–16 does not ban the people of Israel from eating תרפה. Instead, Lev 17:15–16 only prescribes that whoever does so needs to go through a purification ritual by washing their clothes and bathing their body in water. In fact, not only does it not polemicize the ban on eating carcasses, but it also does not seem to assume the existence of a ban on eating תרפה. Instead, it is only interested in regulating what one should do after consuming carcasses to restore ritual impurity, namely, washing their clothes, bathing themselves in water, and remaining unclean until the evening. However, the ban on eating תרפה (and נבלה) appears in Lev 22:8, but it only applies to the priests. This observation suggests that the authors of H might have been aware of the ban in Exod 22:30 but limited the ban to the priests.

Second, Exod 22:30 provides the motif for the prohibition against eating תרפה, namely, that the people of Israel shall be a consecrated people. By contrast, this holiness motif is absent

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[88] Outside of pentateuchal legal corpora, the word תרפה only appears four more times, namely, in Gen 31:39; Ezek 4:14; 44:31; Nah 2:13.

in Lev 17:15–16 since eating carcasses is not prohibited. Third, morphologically speaking, the shared verb אכל appears in different forms in both passages. In Exod 22:30, the verb appears in the second person masculine plural form תאכלו, which is consistent with the use of the same form in the same verse. i.e., תהיון, תשלכון, although the singular form is used in the immediate literary context of the verse (cf. 22:25–29, 23:1–8).[89] Alternatively, the verb אכל is used in the singular form in Lev 17:15–16. There is no incongruency in both texts in the use of the verb אכל since the appropriate and consistent verbal form is used in each context.

Another notable difference is that Lev 17 pairs תרפה with the word נבלה "what dies of itself," which is absent in Exod 22:33.[90] The absence of this word in this passage raises a question about CC's view on the consumption of נבלה. The legislation on the goring ox in Exod 21:33–36 suggests that the Israelites were allowed to consume meat from an animal that died from an accident or killed by another domestic animal (נבלה), but not from an animal that was killed by a wild beast (תרפה).[91] If this is true, the ban on eating תרפה in Exod 22:30 is limited to only animals killed by wild beasts. The authors of other legal codes responded differently to this ban: the author of Deut 14:21 extends the ban to נבלה, whereas the author of Lev 11:39–40

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[89] Some scholars take the switch from second person singular to second person plural as a sign of a later insertion. Henri Cazelles, *Études sur le code de l'alliance* (Paris: Letouzey & Ané, 1946), 84–85. It should be noted that number-switchings occur throughout CC and may not necessarily point to different layers of composition (cf. Exod 22:23–24; 23:8–9). Joe M. Sprinkle, for example, argues that the switch to the second person plural in this verse is "an intensification by the author to underscore the concept of holiness so basic to the covenant" (*"The Book of the Covenant": A Literary Approach* [Sheffield: JSOT Press, 1994], 174). Furthermore, he also points out the possible allusion to Exod 19:6, ואתם תהיו־לי ממלכת כהנים וגוי קדוש, as the reason for the use of the second person plural in Exod 22:30.

[90] The pairing of נבלה and תרפה appears in all other occurrences of תרפה in the priestly laws (Lev 7:24; 22:8)

[91] Cornelis Houtman, *Exodus* (Kampen: Kok, 2000), 3:235–36. Contra the view that equates נבלה and תרפה, for example as espoused by Weinfeld, *Deuteronomy and the Deuteronomic School*, 289, n. 2; Meir Malul, "Adoption of Foundlings in the Bible and Mesopotamian Documents: A Study of Some Legal Metaphors in Ezekiel 16:1-7," *JSOT* 15 (1990): 102.

permits the consumption of נבלה although it may cause ritual uncleanness that requires ritual purification.[92] In the later development in H, the word טרפה is paired with נבלה to denote ritually unclean animal carcasses.[93]

4.2.2. Leviticus 17:15–16 and D

The use of the term נבלה in Lev 17:15–16 has prompted scholars to suggest a direct literary dependence of Lev 17 not only upon Exod 22:30 but also Deut 14:21, which states, לא תאכלו כל־ נבלה לגר אשר־בשעריך תתננה ואכלה או מכר לנכרי כי עם קדוש אתה ליהוה אלהיך "You shall not eat anything that has died naturally, you may give it to the resident alien which is at your gates so that he may eat it, or you may sell it to the foreigner, for you are a holy people to Yahweh, your God."[94] Nihan argues that, since Lev 17:15–16 mentions both נבלה and טרפה, it is dependent upon Exod 22:30 and Deut 14:21a.[95] He offers three arguments for his theory that H innovated D and CC when composing Lev 17:15–16.[96] First, H connects the case of נבלה in D to the ban on blood

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[92] While Lev 17 share several thematic similarities with Deut 12, the law concerning the eating of נבלה and טרפה is absent from Deut 12.

[93] Wolfgang M. W. Roth, "NBL," *VT* 10 (1960): 400.

[94] See e.g., Schwienhorst-Schönberger, *Bundesbuch*, 375–76; Grünwaldt, *Heiligkeitsgesetz*, 171; Otto, "Innerbiblische," 143–45; Nihan, *From Priestly Torah*, 171. In addition to this prominent view, there are other theories concerning the literary relationship between these three texts. Otto, for example, argues that Exod 22:30 and Lev 17:15 are independently developed from Deut 14:21 (*Wandel der Rechtsbegründungen in der Gesellschaftsgeschichte des antiken Israel: Eine Rechtsgeschichte des "Bundesbuches" Ex XX 22–XXIII 13*, StudBib 3 [Leiden: Brill, 1988], 6). Kent Sparks proposes that Lev 17:15, 22:8 depend upon Deut 14.21a in their use of the term נבל, but Exod 22:28 postdates and borrows the term טרפה from H ("A Comparative Study of the Biblical נבלה Laws," *ZAW* 110 [1998]: 594–600).

[95] Nihan, *From Priestly Torah*, 427–28. See also Eckart Otto, "Die Nachpriesterschriftliche Pentateuchredaktion Im Buch Exodus," in *Studies in the Book of Exodus: Redaction – Reception – Interpretation*, BETL 126 (Leuven: Leuven University Press, 1996), 73.

[96] Nihan, "Holiness Code," 94; Nihan, *From Priestly Torah*, 427.

eating. Second, H conflates the traditions of CC and D by pairing the term תרפה from Exod 22:30 and נבלה from Deut 14:21 in Lev 17:15–16.[97] Third, H revises the older rules in CC and D by not forbidding the eating of either נבלה or תרפה but only considers it a cause for ritual impurity. Here, Nihan concludes that H corrects CC and D in view of P (Lev 11:39–40).[98]

While it is true that the word נבלה appears in Deut 14:21 in the context of banning the consumption of animal carcasses, several observations should be noted regarding its literary relationship with Exod 22:30 and Lev 17:15–16. First, as has been pointed out above, it is not certain that H connects the case of נבלה with the ban on blood eating. Second, the construction of the legislation in Deut 14:21 is closer to Exod 22:30 than Lev 17:15–16. Even Schwienhorst-Schönberger, who also argues that Lev 17:15–16 knew and built upon Exod 22:30 and Deut 14:21, admits that Lev 17:15–16 is more freely constructed.[99] In fact, while Exod 22:30 and Deut 14:21 share substantial linguistic features, which indicate a direct literary connection, these texts share almost no linguistic features with Lev 17:15–16.[100] Lev 17:15–16 only shares the words אכל and תרפה with Exod 22:30 and the words נבלה, אכל, and גר with Deut 14:21. Second, while the word תרפה is undoubtedly a unique word that only appears in CC outside of the priestly materials, other shared words between these texts, especially with Deut 14:21, are not unique enough to indicate the presence of a literary dependence. All literary elements that Lev 17:15–16 shares with D, it also shares with Exod 22:30, except for the words נבלה and גר. However, the

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[97] Schwienhorst-Schönberger, *Bundesbuch*, 375.

[98] Nihan, "Holiness Code," 103.

[99] Schwienhorst-Schönberger, *Bundesbuch*, 373–75.

[100] Here, Deut 14:21 supplements CC's ban on eating תרפה and extends the ban to נבלה, which was previously not banned in CC. D, however, allows the meat of נבלה may be given to the resident alien or sold to a foreigner for human consumption.

mention of גר in Lev 17:15 and Deut 14:21 does not prove the literary relationship between them since the word is used in every section in Lev 17, except for the first section that deals with only Israelites (vv. 3–7).

Similarly, it is hardly necessary to posit that the authors of Lev 17:15–16 must have used the word נבלה from Deut 14:21 given the fact that the word נבלה is not unique to D but also appears in P (cf. Lev 5:2; 11:8, 11, 24, 25, 27, 28, 35, 36, 37, 38, 39, 40). Remarkably, the word נבלה is employed in Lev 11:39–40, from which Lev 17 draws various literary features to formulate its legislation on the consumption of animal carcasses. Even if Nihan's reconstruction were accepted that H corrected the older rules in CC and D that forbid the consumption of animal carcasses, it could only show conceptual development from CC and D to H, but it cannot confirm the literary dependence among the laws, in particular of Lev 17:15–16 on Deut 14:21.

4.2.3. Leviticus 17:15–16 and P

The law concerning the eating of animal carcasses is found in other priestly texts. As shown in Table 4.2.3, the commandments to purify oneself after eating נבלה in Lev 17:15–16 and Lev 11:39–40 are very similar.[101] The texts are connected by the same theme of carrion consumption

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[101] While the rule in Lev 11:39–40 may be read as a concession to the ban on eating animal carcasses in Exod 20:33 and Deut 14:21, it is unlikely. The focus of Lev 11:39–40 is on the ritual purification required after consuming נבלה, whereas the focus of both Exod 22:30 and Deut 14:21 is the ban against consuming animal carcasses. There is no polemical intent in Lev 11:39–40 against the other two texts, in that the permission to eat animal carcasses is not stated but only assumed. By contrast, the ban against eating animal carcasses in Exod 22:30 and Deut 14:21 may be read as a polemical intent against the permission in Lev 11:39–40. However, the linguistic evidence is too weak to suggest a direct literary dependence between them. In the case of Lev 11:39–40 and Exod 22:30, there is almost no linguistic correspondence between them, except for the shared word אכל, which is expected due to the similar topic addressed in the texts. Both of them even use different terms to refer to animal carcasses, that is, טרפה in Exod 22:30 and נבלה in Lev 11:39–40. The same is true for Deut 14:21, with which Lev 11:39–40 shares only the words אכל and נבלה. The two shared words between these texts are also not sufficient to argue for a direct literary dependence since they are high-frequency words and may be attributed to topical similarity.

and the requirement for purification. Neither texts prohibit the consumption of animal carcasses, although they require ritual purification for people who do so.[102] Furthermore, they share various lexical features, although these words are commonly used in the priestly literature: כבס, נבלה, אכל, בגד, טמא, עד־ערב, and נשׂע.[103] However, Lev 17:15–16 has three essential components absent in Lev 11:39–40. First, while Lev 11:39–40 only mentions the case of נבלה, Lev 17:15–16 adds the case of טרפה. Outside of H, the only mention of טרפה as food is in Exod 22:30. Second, Lev 17:15–16 has the requirement to bathe oneself after eating the carrion, whereas it is missing in Lev 11:39–40. The addition of this requirement in Lev 17:15–16 is not surprising since the four clauses וכבס בגדיו ורחץ במים וטמא עד־הערב וטהר often appear together or individually (cf. Lev 11:25, 28; 13:6, 34; 14:9; 15:5, 13). Third, the penalty for not performing the ritual purification appears in Lev 17:16 but not in Lev 11:39–40. Nevertheless, despite its absence in Lev 11:39–40, the phrase נשׂא עונו is commonly used in the priestly materials (cf. Lev 5:1, 17; 7:18). These observations indicate a plausible direct literary connection between Lev 17:15–16 and 11:39–40.

Table 4.2.3. Comparison between Lev 17:15–16 and Lev 11:39–40

Lev 17:15–16	Lev 11:39–40
¹⁵ וכל־נפֶשׁ אֲשֶׁר תֹּאכַל נבלה וטרפה באזרח ובגר וכבס בגדיו ורחץ במים וטמא עַד־הערב וטהר: ¹⁶ ואם לא יכבס ובשׂרו לֹא ירחץ ונשׂא עונו:	³⁹ וכי ימות מן־הבהמה אֲשֶׁר־היא לכם לאכלה הנגע בנבלתה יטמא עד־הערב:

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	40 וְהָאֹכֵל מִנִּבְלָתָהּ יְכַבֵּס בְּגָדָיו וְטָמֵא עַד־הָעֶרֶב וְהַנֹּשֵׂא
	אֶת־נִבְלָתָהּ יְכַבֵּס בְּגָדָיו וְטָמֵא עַד־הָעֶרֶב:

Concerning the direction of dependence, Milgrom argues for the priority of Lev 17:15–16 over Lev 11:39–40. According to him, Lev 11:39–40 presumes the legislation in Lev 17 and assumes that the carcasses of animals would not cause impurity if they have been sacrificed (Lev 17:3–7) or killed in a hunt (Lev 17:13–14).[104] Against Milgrom, Nihan offers three arguments for the literary priority of Lev 11:39–40 over Lev 17:15–16.[105] First, he points out that Lev 11:39–40 is silent about the requirement to slaughter an animal as a sacrifice, which is the primary concern of Lev 17. Second, Lev 17:15–16 adds the case of טרפה, which is absent in Lev 11:39–40. Third, Nihan points out that there is no H language in Lev 11:39–40. Based on these observations, Nihan concludes that Lev 11:39–40 is older than Lev 17:15–16. Furthermore, he correctly points out that H's literary borrowing of Lev 11:39–40 supplements the older legislation in two ways, namely, the addition of punishment in case of violation and the inclusion of גר in the new law. Nihan's theory that Lev 11:39–43 is older than Lev 17:15–16 is more convincing than Milgrom's because it is supported by literary evidence.

If it is accepted that Lev 11:39–40 is an earlier text than Lev 17:15–16, it becomes unnecessary to posit that Lev 17:15–16 depends on Deut 14:21 in its use of the word נבלה.[106] Instead, it is plausible that the authors of H extensively used materials from Lev 11:39–40 and also the word טרפה from Exod 22:30 in formulating its legislation of the consumption of animal

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[104] Milgrom, *Leviticus 1–16*, 681.

[105] Nihan, *From Priestly Torah*, 295–96.

[106] *Pace* Nihan, *From Priestly Torah*, 427–28.

carcasses in Lev 17:15–16 and 22:8. The authors of H paired נבלֹה from Lev 11:39–40 with תרפה

from Exod 22:30 to reconcile the permission to eat animal carcasses in P and the prohibition to

eat animal carcasses in CC. Here, the authors of H allowed the people of Israel and the resident

aliens to eat נבלה ותרפה in accordance with P's legislation (Lev 17:15–16) while at the same time

enforcing the ban on eating of נבלֹה ותרפה, as mandated in CC's legislation, but only on the priests

(Lev 22:8).[107] This reading may explain the absence of the motif of holiness in Lev 17:15–16,

which has long been considered as evidence that H revises the theology of CC and D that links

Israel's holiness with the law of eating carcasses.[108] Nihan, for example, postulates,

> In Lev 17:15–16, abstention from eating carrion is no longer a sign of Israel's election…. it prepares for a central feature of H, namely, *the complete redefinition of the conception of the community's sanctity*. Contrary to what is the case in the CC and in D, Israel's consecration to Yahweh is no longer simply defined by the purity of its diet (Ex 22:30; Deut 14:21a) nor even by its separation from other nations, as in Deut 7:1–6, but first of all by *the complete observance of the Torah*.[109]

He further argues that the ban for the priests to eat animal carcasses indicates H's innovation that

reserves innate holiness to the priests.[110] Certainly, H attempts to promote the status of the priests

by setting a stricter rule for the priests, including in its banning of carrion-eating. However, H

does not do that by revising the theology of CC and D but by reconciling CC and P.

Besides Lev 11:39–40, Lev 17:15–16 also finds its parallel in Lev 7:22–27, particularly

the banning of the consumption of the fat of animals (v. 23–25). After banning the consumption

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[107] *Pace* Nihan, who argues that the reception of Lev 11:39–40 in 17:15–16 confirms that "the holiness legislation in Lev 17–26 stands in tension with P, and apparently seeks to correct or revise it" (*From Priestly Torah*, 546, 549).

[108] Grünwaldt, *Heiligkeitsgesetz*, 171.

[109] Nihan, *From Priestly Torah*, 428. Emphasis original.

[110] Nihan, *From Priestly Torah*, 488.

of the fat of domesticated animals (v. 23), the legislation also prohibits the Israelites from consuming the fat of animal carcasses, although it allows the fat to be used for other purposes (v. 24). The section concludes with the ban on the consumption of any fat of animals that may be used for אשה "fire offering" under the threat of כרת (v. 25). The comparison between Lev 17:15–16 and 7:23–25 indicates a direct literary dependence between these texts, as evidenced by their similarities. First, both texts deal with the same topic, namely, the consumption of animal carcasses. Here, they assume the permission to eat both נבלה and תרפה, at least for the non-priests. Second, several critical lexical parallels are shared by both texts: אכל, נבלّה, תרפה, and נפש. While the word אכל and נפש are common words, the words נבלה and תרפה only occurs in pair in H (Lev 17:15; 22:8) and Ezekiel (4:14; 44:31). While these texts are similar, the differences between them are also notable. First, the concern of Lev 17 is the purification ritual after the consumption of animal carcasses, whereas Lev 7:24 is about the part of animal carcasses that cannot be consumed. Second, the ban on consuming the fat of animal carcasses in Lev 7:24 is not found in Lev 17:15–16. Third, whereas the penalty in Lev 17:16 is only for the failure to perform ritual purification after consuming נבלה and תרפה, Lev 7:25 introduces the כרת threat for the consumption of animal fat, including that of נבלّה and תרפה. Lastly, the legislation in Lev 7:22–27 only applies to the Israelites, whereas in Lev 17 it applies to both the Israelites and the resident aliens.

As has been argued in §3.1, the text of Lev 7:22–27 is probably a later addition to P. Many scholars believe that Lev 7:22–27, including the fat prohibition in vv. 23–25, is a later addition that presumes the legislation in Lev 17, and they regard this addition as a work of an H redactor based on its H-like language.[111] For these scholars, Lev 7:24 supplements the legislation

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[111] E.g., Knohl, *Sanctuary*, 49–51; Milgrom, *Leviticus 1–16*, 435; Nihan, *From Priestly Torah*, 261.

in Lev 17:15–16 by adding the prohibition against eating fat, which indicates the latter's priority

over the former. However, the absence of the fat prohibition in Lev 17:15–16 does not

necessarily suggest that the authors of Lev 17 were unaware of the ban on eating fat in Lev 7:22–

27. Instead, this absence may be explained by pointing out that, unlike Lev 7:22–27, this passage

concerns not only the Israelites but also the resident aliens. For H, while the Israelites are not

allowed to eat any fat, resident aliens are permitted to consume the fat of both slaughtered

sacrificeable animals and animal carcasses. In this case, even if the theory that both texts are H

products is accepted, Lev 17:15–16 is not necessarily composed earlier than 7:23–25. In fact,

since there is no indication that Lev 7:22–27 as a whole presumes the ban on the decentralized

animal slaughter in Lev 17 (see §3.1), it is more likely that the legislation on eating animal

carcasses in Lev 17:15–16 is later than the legislation in 7:23–25.

5. Conclusion

The analysis of the literary relationship between Lev 17 and its parallel laws in other

pentateuchal legal corpora may be summarized as follows. In the case of local animal slaughter,

Lev 17:3–7 does not seem to be literarily dependent upon CC or D. Although thematic

similarities may be argued in these cases, there is insufficient linguistic evidence to suggest an

intentional literary borrowing in either case. Moreover, neither text seems to be responding to the

other text; for instance, Lev 17 does not address the issue of distance raised in Deut 12, whereas

Deut 12 does not answer the theological issue in shedding animal blood, which is considered as

murder in Lev 17. In contrast with CC and D, Lev 17:3–7 draws much of its vocabulary from P,

especially from Lev 3:1–17 and Lev 7:11–27. By borrowing the literary features of these texts,

the author of Lev 17 points the reader to the older priestly legislation that regulates the procedure

for offering the sacrifice of peace offerings and, at the same time, innovates on these texts by making explicit the requirement that all animals have to be offered as a sacrifice of peace offering, thereby banning local animal slaughter.

As in the first literary unit of Lev 17 (vv. 3–7), the second literary unit (vv. 8–9) also does not seem to have a literary relationship with CC. The ban on local sacrifice in Lev 17:8–9 is not a response to the permission to offer sacrifices locally in CC but is a continuation of P's theology that all animal sacrifices must be offered at the central sanctuary, namely, at the entrance of the tent of meeting. Furthermore, while thematically Lev 17:8–9 and Deut 12 deal with the centralization of the cult by mandating offerings to be brought to the central sanctuary, there is no attempt to imitate the literary features of each other, as evidenced by the lack of low-frequency words or word orders. The writing style is also too dissimilar to posit a direct literary dependence. In other words, the evidence for a literary relationship between Lev 17:8–9 and Deut 12 is scarce, perhaps even non-existent. By contrast, Lev 17:8–9 employs the language of P that requires the Israelites to bring their burnt offerings and other offerings to the entrance of the tent of meeting. H's innovation on P is in the inclusion of the resident alien and the threat of כרת in the new law in Lev 17.

Leviticus 17:10–14 does not seem to have any comparable legislation in CC, but it does have parallel laws in D. The comparison between the blood prohibition in Lev 17:10–14 and Deut 12 shows various linguistic correspondences. These similarities indicate a literary connection between them, although the nature of the connection may be attributed to something other than direct literary dependence. Other explanations include the use of a common source since the prohibition appears in other texts in the Pentateuch or the use of a common tradition since the prohibition may have been well-known in ancient Israel. Even if these similarities are

accepted to be the result of a direct literary connection, especially in the case of Lev 17:10–14

and Deut 12:23–24, the direction of dependence cannot be determined. By contrast, the blood

prohibition in Lev 17:10–14 shows a plausible literary connection with P. Most notably, the

authors of Lev 17 formulated their legislation by building on the older legislation in Gen 9. They

borrowed its literary features and expanded the ban on the shedding of blood to include the

shedding of the blood of animals. Furthermore, the blood prohibition in Lev 17:10–14 is also

similar to those of Lev 3:16b–17 and 7:22–27, indicating that they may have been literarily

connected. The legislation in Lev 17:10–14 contains elements absent in Lev 7:22–27, suggesting

the literary priority of the latter over the former. Curiously, the prohibition against eating fat in

Lev 3:16b–17 and 7:22–27 is absent in Lev 17. This absence may be explained by positing that

the ban has become redundant in light of the novel legislation in Lev 17 that explicitly requires

the fat of all domestic animals to be offered to Yahweh.

Finally, the last literary unit in Lev 17:15–16 also finds parallel laws in the pentateuchal

legal corpora. The use of the term תרפה in Lev 17:15 indicates a possible literary connection with

CC, specifically from Exod 22:30. If Lev 17:15 indeed borrows the term from CC, the former

may likely have been dependent upon the latter since the word is paired in Lev 17:15 with a new

element, namely, נבלה. Furthermore, the authors of Lev 17 freely use the language of P,

especially from Lev 11:39–40, to formulate its law concerning the consumption of animal

carcasses and the requirement for subsequent ritual purification in vv. 15–16. In light of Lev 17's

dependence upon Lev 11:39–40, while Lev 17:15 may have drawn from D for its use of the word

נבלֹה, it is more likely that it uses the word from Lev 11:39–40 instead of D. In addition, Lev

17:15–16 also shows various similarities with Lev 7:22–27, indicating a literary connection

between them. Nevertheless, since Lev 17:15–16 contains additional elements absent in Lev

7:22–27, it is probably composed later.

Based on the analysis above, the following conclusions may be drawn concerning the

literary relationship between Lev 17 and other pentateuchal legal corpora. First, the literary

connection between Lev 17 and CC is virtually non-existent, except for the possibility that Lev

17:15 borrows the word תרפה from Exod 22:30 and pairs it with the word נבלה. Second, Lev 17

and Deut 12 deal with the same problem, namely animal slaughter and the proper disposal of

blood, but this does not necessarily suggest a direct literary dependence between these texts.[112]

Moreover, the contents of these texts do not seem to be formulated to address the concerns of the

other. Even if the authors of Lev 17 knew D or vice versa, the literary mimicking is minimal, as

evidenced by the sparse linguistic correspondences beyond thematic similarities.[113] Third, the

authors of H extensively employed the language of P to formulate the legislation in Lev 17.

However, there is no indication that Lev 17 polemically responds to P, but instead, it

supplements P, which is silent about the issues of cult centralization and non-sacrificial animal

slaughter.

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[112] Contra Cholewiński, *Heiligkeitsgesetz*, 172; Kilchör, *Mosetora*, 89.

[113] Cf. Rhyder, *Centralizing*, 236. Having examined various linguistic features of Lev 17 and Deut 12, Rhyder believes that the connection between these texts cannot be based on linguistic correspondences. Nevertheless, despite claiming that H and D do not share enough linguistic features to indicate the presence of a literary dependence, she still advocates for the idea that H responds to, and is therefore younger than, D. While Rhyder's view is certainly within the realm of possibility, it is a conjecture without sufficient linguistic evidence to support it.

Chapter 4

The Laws of the Festivals

1. Introduction

Besides the laws of cultic centralization and animal slaughter in Lev 17, scholars have long

argued that the laws of festivals in Lev 23 are literarily connected to the festival laws in other

pentateuchal traditions. Martin Noth famously proposed that Lev 23 is an attempt to combine the

two-festivals tradition reflected in Ezek 45:18–25 and the three-festivals traditions preserved in

Exod 23:14–17, 34:18–23, and Deut 16:1–17.[1] This idea that Lev 23 is literarily dependent upon

some or all of these passages has gained broad support from contemporary scholarship.[2]

Christophe Nihan, for instance, follows Noth's proposal and argues that Lev 23 "joins the

traditional pattern of three annual pilgrimages in the CC and in D with a bipartite division of the

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[1] Martin Noth, *Leviticus: A Commentary* (Philadelphia: Westminster Press, 1965), 166–67.

[2] Alfred Cholewiński, *Heiligkeitsgesetz und Deuteronomium: Eine vergleichende Studie*, AnBib 66 (Rome: Biblical Institute Press, 1976), 179–216; Klaus Grünwaldt, *Das Heiligkeitsgesetz Leviticus 17-26: Ursprüngliche Gestalt, Tradition und Theologie*, BZAW 271 (Berlin; New York: de Gruyter, 1999), 287–88; Eckart Otto, "Innerbiblische Exegese im Heiligkeitsgesetz Levitikus 17–26," in *Levitikus als Buch* (Berlin: Philo, 1999), 153–61; Christophe Nihan, "The Holiness Code between D and P: Some Comments on the Function and Significance of Leviticus 17–26 in the Composition of the Torah," in *Das Deuteronomium zwischen Pentateuch und deuteronomistischem Geschichtswerk*, ed. Reinhard Achenbach and Eckart Otto (Göttingen: Vandenhoeck & Ruprecht, 2004), 88–91; Jan A. Wagenaar, "Passover and the First Day of the Festival of Unleavened Bread in the Priestly Festival Calendar," *VT* 54 (2004): 257–58; Christophe Nihan, *From Priestly Torah to Pentateuch: A Study in the Composition of the Book of Leviticus*, FAT 25 (Tübingen: Mohr Siebeck, 2007), 496–511; Christophe Nihan, "Israel's Festival Calendars in Leviticus 23, Numbers 28–29 and the Formation of 'Priestly' Literature," in *The Books of Leviticus and Numbers*, ed. Thomas C Römer (Leuven; Dudley, MA: Peeters, 2008), 212–19; Karl William Weyde, *The Appointed Festivals of Yhwh: The Festival Calendar in Leviticus 23 and the Sukkôt Festival in Other Biblical Texts* (Tübingen: Mohr Siebeck, 2004), 70–72; Julia Rhyder, *Centralizing the Cult: The Holiness Legislation in Leviticus 17–26*, FAT 134 (Tübingen: Mohr Siebeck, 2019), 277–81.

year inherited from the Babylonian festival tradition and already found in Ez 45."[3] He further

postulates, "Lev 23 is built on the systematic reception of all previous biblical calendars, which it

supplements and reformulates into a new, original festal legislation."[4]

While the festal legislation in Lev 23 is considered a later text than those in CC and D,

Noth argued that it predated the similar legislation in Num 28–29.[5] However, after the older

consensus that H predates P was overturned following the seminal work of Israel Knohl, the

literary priority of Lev 23 over Num 28–29 is now questioned. Some scholars now argue that

Num 28–29 was composed earlier than Lev 23.[6] Nevertheless, many scholars remain convinced

that the legislation in Num 28–29 postdates both P and H.[7] Furthermore, the literary relationship

between Lev 23 and other texts, such as Exod 12:1–20; 13:1–16; and Lev 16:29–34, has also

been a debated subject.[8]

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[3] Nihan, *From Priestly Torah*, 549. Similarly, Rhyder, *Centralizing*, 277–89; Nihan, "Israel's Festival Calendars," 212–19.

[4] Nihan, *From Priestly Torah*, 509.

[5] Noth, *Leviticus*, 167, 174.

[6] See e.g., Israel Knohl, *The Sanctuary of Silence: The Priestly Torah and the Holiness School* (Minneapolis: Fortress, 1995), 8–45; Jacob Milgrom, *Leviticus 23–27: A New Translation with Introduction and Commentary*, AB 3B (New Haven: Yale University Press, 2001), 1979–80; Weyde, *Appointed*, 27–28, 79–84; Dwight D. Swanson, "How Scriptural Is Re-Written Bible?," *RevQ* 21 (2004): 407–27.

[7] See e.g., Grünwaldt, *Heiligkeitsgesetz*, 297; Reinhard Achenbach, *Die Vollendung der Tora: Studien zur Redaktionsgeschichte des Numeribuches im Kontext von Hexateuch und Pentateuch* (Wiesbaden: Harrassowitz, 2003), 602–11; Jan A. Wagenaar, *Origin and Transformation of the Ancient Israelite Festival Calendar*, BZABR 6 (Wiesbaden: Harrassowitz, 2005), 146–55; Baruch A. Levine, *Numbers 21-36: A New Translation with Introduction and Commentary* (New York: Doubleday, 2000), 394–95; Nihan, "Israel's Festival Calendars," 195–212; Rhyder, *Centralizing*, 284–86.

[8] See e.g., Knohl, *Sanctuary*, 19–23, 27–34; Grünwaldt, *Heiligkeitsgesetz*, 86–88; Milgrom, *Leviticus 23–27*, 2019–21; Wagenaar, "Passover"; Nihan, *From Priestly Torah*, 564–65; Weyde, *Appointed*, 56–64.

This chapter reexamines the relationship between Lev 23 and its parallel laws in the Pentateuch by comparing their literary features to determine the nature and extent of the relationship. In the case of direct literary dependence, the direction of dependence is also assessed to determine how the authors of Lev 23 might have used earlier texts to formulate their festal legislation.

2.   The Structure of Leviticus 23

The festal regulation in Lev 23 begins with the introductory formula וידבר יהוה אל־משׁה לאמר "Yahweh spoke to Moses, saying" (v. 1), establishing the content of the chapter as a divine speech, followed by the command דבר אל־בני ישׂראל ואמרת אלהם "Speak to the people of Israel and say to them" (v. 2a). After this introductory formula, the first superscription in v. 2b, introducing the content of the chapter as pertaining to מועדי יהוה "the appointed times of Yahweh," which begins with the legislation on the Sabbath (v. 3), which is the only non-annual celebration in Lev 23. Surprisingly, a second superscription (v. 4), similar to the first one, immediately follows this Sabbath legislation. After the second superscription, Lev 23 lists seven annual celebrations in five distinct sections: the Passover and the Festival of Unleavened Bread (vv. 5–8), the Sheaf Offering and the New Cereal Offering (vv. 9–22), the Memorial of Trumpets (vv. 23–25), the Day of Purgation (vv. 26–32), and the Festival of Booths (vv. 33–36). Except for the legislation on the Passover and the Festival of Unleavened Bread, which immediately follows the second superscription, each section begins with the same formula as in v. 1 וידבר יהוה אל־משׁה לאמר "Yahweh spoke to Moses, saying" (vv. 9, 23, 26, 33). These five distinct units are concluded with a subscription in vv. 37–38. Notably, after the subscription, further instructions on the

Festival of Booths are given in vv. 39–43 before the chapter is concluded with a report of

Moses's compliance in v. 44.

Figure 2: The Structure of Leviticus 23

Introduction (vv. 1–2a)

First Superscription (v. 2b)

    The Sabbath (v. 3)

Second Superscription (v. 4)

    The Passover and the Festival of Unleavened Bread (vv. 5–8)

    The Sheaf Offering and the New Cereal Offering (vv. 9–22)

    The Memorial of Trumpets (vv. 23–25)

    The Day of Purgation (vv. 26–32)

    The Festival of Booths (vv. 33–36)

The Subscription (vv. 37–38)

    Further Instructions on the Festival of Booths (vv. 39–43)

Conclusion (v. 44)

The literary unity of Lev 23 has been questioned on several points. First, scholars have

long pointed out the secondary nature of the Sabbath legislation in v. 3.[9] The inclusion of the

regulation concerning the Sabbath in the list of annual celebrations in Lev 23 seems out of place

since it is a weekly celebration. More importantly, while the superscription in v. 2 that precedes

the Sabbath legislation seems to indicate that the Sabbath is one of מועדי יהוה "the appointed

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[9] See e.g., Karl Heinrich Graf, *Die geschichtlichen Bücher des Alten Testaments: zwei historisch-kristische Untersuchungen* (Leipzig: T.O. Weigel, 1866), 78; Bruno Baentsch, *Das Heiligkeits-Gesetz Lev. XVII-XXVI* (Erfurt: H. Güther, 1893), 49–50; Karl Elliger, *Leviticus*, HAT 1:4 (Tübingen: J. C. B. Mohr (Paul Siebeck), 1966), 311; Noth, *Leviticus*, 166–68; Baruch A. Levine, *Leviticus* (Philadelphia: Jewish Publication Society of America, 1989), 154; John E. Hartley, *Leviticus*, WBC 4 (Dallas: Word, 1992), 372; Bruno Baentsch, *Exodus – Leviticus – Numeri*, HKAT 2 (Göttingen: Vandenhoeck & Ruprecht, 1903), 413; Knohl, *Sanctuary*, 14–19; See e.g., Grünwaldt, *Heiligkeitsgesetz*, 77–78; Weyde, *Appointed*, 11–18; Bernard M. Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation* (New York: Oxford University Press, 1997), 19–20; Nihan, *From Priestly Torah*, 498.

times of Yahweh," the subscription in vv. 37–38 excludes the Sabbath from the list of the

appointed times. Furthermore, the presence of two similar superscriptions in v. 2 and 4 seems to

be redundant. Second, the additional instruction for the Festival of Booths in vv. 39–43 appears

after the subscription in vv. 37–38, which may have been the original conclusion to the festal

regulation in Lev 23. This awkward interruption of the regulation concerning the Festival of

Booths by the subscription has been widely argued as evidence that there are at least two

redactional layers of the festival. Some scholars argue that vv. 39–43 is part of the original layer

of Lev 23,[10] whereas others believe that this is a later addition to the original regulations.[11]

A more complicated issue of coherence in Lev 23 concerns vv. 9–22. Scholars notice that

the formulation of the regulations on the offering of firstfruits in vv. 9–22 displays a different

character compared to the regulations of other festivals in vv. 5–9 and 23–36. Nihan, for

example, points out that the prescription concerning the offering of firstfruits in this section does

not follow the specific pattern exhibited in other sections of Lev 23, each of which contains the

fixed date and name of the feast. Furthermore, Nihan also observes that the obligation to

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[10] E.g., J. F. L George, *Die älteren jüdischen Feste mit einer Kritik der Gesetzgebung des Pentateuch dargestellt* (Berlin: E. H. Schroeder, 1835); Baentsch, *Heiligkeits-Gesetz*, 45–50; Abraham Kuenen, *An Historico-Critical Inquiry into the Origin and Composition of the Hexateuch (Pentateuch and Book of Joshua)*, trans. Philip H. Wicksteed (London: Macmillan, 1886), 90; Julius Wellhausen, *Die Composition des Hexateuchs und der historischen Bücher des Alten Testaments*, 3rd ed. (Berlin: Druck und Verlag von Georg Reimer, 1899), 159–63; Lewis Bayles Paton, "The Original Form of Leviticus Xxiii., Xxv," *JBL* 18 (1899): 36; Baentsch, *Exodus*, 414.

[11] E.g., Elliger, *Leviticus*, 304–12; Noth, *Leviticus*, 175; Cholewiński, *Heiligkeitsgesetz*, 82–94; Menahem Haran, *Temples and Temple-Service in Ancient Israel: An Inquiry into the Character of Cult Phenomena and the Historical Setting of the Priestly School* (Oxford: Clarendon, 1978), 298, n. 17; Levine, *Leviticus*, 154; Henry T. C. Sun, "An Investigation into the Compositional Integrity of the So-Called Holiness Code (Leviticus 17–26)" (The Claremont Graduate School, Ph.D. Diss., 1990), 399–401; Hartley, *Leviticus*, 372–74; Corinna Körting, *Der Schall des Schofar: Israels Feste im Herbst* (Berlin: de Gruyter, 1999), 95–105; Wagenaar, *Origin*, 78–90; Nihan, *From Priestly Torah*, 498–99; Rhyder, *Centralizing*, 272.

proclaim a מקרא־קדשׁ "a holy convocation" and the prohibition of work are absent in vv. 9–14.[12]

In addition, vv. 9–22 also contain more specific instructions concerning the offerings, unlike in

other sections. At least two theories have been proposed. Some scholars take these differences as

evidence for the compositional layers in Lev 23. As in the case of vv. 39–43, scholars either

assign vv. 9–22* as part of the original festal regulation in Lev 23 or as a later addition to it.[13]

Other scholars follow Noth's proposal and argue that these differences do not result from a

complex literary history but represent H's attempt to combine two distinct calendrical

traditions.[14]

Nevertheless, the proposal that assigns vv. 9–22 to a different compositional layer is not

convincing. The variable timing of the Feast of the Firstfruits is unsurprising given the fact that it

depended on the variable timing of when the crops would appear.[15] The absence of the obligation

to proclaim the feast of the sheaf offering as a מקרא־קדשׁ and the lack of work prohibition during

this time in vv. 9–14 are also not surprising since this feast is viewed as closely related to the

feast of the new cereal offering in vv. 15–22. In other words, only one day is designated as a

מקרא־קדשׁ for a series of related feasts, on which working is prohibited (v. 21). This theory is

supported by the similar formulation of the preceding regulation in vv. 5–8. Although the

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[12] Nihan, *From Priestly Torah*, 497.

[13] For the former position, see e.g., George, *Feste*; Baentsch, *Heiligkeits-Gesetz*, 45–50; Kuenen, *Historico-Critical*, 90; Wellhausen, *Composition*, 159–63; Paton, "Original," 36; Baentsch, *Exodus*, 414. For the latter position, see e.g., Elliger, *Leviticus*, 304–12; Cholewiński, *Heiligkeitsgesetz*, 82–94; Haran, *Temples*, 298, n. 17; Sun, "Investigation," 399–401; Körting, *Der Schall*, 95–105; Wagenaar, *Origin*, 78–90; Benjamin Kilchör, *Mosetora und Jahwetora: Das Verhältnis von Deuteronomium 12–26 zu Exodus, Levitikus und Numeri*, BZABR 21 (Wiesbaden: Harrassowitz, 2015), 196.

[14] See e.g., Grünwaldt, *Heiligkeitsgesetz*, 76–89; Nihan, *From Priestly Torah*, 502–3; Rhyder, *Centralizing*, 276–77.

[15] Knohl, *Sanctuary*, 23. Cf. Rhyder, *Centralizing*, 274; Weyde, *Appointed*, 82.

Passover and the Festival of Unleavened Bread in vv. 5–8 may be understood as two distinct

celebrations, the latter is nevertheless intended to be read as a continuation of the former. The

proclamation of the celebration as a "holy convocation" and the work prohibition are absent from

the Passover regulation in v. 5. By contrast, two holy convocations are prescribed for the Festival

of Unleavened Bread, namely, on the first and seventh days (vv. 7–8). Furthermore, as suggested

by Jacob Milgrom, the festal regulation in vv. 4–38 contains seven days of rest and possibly

seven festivals.[16] This pattern of "seven" in this passage suggests that it is integral to the

structural unity of Lev 23 as a whole. Also, it would be surprising that H would have omitted, or

was not aware of, the Firstfruits legislation when other calendars mention this festival (Exod

23:16; 34:22; Deut 16:9–12; Num 28:26–31).[17] These observations suggest the literary unity of

vv. 4–38.

Some scholars follow Noth's proposal that Lev 23 is a combination of two distinct

calendrical traditions and argue for the unity of Lev 23. They understand the different

formulations of the festival laws in Lev 23, particularly vv. 9–22, not to be a result of different

hands, but as a result of different traditions which have been combined and harmonized in H's

calendrical system.[18] Nevertheless, they remain convinced that vv. 2–3 and 39–43 are later

interpolations to the festival laws in Lev 23. Concerning this proposal, two things should be

noted. First, while the formulation of the Firstfruits celebration in Lev 23 presents some

differences compared to the other festal regulations in the same passage, it is uncertain that these

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[16] Milgrom, *Leviticus 23–27*, 1964.

[17] Nihan, *From Priestly Torah*, 501.

[18] E.g., Nihan, *From Priestly Torah*, 496–504; Nihan, "Israel's Festival Calendars," 186–95; Grünwaldt, *Heiligkeitsgesetz*, 76–89; Rhyder, *Centralizing*, 283; Wagenaar, *Origin*, 124–39.

differences are due to Lev 23's combination of the three-festival tradition in the non-priestly

calendars with the two-festival tradition in Ezekiel. The two-festival calendrical system reflected

in Ezek 43:18–25 may be a further development of H's calendrical system that has demoted the

Firstfruits from a הג to a celebration that does not require travel to the central sanctuary.

Therefore the conceptual development of ancient Israel's calendrical system may not be

determined on this basis. Second, the notion that Lev 23 is a revision of the three-festival

tradition is possible, but its relationship with the other pentateuchal festal legislations that reflect

this three-festival tradition is not necessarily a direct literary dependence. A direct literary

dependence can only be confidently established by demonstrating the intentional literary

borrowing of Lev 23 of these texts.

This study excludes the likely later interpolations in vv. 2–3 and 39–43 and focuses on

the festival laws in Lev 23:4–38. The selection of this section is based on two reasons. First,

while the literary history of this section is not universally agreed on, there is no compelling

reason to assign this passage to multiple compositional strata.[19] Second, the argument that Lev 23

combines the calendrical systems from other traditions is primarily based on the analysis of vv.

4–38 and not vv. 2–3 and 39–43.

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[19] Despite arguing for the literary unity of Lev 23:4–38 as a whole, some scholars continue to argue the different strata in Lev 23. For example, Knohl argues that the authors of H build on the older festal legislation in P, and that Lev 23 contain traces of P (*Sanctuary*, 8–45). Milgrom also assigns the chapter to different strata of composition but argues that "Lev 23 is totally the product of the H Source…. There is not a trace of P in this entire chapter" (*Leviticus 23–27*, 2056). These arguments, however, are unnecessary in light of the strong possibility that H borrows from P and other sources to compose Lev 23. In other words, the traces of older sources in Lev 23 may be attributed to H's compositional activity without positing different H's compositional strata. Also note Nihan's argument that Lev 23:18–20 is a later addition to reconcile Lev 23 and Num 28–29 because the original authors of former did not know the instructions in the latter ("Israel's Festival Calendars," 206–7). Cf. Kuenen, *Historico-Critical*, 99, n. 40. This assertion, however, assumes the literary priority of Lev 23 over Num 28–29. The need to reconcile Lev 23 with Num 28–29 disappears when it is accepted that Lev 23 is dependent upon and revises Num 28–29.

3. Super- and Subscription (Lev 23:4, 37–38)

The super- and subscription of the festal regulation in Lev 23:4, 37–38 are unique because they only parallel the similar super- and subscription in Num 28:1–2; 29:39–40. In both Lev 23 and Num 28–29, the festivals are designated as a מועד "appointed time" (Lev 23:4, 37; Num 28:2; 29:39) albeit with some differences: Lev 23 has מועדי יהוה "the appointed times of Yahweh," whereas Num 28–29 has either במועדו "at its appointed time" or במועדיכם "at your appointed times." Furthermore, the subscriptions in both passages contain a list of different types of sacrifices, although they are not precisely the same. It is plausible that a direct literary relationship exists between them, especially when the striking similarities between their festal legislations are taken into account.[20]

The most robust treatment of the literary dependence between Lev 23 and Num 28–29 has been presented by Nihan.[21] He lists six arguments in favor of the literary priority of Lev 23 over Num 28–29. The first three arguments relate to the super- and subscription of Lev 23.[22] First, Nihan argues that the super- and subscription of Lev 23 do not indicate an awareness of the festal regulations in Num 28–29. Lev 23:37, for example, does not list the חטאת offering, which appears in all festivals in Num 28–29 (28:15, 22, 30; 29:5, 11, 16, 19, 22, 25, 28, 31, 34, 38). Furthermore, Lev 23 distinguishes between עלה and זבח, whereas Num 28–29 prescribes that all animals must be offered as an עלה. He also points out that the מנחה offering in Lev 23:37 is a separate offering, whereas it is only an auxiliary offering that accompanies the עלה offering in

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[20] See the comparison between the specific festivals in Lev 23 and Num 28–29 below

[21] Nihan, "Israel's Festival Calendars," 195–212.

[22] The last three arguments concern specific festivals, i.e., the celebration of Firstfruits, the Day of Purgation, and the Festival of Booths. These arguments will be discussed in appropriate sections of this chapter.

Num 28–29. Lastly, the phrase דבר־יום ביומו in Lev 23:37 is understood by Nihan as "the customary protocol for the ritual of each day at the sanctuary."[23] For Nihan, this phrase suggests that Lev 23 does not presuppose any text, including Num 28–29. Based on this understanding of the phrase, he concludes that Lev 23 does not depend on the detailed instructions on sacrifices in Num 28–29.

While Nihan raises valid observations, the conclusions drawn from them are not the only or necessarily the best explanations. For example, the absence of the חטאת offering in H is not surprising since the author of Lev 23 may have subsumed the חטאת offering under the עלה or זבח offering (cf. Lev 17:8). Furthermore, the mention of the זבח offering in Lev 23 may be explained as an expansion of the one feast in Num 28 into two distinct festivals in Lev 23, in which the זבח־שלמים appears. Also, while the מנחה offering is listed as an offering separate from the עלה offering in Lev 23:37, it can still be an auxiliary offering accompanying the עלה offering. Finally, Nihan's interpretation of the phrase דבר־יום ביומו to be merely a "customary protocol" is not necessarily the best reading. In the use of the same expression in Ezra 3:4, also quoted by Nihan, this phrase is preceded by the phrase כמשפת, which may indicate that it is not only customary but also an ordinance. Thus, Nihan's argument does not disprove Israel Knohl's argument that this phrase is a reference to the regulations in Num 28–29.[24]

Nihan also points out that the subscription in Lev 23:38 excludes the Sabbath from the list of festivals, whereas מועדי in Num 28–29 includes not only the festivals but also all regular offerings including the daily offerings, the Sabbath offerings, and the New Moon offerings. Based on this observation, he suggests that Num 28–29 "actually furthers a development

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[23] Nihan, "Israel's Festival Calendars," 201.

[24] Knohl, *Sanctuary*, 37, n. 2.

originating in a later reworking of Lev 23."[25] This argument, however, prematurely assumes that

Sabbath is not considered as a מועד by the author of Lev 23. The phrase מלבד is not excluding the

Sabbath from the list of festivals, but the list of *annual* festivals regulated in Lev 23:4–38.

Similarly, the daily, weekly, and monthly offerings are excluded from Lev 23 because this

legislation focuses on annual festivals. Also, Lev 23 uses the word מועד in a more technical sense

to refer to the festivals of Yahweh. It is difficult to imagine that Num 28 would omit the term

מועדי יהוה "the appointed times to Yahweh" from Lev 23.

Nihan also argues that the word מועדי, which he translates as "fixed times in the year," is

not clearly defined in Num 28–29 since no date is given in the case of Firstfruits (28:26–31).

Thus, he avers that it presupposes Lev 23, in which the word is defined. However, similar to

Num 28, Lev 23 also does not give an exact date in the case of Firstfruits, although it provides

instruction on how to calculate the interval between the first and second grain offerings (vv. 9–

22). Nihan also argues that the use of לחמי in Num 28:2 suggests its dependence upon H.

However, he incorrectly suggests, "The term לחם … is *never* found in P but exclusively in H."[26]

The term is used in P but not in construct relationship with Yahweh (cf. Lev 3:11).[27] This

observation alone is insufficient to argue that P would never make a direct connection between

לחם and Yahweh. Moreover, as also pointed out by Nihan, the suffixed form לחמי is never used in

H, but only appears one more time in Ezek 44:7. For Nihan, the same construction in Num 28:2

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[25] Nihan, "Israel's Festival Calendars," 202.

[26] Nihan, "Israel's Festival Calendars," 203. Emphasis original.

[27] Knohl suggests, "PT is very careful not to make any direct connection between the Lord and food" based on his translation of the phrase לחם אשה ליהוה in Lev 3:11 as "the food of the Lord's fire" (*Sanctuary*, 30). However this phrase may be better translated as "food, a food gift to Yahweh. Cf. Jacob Milgrom, *Leviticus 1–16: A New Translation with Introduction and Commentary*, AB 3 (New Haven: Yale University Press, 1991), 203; Gordon J. Wenham, *The Book of Leviticus*, NICOT (Grand Rapids: Eerdmans, 1979), 73.

betrays its dependence upon Ezek 40–48. Nevertheless, this is not necessarily the case since the direction of dependence might be the other way around.[28] In sum, the literary dependence between Lev 23 and Num 28–29 cannot be determined from the super- and subscriptions alone.

4. The Passover and the Festival of Unleavened Bread (Lev 23:5–8)

The festal regulation in Lev 23 begins with the legislation on the Passover and the Festival of Unleavened Bread in vv. 5–8. These two festivals are distinct but celebrated consecutively: the Passover is celebrated on the fourteenth day of the month at twilight, whereas the Festival of Unleavened Bread begins on the following morning on the fifteenth day of the same month for seven days. Several other pentateuchal texts discuss the same festivals: Exod 23:15; 34:18, 25; 13:1–10; 12:1–20; Deut 16:1–8; and Num 28:16–25.[29]

4.1. Lev 23:5–8 and Exod 23:15

The legislation in Lev 23:5–8 shares several significant lexical parallels with Exod 23:15, i.e., חדש "month," חג המצות "the Festival of Unleavened Bread," and the command שבעת ימים מצות תאכלו "seven days you shall eat unleavened bread."[30] Concerning these similarities, several observations can be made. First, Exod 23:15 mentions the name of the month in which the

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[28] For the literary dependence of Ezekiel upon H, see e.g., Risa Levitt Kohn, *A New Heart and a New Soul: Ezekiel, the Exile and the Torah* (Sheffield: Sheffield Academic Press, 2002); Michael A. Lyons, *From Law to Prophecy: Ezekiel's Use of the Holiness Code* (New York: T&T Clark, 2009); Wesley Crouser, "Leviticus 26 and Ezekiel: Compositional Models and Direction of Influence" (Asbury Theological Seminary, Ph.D. Diss., 2021).

[29] These passages are listed here not in their canonical order but the order in which I discuss them.

[30] Lev 23:5–8 also shares the same lexical parallels with the legislation in Exod 34:18–20 as in Exod 23:15. The reason for these similarities is because Exod 34:18–20 is built upon, and expands, Exod 23:15. Except for the rules concerning the firstborn, the formulations of the legislations are virtually the same.

Festival of Unleavened Bread is celebrated, namely, חדש האביב "the month of Abib." The

month's name is also mentioned in other non-priestly calendars, such as Exod 34:18 and Deut

16:1, but never in the priestly literature (cf. Exod 12:2, 18; Num 28:16). Instead of naming the

month, Lev 23:5 uses the phrase בחדש הראשון בארבעה עשר לחדש "in the first month, on the

fourteenth day of the month." Although the name of the month is not mentioned, the date is more

precise than Exod 23:15. Second, the festival's name is not strong evidence for establishing a

literary connection between these texts because it may be attributed to the shared culture. Third,

the prescription to consume the unleavened bread in Lev 23:5–8 is strong evidence for a literary

dependence, although it is not exclusively shared with Exod 23:15 (cf. Exod 34:18; Num 28:17;

Deut 16:3), and the formulations of the command are slightly different.

The legislation in Lev 23:5–8 is also more detailed than Exod 23:15 in at least four ways.

First, Lev 23 mentions the celebration of the Passover, although its connection with the Festival

of Unleavened Bread is not explicit. In Exod 23:15, by contrast, the Passover is not mentioned,

even though v. 18 may be referring to the Passover offering (cf. Exod 34:18, 25; Deut 16:3–4).[31]

Second, as mentioned above, Lev 23 prescribes a more precise time to celebrate the festival(s)

than Exod 23:15. Instead of mentioning only the month of the celebration as in Exod 23:15, Lev

23:4–5 also specifies the days. Third, Lev 23 commands the celebration of a holy convocation on

the first and seventh days, during which no מלאכת עבדה "laborious work" is permitted, whereas

neither requirement to celebrate these two days as holy convocations nor work prohibition is

mentioned in Exod 23:15. Fourth, Lev 23 requires the offering of sacrifices for seven days

during the Festival of Unleavened Bread, which is lacking in Exod 23:15. The more detailed and

expansive legislation in Lev 23 than in Exod 23:15 suggests that the former is more likely to be

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[31] Cf. Cornelis Houtman, *Exodus* (Kampen: Kok, 2000), 3:267–68; Weyde, *Appointed*, 30.

the later legislation. However, it should be noted that, unlike Exod 23:15 that links the celebration of the Festival of Unleavened Bread to the story of Exodus, Lev 23:5–8 lacks the historical explanation for the celebration of the festivals. The lack of this historical aspect in Lev 23 is not necessarily due to H's lack of awareness of the historical background behind these festivals. Instead, it may be explained by citing the purpose of the legislation, namely, the accurate timing of the festivals.[32] Thus, Lev 23:5–8 may be literarily dependent upon Exod 23:15, or at least indirectly through another text (e.g., Num 28:16–25 if it was composed before Lev 23:5–8). Other texts that deal with the Festival of Unleavened Bread and contain the command to eat unleavened bread (Exod 12:1–20; 34:18, 25; Deut 16:1–8; and Num 28:16–25) are more literarily advanced and contain more details than Exod 23:15, which suggests that this passage is probably the oldest of the festival laws in the Pentateuch.

4.2. Lev 23:5–8 and Exod 34:18, 25

The legislation in Lev 23:5–8 shares several lexical parallels with Exod 34:18–25, most of which are the same as the words that it shares with Exod 23:15 namely, חדשׁ "month," חג המצות "the Festival of Unleavened Bread," and the command שׁבעת ימים מצות תאכלו "for seven days you shall eat unleavened bread." These lexical parallels are not sufficient to establish a literary dependence between Exod 34:18, 25 with Lev 23:5–8 since these parallels are also shared with Exod 23:15. It should be noted that Exod 34:25 explicitly mentions Passover, which is absent in Exod 23:15, 18, suggesting the literary priority of the latter over the former.[33] Furthermore, the Passover in

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[32] The same is true for the lack of historical aspect in the legislation on the Feast of Booth in Lev 23:33–36.

[33] Some scholars consider the reference to Passover, which is connected to the Festival of Unleavened Bread in Exod 34:25, as a later interpolation since it assumes the fusion of the two festivals as described in Deut 16. See. e.g., Jan Christian Gertz, *Tradition und Redaktion in der Exoduserzählung: Untersuchungen zur Endredaktion*

Exod 34:25 is a חג while it is not explicitly designated as such in Lev 23:5. In this case, the use of the word "Passover" is not sufficient to suggest a literary dependence because the name is not used exclusively between these two texts but also occurs in other texts (e.g., Exod 12:11; Num 28:16; Deut 16:1). If Exod 34:18, 25 is built upon Exod 23:15, as evidenced by the similar wording, the similarities between Exod 34:18, 25 and Lev 23:5–8 may be attributed to a common source, i.e., Exod 23:15.

4.3. Lev 23:5–8 and Exod 12:1–20

The text of Exod 12:1–20 may be divided into two distinct units, namely, the instructions concerning the first Passover (vv. 1–13) and the instructions concerning the future celebration of Passover and the Festival of Unleavened Bread (vv. 14–20).[34] Several words are shared between Lev 23:5–8 and Exod 12:1–13. Besides function words and the name of Yahweh, several important content words or phrases are shared between the two texts: אכל "to eat," חדש "month," ראשון "first," ערבעה עשר "fourteenth," יום "day," בין הערבים "twilight/between evenings," מצות

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des Pentateuch (Göttingen: Vandenhoeck & Ruprecht, 2000), 43, n. 68; Wagenaar, *Origin*, 40. Weyde, however, suggests that Exod 34:25 is pre-Deuteronomic (*Appointed*, 43–52).

[34] There is a disagreement among scholars over where these sections break. Some scholars argues that v. 14 belong to the first section, e.g., Paavo N. Tucker, *The Holiness Composition in the Book of Exodus* (Tübingen: Mohr Siebeck, 2017), 89–91. Others believe that v. 14 belongs to the second section, e.g., Baentsch, *Exodus*, 97–98; Peter Laaf, *Die Pascha-Feier Israels: Eine literarkritische und überlieferungsgeschichtliche Studie*, Bonner Biblische Beiträge 36 (Bonn: Peter Hanstein, 1970), 10–12, 16–19; Wagenaar, *Origin*, 93–94; Gertz, *Tradition*, 35–37; Nihan, *From Priestly Torah*, 564–65. The third position argues that v. 14a belongs to the preceding materials, whereas v. 14b the following materials, e.g., Klaus Grünwaldt, *Exil und Identität: Beschneidung, Passa und Sabbat in der Priesterschrift*, Bonner Biblische Beiträge 85 (Frankfurt: Hain, 1992), 90–96; Matthias Köckert, *Leben in Gottes Gegenwart: Studien zum Verständnis des Gesetzes im Alten Testament* (Tübingen: Mohr Siebeck, 2004), 89, 93; Graham I. Davies, *A Critical and Exegetical Commentary on Exodus 11–18*, ICC (London; New York; Oxford; New Delhi; Sydney: T&T Clark, 2020), 56–57; Shimon Gesundheit argues that v. 14 is neither an organic part of vv. 1–13 nor 15–20 but a product of an editor who combines these two distinct sections into one (*Three Times a Year: Studies on Festival Legislation in the Pentateuch* [Tübingen: Mohr Siebeck, 2012], 79).

"unleavened bread," and פסח ליהוה "Yahweh's Passover." Paavo N. Tucker argues that the

Passover legislation in Lev 23:5 is "dependent on the details of Exod 12:1–14."[35] However, all

these shared lexical parallels are not unique to Lev 23:5–8 and 12:1–13 but also appear in other

texts that deal with the Passover (cf. Num 9:3, 5, 11; 29; 28:16).[36] Indeed Lev 23:5–8 might have

borrowed materials from Exod 12:1–13, especially the phrase בין הערבים. Nevertheless, Lev 23

seems to be more dependent upon Num 28–29 in the formulation of its laws, except for the

phrase בין הערבים, which is absent in Num 28:17. It is likely that Lev 23:5 depends mostly upon

Num 28:17 but added the phrase from Exod 12:6.[37] This conflation suggests that the Passover

legislation in Lev 23:5 is the youngest law among them.

The comparison between Lev 23:5–8 and Exod 12:14–20 shows that the texts share

several significant lexical parallels beyond common words and function words: אכל "to eat," חדש

"month," ראשון "first," ערבעה עשׂר "fourteenth," יום "day," מצות "unleavened bread," חג "feast,"

the command שבעת ימים מצות תאכלו "seven days you shall eat unleavened bread," the designation

of the first and seven days as מקרע־קדשׁ, and the work prohibition on those days. These close

parallels between the two passages indicate a literary dependence between them.

The literary priority of Lev 23:5–8 over Exod 12:14–20 has been argued in recent

scholarship. Nihan contends that Exod 12:14–20 is later than Lev 23:5–8 and offers several

arguments.[38] First, Exod 12:14–20 harmonizes Exod 12:1–13 with Lev 23:5–8 by connecting the

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[35] Tucker, *Holiness*, 101.

[36] In fact, except for the phrase בין הערבים, all these words appear in almost the exact same word order as Num 28:15–25.

[37] The direct literary dependence between Num 28:17 and Exod 12:1–14 is difficult to establish because they only share the name and date of the festival, which are formulated differently in each text.

[38] Nihan, *From Priestly Torah*, 564–65.

Passover celebration with the celebration of Unleavened Bread. Second, Nihan also argues that

Exod 12:14–20 built upon Lev 23:5–8 by (a) connecting the festivals to the event of exodus, (b)

defining the Passover as a זכרון "memorial," (c) transforming the work prohibition from only ‑כל

מלאכת עבדה "any laborious work" in Lev 23:8 to מלאכה, which includes any kind of work, and (d)

defining the celebration of these festivals as an eternal statute, like in other festivals in Lev 23

(cf. vv. 14, 21, 31, 41).[39] Third, Nihan argues that Exod 12:14–20 is more closely aligned with

later Jewish tradition, in which the day lasts from sunset to sunset.[40] Nihan argues that the

conception of day in Lev 23:5–8 from morning to morning reflects the earlier Jewish tradition

and, therefore, was composed earlier than Exod 12:14–20.[41] The last argument, however, is not

new. Roland de Vaux, for instance, has argued that Exod 12:18 and Lev 23:32 are later

redactions and reflect the later conception of the day in the late Old Testament period, whereas

the legislation in Lev 23:5–6 still uses the older system in which the day begins at sunset.[42]

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[39] The idea that the Passover and the Festival of Unleavened Bread were originally two distinct celebrations and only connected to the event of Exodus in the late monarchical period was argued long ago by Wellhausen, *Composition*, 74–76; cf. Julius Wellhausen, *Prolegomena to the History of Israel*, trans. J. Sutherland Black and Allan Menzies (Edinburg: Adam & Charles Black, 1885), 83–120.

[40] Nihan, *From Priestly Torah*, 565. Also, Wagenaar, *Origin*, 139–46.

[41] Nihan, *From Priestly Torah*, 565.

[42] Roland de Vaux, *Ancient Israel: Its Life and Institutions* (London: Darton, Longman & Todd, 1961), 182. Similarly, Nihan also argues that Lev 23:32 is a later interpolation. This verse in Lev 23 specifies that the duration of the Day of Purgation is מערב עד־מערב "from evening to evening," which he interprets as suggesting the conception of the day from evening to evening (cf. Noth, *Leviticus*, 174). He points out that this conception is in contrast to the conception of the day in the Passover and Unleavened Bread festivals in Lev 23:5–8, which is from morning to morning. However, the phrase "evening to evening" in Lev 23:32 does not necessarily suggest that the conception that the day begins at evening is normative to the authors of Lev 23. As Levine correctly suggests, "The uniqueness of the provision 'from evening to evening' in connection with the Day of Purgation might suggest that the practice in this case was exceptional…and it is likely that, except for Passover, all other festivals, even the Sabbath, began at dawn in biblical times" (*Leviticus*, 161). In addition, Nihan also argues that this verse is a later addition because the preceding verse (v. 31) contains the formula "a permanent decree throughout your generations in all your settlements," which "usually signals the conclusion of the other instructions" (*From Priestly Torah*, 500, n. 409). Similarly, Knohl, *Sanctuary*, 20. However, this assertion is unconvincing considering that this clause is also used elsewhere in H not as a concluding formula (cf. Lev 23.41; 24:3; Exod 12:14; Num 18:23). Furthermore,

While Nihan's position is correct, some of the arguments are less persuasive. For example, the connection between the Passover and the Festival of Unleavened Bread to the event of exodus is not new since it also appears in Exod 23:15 and Deut 16:1–8. Nihan himself argues that Lev 23 is built on the festal calendars in Exod 23 and Deut 16, which already contains this connection between the festivals and the exodus event.[43] If the connection between these festivals and the exodus is already known from the previous traditions in CC and D, little is gained by arguing that Exod 12:14–20 has to supplement the intentional omission of this historical information in Lev 23.

The assertion that Exod 12:14–20 assumes the conception of the day from evening to evening is problematic. Milgrom, for example, rejects the idea that the day begins at evening in Exod 12:18 and correctly points out the rationale for the mention of "evening" in Exod 12:18:

> The fact that this festival begins and ends in the evening actually proves the reverse. If the day began in the evening, there would be no need to state, not once but twice, that the termini are the evenings. Rather, this statement is necessary because normally the day begins with morning. The reason that this festival begins (and, hence, ends) with the evening is that unleavened bread is an indispensable ingredient in the paschal sacrifice, which is offered in the evening and eaten during the night before the onset of the Festival of Unleavened Bread (Exod 12:8). Therefore, the seven-day span of this festival begins and ends in the evening.[44]

In a similar vein, Graham I. Davies contends, "The evening of Passover may be an addition to the seven full days here, and if 'until the twenty-first day of the month in the evening' is

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Milgrom has demonstrated the structural unity of vv. 26–32, which strengthens the likelihood that v. 32 is an integral part of the section (Leviticus 23–27, 2019–20, 2026). Therefore, there is not enough evidence to suggest that this verse is a later insertion. Cf. Wagenaar, "Passover," 261–62.

[43] Nihan, *From Priestly Torah*, 504–11.

[44] Milgrom, *Leviticus 23–27*, 1967. A similar argument is also posited by Levine, *Leviticus,* 161.

inclusive, it would put the beginning of the twenty-second day on the following morning."[45] In

other words, Exod 12:18 does not necessarily have the conception that the day begins in the

evening, but rather that the non-consumption of unleavened bread starts from the Passover on the

evening of the fourteenth day of the month until the seventh day of the Festival of Unleavened

Bread, which includes the evening of that day.

Concerning the different types of work prohibition in Lev 23:7–8 and Exod 12:16, two

competing positions exist. On the one hand, it is possible to argue as Nihan does that the ban on

all "servile" work in Lev 23:7 is transformed to a general ban on any kind of work in Exod

12:16, thereby establishing the literary priority of Lev 23:7 over Exod 12:16.[46] On the other

hand, it is also possible to argue that, instead of reading Exod 12:15–20 as tightening the looser

work prohibition in Lev 23:7–8, the authors of Lev 23:7–8 developed a general rule concerning

work prohibition during the *maṣṣot* festival based on the the permission to prepare food in Exod

12:16, thereby establishing the literary priority of the latter over the former. Karl William

Weyde, for instance, suggests, "The fact that food preparation was permitted during the *maṣṣot*

festival according to Ex 12:15ff made it possible for the author of Lev 23:5–8 to give a general

rule: work at one's occupations (hard physical work) is not permitted, light work is permitted."[47]

In other words, the work prohibition in Lev 23:7–8 is based on the precedence in, and is

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[45] Davies, *Exodus*, 59.

[46] Nihan, *From Priestly Torah*, 565. Similarly, Wagenaar, *Origin*, 95.

[47] Weyde, *Appointed*, 64. He also argues that, while literary priority may be impossible to determine in the case of Exod 12:15–20 and Deut 16:1–8, the former may have been built upon the latter because (1) it may have been influenced by the deuteronomic command for cult centralization, and (2) it seems to clarify the work prohibition in Deut 16:8 (*Appointed*, 62).

therefore later than, Exod 12:14–20. Because the argument can work both ways, the literary

dependence of these texts cannot be determined on this basis only.

The criterion of expansive materials as an indicator of lateness is less helpful in this case

because both texts contain materials lacking in the other text. On the one hand, Exod 12:14–20

contains materials lacking in Lev 23:5–8. For example, in addition to designating the Passover as

זכרן and defining the celebration of these festivals as an eternal statute, Exod 12:18 also provides

more precise instruction for the eating of unleavened bread compared to Lev 23:5–8. This

passage prescribes that the consumption of unleavened bread begins on the night of the Passover

on the fourteenth of the month and ends on the twenty-first day of the month in the evening. This

feature is missing in Lev 23:5–8, in which the consumption of unleavened bread is only required

during the Festival of Unleavened Bread, starting on the fifteenth of the month for seven days.

On the other hand, Lev 23:5–8 also contains at least one feature lacking in Exod 12:14–20, i.e.,

the commandment to offer sacrifices during the Festival of Unleavened Bread.

The most substantial evidence for the literary priority of Lev 23:5–8 over Exod 12:14–

20 (or at least vv. 15–17) is presented by Tucker, who shows the conflation of Lev 23:6–8 and

Exod 13:3, 6–7, 10 in Exod 12:15–17 (see Table 4.3.1).[48] This evidence is thus decisive in

showing the literary dependence of Exod 12:15–17 upon Lev 23:6–8. Based on this observation,

he concludes,

> Thus Exod 12:15–17 reflects a post-Holiness Code (Lev 23:6–8) layer of material by an
> author nevertheless in the Holiness School. The purpose of this author was to respond to
> the instructions of the Feast of Unleavened Bread in 13:1–16 by providing regulations for
> the observance of the festival in line with the Holiness Code (Lev 23:6–8) and, in doing

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[48] Tucker, *Holiness*, 104–5. Against Nihan, Tucker argues that Exod 12:15–20 is not a unified literary unit but reflects two compositional strata: vv. 15–17 and 18–20 (cf. Nihan, *From Priestly Torah*, 564-565). Other scholars who hold the same view include Helmut Utzschneider and Wolfgang Oswald, *Exodus 1–15*, IEKAT (Stuttgart: Verlag W. Kohlhammer, 2013), 247; Gertz, *Tradition*, 35–37, 68–69, 72–73.

so, to combine the Passover and Feast of Unleavened Bread into a unified festival commemorating the exodus.[49]

Following vv. 15–17, another interpolation was added in vv. 18–20, which goes beyond Lev 23:6–8 to correspond to the regulation in Ezek 45:21.[50] While the consumption of unleavened bread begins on the fifteenth day of the first month according to Lev 23:6–8, Exod 12:18 prescribes that the consumption of unleavened bread begins on the night of the Passover on the fourteenth of the first month and lasts until the evening of the twentieth day. Here, the Passover and the Festival of Unleavened Bread are combined based on the same command to eat unleavened bread, although these festivals may still be distinct.[51]

Table 4.3.1. Comparison of Lev 23:6–8, Exod 12:15–17, and Exod 13:3, 6–7, 10[52]

Lev 23:6–8	Exod 12:15–17	Exod 13:3, 6–7, 10
וּבַחֲמִשָּׁה עָשָׂר יוֹם לַחֹדֶשׁ הַזֶּה ⁶ חַג הַמַּצּוֹת לַיהוָה שִׁבְעַת יָמִים מַצּוֹת תֹּאכֵלוּ:	שִׁבְעַת יָמִים מַצּוֹת תֹּאכֵלוּ אַךְ בַּיּוֹם ¹⁵ הָרִאשׁוֹן תַּשְׁבִּיתוּ שְּׂאֹר מִבָּתֵּיכֶם כִּי כָּל־	וַיֹּאמֶר מֹשֶׁה אֶל־הָעָם זָכוֹר אֶת־ ³ הַיּוֹם הַזֶּה אֲשֶׁר יְצָאתֶם מִמִּצְרַיִם מִבֵּית

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[49] Tucker, *Holiness*, 105. Cf. Otto, "Innerbiblische," 156–57; Nihan, *From Priestly Torah*, 564–65.

[50] Tucker, *Holiness*, 105; Cf. Knohl, *Sanctuary*, 20–21; Milgrom, *Leviticus 23–27*, 1974.

[51] Wagenaar argues that the dates stipulated for the Festival of Unleavened Bread in Exod 12:18, namely, from the first month, the fourteenth day of the month in the evening until the twenty-first day of the month in the evening as contradicting the dates in Lev 23, which is, from the fifteenth day of the month to twenty-first day of the month ("Passover," 261). Similarly, Thomas B. Dozeman, *Commentary on Exodus*, ECC (Grand Rapids: Eerdmans, 2009), 270; Utzschneider and Oswald, *Exodus 1–15*, 257–58; Christoph Dohmen, *Exodus 1–18*, ed. Erich Zenger et al., HThKAT (Freiburg: Herder, 2015), 300–301. This argument assumes that the dates in Exod 12:18 concern the beginning and end of the Festival of Unleavened Bread. Nevertheless, the dates stipulated in Exod 12:18 concern the consumption of unleavened bread, not only during the Festival of Unleavened Bread but also the Passover (cf. Exod 12:8). In other words, it is not necessary to posit that the Festival of Unleavened Bread begins on the fourteenth day of the month. Cf. Davies, *Exodus*, 58.

[52] Based on Tucker's table with some modifications (*Holiness*, 104-105).

<u>ביום הראשון מקרא־קדש יהיה</u> <u>לכם כל־מלאכת עבדה לא תעשו:</u> ⁷ והקרבתם אשה ליהוה שבעת ימים <u>ביום השביעי מקרא־קדש</u> <u>כל־מלאכת עבדה לא תעשו:</u> ⁸	אכל חָמֵץ ונכרתה הנפש ההוא מישראל מיום הראשן עד־יום השבעי: <u>וביום הראשון מקרא־קדש וביום</u> ¹⁶ <u>השביעי מקרא־קדש יהיה לכם כל־</u> <u>מלאכה לא־יעשה</u> בהם אך אשר יאכל לכל־נפש הוא לבדו יעשה לכם: <u>וּשְׁמַרְתֶּם</u> את־המצות כי בעצם הַיּוֹם ¹⁷ הַזֶּה הוֹצֵאתִי את־צבאותיכם מארץ מִצְרַיִם ושמרתם את־היום הזה לדרתיכם חֻקַּת עולם:	עבדים כי בחזק יד הוציא יהוה אתכם מזה ולא יאכל חמץ: שבעת ימים תאכל מצת וביום ⁶ השביעי חג ליהוה: מצות יאכל את שבעת הימים ולא־ ⁷ יראה לך חָמֵץ ולא־יראה לך שְׂאֹר בכל־גבלך: וְשָׁמַרְתָּ את־הַחֻקָּה הזאת למועדה ¹⁰ מימים ימימה:

Underline: Parallels between Lev 23:6–8, Exod 12:15–17, and Exod 13:3, 6–7, 10.

Double-Underline: Parallels between Lev 23:6–8 and Exod 12:15–17.

Wavy Underline: Parallels between Exod 12:15–17 and Exod 13:3, 6–7, 10.

4.4. Lev 23:5–8 and Exod 13:1–16

The legislation on the Festival of Unleavened Bread continues in Exod 13:1–16.[53] This text and Lev 23:5–8 only share a few lexical similarities, and most of them are not used in the same context and, therefore, are most likely to be incidental. The most significant similarity is the command to eat unleavened bread for seven days in Exod 13:6–7. However, this command is not unique to these two legislations but also appears in other legislations (cf. Exod 12:15; 23:15;

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[53] According to Milgrom, Exod 13:6, along with Exod 23:15; 34:18 (before it was edited by D), is the oldest of the festal calendars (*Leviticus 23–27*, 1976).

34:18; Num 28:17).[54] Furthermore, the differences between them are significant. First, the

Passover is not mentioned in Exod 13:1–16. Second, the date for the Festival of Unleavened

Bread in Exod 13:4 is closer to Exod 23:15 and 34:18, in which only the month (the month Abib)

is mentioned. Third, the feast is associated with the ritual of offering the firstborn, which is

lacking in Lev 23:5–8. Instead, Lev 23:8 requires the offering of אשה for seven days (cf. Num

28:16–25). Weyde argues that the absence of the firstborn ritual in Exod 13:1–16 and 34:18–20

is because "earlier legislation is presupposed and thus taken for granted; for this reason the

passage in Lev 23:5-8 does not contain a complete set of rules."[55] He further hypothesizes that

the food offering in Lev 23:8 may have been supplementary offerings in addition to the firstborn

offering required in Exod 13:3–10; 34:18–20. This reading, however, is purely conjectural since

the text of Lev 23 does not support it. In light of the lack of unique literary features between

these texts, their literary dependence cannot be established.

4.5. Lev 23:5–8 and Deut 16:1–8

Lev 23:5–8 and Deut 16:1–8 also share a number of lexical parallels.[56] However, although they

share various lexical parallels, some of the shared words may be incidental because they are used

in different contexts.[57] For example, Lev 23:5 mentions the word ערב in the context of the time

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[54] The formulation of the command not to eat leaven in Exod 13:7 is closer to Deut 16:3–4 as evidenced not only by the use of the same words but also the same word order, which indicates the presence of a literary dependence between them.

[55] Weyde, *Appointed*, 57–58.

[56] Deut 16:1–8 does not mention the name חג המצות "the Festival of Unleavened Bread" in vv. 1–8, but it appears in v. 16.

[57] Similarly, Kilchör also astutely observes that the legislation on the Passover and the Festival of Unleavened Bread in Deut 16:1–8 hardly has any lexical parallels with Lev 23:5–8 (*Mosetora*, 163–64, 194).

for celebrating the Passover, namely, בין הערבים "between the evenings," whereas Deut 16 uses the same word in the instruction not to leave the Passover sacrifice that the people of Israel sacrifice בערב "in the evening" until the following day (vv. 4, 6). Similarly, the words יהוה "Yahweh," כל "every, all," and the negative particle לא "no, not," are commonly used words, and in most cases, they are used differently in Deut 16:1–8 compared to Lev 23:5–8. Furthermore, the use of the word חדש האביב "the month of Abib" in Deut 16:1 is probably literarily connected to Exod 23:15. By contrast, Lev 23:5 does not mention the name of the month, although it is more precise than Deut 16:1 by specifying the exact day for the celebration of the festivals. There are only three similarities shared between Lev 23:5–8 and Deut 16:1–8 that may indicate the presence of a literary dependence: (1) the phrase פסח ליהוה "the Passover to Yahweh," (2) the command to eat unleavened bread for seven days, and (3) the work prohibition associated with the celebration of the Festival of Unleavened Bread.[58]

These similarities, however, are not sufficient to establish a direct literary relationship between these texts for the following reasons. First, while the phrase פסח ליהוה "the Passover to Yahweh" is shared between Lev 23 and Deut 16, it also appears in other texts, although some of them may be late texts (cf. Exod 12:11, 48; Num 9:10, 14, 28:16).[59] In addition, the phrase is always followed by אלהיך "your God" in Deut 16 but not in other texts, including Lev 23. Second, the command to eat unleavened bread for seven days is not unique because it appears in

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[58] The Festival of the Unleavened Bread is called a חג in Lev 23, but the name of the festival is not mentioned in Deut 16:1–8, although v. 16 makes it clear that it is also a חג.

[59] The designation of a feast followed by ליהוה also appears in the legislation on the Festival of Booths in Lev 23:34, which is called חג הסכת שבעת ימים ליהוה "the Festival of Booths for seven days to Yahweh." By contrast, the Festival of Booths in Deut 16:13–15 is simply called חג הסכת without the prepositional phrase ליהוה following it.

other festal calendars in the Pentateuch (Exod 23:15; 34:18). In fact, the command to eat

unleavened bread in Deut 16:3 is formulated very differently from Lev 23:6b.

- Lev 23:6 שבעת ימים מצות תאכלו
- Deut 16:3 לא־תאכל עליו חמץ שבעת ימים תאכל־עליו מצות לחם עני
- Deut 16:4 לא־תאכל עליו חמץ שבעת ימים תאכל־עליו מצות לחם עני
- Deut 16:8 ששת ימים תאכל מצות
- Exod 23:15 שבעת ימים תאכל מצות
- Exod 34:18 שבעת ימים תאכל מצות

Compared to the formulation of the command to eat unleavened bread in Deut 16, the wording of

Lev 23:6b is much closer to Exod 23:15; 34:18, although the word order is not the same.

Third, it is true that the mention of work prohibition in the Festival of Unleavened Bread

is unique to Lev 23 and Deut 16 since it is absent in the legislations on the festival in other

pentateuchal calendars. However, work prohibition during a festival is not unique. In other

words, the authors of Lev 23 did not need Deut 16 to prohibit work during the celebration of the

Festival of Unleavened Bread since work prohibition is used in other sections of Lev 23 (vv. 21,

25, 28, 31, 35, 36). Similarly, the authors of Deut 16 also did not seem to be aware of H's work

prohibition during the celebration of Firstfruits and the Festival of Booths. The absence of work

prohibition in the other two festivals in Deut 16 is hard to explain if the authors of this passage

knew about the legislation in Lev 23. Furthermore, working is only prohibited on the seventh day

of the festival in Deut 16:8, whereas it is prohibited on the first and seventh days in Lev 23:7–8.[60]

It is difficult to explain why Deut 16 would have loosened the work prohibition if the authors

had known Lev 23:5–8. Thus, it is unlikely that Deut 16 is dependent upon Lev 23.

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[60] It is not entirely clear whether Deut 16:8 prohibits work only on the seventh day or all seven days of the festival (cf. Weyde, *Appointed*, 22). In any case, the duration of work prohibition in Deut 16:8 is not the same as in Lev 23:5–8.

Furthermore, it is difficult to ascertain that one text was aware of, or mimicking, the other text. For example, each text has its own designation for the day on which working is prohibited: Lev 23 uses the term מקרא־קדש "holy convocation," whereas Deut 16 calls it עצרת ליהוה אלהיך "a solemn assembly to Yahweh, your God." In the priestly literature, the term עצרת is used for the Festival of Booths but not the Festival of Unleavened Bread (Lev 23:36; Num 29:35). It is difficult to explain the rationale for using different terms for the same purpose if one text is literarily dependent upon another.[61] It is more likely that they are composed without the intention of mimicking each other's literary features.[62] Furthermore, Deut 16 prescribes that sacrifice be offered on the evening at the Passover, whereas Lev 23 does not mention the Passover offering. By contrast, while Lev 23:8 commands that the people of Israel offer sacrifices for seven days during the Festival of Unleavened Bread, the same commandment is not found in Deut 16:1–8.

Another difference is that, while Lev 23 only bans a certain kind of work, namely, כל־מלאכת עבדה "any laborious work" (vv. 7–8), Deut 16 bans מלאכה "work" (v. 8). The terms כל־מלכה, which refers to the absolute ban of work (cf. Exod 20:10; Deut 5:14), and מכלה are not necessarily referring to the same thing, and therefore it remains unclear what precisely is prohibited in Deut 16:8.[63] Weyde suggests that Lev 23:7–8 attempts to clarify this imprecision in Deut 16:8.[64] He claims that Lev 23:7–8 clarifies the obscurity in Deut 16:8 by defining the kind of work prohibited during the festival:

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[61] For more discussion on the use of the term עצרת in Lev 23 and Deut 16, see §8.2.

[62] Cf. Shimon Gesundheit, for example, who argues that the use of the term עצרת in Deut 16:8 is not due to a direct literary borrowing from specific priestly texts but the use of the priestly terminology before its incorporation to priestly literature (*Three Times*, 138).

[63] Körting, *Der Schall*, 46.

[64] Weyde, *Appointed*, 24.

Thus, what we probably see in Lev 23:7f, is that the legislator both clarified the meaning of the prohibition against work in Deut 16:8 and made use of the exegetical potential of the legislation in Ex 12:16; on the basis of the all-embracing prohibition and the exception to it, which he found in the latter text, he created a general principle: Prescribing that every hard physical (i.e., professional) labour is forbidden, he also says, implicitly, that light work including food preparation is permitted.[65]

Based on the differences between Deut 16:1–8 and Lev 23:5–8 on the work prohibition and their different requirements for sacrifices during the festivals, Weyde concludes that Lev 23:5–8 is later than and builds upon Deut 16:1–8.[66] While Lev 23 is probably more precise than Deut 16 in defining the kind of work prohibited during the Festival of Unleavened Bread, it does not necessarily suggest that the former is built upon the latter. It cannot be ascertained if the formulation in Lev 23:7–8 is an intentional correction of Deut 16:8, especially since the same formula כל־מלאכת עבדה לא תעשׂו "you shall not do any laborious work" is consistently used in other festivals in Lev 23, such as the celebration of Firstfruits (v. 21), the Memorial of Trumpets (v. 25), and the Festival of Booths (vv. 35–36), as well as in Num 28–29.

Despite the inability to identify a direct literary dependence between Lev 23:5–8 and Deut 16:1–8, it is notable that the former legislation is more detailed than the latter in at least one aspect. Similar to Exod 23:15, the time for celebrating the Passover and the Festival of Unleavened Bread in Lev 23:5–8 is more precise than Deut 16:1–8. In Deut 16:1, the Passover is fused with the Festival of Unleavened Bread and celebrated in the month of Abib with no exact date specified.[67] By contrast, these two festivals are distinct and celebrated on the first month's

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[65] Weyde, *Appointed*, 25.

[66] Weyde, *Appointed*, 26–27.

[67] This feature, along with the historical explanation for the celebration of the festival, suggests the literary relationship between Deut 16:1–8 and Exod 23:15; 34:18. Cf. Levinson, *Deuteronomy*, 53–97.

fourteenth and fifteenth days, without mentioning Abib as the month's name.[68] There is no indication that Lev 23:5–8 is building upon Deut 16 for the date of the Passover and the Festival of Unleavened Bread or vice versa. Furthermore, like Exod 23:15, Deut 16:1–8 contains a historical explanation for the celebration of the festival, while Lev 23:5–8 lacks the same feature. Nevertheless, the absence of the historical background in Lev 23:5–8 may be attributed to the primary interest of the legislation, namely, the timing of the celebration.

It has also been argued that Lev 23:5–8 represents an earlier tradition than Deut 16:1–8. Milgrom postulates, "The *pesaḥ* and *maṣṣôt* festivals are discrete in all the early sources (Exod 12:1–13, 14–20, 21–28, 40–51; 13:3–10; Lev 23:5, 6–8; Num 28:16, 17–23). They are fused together first in Deuteronomy (Deut 16:1–7) and in postexilic sources (Ezek 45:21; Ezra 6:20–22; 2 Chr 30:2, 5, 13, 15; 35:17)."[69] However, the criteria of fusion and discreteness are not reliable indicators for deciding the relative dating among these texts. It is certainly possible that the Passover and the Festival of Unleavened Bread are fused in earlier texts, and later legislations in Num 28 and Lev 23 distinguish them for temporal accuracy.[70] That these festivals are still fused in later texts "may indicate that in the cultic celebration a fusion of the two festivals still existed."[71] Even if it is granted that H's tradition is earlier than D's tradition, it does not necessarily suggest a literary dependence of the former upon the latter. The lack of unique verbal

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[68] Wagenaar believes that the occasional permission to celebrate the Passover in the second month of the year instead of the first month (cf. Num 9:10–11; 2 Chr 30:2–3, 15, 21) suggests that it was the original date for the celebration before it was changed to the first month (*Origin*, 32, 100).

[69] Milgrom, *Leviticus 23–27*, 1971–72. Milgrom does not list Exod 23:14–19 and 34:18–26.

[70] Weyde argues that the Passover and the Festival of Unleavened Bread are fused in Exod 23:14–19 and 34:18–26, which are generally considered to be the earliest cultic calendars in the Hebrew Bible (*Appointed*, 29–31).

[71] Weyde, *Appointed*, 67.

parallels between Lev 23:5–8 and Deut 16:1–8 makes it difficult, if not impossible, to argue for a literary dependence between these legislations.[72] In light of these observations, it remains doubtful that the similarities between the legislations on the Passover and the Festival of Unleavened Bread in Lev 23:5–8 and Deut 16:1–8 are due to direct literary borrowing.

4.6. Lev 23:5–8 and Num 28:16–25

While the laws on the Passover and the Festival of Unleavened Bread in Lev 23:5–8 and Num 28:16–25 are very similar, they have several differences. The most notable difference between these legislations is that Num 28:16–26 contains a list of sacrifices to be offered during the seven days of the festival, whereas Lev 23:5–8 only prescribes that אשה be offered to Yahweh for seven days (v. 8). The scholarship diverges on how to understand the lack of a detailed list of sacrifices for almost all festivals in Lev 23 compared to the consistent inclusion of such lists in Num 28–29. Milgrom, for example, argues that the formula והקרבתם אשה ליהוה "you shall present a food offering to Yahweh" in Lev 23 is the author's way of referring to the lists of sacrifices in Num 28–29.[73] More scholars, by contrast, argue that Num 28–29 is later than Lev 23 because the former attempts to supplement the latter with more detailed lists of sacrifices.[74] Nihan is correct when he points out, "Indeed, both views are possible, in principle. Therefore, the literary

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[72] Cf. Deut 16's literary borrowing of Exod 23:15, 18 and Exod 13:3–10 as demonstrated by Levinson, *Deuteronomy*, 75–81.

[73] Milgrom, *Leviticus 23–27*, 2009; Similarly, Weyde, *Appointed*, 27.

[74] George Buchanan Gray, *A Critical and Exegetical Commentary on Numbers*, ICC (New York: Scribner's Sons, 1903), 403; Körting, *Der Schall*, 213–21; Grünwaldt, *Heiligkeitsgesetz*, 297; Achenbach, *Die Vollendung der Tora*, 604; Wagenaar, *Origin*, 149.

relationship between the two corpora cannot be decided on this ground alone."[75] The direction of literary dependence in the case of Lev 23 and Num 28–29 must be determined by considering other factors.

In the case of the Passover and the Festival of Unleavened Bread, Lev 23:5–8 contains more additional materials than Num 28:16–25. First, whereas Lev 23:5 prescribes that the exact time of the Passover celebration בין הערבים "at twilight," Num 28:16 does not have this phrase. Second, Lev 23:6 gives the full name of the Festival of Unleavened Bread, whereas Num 28:17 only has the term חג "festival." The only additional materials unique to Num 28:16–25 compared to Lev 23:5–8 is the list of offerings, which may be argued as having been replaced in Lev 23 with the term אשה. In other words, the list of sacrifices is not omitted in Lev 23:5–8, only replaced, whereas the name and precise time of the festival are missing from Num 28:16–25. The replacement of the sacrificial list from Num 28:16–25 with the term אשה in Lev 23:5–8 is more easily defended than the omission of the name of the festival and its more precise timing in Num 28:16–25.

Nihan argues that the omission of the name "the Festival of Unleavened Bread" and the names of other festivals in Num 28–29 is because it presupposes the older legislation in Lev 23. He avers, "Contrary to the author of Lev 23, the scribe responsible for the composition of Num 28–29 is no longer interested in assigning a specific name and a fixed date to the various festivals, but rather in specifying the nature and the number of offerings to be presented to the deity at each occasion."[76] Since Num 28–29 does provide the names of other festivals, such as the Passover (28:16) and the Feast of Weeks (28:26), the explanatory power of this observation

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[75] Nihan, "Israel's Festival Calendars," 199–200.

[76] Nihan, "Israel's Festival Calendars," 211.

is weakened. Weyde correctly suggests, "It is more likely that the Leviticus calendar at this point is very accurate with regard to details: for the sake of precision it complements the text of its source by adding the exact time for passover and the full name of the following festival."[77] If this is the case, Num 28:16–25 has the literary priority over Lev 23:16–25.[78]

5. The Sheaf Offering and the New Cereal Offering (Lev 23:9–22)

The legislation on the Firstfruits celebration in Lev 23:9–22 parallels several similar legislations in the Pentateuch, namely, Exod 23:16a, 19a; 34:22a, 26a; Deut 16:9–12; 26:1–11; and Num 28:26–31. Before further examining the shared literary features between Lev 23:9–22 and other similar laws in the Pentateuch, it should be first noted that, while other laws provided a name for the celebration (חג הקציר in Exod 23:16a; חג שבעת in Exod 34:22a; Deut 16:10), it is omitted in Lev 23:9–22. Even the legislation in Num 28:26–31 has a name for this celebration, namely, יום הבכורים "the day of the Firstfruits" (v. 26). Additionally, the phrase בשבעתיכם "at your (festival of) weeks," is mentioned in the same verse, although it is not designated as a חג. In other words, while non-priestly sources designate this celebration as a חג, priestly sources do not. Regardless, they deal with the same topic, namely, the offering of firstfruits.

5.1. Lev 23:9–22 and Exod 23:16a, 19

The comparison between Lev 23:9–22 and Exod 23:16a, 19 indicates minimal similarities beyond a thematic one. Both texts share the words קציר "harvest," בכורים "firstfruits," שדה "field," ראשית "beginning/best," בוא "to bring," יהוה "Yahweh," and אלהים "God." The names יהוה

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[77] Weyde, *Appointed*, 27.

[78] Cf. Milgrom, *Leviticus 23–27*, 1965.

and אלהים are too common and used in too different of contexts to be considered as evidence for a literary borrowing, whereas the words שׁדה and ראשׁית are used in different contexts in both texts. The word שׁדה is used in Exod 23:16 in the context of the sowing of the field, whereas in Lev 23:22, it occurs in the prohibition against reaping the field right up to its edge. The word ראשׁית appears in Lev 23:10 in the clause והבאתם את־עמר ראשׁית קצירכם אל־הכהן "And you shall bring the sheaf of the first of your harvests to the priest." By contrast, the same word is used in Exod 23:19a in a different construction: ראשׁית בכורי אדמתך תביא בית יהיה בית יהוה אלהיך "the first of the firstfruits of your ground you shall bring into the house of Yahweh your God." Furthermore, the command to bring (בוא) the firstfruits (בכורים) from the harvest (קצר) in both texts is not unexpected due to the nature of the feast and cannot be confidently attributed to direct literary borrowing although it is not impossible.

5.2. Lev 23:9–22 and Exod 34:22a, 26a

Similarly, the formulation of the legislation in Exod 34:22a, 26a is similar to Exod 23:16a, 19a; only the name has now changed from חג הקציר "the Feast of Harvest" to חג שׁבעת "the Feast of Weeks." Both Lev 23:9–22 and Exod 34:22a, 26a share the words עשׂה "do/make," קציר "harvest," בכורים "firstfruits," ראשׁית "beginning/best," בוא "to bring," יהוה "Yahweh," and אלהים "God." As discussed above, none of these lexical parallels may be used to establish a direct literary dependence.

5.3. Lev 23:9–22 and Deut 16:9–12

Another text that parallels the legislation in Lev 23:9–22 is Deut 16:9–12. The comparison between these two texts shows that they share various lexical parallels, most of which are

function words, such as ו "and/but," the direct object marker את, and so on. Some other words are

too common to be used as evidence of a literary connection, such as the name יהוה and the

pronoun אתה "you." However, several content words require a closer look, i.e., ספר "to count"

followed by the prepositional phrase לך (Deut 16:9) or לכם (Lev 23:15), שבע "seven," נתן "to

give," עשׂה "to do/make," and גר "resident alien." The last three words, i.e., נתן, עשׂה, and גר,

cannot be used as evidence for a literary connection because they are used in different and

unrelated contexts. The word נתן in Deut 16:10 refers to the giving of the freewill offering to

Yahweh, whereas the same word is used in Lev 23:10 to refer to the giving of the land from

Yahweh to the people of Israel. The word עשׂה in Deut 16:9–12 is used in the context of

observing the feast (v. 10) and the statutes (v. 12), whereas it is used in Lev 23:9–22 in the

context of offering sacrifices (vv. 12, 19) and doing labor (v. 21). Lastly, the mention of גר in

Deut 16:11 is in the context of rejoicing during the Feast of Weeks, whereas the same word

occurs in the commandment to leave some of the harvests for the poor and the resident alien (גר).

In sum, none of these words are indicative of literary dependence.

The most striking similarity is the command to count seven weeks during the harvest time

in Lev 23:15–16 and Deut 16:9. Julia Rhyder argues, "Because Lev 23:15–21 and Deut 16:9–12

are the only two texts in the Hebrew Bible to refer to a count of seven weeks during harvest time,

the argument that they are directly related to one another gains considerable weight."[79] This

assertion that a direct connection exists between these texts because of the reference to a count of

seven weeks is possible but hardly sufficient in light of the lack of other shared literary features

between these two texts. Furthermore, according to Deut 16:9, the counting of seven weeks

begins on the first day of harvest, while Lev 23:15–16 prescribes that the weeks be counted from

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[79] Rhyder, *Centralizing*, 278.

the day after the Sabbath following the first day of harvest. Concerning this difference, Nihan asserts that H's method for counting the days of the Firstfruits celebration is a "major innovation of H against D."[80] He further posits, "This development betrays a remarkable arrangement between the economic necessity to keep a flexible date for the festival and the attempt to relate it to the most basic structure in the year for H, namely, the Sabbath."[81] While it is true that H structures the celebration of Firstfruits in relation to the Sabbath, it is less certain that it was invented as a response against D. Even if it were granted that H was aware of D's method for counting the weeks, the formulation in Lev 23:15–16 differs significantly from Deut 16:9 to argue for a literary dependence (see Table 5.3.1). In fact, there is no other shared literary feature between these two texts that support this assertion beyond the similar command to count seven weeks for the celebration.[82]

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[80] Nihan, *From Priestly Torah*, 507.

[81] Nihan, *From Priestly Torah*, 507.

[82] *Pace* Kilchör, who argues for a literary connection between Lev 23:10–44 and Deut 16:9–15. See Kilchör's table of comparison in *Mosetora*, 194–195. Kilchör postulates that Deut 16 is the later legislation because it combines linguistic features from the Decalogue, Exod 34, and Lev 23. Nevertheless, most of the parallels between Lev 23:10–44 and Deut 16:9–15 that Kilchör lists are found in vv. 39–40, with the exceptions of Lev 23:15, 34. In the case of Lev 23:15, 34, the verbal parallels are neither similar nor unique enough to argue for a literary dependence between the texts. Furthermore, the shared parallels in Lev 23:15, 34 are insufficient to propose a literary connection between Lev 23 and Deut 16:9–15. Almost all shared verbal parallels between the two passages appear in vv. 39–43, the section of Lev 23 that is considered a later interpolation. It is more plausible that the lack of shared literary features between Lev 23 and Deut 16 indicates the lack of literary dependence. It should be noted, however, that a literary dependence may be argued in the case of Lev 23:39–43 and Deut 16:9–15. Since the shared language, especially the clause ושׂמחתם לפני יהוה אלהיכם "you shall rejoice before Yahweh your God" (Lev 23:40; Deut 16:11) is unique to D (cf. Deut 12:12, 17; 27:7) and does not appear anywhere else in the priestly literature, the direction of the literary dependence may be from Deut 16 to Lev 23:39–43.

Table 5.3.1. Comparison between Lev 23:15–16 and Deut 16:9

Lev 23:15–16	Deut 16:9
¹⁵ <u>וספרתם לכם</u> ממחרת השבת מיום הביאכם את־עמר התנופה <u>שבע</u> שבתות תמימת תהיינה: ¹⁶ עד ממחרת השבת השביעת <u>תספרו</u> חמשים יום והקרבתם מנחה חדשה ליהוה:	⁹ <u>שבעה</u> שבעת <u>תספר־לך</u> מהחל חרמש בקמה תחל לספר <u>שבעה</u> שבעות:

In sum, the evidence for a literary dependence between Lev 23:9–22 and Deut 16:9–12 is almost non-existent. The commands to count seven weeks in both texts are too different in their contents and language structures to be considered solid evidence for a direct literary connection, although it is not beyond the realm of possibility.

5.4. Lev 23:9–22 and Num 28:26–31

While the formulations of other festivals in Lev 23 and Num 28–29 are very similar, the legislations on the celebration of Firstfruits in Lev 23:9–22 and Num 28:26–31 differ significantly. These laws only share a few similarities. For example, in both legislations, Firstfruits is no longer designated as a חג. Furthermore, the day when the people bring a מנחה הדשה "a grain offering of new grain" is proclaimed as a מקרא־קדש "holy convocation," on which day כל־מלאכת עבדה "any hard work" is prohibited (Lev 23:21; Num 28:26). Despite the similarities, the differences between these legislations are more salient. First, the legislation on the celebration of Firstfruits in Num 28:26–31 is much shorter than in Lev 23:9–22. This characteristic stands in contrast to other sections in Lev 23, which are shorter than their parallel laws in Num 28–29 because the latter contains a list of offering for each festival. Second, Lev

23:9–22 includes the lists of sacrifices absent in other sections of Lev 23. The sacrificial lists in Lev 23:9–22 are different and more detailed than the one in Num 28:26–31. Third, Lev 23:9–22 also includes instructions for calculating the time for the celebration, which is not found in Num 28:26–31.

Nihan suggests that Num 28–29 presupposes Lev 23 in some cases. The strongest argument for the literary priority of Lev 23 over Num 28–29 is the use of the term מנחה חדשה "a new grain offering" in Num 28:26. For Nihan, the mention of מנחה חדשה "a new grain offering" in Num 28:26 is odd since no previous grain offering is commanded.[83] By contrast, Lev 23 mentions two grain offerings: the first one offered at the sheaf offering and a new one presented at the new cereal offering. Therefore, Num 28:26 is argued to be conceptually dependent upon Lev 23:9–14. While this construction is used only in Lev 23:16 and Num 28:26, a conceptual dependence of the latter upon the former is not the only possible explanation. Knohl and Milgrom offer another explanation that the new cereal offering in Num 28 presupposes not Lev 23:10–14 but the private cereal offering.[84] However, this private cereal offering preceding the new grain offering is conjectural since it is not mentioned in the text. Rhyder criticizes this explanation as unnecessary in light of the simpler explanation, namely, that the first grain offering in Lev 23 is presupposed in Num 28. Alternatively, Baruch Levine points out, "In the Hebrew construction, *minḥāh ḥadāšāh*, adjectival *ḥadāšāh* 'new,' characterizes the new crop

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[83] Nihan, "Israel's Festival Calendars," 204–5.

[84] Knohl, *Sanctuary*, 23–25; Jacob Milgrom, "The Firstfruits Festivals of Grain and the Composition of Leviticus 23:9-21," in *Tehillah Le-Moshe: Biblical and Judaic Studies in Honor of Moshe Greenberg*, ed. Mordechai Cogan, Barry L. Eichler, and Jeffrey H. Tigay (Winona Lake, IN: Eisenbrauns, 1997), 87. See Wagenaar's criticisms in *Origin*, 147, n. 110.

from which the grain for the offering was taken."[85] Here, the term מנחה הדשׁה does not require the

offering of the first מנחה, but it may be understood as referring to the offering of a new crop.

Furthermore, the less exact term בשׁבעתיכם "upon your weeks" in Num 28:26 seems to be

clarified in Lev 23:15 as constituting seven full weeks after the Sabbath (cf. Exod 34:22; Deut

16:9–10).[86] This explanation is more convincing than Nihan's suggestion that the less precise

"upon your weeks" in Num 28:26 "is best viewed as a reference to the precise instructions in Lev

23."[87] Moreover, the omission of the festival's name in Lev 23:9–22 also suggests that it may

have been composed later than Num 28:26–31. Weyde makes a compelling case for why the

name "the Festival of Weeks" is omitted in Lev 23. He argues,

> Introducing a time interval of fifty days in Lev 23:16, the legislator weakens the basis for
> applying the name "the festival of weeks" (or "weeks"), which is built upon the seven
> weeks counting; the name "the festival of weeks" was not appropriate any more, which
> thus may be one reason why it was omitted in this calendar…. Thus, for the sake of
> precision the calendar in Lev 23:15ff omits the more common name used in other
> calendars and refers instead to the exact date of the festival, which is fifty days (seven
> complete weeks) after 'omer.[88]

It is unlikely that Num 28:26 would use the less exact term for the festival if the authors were

aware of the rationale behind the omission of this reference to weeks in Lev 23:9–22.

The literary priority of Num 28:26–31 could also explain the more expansive and detailed

legislation on the Firstfruits and the Feast of Weeks in Lev 23:9–22.[89] While the offerings in

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[85] Levine, *Numbers 21–36*, 384.

[86] Cf. Milgrom, *Leviticus 23–27*, 1998–99.

[87] Nihan, "Israel's Festival Calendars," 206.

[88] Weyde, *Appointed*, 81.

[89] See e.g., Jonathan Ben-Dov, "The History of Pentecontad Time Units (I)," in *A Teacher for All Generations: Essays in Honor of James C. Vanderkam*, ed. Eric F. Mason et al., Supplements to the Journal for the Study of Judaism 153 (Leiden: Brill, 2012), 108.

other festivals in Lev 23 are only referred to as אשה, Lev 23:9–22 contains two sacrificial lists. Furthermore, these lists are more extensive than the list in Num 28:26–31. The abbreviation of the list of offerings from Num 28–29 in Lev 23 makes sense in the case of other festivals, but the abbreviation of the lists from Lev 23:9–22 in Num 28:26–31 makes little sense. If Num 28–29 was composed later than Lev 23 as a supplement to it, why would the author of Num 28–29 provide extensive sacrificial lists in other festivals and reduce the number of sacrifices only in the case of the Firstfruits celebration? Furthermore, why would Lev 23 only provide a list of sacrifices for the Firstfruits celebration while omitting such lists from other festivals? It is more likely that the authors of Lev 23 included the more expansive list of offerings in the case of the Firstfruits celebration because it intends to replace this specific list of sacrifices from the older legislation in Num 28–29 while keeping the sacrificial lists for other festivals.[90]

6. The Memorial of Trumpets (Lev 23:23–25)

6.1. Lev 23:23–25 and Num 29:1–6

The legislation on the Memorial of Trumpets in Lev 23:23–25 has only one parallel legislation in the Pentateuch, namely, Num 29:1–6. As shown in Table 6.1, there are significant similarities between these two texts, both in word choice and word order, indicating a direct literary dependence. Nevertheless, although the legislation of the Memorial of Trumpets in Lev 23:23–25 is similar to that in Num 29:1–6, there are several notable differences between them. In Lev 23:23–25, the celebration is called a שבתון "a rest" and the name of the celebration is זכרן תרועה "a memorial of trumpet blast" (v. 24). According to Milgrom, the term שבתון is an H creation and

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[90] Cf. Jacob A. Milgrom, "HR in Leviticus and Elsewhere in the Torah," in *The Book of Leviticus: Composition and Reception*, ed. Rolf Rendtorff and Robert A. Kugler (Atlanta: SBL Press, 2006), 24.

the author of Lev 23 changes יום תרועה from its P vorlage in Num 29:1 to זכרן תרועה.[91] Moreover, as in other festivals, Num 29:1–6 contains a list of sacrifices lacking in Lev 23. The direction of dependence is uncertain here, but it is more likely that Lev 23:23–25 adds more significance to this celebration by calling this day a "memorial" and "rest." Furthermore, as noticed by Weyde, the use of the term שבתון in this legislation is probably intended to connect the first day of the seventh month to the tenth day of the same month, the Day of Purgation, which is also a שבתון (Lev 23:32). While Num 29:1–6 might have omitted this information, the opposite is more likely; namely, Lev 23:23–25 adds additional information to the older legislation in Num 29:1–6. It is unlikely that the Numbers legislation would omit this information while preserving the designation מקרא־קדש and the work prohibition.

Table 6.1. Comparison between Lev 23:23–25 and Num 29:1–6

Lev 23:23–25	Num 29:1–6
23 וידבר יהוה אל־משה לאמר: 24דבר אל־בני ישראל לאמר <u>בחדש השביעי באחד לחדש יהיה לכם</u> שבתון זכרון <u>תרועה מקרא־קדש:</u> 25 <u>כל־מלאכת עבדה לא תעשׂו</u> והקרבתם <u>אשה ליהוה:</u> ס	1 <u>ובחדש השביעי באחד לחדש מקרא־קדש יהיה לכם כל־מלאכת עבדה לא תעשׂו יום תרועה יהיה לכם:</u> 2 ועשׂיתם עלה לריח ניחח ליהוה פר בן־בקר אחד איל אחד כבשׂים בני־שנה שבעה תמימם: 3 ומנחתם סלת בלולה בשמן שלשה עשרנים לפר שני עשרנים לאיל: 4 ועשׂרון אחד לכבשׂ האחד לשבעת הכבשׂים: 5 ושׂעיר־עזים אחד חטאת לכפר עליכם: 6 מלבד עלת החדש ומנחתה ועלת התמיד ומנחתה ונסכיהם כמשפטם לריח ניחח <u>אשה ליהוה:</u> ס

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91 Milgrom, *Leviticus 23–27*, 2014.

7. The Day of Purgation (Lev 23:26–32)

Outside of Lev 23:26–32, the Day of Purgation only appears in two texts, both of which are priestly: Lev 16:1–34 and Num 29:7–11.

7.1. Lev 23:26–32, Lev 16:1–34, and Num 29:7–11

While the comparison between Lev 23:26–32 with Lev 16:1–28 shows almost no shared literary similarities that may be used to identify a literary relationship, Lev 23:26–32 and Lev 16:29–34 share several important literary features. Nevertheless, most of the shared literary features between these texts are also shared with Num 29:7–11. Therefore, the three texts should be compared together to determine the uniqueness of their shared literary features.

Table 7.1.1. Comparison between Lev 23:26–32, Lev 16:29–34, and Num 29:7–11

Lev 23:26–32	Lev 16:29–34	Num 29:7–11
²⁶ וידבר יהוה אל־משה לאמר: ²⁷ אך <u>בעשור לחדש השביעי הזה</u> יום הכפרים הוא <u>מקרא־קדש יהיה לכם</u> ועניתם את־נפשתיכם <u>והקרבתם</u> אשה <u>ליהוה</u>: ²⁸ <u>וכל־מלאכה לא תעשו בעצם היום הזה</u> כי יום כפרים הוא <u>לכפר עליכם לפני יהוה</u> אלהיכם: ²⁹ כי כל־<u>הנפש</u> אשר לא־<u>תענה</u> בעצם היום הזה ונכרתה מעמיה:	²⁹ והיתה לכם <u>לחקת עולם בחדש השביעי בעשור לחדש תענו את־נפשתיכם וכל־מלאכה לא תעשו</u> האזרח והגר הגר בתוככם: ³⁰ כי־<u>ביום הזה יכפר עליכם</u> לטהר אתכם מכל חטאתיכם <u>לפני יהוה</u> תטהרו: ³¹ <u>שבת שבתון היא לכם ועניתם את־נפשתיכם חקת עולם</u>:	⁷ <u>ובעשור לחדש השביעי הזה מקרא־קדש יהיה לכם ועניתם את־נפשתיכם כל־מלאכה לא תעשו</u>: ⁸ <u>והקרבתם</u> עלה <u>ליהוה</u> ריח ניחח פר בן־בקר אחד איל אחד כבשים בני־שנה שבעה תמימם יהיו לכם:

כל־הנפש אשר תעשה כל־מלאכה ³⁰	וכפר הכהן אשר־ימשח אתו ואשר ³²	ומנחתם סלת בלולה בשמן ⁹
בעצם היום הזה והאבדתי את־הנפש	ימלא את־ידו לכהן תחת אביו ולבש	שלשה עשרנים לפר שני עשרנים
ההוא מקרב עמה:	את־בגדי הבד בגדי הקדש:	לאיל האחד:
כל־מלאכה לא תעשו חקת עולם ³¹	וכפר את־מקדש הקדש ואת־אהל ³³	עשרון עשרון לכבש האחד ¹⁰
לדרתיכם בכל משבתיכם:	מועד ואת־המזבח יכפר ועל הכהנים	לשבעת הכבשים:
שבת שבתון הוא לכם ועניתם את־ ³²	ועל־כל־עם הקהל יכפר:	שעיר־עזים אחד חטאת מלבד ¹¹
נפשתיכם בתשעה לחדש בערב מערב	והיתה־זאת לכם לחקת עולם לכפר ³⁴	חטאת הכפרים ועלת התמיד
עד־ערב תשבתו שבתכם:	על־בני ישראל מכל־חטאתם אחת	ומנחתה ונסכיהם:
	בשנה ויעש כאשר צוה יהוה את־משה:	

Underline: Parallels between Lev 23:26–32, Lev 16:29–34, and Num 29:7–11.

Double-Underline: Parallels between Lev 23:26–32 and Lev 16:29–34.

Wavy Underline: Parallels between Lev 23:26–32 and Num 29:7–11.

As demonstrated above, these three texts share at least three features. First, all the texts contain the date of the Day of Purgation, namely, the tenth day of the seventh month. The formulation of the timing of the Day of Purgation in Lev 23:27 is almost identical to Num 29:7 in terms of word choice and order, whereas it is only similar in word choice with Lev 16:29. Both Lev 23:26 and Num 29:7 employ the same formula בעשור לחדש השביעי הזה "on the tenth day of the seventh month," whereas Lev 16:29 has בחדש השביעי בעשור לחדש "in the seventh month, on the tenth day of the month." Second, the command to afflict oneself is mentioned in all three texts, and the same clause ועניתם את־נפשתיכם "you shall afflict yourselves" is used (Lev 23:27;

Lev 16:31; Num 29:7). Third, all three texts also employ the same clause to express the prohibition against work: כל־מלאכה לא תעשׂו "you shall not do any work" (Lev 23:28; Lev 16:29; Num 29:7).

From the textual comparison between these three passages, it is plausible that Lev 23:26–32 conflates the wordings of Num 29:7–11 and Lev 16:29–34. On the one hand, there are some words that Lev 23:26–32 share with Lev 16:29–34 that it does not share with Num 29:7–11. First, the phrase חקת עולם "perpetual statute" appears in Lev 23:31 and Lev 16:29, 31, 34, although the typical phrase חקת עולם לדרתיכם בכל משבתיכם "a perpetual statute throughout your generations in all your settlements" only appears in Lev 23:31.[92] Second, the declaration of the Day of Purgation as שבת שבתון הוא לכם "a Sabbath of solemn rest" in Lev 23:31 also appears in Lev 16:31 although with the feminine singular pronoun היא instead of the masculine singular pronoun הוא. Third, both texts share similar vocabulary when referencing the act of atoning for the people before Yahweh, such as the verb כפר "to atone," the prepositional phrases עליכם "for you/on your behalf" and לפני יהוה "before Yahweh" (Lev 23:28; Lev 16:30, 32, 33, 34). On the other hand, several unique features are shared between Lev 23:26–32 and Num 29:7–11 but not with Lev 16:29–34. First, the command מקרא־קדשׁ יהיה לכם "it shall be for you holy convocation" appears in both texts but is absent in Lev 16:29–32. Second, the command והקרבתם אשה ליהוה "you shall present a food offering to Yahweh" in Lev 23:27 parallels the command in Num 29:8, והקרבתם עלה ליהוה "you shall present a burnt offering to Yahweh" although the direct objects of the verb are different. Based on these observations, two conclusions may be drawn. First, the

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[92] According to Weyde, the phrase חקת עולם לדרתיכם בכל משבתיכם "a statue forever throughout your generations in all you settlements" in Lev 23:31 indicates a decentralized cult (*Appointed*, 96). However, the phrase comes after the work prohibition, which suggests that it is the work prohibition that must be observed in all the settlements during the Day of Purgation. In other words, the formulation of the law does not necessarily suggest that the ritual of purgation itself is celebrated outside of the central sanctuary.

striking similarities between Lev 23:26–32 and the other two texts suggest the presence of direct

literary dependence. Second, Lev 23:26–32 seems to conflate materials from the other two texts,

thereby indicating its literary priority over them.

However, Nihan posits the opposite reconstruction and asserts that Lev 16:29–34 is H's

work to supplement the older legislation in Lev 23:26–32. He argues,

> The interpolation of 16:29–34a was an opportunity for the HS to supplement slightly the
> instruction given in 23:26–32. In particular, it specifies that the prohibition of work
> applies to the גר and the אזרח equally (v. 29) and that the rite has to be performed by the
> high priest (v. 32–33); this latter indication is missing from Lev 23 but clearly refers to
> the ceremony prescribed by P in 16:2–28, a further indication that in Lev 23, this
> ceremony was not yet identified with the rite to be practiced on the Day of Purifications.[93]

Nihan is correct that Lev 16:29–34 is likely to be the work of H, as indicated by various

characteristics exhibited in the passage, such as the inclusion of resident aliens in the work

prohibition (v. 29) and the use of the חקת עולם "eternal statue" formula (vv. 29, 31, 34).[94]

However, his assertion that Lev 23:26–32's lack of reference to the role of the high priest in the

rite indicates its literary priority over Lev 16:29–34 is less convincing. If it is acknowledged that

the primary purpose of Lev 23 is to provide a fixed calendar for each annual festival in the

Israelite cult, the omission of ritual procedures in Lev 23 is to be expected and cannot be used as

evidence for its lack of awareness. Furthermore, Lev 23 concerns the celebration of festivals by

the native Israelites as the people of God, while Lev 16:29–34 does not. As pointed out by

Rhyder,

> There is no sense in Lev 23–25 that the obligation to set the time in accordance with
> Yhwh's revelation to Moses extends beyond the native Israelites. This would seem to
> confirm the importance of a shared sense of time in constructing and maintaining group

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[93] Nihan, *From Priestly Torah*, 569.

[94] Cf. Milgrom, *Leviticus 1–16*, 1056.

identity and social cohesion for the imagined community of Israel: H is here describing a specifically Israelite sense of time, which will reinforce Israel's distinctive constitution as the chosen client of the deity Yhwh.[95]

Thus, the lack of reference to the resident alien in Lev 23:26–32 does not in itself suggest its lack of awareness that the work prohibition also applies to the resident alien, as prescribed in Lev 16:29.

Furthermore, in comparing the legislation on the Day of Purgation in Lev 23:26–32 with the one in Num 29:7–11, it becomes apparent that the former develops its legislation from the latter. The author of Lev 23:26–32 interrupts the clause בעשׂור לחדשׁ השׁביעי הזה מקרא־קדשׁ יהיה לכם "on the tenth day of this seventh month you shall have a holy convocation" in Num 29:7 by adding the clause יום הכפרים הוא "it is the Day of Purgation" in between the clause, resulting in two new clauses that read בעשׂור לחדשׁ השׁביעי הזה יום הכפרים הוא מקרא־קדשׁ יהיה לכם "on the tenth day of this seventh month is the Day of Purgation; you shall have a holy convocation" (Lev 23:27). Furthermore, while Num 29:7–11 has the list of offerings absent in Lev 23:26–32, the latter has more substantial material not found in the former, for example, the explanation of what the Day of Purgation is (v. 28b), the punishment for not following the legislation (vv. 29–30), the repetition of the work prohibition and the requirement to afflict oneself (vv. 31–32a), and the starting and ending times of the celebration (v. 32b).[96]

Nihan argues that the instruction for the Day of Purgation in Num 29:7–11 presupposes the timing of the ceremony in Lev 16:29–34a, which he believes to be a later insertion by H. He argues, "The fact that Num 29,11b refers to the ceremony of Lev 16 as occurring on the 10th day

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[95] Rhyder, *Centralizing*, 267.

[96] Nihan assigns Lev 23:32 to a later hand (*From Priestly Torah*, 500–501, n. 409). However, as discussed above, this reconstruction is unwarranted.

of the 7th month implies that it presupposes the connection established in Lev 16,29–34a

between the instruction of 16,1–28 and the יום הכפרים in Lev 23,26–32, so that Num 28–29

cannot be possibly earlier than Lev 23."[97] Nihan is correct that, although the festival's name is

not mentioned in Num 29:7–11, the festal regulation in this passage concerns the Day of

Purgation.[98] However, it does not follow that Num 29:7–11 must be later than Lev 23:26–32 and

Lev 16:1–34. It is possible that H's dating of the Day of Purgation in Lev 16:29 and Lev 23:27 is

based on Num 29:7, which may be the first to transform the ritual of purgation into an annual

festival on the tenth day of the seventh month. The ritual of purgation, however, was not

prominent in Num 29:7–11 as evidenced by the passing mention of the חטאת הכפרים "the sin

offering of purgation" (v. 11). This annual ritual of purgation gains more prominence in Lev

16:29–34, and finally, Lev 23:26–32 provides the definitive name for the celebration, that is, יום

הכפרים "the Day of Purgation" (v. 27), which is lacking in both Num 29:7–11 and Lev 16:29–

34.[99]

Concerning the omission of the name "the Day of Purgation" in Num 29:7–11, Nihan

argues that it was because the text presupposes Lev 23:26–32 and omits the name of the festival

because it is "no longer interested in assigning a specific name and a fixed date to the various

festivals, but rather in specifying the nature and the number of offerings to be presented to the

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[97] Nihan, "Israel's Festival Calendars," 209.

[98] Nihan, "Israel's Festival Calendars," 209–10. *Pace* Knohl, who argues "there is no hint of any connection between that day and the annual atonement ceremony" (*Sanctuary*, 32).

[99] The absence of the name of the festival in Lev 16 has perplexed many scholars. Grünwaldt, for example, believes that the reason for the lack of name in Lev 16:29–31 is unknown (*Heiligkeitsgesetz*, 292, n. 856). Weyde argues that the absence of the name of the festival in Lev 16:29–31 suggests that "this passage belongs to P, and P does not apply a name to the festival in question" (*Appointed*, 94, n. 2). Weyde's proposal is certainly possible, although Lev 16:29–34 may also be the work of H prior to the composition of Lev 23:26–32 but after the composition of Num 29:7–11 as proposed here.

deity at each occasion."[100] The explanatory power of this proposal is lacking for several reasons.

First, it is odd that Num 28–29 would preserve the names of some festivals but not others if the

author knew the names of all the festivals in Lev 23. Second, while Num 29:7–11 is interested in

specifying the nature of the offering for the Day of Purgation, it also includes the festival's date,

the requirement to afflict oneself, and the work prohibition. It is difficult to explain why the

author includes these aspects of the Day of Purgation and only omits its name. The most likely

explanation is that the name did not exist when Num 29:7–11 was composed, and the author of

Lev 23:26–32 assigned a name to this festival. Weyde posits that the name "the Day of

Purgation" was used in Lev 23:26–32 "for the sake of precision."[101]

8.   The Festival of Booths (Lev 23:33–36)

The legislation concerning the Festival of Booths in Lev 23:33–36 may be compared with

several texts in the Pentateuch: Exod 23:16b; 34:22b; Deut 16:13–15; and Num 29:12–38. It

should be first pointed out that several names are used for this festival. In the first two texts, the

name of the celebration is חג האסיף "the Feast of Ingathering," whereas it is only called a חג

"feast" in Num 29:12–38. This festival is only called חג הסכת "the Festival of Booths" in Deut

16:13–17 and Lev 23:33–36.

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[100] Nihan, "Israel's Festival Calendars," 211.

[101] Weyde, *Appointed*, 94.

8.1. Lev 23:33–36 and Exod 23:16b; 34:22b

While the festival in Exod 23:16b; 34:22b might have been the precursor of the Festival of

Booths,[102] there are virtually no shared literary features between these texts with Lev 23:33–36,

except for the word חג "feast." Therefore, a direct literary relationship between Lev 23:33–36

and Exod 23:16b; 34:22b is non-existent.

8.2. Lev 23:33–36 and Deut 16:13–15

With Deut 16:13–15, Lev 23:33–36 shares several lexical items beyond function words: the

name יהוה "Yahweh," היה "to be," חג "feast," יום "day," כל "all/every," סכת "booths," עשׂה "to

do/make," and שבע "seven." The words יהוה, היה, כל, and עשׂה are not only too common to be used

as evidence for literary dependence, but they are used in different and unrelated contexts. Four

words are left to be considered, namely, חג, יום, סכת, and שׁבע. These words are used in both texts

to indicate the name of the festival, חג הסכות (Lev 23:34) or חג הסכת (Deut 16:13) and to stipulate

the duration of the festival, שבעת ימים "seven days" (Lev 23:34; Deut 16:13, 15). The name and

duration of the festival are the only shared literary features that may indicate a literary

dependence, but this information was probably available to the authors of these texts not from

another text but the shared tradition. Furthermore, despite the same length of duration for the

festival in both texts, the ways it is formulated in the texts do not indicate an intentional literary

borrowing:

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[102] Cf. Nahum M. Sarna, *Exodus*, The JPS Torah Commentary (Philadelphia: Jewish Publication Society, 1991), 146; Dozeman, *Exodus*, 551; T. Desmond Alexander, *Exodus*, ApOTC 2, ed. David W. Baker and Gordon J. Wenham (Downers Grove, IL: InterVarsity Press, 2017), 523–24. Nevertheless, the connection between the Festival of Ingathering and the Festival of Booths remains questionable. See e.g., Brevard S. Childs, *The Book of Exodus*, OTL (Philadelphia: Westminster, 1974), 484–85.

- חג הסכות שבעת ימים ליהוה Lev 23:34
- חג הסכת תעשׂה לך שבעת ימים Deut 16:13
- שבעת ימים תחג ליהוה אלהיך Deut 16:15

Therefore, these similarities are likely to be incidental and insufficient to suggest a direct literary dependence.

In addition to the lack of shared literary features between Lev 23:33–36 and Deut 16:13–15, the differences between them suggest that they are not composed in light of, or as a response to, the other text. Klaus Grünwaldt, for example, attempts to argue that Lev 23 borrows the term עצרת from Deut 16:18, although he does not elaborate on why the term is not used for the same festival.[103] In a similar vein, Corinna Körting and Weyde reach the same conclusion, but, unlike Grünwaldt, they attempt to explain the different use of the term in Lev 23:36 and Deut 16:18.[104] Having argued that the term is deuteronomic and not priestly, they believe that the term עצרת is employed to emphasize the festal character of the eighth day of the Festival of Booths by using Deut 16:8 as the point of departure. This argument, however, is unconvincing, since it fails to explain why the author of Lev 23:36 needed to use this word for this purpose when the priestly terminology מקרא־קדשׁ in the same verse already serves this purpose.

In contrast, Shimon Gesundheit argues that there is no literary connection between Lev 23 and Num 29 with Deut 16 with regards to the use of the term עצרת. He maintains that this term is of priestly origin, but the appearance of the word עצרת in Deut 16:8 in conjunction with the work prohibition does not necessarily suggest that the authors of D were familiar with the

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[103] Grünwaldt, *Heiligkeitsgesetz*, 294, 298.

[104] Körting, *Der Schall*, 44–46, 108–10; Weyde, *Appointed*, 118–19. Körting discusses the occurrence of the tern עצרת in Lev 23:36. However, she does not discuss why it is lacking in the legislation on the Passover in vv. 5–8 while the same term is used in its parallel legislation in Deut 16:1–8.

priestly festival laws in either Lev 23 or Num 29. Although this particular word only appears in Lev 23:36 and Num 29:36, Gesundheit points out the significant differences between the use of this word in D and these priestly passages.[105] First, the calendrical system reflected in Deut 16:8 is not the same as Lev 23 and Num 29. Second, the term עצרת is used in Lev 23 and Num 29 to refer to the day after the Festival of Booths, whereas Deut 16:8 uses it to refer to the seventh day in the week of the Festival of Unleavened Bread. Third, the work prohibition in Deut 16:8 includes all kinds of work, whereas not all works during holidays are prohibited in Lev 23 and Num 29 (excluding the Sabbath and the Day of Purgation). Thus, he concludes, "It seems reasonable to suppose that the author of v. 8 did not know the specific Priestly passages in the current holiday calendars, but rather the Priestly terminology prior to its literary and calendrical fixing in the holiday calendars in Leviticus and Numbers."[106]

8.3. Lev 23:33–36 and Num 29:12–38

The comparison between the legislation on the Festival of Booths in Lev 23:33–36 and Num 29:12–38 indicates that the former contains various additional elements that are absent or unclear in the latter. First, Lev 23:34 specifies the name of the festival, namely, חג הסכות "the Festival of Booths," whereas in its parallel legislation in Num 29:12, it reads וחגתם חג ליהוה "and you shall keep a feast to Yahweh" without mentioning the name of the feast. Furthermore, Lev 23:35 specifies more clearly than Num 29:12 that the people only have to keep the first day of the seven days as a holy day by adding the phrase ביום הראשון "the first day." Similarly, while Num 29:35 only designates the eighth day as a עצרת "solemn assembly," Lev 23:36 clarifies that the

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[105] Gesundheit, *Three Times*, 137–38.

[106] Gesundheit, *Three Times*, 138.

eighth day is not only a עצרת but also a מקרא־קדש "holy convocation." The only unique element

of Num 29:12–38 is the list of sacrifices that need to be offered during the Festival of Booths.

Nihan believes that the lack of the name "*Sukkot*" in Num 29:12–38 is better understood

as evidence that it presupposes Lev 23. According to him, According to him, the omission of the

name "*Sukkot*" suggests the later development of the feast where it became *the* festival in ancient

Israel. He also points out the number of sacrifices and the potent symbolism of the number

"seven" in this passage underlines the importance of the Festival of Booths compared to other

festivals, especially in later biblical and extra-biblical texts. Nihan concludes, "That the

instruction for Sukkôt in Num 29,12–38 mirrors this evolution can be accounted for if Num 28–

29 postdates Lev 23, but not if the opposite relationship between the two texts is postulated."[107]

This conclusion is hardly necessary if Lev 23 presupposes Num 28–29, which means that the

former also presupposes the festival's importance in the latter. In this case, while the omission of

the detailed list of sacrifices is expected in Lev 23, the symbolism of the number "seven" is

retained. Furthermore, Nihan's argument becomes less persuasive when one takes into account

the fact that the Festival of Booths is not the only festival without a name in Num 28–29; the

Festival of Unleavened Bread and the Day of Purgation are also without a name (28:17; 29:7).

9. Conclusion

Scholars often argue for the literary relationship between Lev 23 and other festival laws in the

Pentateuch. For example, concerning the Passover and the Festival of Unleavened Bread, Weyde

concludes, "We found indications that Lev 23:5–8 presupposes the calendars in both Deut 16:1–

8 and Num 28:16–25. In some cases the Leviticus passage summarizes the legislation of its

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[107] Nihan, "Israel's Festival Calendars," 211.

source(s), in other cases it modifies and develops previously known prescriptions for the sake of precision, thereby adding new laws."[108] It is, however, odd that the author of Lev 23 would borrow many literary features from the Numbers legislation but almost none from the Deuteronomic legislation or any other legislations outside of the priestly literature. As demonstrated above, the shared literary features between Lev 23:5–8 and Deut 16:1–8 are few and likely incidental. In other words, it is unlikely that Lev 23:5–8 is intentionally built upon Deut 16:1–8. The same is true for the other festal legislations in Lev 23, which share minimal literary features with CC and D that may be used as evidence for establishing a direct literary dependence. By contrast, H unreservedly borrowed materials from other priestly texts, most notably, Exod 12:1–20, Num 28–29, and Lev 16:29–34 as the basis for its festal legislation in Lev 23.

The lack of evidence for a literary dependence between Lev 23 and other non-priestly texts has been recognized by many scholars, although it does not prevent them from positing a literary dependence between them. Rhyder, for example, admits that in the case of the Festival of Unleavened Bread and the Festival of Booths, "there is less evidence of H's direct dependence on the non-priestly festal calendars, although there are still hints that H is influenced by Deut 16:1–17."[109] Nevertheless, she argues that the juxtaposition of Passover with the Festival of Unleavened Bread is a possible indication that H inherited it from D, although she also notes that this is not necessarily strong evidence since the same idea is also present in Ezekiel. Furthermore, concerning the use of the designation חג הסכות in both Lev 23:33–36 and Deut 16:13–15, Rhyder hypothesizes, "The expression חג הסכות again hints at H's knowledge of D's

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[108] Weyde, *Appointed*, 67–68.

[109] Rhyder, *Centralizing*, 278.

festal list because Deut 16:13–15 are the only verses in the Pentateuch that describe the final festival of the year using this expression. However, again we cannot rule out the possibility that this was a widely used term for this festival by the time Lev 23 was composed."[110] In other words, she recognizes that literary dependence is not the only way to explain the use of the name חג הסכות in both Lev 23 and Deut 16.[111] Nevertheless, despite the evidential weaknesses, Rhyder still believes that H is literarily dependent upon Deut 16:1–17.

The present study has demonstrated that Lev 23 is literarily dependent upon other priestly materials but not upon non-priestly materials. From priestly texts, most notably Num 28–29 and Lev 16, the authors of Lev 23 borrowed extensive materials and followed the word choice and word order from the source texts while supplementing them with newer materials. The literary parallels with other similar legislations outside of the priestly literature are minimal if any. Most, if not all, of the similarities between Lev 23 and these texts are either incidental or do not extend beyond thematic similarities. This conclusion, however, does not deny the possibility that the author of Lev 23 might have been familiar with the other similar legislations in the Pentateuch. However, these authors of Lev 23 did not seem to be interested in mimicking the literary features of the non-priestly texts or responding to their contents as they did the priestly texts.

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[110] Rhyder, *Centralizing*, 279.

[111] Rhyder, *Centralizing*, 278–79.

Chapter 5

The Laws of the Sabbatical and Jubilee Years

1. Introduction

Besides the animal slaughter laws in Lev 17 and the festival laws in Lev 23, the laws of the

Sabbatical and the Jubilee Years in Lev 25 have also been used to argue for a literary

relationship between H and other pentateuchal legal corpora. In particular, Lev 25 displays

similarities with the laws in CC and D, namely, in Exod 21:2–11; 23:10–11; and Deut 15:1–18.[1]

While scholars generally agree that Lev 25 is dependent upon Exod 21:2–11 and 23:10–11, the

relationship between Lev 25 and Deut 15 is a subject of much debate.[2] Some scholars support the

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[1] Outside the Pentateuch, Jer 34:14 also deals with the issue of slave manumission. Various proposals have been suggested concerning the literary relationship between this text with Lev 25 and Deut 15. Mark Leuchter, for example, contends that H borrows from Jeremiah 34:8–22 to compose Lev 23:8–55 ("The Manumission Laws in Leviticus and Deuteronomy: The Jeremiah Connection," *JBL* 127 [2008]: 635–53). Other scholars argue that Jer 34:8–22 is dependent upon D and H. Moshe Weinfeld, "Sabbatical Year and Jubilee in the Pentateuchal Laws and Their Ancient Near Eastern Background," in *The Law in the Bible and in Its Environment*, ed. Timo Veijola (Göttingen: Vandenhoeck & Ruprecht, 1990), 41; John S. Bergsma, "The Biblical Manumission Laws: Has the Literary Dependence of H on D Been Demonstrated?," in *A Teacher for All Generations: Essays in Honor of James C. VanderKam*, JSJSup 153 (Leiden: Brill, 2012), 89; Kenneth Bergland, *Reading as a Disclosure of the Thoughts of the Heart: Proto-Halakhic Reuse and Appropriation Between Torah and the Prophets*, BZABR 23 (Wiesbaden: Harrassowitz, 2019), 177–204.

[2] See, e.g., Bernard M. Levinson, "The Birth of the Lemma: The Restrictive Reinterpretation of the Covenant Code's Manumission Law by the Holiness Code (Leviticus 25:44–46)," *JBL* 124 (2005): 617–39; For the literary dependence of Deut 15 upon CC, see Norbert Lohfink, "Fortschreibung? Zur Technik vom Rechtsrevisionen im deuteronomischen Bereich, erörtert an Deuteronomium 12, Ex 21,2–11 und Dtn 15,12–18," in *Das Deuteronomium und seine Querbeziehungen*, ed. Timo Veijola, Schriften der Finnischen Exegetischen Gesellschaft 62 (Göttingen: Vandenhoeck & Ruprecht, 1996). A dissenting opinion is argued by John Van Seters, *A Law Book for the Diaspora: Revision in the Study of the Covenant Code* (Oxford; New York: Oxford University Press, 2003), 82–95. According to him, Deut 15 is the oldest law and Exod 21 is the youngest law. For criticisms of Van Seters's position, see e.g., Bernard M. Levinson, "The Manumission of Hermeneutics: The Slave Laws of the Pentateuch as a Challenge to Contemporary Pentateuchal Theory," in *Congress Volume Leiden 2004*, ed. André Lemaire, VTSup 109 (Leiden: Brill, 2006), 281–324; Bernard S. Jackson, "Revolution in Biblical Law: Some Reflections on the Role of Theory in Methodology," *JSS* 50 (2005): 83–115; John S. Bergsma, *The Jubilee from Leviticus to Qumran: A*

theory that Lev 25 postdates and uses the material from Deut 15,[3] whereas others argue for the

opposite conclusion, i.e., the literary priority and dependence of Deut 15 upon Lev 25.[4]

Nevertheless, a few scholars challenge the idea of a literary connection between Lev 25 and Deut

15 and contend that no literary relationship exists between these texts.[5] This chapter analyzes the

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History of Interpretation (Leiden: Brill, 2007), 38–39. For his responses to his critics, see John Van Seters, "Law of the Hebrew Slave: A Continuing Debate," *ZAW* 119 (2007): 169–83; John Van Seters, "Revision in the Study of the Covenant Code and a Response to My Critics," *SJOT* 21 (2007): 5–28.

[3] See e.g., Niels Peter Lemche, "Manumission of Slaves—The Fallow Year—The Sabbatical Year—The Jubilee Year," *VT* 26 (1976): 38–59; Stephen A. Kaufman, "A Reconstruction of the 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*, ed. W. Boyd Barrick and John R. Spencer, JSOTSup 31 (Sheffield: JSOT Press, 1984), 277–86; Robert Karl Gnuse, "Jubilee Legislation in Leviticus: Israel's Vision of Social Reform," *BTB* 15 (1985): 43–48; Stephen A. Kaufman, "Deuteronomy 15 and Recent Research on the Dating of P," in *Das Deuteronomium: Entstehung, Gestalt und Botschaft*, 1985, 273–76; Yairah Amit, "The Jubilee Law—An Attempt at Instituting Social Justice," in *Justice and Righteousness: Biblical Themes and Their Influence*, ed. Henning Graf Reventlow and Yair Hoffman, JSOTSup 137 (Sheffield: Sheffield Academic Press, 1992), 47–59; Klaus Grünwaldt, *Das Heiligkeitsgesetz Leviticus 17-26: Ursprüngliche Gestalt, Tradition und Theologie*, BZAW 271 (Berlin; New York: de Gruyter, 1999), 328–30; Eckart Otto, "Innerbiblische Exegese im Heiligkeitsgesetz Levitikus 17–26," in *Levitikus als Buch* (Berlin: Philo, 1999), 161–72; Eckart Otto, "Programme der sozialen Gerechtigkeit," *ZABR* 3 (1997): 26–63; Van Seters, *Law Book*, 84; Christophe Nihan, "The Holiness Code between D and P: Some Comments on the Function and Significance of Leviticus 17–26 in the Composition of the Torah," in *Das Deuteronomium zwischen Pentateuch und deuteronomistischem Geschichtswerk*, ed. Reinhard Achenbach and Eckart Otto (Göttingen: Vandenhoeck & Ruprecht, 2004), 84–88; Levinson, "The Birth of the Lemma"; Levinson, "Manumission"; Jeffrey Stackert, *Rewriting the Torah: Literary Revision in Deuteronomy and the Holiness Legislation*, FAT 52 (Tübingen: Mohr Siebeck, 2007), 113–64.

[4] See e.g., Sara Japhet, "The Relationship between the Legal Corpora in the Pentateuch in Light of Manumission Laws," *ScrHier* 31 (1986): 63–89; Israel Knohl, *The Sanctuary of Silence: The Priestly Torah and the Holiness School* (Minneapolis: Fortress, 1995), 202, n. 10; Jacob Milgrom, *Leviticus 23–27: A New Translation with Introduction and Commentary*, AB 3B (New Haven: Yale University Press, 2001), 2251–57; Benjamin Kilchör, *Mosetora und Jahwetora: Das Verhältnis von Deuteronomium 12–26 zu Exodus, Levitikus und Numeri*, BZABR 21 (Wiesbaden: Harrassowitz, 2015), 132–36, 151–53.

[5] S. R. Driver, *A Critical and Exegetical Commentary on Deuteronomy*, 3rd ed., ICC (Edinburgh: T&T Clark, 1902), 185; Isaac Mendelsohn, *Slavery in the Ancient Near East a Comparative Study of Slavery in Babylonia, Assyria, Syria, and Palestine from the Middle of the 3rd Millenium to the End of the 1st Millenium* (New York: Oxford University Press, 1949), 18–19, 89; Robert G. North, *Sociology of the Biblical Jubilee*, AnBib 4 (Rome: Pontifical Biblical Institute, 1954), 32; Adrian Schenker, "The Biblical Legislation on the Release of Slaves: The Road from Exodus to Leviticus," *JSOT* 23 (1998): 23–41; Bergsma, *Jubilee*, 136–46; Bergsma, "Biblical Manumission Laws."

relationship between Lev 25 and its parallel laws in CC and D by comparing the literary features of these texts to determine the nature and extent of the similarities. In the case of a direct literary dependence, the direction of, and rationale for, the literary borrowing will also be analyzed.

2. The Structure of Leviticus 25

The structure of Lev 25 has found general agreement amongst scholars. The chapter begins with an introduction (vv. 1–2a) followed by two major sections. The first major section (vv. 2b–22) concerns celebrations that are beyond the cycle of one year, namely, the Sabbatical Year (vv. 2b–7) and the Jubilee Year (vv. 8–22).[6] The second major section deals with the redemption of property (vv. 23–38) and the redemption of slaves (vv. 39–55). This second section begins with the reasoning for the redemption of property; namely, the land cannot be sold in perpetuity since it belongs exclusively to Yahweh (vv. 23–24). The rationale for the redemption of impoverished Israelites from debt servitude is also declared at the end of the section; namely, the people of Israel are Yahweh's slaves (v. 55). Thus, these two rationales serve as an inclusio in the second major section.

The redemption of property and human beings in this second major section is discussed in three specific cases that result from poverty. Each of these cases begins with the same formula כי־ימוך אחיך "if your brother becomes impoverished" (vv. 25, 35, 39) before introducing the

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[6] While the concern for the prohibition against sowing in the seventh year in vv. 20–22 is connected to the law of Sabbatical Year in vv. 2b–7, this unit is a part of the Jubilee law since it addresses the concern that arises from the law of the Jubilee Year. Baruch J. Schwartz explains that in the typical Sabbatical Year, "Crops sown in the fall of the sixth year and reaped in the spring will suffice for (1) the remainder of that year and (2) the entire seventh year. In the fall of the eighth year new crops may be sown, so the grain from the sixth year will suffice until the spring of the eighth, two years altogether. And if the eighth year is a jubilee, the produce of the sixth year will last until (3) the spring of the ninth year, when the crops sown in the fall following the jubilee come in, a total of three years" ("ויקרא Leviticus," in *The Jewish Study Bible*, ed. Adele Berlin, Marc Zvi Brettler, and Michael A. Fishbane [New York: Oxford University Press, 2004], 271).

specific cases. Scholars have also observed that these three cases represent three stages of destitution, starting from the sale of parts of the land to the enslavement of the entire family.[7] In the first stage, an Israelite loses part of his estate due to economic hardship (vv. 25–34). In the next stage, the impoverished Israelite can no longer support himself due to the complete loss of property (vv. 35–38). In the last stage, poverty causes the impoverished Israelite to sell himself and his family as slaves, thereby losing their freedom (vv. 39–54). In the sub-section concerning the loss of freedom in debt servitude, Lev 25 further specifies the case into three sub-cases: the sale of an Israelite to a fellow Israelite (vv. 39–43), the instructions concerning foreign slaves (vv. 44–46), and the sale of an Israelite to a foreigner (vv. 47–54). This sub-section concludes with the statement that the people of Israel are the slaves of Yahweh (v. 55).

Figure 2.1. The Structure of Leviticus 25
Introductory Formula (vv. 1–2a)
The Sabbatical and Jubilee Year (vv. 2b–22)
    The Sabbatical Year (vv. 2b–7)
    The Jubilee Year (vv. 8–22)
The Judicial Implications of the Jubilee Year (vv. 23–55)
    The Partial Loss of Property (23–34)
    The Complete Loss of Property (vv. 35–38)
    The Loss of Freedom (vv. 39–55)

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[7] See e.g., Gregory C. Chirichigno, *Debt-Slavery in Israel and the Ancient Near East*, JSOTSup 141 (Sheffield: Sheffield Academic Press, 1993), 323–41; Milgrom, *Leviticus 23–27*, 2147–48; Christophe Nihan, *From Priestly Torah to Pentateuch: A Study in the Composition of the Book of Leviticus*, FAT 25 (Tübingen: Mohr Siebeck, 2007), 521; Thomas Hieke, *Levitikus 16–27*, HThKAT (Freiburg: Herder, 2014), 985, 1010–11. Cf. the four stages of destitution proposed by Japhet, "Relationship," 75; Schenker, "Biblical Legislation," 37.

The literary relationship between Lev 25 and Deut 15 has been argued based on the comparison of their literary structures. Alfred Cholewiński shows the similarities between the structures of Lev 25 and Deut 15 to argue for the literary dependence of Lev 25 upon Deut 15 (see Table 2.2).[8] The structural comparison between Lev 25 and Deut 15 proposed by Cholewiński is criticized by Benjamin Kilchör.[9] He points out, "Bezüglich Dtn 15 ist an diesem Strukturvorschlag nichts auszusetzen. Die Strukturierung von Lev 25 ist aber künstlich und entspringt wohl eher dem Versuch, die Gliederung von Lev 25 in das Schema von Dtn 15 hineinzupassen als dem Text selbst."[10] For example, he observes that in Cholewiński's structure of Lev 25, several verses are missing, i.e., vv. 20–22 and 32–34.

Table 2.2. Cholewiński's Structural comparison of Lev 25 and Deut 15[11]

Deuteronomy 15	Leviticus 25

I. Šemittajahr und die damit verbundenen sozialen Pflichten
  1. Charakter des Šemittajahres und die entsprechende Einzelbestimmung: V.1–3
  2. Heilszusage, vom Beachten der Gesetze abhängig gemacht: V.4–6
	I. Das Sabbatjahr und die sozialen Pflichten des Jubeljahres: V.1–38
	  1. Charakter des Sabbat- und Jubeljahres und einige Ausführungsbestimmungen: V.1–17
	  2. Ermahnung zur Beobachtung der Gebote und die Heilszusage: V.18–19

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[8] Alfred Cholewiński, *Heiligkeitsgesetz und Deuteronomium: Eine vergleichende Studie*, AnBib 66 (Rome: Biblical Institute Press, 1976), 241–43. This structural comparison has been cited with approval by other scholars, such as Otto, "Innerbiblische," 168, n. 175; Nihan, *From Priestly Torah*, 526.

[9] Kilchör, *Mosetora*, 154–56. Cf. Cholewiński, *Heiligkeitsgesetz*, 242.

[10] Kilchör, *Mosetora*, 154.

[11] Cholewiński, *Heiligkeitsgesetz*, 242.

3. Ergänzung zu V.1–3 und Aufforderung zur brüderlichen Hilfeleistung: V.7–11	3. a/ Fortführung der Einzelbestimmungen über das Jubeljahr (Verkauf der Erde) V.23–31 b/ Aufforderung zur brüderlichen Hilfeleistung: V.35–38
II. Freilassung der verschuldeten hebräischen Sklaven nach sechs Jahren Dienstarbeit mit Hinweis auf die ägyptische Sklaverei: V.12–28	II. Freilassung der verschuldeten israelitischen Sklaven im Jubeljahr mit Hinweis auf die ägyptische Sklaverei (V.39–55)

Kilchör offers an alternative structural comparison (see Table 2.3), in which Deut 15 conflates the material from CC (Exod 21:2–11; 23:10–11) and H (Lev 25).[12] Nevertheless, his structural comparison is no less problematic than that of Cholewiński. For example, the slave manumission law in Lev 25 no longer parallels the slave manumission law in Deut 15:12–18. Instead, it parallels the commandment to be generous to the impoverished brothers in Deut 15:7–11. The sections on the Sabbatical and Jubilee Years in Lev 25:2–22 are compared with Deut 15:1–6 in a broad stroke under the themes "Landgabe Jahwes, Aufforderung zum Halten der Gebote Jahwes, Segensverheissung."[13] Furthermore, even though the legislation on property redemption in Lev 25:23–38 has no parallel in Deut 15:7–11, Kilchör considers them as parallel sections. In sum, while Lev 25 and Deut 15 indeed share topical similarities, the structures of these texts are not similar enough to suggest an intentional mimicking of one text by the other.

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[12] Kilchör, *Mosetora*, 155–56.

[13] Kilchör, *Mosetora*, 155. Cf. the more text-based structures by Chirichigno, *Debt-Slavery*, 322; Bergsma, *Jubilee*, 84.

Table 2.3. Kilchör's Structural Comparison of Exod 21:2–11; 23:10–11; Lev 25, and Deut 15[14]

Exod 21:2–11; 23:10–11; Lev 25	Deut 15
I. Šemittajahr als Brachjahr: Exod 23,10–11	I. Šemitta als Schuldenerlass am Ende des Šemittajahres: V.1–3
II. Šemittajahr als Sabbatjahr des Landes; jedes siebte Sabbatjahr als Jubeljahr der Rückkehr des Landes zum ursprünglichen Besitzer: Lev 25,2–22. Eingerahmt durch: Landgabe Jahwes, Aufforderung zum Halten der Gebote Jahwes, Segensverheissung: Lev 25,2.18–22	II. Paränese zu V.1–3: Landgabe Jahwes, Aufforderung zum Halten der Gebote Jahwes, Segensverheissung: V.4–6
III. Bruderverarmungsgesetze: 1. Verlust von Land und Heim, 2. Verlust der Unabhängigkeit, 3. Verlust der Freiheit, 4. Verlust der Freiheit an einen Fremden: Lev 25,23–55	III. Schuldenerlass aus V.1–3 als Prävention gegen Verarmung: V.7–11
IV. Sklavenfreilassung im 7. Jahr: Exod 21,2–11	IV. Sklavenfreilassung im 7. Jahr: V.12–18

Although scholars generally agree upon the structure of Lev 25, its composition integrity has been disputed with some attempting to assign the chapter to multiple compositional strata.[15] However, recent scholarship has rejected these attempts.[16] For instance, the theory that treats the

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[14] Kilchör, *Mosetora*, 155.

[15] For the list of scholars disputing the compositional unity of Lev 25, see e.g., Cholewiński, *Heiligkeitsgesetz*, 115, n. 30; Milgrom, *Leviticus 23–27*, 2149.

[16] Nihan, *From Priestly Torah*, 522; Grünwaldt, *Heiligkeitsgesetz*, 97–112.

plural address in Lev 25 as later interpolations[17] has been rightly criticized since the alternation between singular and plural is not necessarily evidence of interpolation but may also be a stylistic or rhetorical device.[18] Jacob Milgrom decided not to attempt a compositional analysis, which he regards as "meaningless," and argues, "The chapter, as is, flows logically and coherently. Even if the redactor had different sources before him, he welded them together in such an artistic and cogent sequence that it suffices to determine what he had in mind."[19] Despite their agreement to consider Lev 25 as a generally unified composition, they still regard minor sections of the chapter as later interpolations. Christophe Nihan, for instance, claims, "Thus, outside a few obvious interpolations such as, most likely, the section on levitical towns in v. 32–34, Lev 25 should be viewed as a coherent composition."[20] Despite suspicions that there might be later interpolations in Lev 25, these minor sections do not have any parallels in other pentateuchal legal corpora and, therefore, may be ignored in the present analysis.[21]

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[17] See e.g., Karl Elliger, *Leviticus*, HAT 1:4 (Tübingen: J. C. B. Mohr [Paul Siebeck], 1966), 335–349; Cholewiński, *Heiligkeitsgesetz*, 101–18; Henry T. C. Sun, "An Investigation into the Compositional Integrity of the So-Called Holiness Code (Leviticus 17–26)" (Ph.D. Diss., The Claremont Graduate School, 1990), 548–51.

[18] See e.g., the criticisms of Grünwaldt, *Heiligkeitsgesetz*, 105–6; Nihan, *From Priestly Torah*, 522.

[19] Milgrom, *Leviticus 23–27*, 2157; Other scholars who also do not analyze the compositional history of Lev 25 include e.g., Gordon J. Wenham, *The Book of Leviticus*, NICOT (Grand Rapids: Eerdmans, 1979), 313–24; Baruch A. Levine, *Leviticus* (Philadelphia: Jewish Publication Society of America, 1989), 168–82; Bergsma, *Jubilee*, 84; Hieke, *Levitikus 16–27*, 983. Martin Noth believed that the text has undergone a process of growth, especially with the alternation of the singular and plural address, but he did not believe that the compositional stages could be distinguished (*Leviticus: A Commentary* [Philadelphia: Westminster Press, 1965], 184).

[20] Nihan, *From Priestly Torah*, 522.

[21] Some scholars, for instance, assign the instructions concerning the Levitical cities in vv. 32–34 to later strata because it presupposes the existence of such cities, which are only established in what is considered as a later legislation in Num 35:1–8 and Josh 21. Nevertheless, since no parallel laws concerning the redemption of Levitical cities exist in other pentateuchal legal corpora, this possible later insertion does not affect the analysis in this chapter. See e.g., Nihan, *From Priestly Torah*, 522; Hieke, *Levitikus 16–27*, 1016. Cf. Bruno Baentsch, *Exodus – Leviticus – Numeri*, HKAT 2 (Göttingen: Vandenhoeck & Ruprecht, 1903), 422–26; Rudolf Kilian, *Literarkritische und formgeschichtliche Untersuchung des Heiligkeitsgesetzes*, BBB 19 (Bonn: Hanstein, 1963), 128; Erhard S.

3. The Sabbatical and Jubilee Year (Lev 25:2b–22)

3.1. The Sabbatical Year (Lev 25:2b–7)

3.1.1. Lev 25:2b–7 and Exod 23:10–11

The comparison between Lev 25:2b–7 and Exod 21:10–11 shows numerous points of correspondences between the texts. They share various lexical parallels, some of which occur in the same word order (see Table 3.1.1). Furthermore, morphological elements are also shared between these texts. For instance, the switch from second person plural in vv. 2b to second person singular in vv. 3–5 before switching back to the second person plural in vv. 6–7 has been proposed by Milgrom as an indication of H's dependence upon CC.[22] Here, the authors of H might have preserved the original second person singular from CC, which becomes an incongruous element in H.

Table 3.1.1.1. Comparison between Lev 25:2b–7 and Exod 21:10–11

Lev 25:2b–7	Exod 21:10–11
כי תבאו אל־הָאָרֶץ אשר אני נתן לכם ושבתה הָאָרֶץ ^{2b} שבת ליהוה: שֵׁשׁ שָׁנִים תזרע שָׂדֶךָ וְשֵׁשׁ שָׁנִים תזמר כרמך וְאָסַפְתָ ³ אֶת־תבואתה: וּבַשָּׁנָה הַשְּׁבִיעֵת שבת שבתון יהיה לָאָרֶץ שבת ליהוה ⁴ שָׂדֶךָ לא תִזְרַע וְכַרְמְךָ לא תזמר: את ספיח קצירך לא תקצור ואת־ענבי נזירך לא תבצר ⁵ שנת שבתון יהיה לָאָרֶץ:	וְשֵׁשׁ שָׁנִים תזרע אֶת־אַרְצֶךָ וְאָסַפְתָ אֶת־תבואתה: ¹⁰ וְהַשְּׁבִיעֵת תשמטנה ונטשתה וְאָכְלוּ אביני עמך ויתרם ¹¹ תאכל חַיַּת הַשָּׂדֶה כן־תעשה לְכַרְמְךָ לזיתך:

Gerstenberger, *Leviticus: A Commentary*, trans. Douglas W. Stott, OTL (Louisville: Westminster John Knox, 1996), 385–86.

[22] Milgrom, *Leviticus 23–27*, 2155.

והיתה שבת הארץ לכם לאכלה לך ולעבדך ולאמתך ⁶	
ולשכירך ולתושבך הגרים עמך:	
ולבהמתך ול<u>חיה</u> אשר ב<u>ארצ</u>ך תהיה כל־<u>תבואתה</u> ⁷	
ל<u>אכל</u>: ס	

While Lev 25 shares various literary features from Exod 21:10–11, some elements are not shared.[23] Stackert demonstrates that the elements in Lev 25:2b–7 that differ from Exod 23:10–11 suggest the literary dependence of the former upon the latter.[24] First, Lev 25:3 employs the nouns שדה "field" and כרם "vineyard" to replace the word ארץ "land" in Exod 21:10 because the latter is not a typical direct object of the verb זרע "to sow." Furthermore, Stackert notices that the pairing of the words כרם and זית in Exod 23:11b is less common than the more typical word pair שדה and כרם used in Lev 25:3, 4. He then concludes, "It is thus possible that instead of (or in addition to) reorganizing Exod 23:10-11, and thereby particularizing the latter's use of ארץ, the H author is here attempting to improve upon CC's literary style."[25]

In support of the literary dependence of H upon CC, Nihan argues that Lev 25 introduces several developments to the earlier legislation in Exod 23:10–11.[26] First, whereas the fallow year was not practiced simultaneously in Exod 23:10–11, Lev 25 transforms it into a fixed date in

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[23] Moshe Weinfeld points out the different conceptions of the Sabbatical Year in Lev 25 compared to Exod 23:10–11 (*Deuteronomy and the Deuteronomic School* [Oxford: Clarendon, 1972], 223, n. 1). First, according to Exod 23:11, the owner of the land has no right to enjoy the produce in the Sabbatical Year because it is reserved only for the poor. By contrast, the product of the Sabbatical Year may be enjoyed by not only the poor but also the owner of the land. Second, the objects of the restriction in Exod 23:11 includes olive orchards, but it is omitted in Lev 25:3, 5. According to Weinfeld, these differences represent a development from CC to H. Nevertheless, the literary dependence may be argued in both directions based on these differences.

[24] Stackert, *Rewriting*, 116.

[25] Stackert, *Rewriting*, 116–17.

[26] Nihan, *From Priestly Torah*, 525–26.

Israel's calendar.[27] Second, Lev 25 highlights the religious function and significance of the seventh year by designating it as a שבת ליהוה "Sabbath to Yahweh" (v. 4) to prepare for H's claim that the land belongs to Yahweh (v. 23). Nihan further maintains that even though the religious motivation replaces the humanitarian one in CC, they are complementary in that H still preserves the concern for the poor. He correctly points out, "The permission granted to the poor in Ex 23:11 is maintained, but the concern of the law in Lev 25:2–7, by expanding the section addressed to the landowner and his house, is specifically to underline the fact that, during the Sabbatical Year, *his condition is identical to that of the landless as defined in the CC*."[28] Simply put, the reuse of Exod 23:10–11 in Lev 25:2–7 is supplementary rather than polemical.

Two more observations are notable. First, CC does not use the word שבת for the seventh year, but Lev 25 explicitly links the concept of the Sabbath to the celebration of the seventh year (vv. 2, 4–5). While the word שבת always refers to the period of a day in other contexts, H uses the word here to refer to an entire year.[29] Second, as argued by Stackert, the authors of H might

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[27] The idea that Lev 25 transforms the relative date for the Sabbatical Year in CC into a fixed date was argued long ago by Julius Wellhausen, *Prolegomena to the History of Israel*, trans. J. Sutherland Black and Allan Menzies (Edinburg: Adam & Charles Black, 1885), 118. See also Abram Menes, *Die vorexilischen Gesetze Israels im Zusammenhang seiner Kulturgeschichtlichen Entwicklung*, BZAW 50 (Giessen: Töpelmann, 1928), 79–83; Joshua Roy Porter, *Leviticus*, Cambridge Bible Commentary (Cambridge: Cambridge University Press, 1976), 197–98. The notion that the Sabbatical Year in Exod 23:10–11 was not practiced simultaneously has been argued by some scholars, e.g., Chirichigno, *Debt-Slavery*, 306–11; Frank Crüsemann, *Die Tora: Theologie und Sozialgeschichte des alttestamentlichen Gesetzes* (München: Chr. Kaiser, 2005), 174, n. 198; Jean-François Lefebvre, *Le jubilé biblique: Lv 25, exégèse et théologie*, OBO 194 (Fribourg, Suisse: Vandenhoeck & Ruprecht, 2003), 133–34. Other scholars admit that the application of the law is unclear in Exod 23:10–11 while suggesting that the simultaneous celebration of the Sabbatical Year is unlikely. See e.g., Samuel R. Driver, *The Book of Exodus: With Introduction and Notes*, CBSC (Cambridge: Cambridge University Press, 1911), 239; North, *Sociology*, 119–20; Gwynne Henton Davies, *Exodus: Introduction and Commentary*, TBC (London: SCM, 1973), 188; Brevard S. Childs, *The Book of Exodus*, OTL (Philadelphia: Westminster, 1974), 482.

[28] Nihan, *From Priestly Torah*, 526. Emphasis original.

[29] Stackert, *Rewriting*, 119–20.

have intended to clarify the ambiguities in Exod 23:11.[30] By banning the harvesting of the

aftergrowth and unpruned vine from the sixth year, Lev 25 clarifies that no sowing is allowed in

the seventh year. For Stackert, it also explains H's addition of שׂדך לא תזרע וכרמך לא תזמר "you

shall not sow your field, and you shall not prune your vineyard" (v. 4b) because Exod 23:10–11

does not explicitly ban planting in the seventh year. In sum, H's Sabbatical Year legislation is

built upon CC's seventh year law for the purpose of supplementing it.[31]

3.1.2. Lev 25:2b–7 and Deut 15:1–11

Although it is almost certain that Lev 25 is literarily dependent upon Exod 23:10–11 in its

composition of the legislation on the Sabbatical Year, the same cannot be said about the

relationship between Lev 25:2b–7 and Deut 15:1–11. Both texts deal with the seventh year in

ancient Israel's calendar, but they share almost no significant lexical parallels that may indicate a

literary dependence. The comparison between these texts shows that they only share five content

words, all of which are common lexemes and used in different contexts: ארץ "land," היה "to be,"

יהוה "Yahweh," נתן "to give," and שׁנה "year."[32] For example, the word ארץ is used in Lev 25:2b–

7 to discuss the rest for the land (vv. 2, 4–5) and the ability of the land to provide food on the

seventh year (vv. 6–7). The same word is used in Deut 15 in the context of God's blessing for the

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[30] Stackert, *Rewriting*, 121–22.

[31] *Pace* Stackert, who argues that H's legislation of the Sabbatical Year is irreconcilable with, and thefrefore replaces, CC's seventh year law (*Rewriting*, 129–41, 219 n. 20). See also Jeffrey Stackert, "The Holiness Legislation and Its Pentateuchal Sources: Revision, Supplementation, and Replacement," in *The Strata of the Priestly Writings: Contemporary Debate and Future Directions* [Zürich: Theologischer Verlag Zürich, 2009], 197, n. 30; Jeffrey Stackert, "The Sabbath of the Land in the Holiness Legislation: Combining Priestly and Non-Priestly Perspectives," *CBQ* 73 [2011]: 243–44.

[32] By contrast, Deut 15:1–11 and Exod 23:10–11 share at least one significant word, namely, the verb שׁמט "to release, to let rest," which is only used in Exod 23:11 and Deut 15:2, 3 in the Pentateuch.

people in the land who show generosity for poor people (v. 4) and the presence of the poor in the land (vv. 7, 11). Another example is the use of the verb נתן. Although both texts employ the verb in the context of Yahweh's giving of the land to the people of Israel (Lev 25:2; Deut 15:4, 7), Lev 25 does not have to borrow the phrase from Deut 15. The construction אל־הארץ אשר אני נתן לכם appears elsewhere in the priestly literature (Lev 14:34; 23:10) but not in D. By contrast, the relative clause אשר יהוה אלהיך נתן־לך is characteristic of D (Deut 4:21, 40; 5:16 7:16; 12:9; 13:13; 16:5, 18, 20; 17:2, 14; 18:9; 19:1, 2, 10, 14; 20:16; 21:1, 23; 24:4; 25:15, 19; 26:1, 2; 27:2, 3; 28:8). Even if there were a dependence, it is more likely a conceptual dependence than a literary one.

The same is true for the word שנה. The phrase ובשנה השביעת "and in the seventh year" appears in Lev 25:4 and Deut 15:12.[33] However, this phrase cannot be used to argue for the presence of a literary dependence. While the exact phrase is used in both texts, it is used in different contexts. In Lev 25, the phrase is used in the Sabbatical Year legislation but not the slave manumission law. By contrast, the exact phrase is used in the slave manumission law but not the Sabbatical Year legislation in Deut 15. It is more likely that the exact phrase is used because of the similar topic of the seventh-year cycle discussed in both texts rather than an intentional borrowing.[34] John S. Bergsma argues that this case "is better discussed as an example of possible conceptual dependence between the texts rather than literary dependence."[35] The conceptual dependence in this case, however, is not necessarily between Lev 25 and Deut 15.

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[33] The same phrase but without the conjunction *waw* "and" also appears in Lev 25:20 in the context of the rest of the land in the seventh year.

[34] Also, the similar phrase is used in other places in the OT (2 Kgs 11:4; 2 Chr 23:1; Ezek 20:1).

[35] Bergsma, "Biblical Manumission Laws," 76.

Instead, Lev 25 is dependent upon the seventh-year legislation in Exod 23:10–11, and Deut 15

upon the seventh-year concern in the slave manumission law of Exod 21:2–11.

The word שׁנה is also used in the phrase שׁנת שׁבתון "a year of solemn rest" in Lev 25:5.

Stackert avers that this phrase is H's appropriation of the technical term שׁנת השׁמטה "the year of

the release" in Deut 15:9. He writes,

> In light of Deut 15:9, however, where שׁנת השׁמטה defines the immediately preceding
> phrase שׁנת השׁבע ("the seventh year"), the Holiness author likely invents his equivalent
> phrase to conveniently correspond with his own reference to the seventh year in the
> preceding verse. The result, as noted already, creates a certain grammatical awkwardness.
> Such incongruity in this case points to the author's revision and incomplete integration of
> source material in his own legal composition.[36]

Nevertheless, the comparison between these phrases does not indicate that they result from a

literary dependence (see Table 3.1.2.1). Except for the word שׁנת "the year of," they do not

correspond in any other way. The contexts wherein the phrases occur are different, and the

constructions are also not the same. In Deut 15:9, the שׁנת השׁבע and שׁנת השׁמטה are appositional,

whereas the phrases שׁבת שׁבתון and שׁנת שׁבתון in Lev 25:4–5 are not. Moreover, if the H

legislators had intended to mark its literary borrowing of Deut 15:9, it would have been easier to

use the same phrase שׁנת השׁבע (instead of שׁבת שׁבתון) followed by the phrase with a more similar

construction שׁנת השׁבת (instead of שׁנת שׁבתון). Instead, the H legislators chose phrases that are

very different from the ones used in Deut 15:9. Even if H had borrowed and innovated this term

from D, the authors went to great lengths to hide their reuse of D's materials.

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[36] Stackert, *Rewriting*, 122.

Table 3.1.2.1. Comparison between Lev 25:4–5 and Deut 15:9

Lev 25:4–5	Deut 15:9
⁴ ובשנה השביעת שבת שבתון יהיה לארץ שבת ליהוה שדך לא תזרע וכרמך לא תזמר: ⁵ את ספיח קצירך לא תקצור ואת־ענבי נזירך לא תבצר <u>שנת</u> שבתון יהיה לארץ:	⁹ השמר לך פן־יהיה דבר עם־לבבך בליעל לאמר קרבה <u>שנת</u>־השבע <u>שנת</u> השמטה ורעה עינך באחיך האביון ולא תתן לו וקרא עליך אל־יהוה והיה בך חטא:

Due to the lack of shared literary features between Lev 25:2b–7 and Deut 15:1–11, it is difficult to conclude that the legislation on the Sabbatical Year in Lev 25 is a response to the seventh-year legislation in D, as has been argued by some scholars. Nihan, for example, contends that the authors of H innovated on Exod 23:10–11 as a polemical response against Deut 15:1–11, which abolishes CC's agricultural concerns in the seventh year.[37] Thus, for Nihan, H's legislation on the Sabbatical Year is supplementary to CC but polemical against D.[38] Interestingly, the lack of the debt release law in Lev 25 has also been argued to support its literary priority over Deut 15. For instance, Christopher J. H. Wright surmises that, given Lev 25's concern for the financial and commercial implications of the Sabbatical Year and the Jubilee Year, it is difficult to imagine that Lev 25 would omit the Deuteronomic tradition of debt forgiveness if it were already a well-known tradition when Lev 25 was composed.[39] For Wright, it is more likely that D builds

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[37] Nihan, *From Priestly Torah*, 524–25.

[38] The absence of agrarian concern in Deut 15 does not have to be understood as abolishing or ignoring the previous legislation in CC. As pointed by Christopher J. H. Wright, Deut 15 simply extends the scope of the seventh year from only the release of land to include the release of debt ("What Happened Every Seven Years in Israel? Old Testament Sabbatical Institutions for Land, Debts and Slaves Part I," *EQ* 56 [1984]: 134).

[39] Wright, "What Happened, Part I," 133–34. Wright's argument is built upon that of Weinfeld, who argues, "Lv. 25 is very much concerned with the commercial and financial implications of the sabbatical year and the Jubilee, and if the P author had presupposed remission of debts, he certainly would have included it in his law" (Weinfeld, *Deuteronomy and the Deuteronomic School*, 223, n. 3). For the same argument, see also Milgrom, *Leviticus 23–27*, 2254. Levine acknowledges this problem but asserts, somewhat unpersuasively, that the absence of

its legislation on CC's and H's laws of land release and applies that principle to human beings

since it is absent in the previous legislations of CC and H.[40] In other words, the absence of the

humanitarian concern in the laws of the Sabbatical Year in Lev 25 may be used to argue for a

literary dependence in both directions. However, Lev 25's concern for the land can simply be

explained by its dependence upon CC without positing that it was dependent upon, and

composed as a polemic against, D.

A major study that argues for the literary dependence of H upon D is conducted by

Stackert, who maintains that it is unlikely that D borrows from H since it would require D to

reject the concept of the Sabbath and the legislation on the Jubilee.[41] He further claims that the

Numeruswechsel in Lev 25:1–7 indicates H's use of sources, namely, CC and D.[42] Here, the

second person plural addresses in vv. 1–2 and 6–7 represent the contribution of H, and the

second person singular indicates literary borrowing from Exod 23:10–11. Stackert then contends,

"Lack of address or *second person singular address* marks dependence upon the seventh-year

laws in Deut 15."[43] As evidence for H's dependence upon D in the case where there is a lack of

address in the text, he points out the similarity between the phrase שמטה ליהוה in Deut 15:2b and

שבת ליהוה in Lev 25:2b. He believes that this phrase in Lev 25 is "an apparently

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the law of debt remission in Lev 25 is because it is "an attempt to deal with a radically new situation" [*Leviticus*, 273).

[40] However, positing that D builds upon both CC and H is unnecessary since D may only be supplementing CC as evidenced by the apparent use of CC's literary features (see Excursus in §5). Cf. Milgrom, who argues that D's law of debt remission is composed to supplement H's law for land release (*Leviticus 23–27*, 2256).

[41] Stackert, *Rewriting*, 126.

[42] Stackert, *Rewriting*, 126–27. Cf. Milgrom, *Leviticus 23–27*, 2155–56.

[43] Stackert, *Rewriting*, 127.

Deuteronomically-inspired phrase."[44] This assertion is difficult to confirm since the pairing of the

words שבת and ליהוה is not unprecedented (Exod 20:10; cf. Exod 16:23, 25; 35:2; Lev 23:3; Deut

5:14). In sum, Stackert is probably correct that it is unlikely D is dependent upon H, but there is

also insufficient evidence to confirm his conclusion that H borrows from D.

Stackert also posits that Lev 25:6–7, which contains second person singular address,

depends on Deut 15:17–18. Here, he suggests the possible conflation of Exod 23:11 and Deut

15:17–18 in Lev 25:6–7.[45] He observes that the list of H's Sabbatical Year beneficiaries in Lev

25 is partially shared with the groups of people mentioned in Deut 15:17–18, i.e., עבד "male

slave," אמה "female slave," and שכיר "hired worker" followed by the prepositional phrase מעמך

"from you." According to him, the various lists of persons in other H's texts are not likely

sources for Lev 25:6–7 because they do not contain the exact same list.[46] By the same logic, Deut

15:17–18 is also an unlikely source because it does not contain תושב, which appears in Lev 25:6.

Furthermore, other factors also do not support a literary dependence between them. For example,

while three groups are given as a list in Lev 25:6–7, only two of those groups are mentioned in

Deut 15:17–18 and, rather than appearing in a list, are worked into the text in two separate

instructions. Also, the contexts of the texts are too different: Lev 25:6–7 deals with the

beneficiaries of the Sabbatical Year legislation, whereas Deut 15:17–18 concerns slave

manumission. Stackert rejects the similar list in Lev 25:39–40, 44 as the source of vv. 6–7 and

assigns them to the same compositional layer. Nevertheless, the fact that H employs the same

word pair שכיר and תושב multiple times while the pair never occurs in D suggests that it is

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[44] Stackert, *Rewriting*, 127.

[45] Stackert, *Rewriting*, 123–25.

[46] Stackert, *Rewriting*, 124–25, n. 33.

exclusively H's style (Exod 12:45; Lev 22:10, 25:6, 40). In other words, it is unnecessary to posit a literary dependence of Lev 25 upon Deut 15 for the use of these words.

Contrary to Stackert's position, Milgrom avers that D is dependent upon H. In his interpretation, D's legislation (Deut 15:1–3) was composed to supplement H's law for land release (Lev 25:1–7).[47] This reading, however, is unnecessary since this legislation in D can be understood as a supplement to CC's land release law (Exod 23:10–11). Milgrom also maintains that D's law of debt remission was influenced by H since the return of the freed debtor to his land implies debt cancellation.[48] Nevertheless, there is no reason to understand H's permission for the freed debtor to return his land as presupposing D's doctrine of debt remission. Moreover, even if there is a conceptual connection between them, it may be argued that the remission of debt in D makes explicit what is implicit in H's permission for the debtor to return to his land.

While the evidence remains inconclusive to suggest a literary dependence of H upon D or vice versa in the case of the Sabbatical Year, the fact that these legislations highlight the importance of the seventh year in the calendrical system in ancient Israel suggests at least the sharing of the same cultural milieu or a conceptual dependence between Lev 25:2b–7 and Deut 15:1–11. However, since both texts share some literary features with Exod 23:10–11, including the concern for the seventh year, it is more likely that both H and D share the same source, namely, CC.

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[47] Milgrom, *Leviticus 23–27*, 2256.

[48] Milgrom, *Leviticus 23–27*, 2255.

3.2. The Jubilee Year (Lev 25:8–22)[49]

Although the Sabbatical Year in Lev 25:2b–7 is similar to the legislation in Exod 23:10–11 and

Deut 15:1–11 in terms of their concern for the seventh-year cycle in ancient Israel's calendar, the

Jubilee Year legislation in Lev 25:8–22 is unique to H. This legislation prescribes a release in the

fiftieth year, where people of Israel shall return to their property, and where sowing is prohibited

as in the Sabbatical Year. This section also includes the commandment to not wrong one another

and the promise of God's blessing upon the condition of obedience. It is notable that, unlike in

Deut 15, where debt release is a central theme, debt release is absent in Lev 25, both in the

Sabbatical Year and the Jubilee Year.[50] This omission of debt release from this section is

surprising since the Jubilee Year deals with socio-economic relief for impoverished Israelites.

Despite the absence of a debt remission law in Lev 25:8–22 and the absence of the

Jubilee Year legislation in Deut 15, many scholars believe that Lev 25 builds its legislation

concerning the Jubilee Year upon Deut 15. According to Lothar Perlitt, for example, the

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[49] It is commonly argued that the Jubilee Year was never practiced in ancient Israel. See e.g., Roland de Vaux, *Ancient Israel: Its Life and Institutions* (London: Darton, Longman & Todd, 1961), 175–77; Sharon H. Ringe, *Jesus, Liberation and the Biblical Jubilee: Images for Ethics and Christology* (Philadelphia: Fortress, 1985), 27–28; Wenham, *Leviticus*, 318; Robert G. North, "יוֹבֵל," *TDOT* 6:1–6. For the argument for the historicity of the Jubilee, see Lisbeth S. Fried and David N. Freedman, "Was the Jubilee Year Observed in Preexilic Judah?," in Jacob A. Milgrom, *Leviticus 23–27: A New Translation with Introduction and Commentary*, AB 3B (New Haven: Yale University Press, 2008), 2257–70. More recently, Jonathan Kaplan has argued that the Jubilee legislation is a plausible institution in ancient Israelite society although he refrains from asserting its historicity ("The Credibility of Liberty: The Plausibility of the Jubilee Legislation of Leviticus 25 in Ancient Israel and Judah," *CBQ* 81 [2019]: 183-203). Stephen C. Russel notes that the Jubilee legislation in H is analogous to the long-term agricultural lease in the Neo-Babylonian and Achaemenid period ("Biblical Jubilee Laws in Light of Neo-Babylonian and Achaemenid Period Contracts," *ZAW* 130 [2018]: 189-203). Nevertheless, the thesis is based exclusively on conceptual parallel of the practice of long-term lease of land. This proposal could work if one were able to establish that the practice of long-term lease of land only began in this period. Furthermore, the details of the legislation in Lev 25 and the texts compared in his study are too different to be used as evidence that Lev 25 was composed during this period.

[50] Contra Sharon H. Ringe, "Jubilee, Year Of," *NIDB* 3:418–19. Leviticus 25:36–37 only forbids the taking of interest or profit from an impoverished Israelite but does not prescribe the forgiveness of debt.

combination of the Sabbath, the *šemiṭṭāh*, and the slave manumission motifs in Lev 25 is more

advanced than Deut 15.[51] He further argues that H broadens the social responsibility of the

brother in the slave manumission law beyond D's conception and concludes that "dieser

Sonderfall in H setzt den Regelfall von Dt voraus!"[52] Since H's economic relief in the Jubilee

legislation is more detailed and expansive than Deut 15, the former could be a later composition.

Unfortunately, Perlitt does not provide a formal analysis of these texts to show a literary

dependence beyond the possible conceptual connection and conceptual development between

them.

In a similar vein, Nihan states that the Jubilee legislation in Lev 25 parallels Deut 15:1–6.

He observes, "Both texts open with the mention of the year of release (Deut 15:1; Lev 25:8–12)

followed by the description of its socio-economic implications (Deut 15:2–3; Lev 25:13–17),

itself concluded by an exhortation in which the prosperity of the land is made conditional upon

obedience to (שמר) and enactment of (עשה) Yahweh's laws (Deut 15:4–6; Lev 25:18–19): a

distinctively *Deuteronomistic* terminology."[53] The use of these similarities to suggest a literary

connection between Lev 25:2b–7 and Deut 15:1–6 is inconclusive. For one, the declarations of

the year of release in these texts (Deut 15:1; Lev 25:8–12) are too different to warrant their use

as evidence of literary dependence. Only the words שבע "seven" and שנים "years" are shared

between them and reflect H's and D's shared concern for the seven-year cycle, which is already

present in CC. In the next section (Deut 15:2–3; Lev 25:13–17), the only non-content words

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[51] Lothar Perlitt, "'Ein einzig Volk von Brüdern': zur deuteronomischen Herkunft der biblischen Bezeichnung 'Bruder': Kirche: Festschrift für Günther Bornkamm zum 75 Geburstag," in *Kirche: Festschrift für Günther Bornkamm zum 75 Geburstag* (Tübingen: Mohr Siebeck, 1980), 47.

[52] Perlitt, "Ein einzig Volk von Brüdern," 48.

[53] Nihan, *From Priestly Torah*, 526.

shared between these sections are יהוה "Yahweh" and יד "hand," both of which are not used in the same context and most likely to be incidental. The following parallel sections (Deut 15:2–3; Lev 25:13–17) share four content words, namely, ארץ "land," נתן "to give," עשׂה "to do," and שׁמר "to keep." Similarly, the use of these words is non-indicative of literary dependence. The words שׁמר and עשׂה are not necessarily deuteronomistic since both words are often paired in H (Lev 18:4, 30; 19:37; 20:8, 22; 22:31; 26:3). The direct objects of these verbs are also different in these texts. The direct objects in Lev 25, namely, חקת "statues" and משׁפת "ordinance," are commonly used with these verbs in H. The word נתן is used in different contexts with different subjects. Even though the word ארץ is used in a similar context concerning Yahweh's blessing, the formulations of the promises of blessing are entirely different. Thus, although one cannot entirely rule out the possibility that these texts are literarily connected, the differences between the shared literary features and the fact that these literary features are not foreign in both texts suggest that it is unlikely that Lev 25 borrows materials from Deut 15 or vice versa.

The strongest argument for the literary dependence between Lev 25:8–22 and Deut 15 is the use of the phrase שׁבת ליהוה "Yahweh's Sabbath" in Lev 25:2b, 4a and the phrase שׁמטה ליהוה "Yahweh's release" in Deut 15:2. In addition, the verb קרא with the sense "to proclaim" is used only once in D, namely in Deut 15:2, whereas it is used more frequently in H (cf. Lev 23:2, 4, 21, 37; 25:10). Thus, Milgrom avers that the phrase שׁמטה ליהוה in D is modeled after the similar phrase שׁבת ליהוה in H and that the verb קרא is priestly terminology borrowed by D.[54] This argument concerning the connection between the phrases שׁבת ליהוה and שׁמטה ליהוה is a possibility, but it would require a further explanation as to why D would change H's designation of the seventh year from a שׁבת to a שׁמטה. Milgrom's assertion concerning the priestly origin of

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[54] Milgrom, *Leviticus 23–27*, 2245.

the verb קרא with the sense "to proclaim" is less persuasive since it is also commonly used

outside of the priestly literature (e.g., 1 Kgs 21:9; 2 Kgs 10:20; 2 Chr 20:3; Isa 1:13; 44:7).

4. The Judicial Implications of the Jubilee Year (Lev 25:23–55)

After the commandment to proclaim the Jubilee Year every fifty years, the authors of H

addressed the various implications of this legislation. Here, they laid out three possible scenarios

in which the Jubilee Year would affect the socio-economic aspects of the people with regard to

the impoverished Israelites: the partial loss of property (vv. 23–34), the complete loss of property

(vv. 35–38), and the loss of freedom (vv. 39–55).

4.1. The Partial Loss of Property (Lev 25:23–34)

This section begins with three statements: the land belongs to Yahweh; the people of Israel are

resident aliens and sojourners; and the redemption of the land shall be allowed (vv. 23–24).

Thus, if the impoverished Israelite has to sell part of his property, his nearest kin shall redeem

what is sold (v. 25). If no one redeems his property, the impoverished Israelite may redeem it if

he becomes prosperous (vv. 26–27). However, if the property is not redeemed by either the

kinsman or the impoverished Israelite, it will be released in the Jubilee (v. 28). This section also

addresses the procedure to redeem a house, including in the cities of the Levites (vv. 29–34). The

instructions concerning the partial loss of property due to poverty in Lev 25:23–34 have no

parallel in either CC or D. However, the term אח "brother" is used in Lev 25:25 and Deut 15 to

refer to the impoverished Israelite. This word has been marshaled as one of the most vital pieces

of evidence of a literary connection between Lev 25 and Deut 15. Japhet observes that the term

אח "brother" in the broad sense to describe a member of Israelite society is rare in the priestly

literature, including in H. In contrast, it is commonly used in this sense in D. She argues, however, that it does not necessarily mean that H borrows from D.[55] In her opinion, while this term is used more commonly in D, including in Deut 15, "the conceptual system manifested in the Holiness Code is not attested in Deuteronomy."[56] She points out that H employs this term mainly in Lev 25 because the law in this passage carefully distinguishes between the Israelites and non-Israelites.[57] Unlike H, D does not use this term to differentiate between the Israelites and non-Israelites in its law of slave manumission.[58] For Japhet, D polemically responds to H's system by abolishing the possibility of the enslavement of a non-Israelite by an Israelite or the enslavement of an Israelite by a non-Israelite.[59] However, it is also possible that H responds to D by allowing slavery in the case of non-Israelites, which was previously not considered or not allowed in the earlier laws. Instead of taking the different conceptions of אחיך in Lev 25 and Deut 15 as an indication of a polemical response of one text to another, Bergsma argues that they actually weaken the argument for a literary dependence between these texts.[60]

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[55] Kaufman criticizes this argument of Japhet and argues, "The word *ʾḥ* in the meaning «fellow Israelite» is ubiquitous in Deuteronomy but extremely rare in Leviticus where the preferred word is ʿamit. And the attempt of the Levitical formulation to cover all possible cases can only be viewed as primary by someone unaware of the general practice in Ancient Near Eastern legislative codifications" ("Deuteronomy 15," 275).

[56] Japhet, "Relationship," 80–81.

[57] Japhet, "Relationship," 76.

[58] For the use of the term אח "brother" in D, see Perlitt, "Ein einzig Volk von Brüdern"; Philippe Guillaume, "Brothers in Deuteronomy: Zoom in on Lothar Perlitt's Volk von Brüdern," in *Deuteronomy in the Making: Studies in the Production of Debarim*, ed. Diana Edelman et al., BZAW 533 (Berlin: De Gruyter, 2021), 289–328.

[59] Japhet, "Relationship," 81, 87.

[60] Bergsma, "Biblical Manumission Laws," 79–81.

A literary connection is indeed possible in this case, but it should also be acknowledged that the association between a fellow Israelite and a brother is not uncommon in the Pentateuch (cf. Exod 2:11; 4:18; 32:29; Lev 10:6; Num 20:3; 32:6). The same concept also appears once in H outside of Lev 25, in Lev 19:17. Furthermore, the different conceptions of אח in H and D are consistent with the use of the word in their broader contexts of H and D, respectively. As has been pointed out by others, אח in Lev 25 refers to the *paterfamilias* of a father's house (בית אב), whereas the same word is used in a broader sense in Deut 15 to refer to a Hebrew male or female but not a *paterfamilias*. Therefore, the use of this word in these texts does not necessarily indicate a polemical response of Lev 25 to Deut 15, or vice versa. Even if a connection is accepted, the direction of dependence could be argued in both directions. Bergsma believes that H's use of אח is more basic and literal, and D's use is more developed in its broadening of meaning to include more people groups.[61] Perlitt, by contrast, contends that the conception of brotherhood in H is more developed than in D.[62] It is more likely that Lev 25 narrows the broader meaning of the word as used in D, which refers to any people with familial bond, including the relationship between tribes and nations with common ancestors. Instead of the broader sense of the word, it is now used in H in a more technical sense to refer to only the paterfamilias of a father's house. However, it remains uncertain whether the narrowing of the word's meaning is based on its usage in Deut 15 or from the word's usage in general since the word is not uncommonly used in the MT.

Nihan argues that Lev 25 is connected not only with Deut 15, but also with Exod 6 concerning its legislation on property and human redemption:

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[61] Bergsma, "Biblical Manumission Laws," 80.

[62] Perlitt, "Ein einzig Volk von Brüdern," 48.

The connection between the laws on redemption in Lev 25 and Ex 6 is all the more unmistakable because, with the exception of Ex 15:13 (itself an echo of Ex 6:6), the root גאל does not occur in-between in Exodus and Leviticus. Such intertextuality offers a fitting conclusion to the law on redemption in Lev 25. Whenever an Israelite redeems a kinsman, and prevents him from losing his land or from becoming enslaved, he somehow imitates Yahweh himself by re-enacting the inaugural liberation of Israel at the exodus.[63]

Despite this possible conceptual connection, there is little evidence that the author of H intentionally borrows the literary features of Exod 6 beyond the shared use of גאל when composing its laws on redemption in Lev 25. While Lev 25 uses the verb גאל ten times throughout the chapter, it is also worth noting that it is never used with God as the subject, even in the context of the exodus in v. 38. Moreover, if the authors of H had intended to echo Exod 6:6, it would be difficult to explain the omission of this verb in Lev 25:38 since Exod 6:6 also deals with the topic of God's redeeming Israel from the slavery in Egypt.

4.2. The Complete Loss of Property (Lev 25:35–38)

In the second scenario, the destitution of the impoverished Israelite has progressed beyond the loss of partial property. Here, he has lost the ability to maintain himself financially due to the complete property loss. The Israelites are then commanded to show kindness to him by not taking interest or profit from him. Instead, they are to lend him money without taking interest and give him food without profit. This commandment is followed by a motivational statement referencing the exodus event: "I am Yahweh, your God, who brought you from the land of Egypt to give to you the land of Canaan, to be your God" (v. 38).

Similar legislation may be found in Deut 15:7–11 that also requires the Israelites to show kindness to impoverished Israelites. However, this commandment is part of D's legislation on

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[63] Nihan, *From Priestly Torah*, 534.

the Sabbatical year, whereas, in Lev 25, it is part of the legislation on the Jubilee Year.

Topically, a conceptual dependence may exist in this case, although the direction is not

immediately apparent. Literarily, however, these two legislations share almost no literary

features beyond the topical similarity. For example, the word יד "hand" is used in both texts but

not similarly. This word is used in Lev 25:35 to refer to the hand of the impoverished Israelite as

an idiom for his inability to maintain himself financially. In contrast, the same word is used four

times in Deut 15 in the commandments to the wealthier Israelites not to shut their hand (v. 7) but

to open their hand to the impoverished Israelite (vv. 8, 11), so that Yahweh may bless the

undertaking of their hand (v. 10). The verbs associated with the word יד in Deut 15 are also

different from the one used in Lev 25:35. Moreover, the reference to the exodus event is lacking

in Deut 15:7–11, but it does mention Yahweh's giving of the land to the people of Israel.[64]

Beyond that, there is no similarity in terms of syntax and word choice beyond the words יהוה

"Yahweh," אלהים "God," ארץ "land," and נתן "to give." These words are high-frequency and used

differently in both texts, both morphologically and syntactically. In other words, there is no

attempt to imitate the literary features that would indicate an intentional borrowing beyond the

thematic similarity.

As in the first scenario of destitution in Lev 25:23–34, the word אח is also used here,

specifically in v. 35. The comparison between this verse and Deut 15:7 shows that only the word

אח and the preposition כי "if" are shared. Nevertheless, the clause כי־יהיה בך אביון מאחד אחיך "if

one of your brothers becomes poor" in Deut 15:7 is semantically synonymous with the כי־ימוך

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[64] The reference to the slavery in Egypt is found in Deut 15:15 to justify slave release in the seventh year of service but not to justify kindness to the impoverished Israelite who suffers the loss of property in vv. 35–38.

אחיך "if your brother becomes poor" In Lev 25:35.[65] This semantic parallel might be used to support the possibility of a literary dependence, albeit not conclusively. Furthermore, it remains challenging to explain the rationale of borrowing the word אח exclusively while changing all the other elements in the sentences that contain the word (see Table 4.2.1). In light of these observations, literary borrowing is unlikely, although conceptual dependence is possible.

Table 4.2.1. Comparison of the use of the word אח in Lev 25:35–36 and Deut 15:7, 9

Lev 25:35–36	Deut 15:7, 9
35 וְכִי־יָמוּךְ אָחִיךָ ומטה ידו עמך והחזקת בו גר ותושב וחי עמך: 36 אל־תקח מאתו נשך ותרבית ויראת מאלהיך וחי אָחִיךָ עמך:	7 כִּי־יִהְיֶה בְךָ אֶבְיוֹן מאחד אָחִיךָ באחד שעריך בארצך אשר־יהוה אלהיך נתן לך לא תאמץ את־לבבך ולא תקפץ את־ידך מֵאָחִיךָ האביון: 9 השמר לך פן־יהיה דבר עם־לבבך בליעל לאמר קרבה שנת־השבע שנת השמטה ורעה עינך בְאָחִיךָ האביון ולא תתן לו וקרא עליך אל־יהוה והיה בך חטא:

Underline: The word shared by Lev 25:35–36 and Deut 15:7, 9

Wavy Underline: Synonymous words shared by Lev 25:35–36 and Deut 15:7, 9

The prohibition against exacting interest from the poor is also found in Exod 22:24 and Deut 23:20–21. The comparison between this prohibition in Lev 25:36–37 and Exod 22:24 suggests no similarity beyond a conceptual one. These texts only share the words כסף "money," נשך "interest," and the negative particle לא, all of which may be attributed to the subject matter of

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[65] The verb מוך "to become impoverished" is used exclusively by H (Lev 25:25, 35, 39, 47; cf. 27:8), whereas the adjective אביון "poor" is never used in the priestly literature but is used in CC (Exod 23:6, 11) and D (Deut 15:4, 7, 9, 11; 24:14).

the texts. All the verbs used in these texts are different, and the syntax of the prohibition in Lev 25:35–38 differs significantly from the one in Exod 22:24. While a literary dependence is unlikely, a conceptual dependence of Lev 25 upon CC is a possibility.

Nihan avers that Lev 25:35–38 is also literarily and conceptually dependent upon Deut 23:20–21, which prohibits lending כסף "money" and אכל "food" with interest.[66] The comparison between Lev 25:36–38 and Deut 23:20–21 suggests that the texts, although conceptually similar, are literarily unrelated (see Table 4.2.2). These texts share the words נשׁך "interest," כסף "money," אכל "food," and אחיך "your brother," אלהיך "your God," יהוה "Yahweh," and ארץ "land." These shared words, however, are not necessarily due to a literary dependence. The clause ויראת מאלהיך "And you shall fear your God" is used multiple times in, and exclusively by, H (Lev 19:14, 32; 25:17, 36, 43). In contrast, the formula יברכך יהוה אלהיך "Yahweh your God shall bless you" is used multiple times, and exclusively by, D (Deut 14:29; 15:10; 16:10, 15; 23:21; 24:19). There is no indication of a literary borrowing in the use of the word אלהיך. Furthermore, the motives for prohibiting lending with interest differ in both texts although the words יהוה, אלהים, and ארץ are employed. H prohibits this lending practice based on the commandment to fear God and the reminder that Yahweh brought them from Egypt to Canaan to be their God. By contrast, the same prohibition in D is accompanied by the promise of God's blessing in the land. Moreover, all the verbs used in these texts are different. The remaining similarities between these texts are the words כסף and אכל, which may have been shared because these are the most common things that are lent for interest.

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[66] Nihan, "Holiness Code," 86–87. He also hypothesizes that Deut 23:20–21 is a development of Exod 23:20–21.

If Lev 25:36–37 were dependent upon Deut 23:20–21, as postulated by Nihan, it would be difficult to explain the reason H omits D's permission to take interest from a foreigner, especially when Lev 25:39–46 contains the prohibition against enslaving an Israelite and the permission for enslaving a non-Israelite. Furthermore, Lev 25:36–37 only mentions interest on money and interest on food, whereas Deut 23:20–21 seems to be more comprehensive in banning all kinds of interest by adding to the list נשך כל־דבר אשר ישך "the interest on anything that is lent with interest" (Deut 23:20). Conversely, it is also unlikely that D would place the prohibition against taking interest in Deut 23 along with other miscellaneous laws and not in Deut 15 if it were literarily dependent upon Lev 25. Given the differences in the formulation of the texts, literary dependence between these texts is at least questionable, although a conceptual dependence cannot be ruled out.

Table 4.2.2. Comparison between Lev 25:36–37 and Deut 23:20–21

Lev 25:36–37	Deut 23:20–21
35 וכי־ימוך <u>אחיך</u> ומטה ידו עמך והחזקת בו גר ותושב וחי עמך: 36 אל־תקח מאתו <u>נשך</u> ותרבית ויראת <u>מאלהיך</u> וחי <u>אחיך</u> עמך: 37 את־<u>כספך</u> לא־תתן לו ב<u>נשך</u> ובמרבית לא־תתן <u>אכלך</u>: 38 אני <u>יהוה אלהיכם</u> אשר־הוצאתי אתכם מ<u>ארץ</u> מצרים לתת לכם את־<u>ארץ</u> כנען להיות לכם לאלהים:	20 לא־תשיך ל<u>אחיך נשך כסף נשך אכל נשך</u> כל־דבר אשר ישך: 21 לנכרי תשיך ולאחיך לא תשיך למען יברכך <u>יהוה אלהיך</u> בכל משלח ידך על־ה<u>ארץ</u> אשר־אתה בא־שמה לרשתה:

4.3. The Loss of Freedom (Lev 25:39–55)

In the last scenario, the impoverished Israelite sells himself and his household to another Israelite due to poverty. According to Lev 25, this indentured Israelite shall not be treated as a slave since

the Israelites are Yahweh's slaves (vv. 39, 41–42). He must be treated as a hired or bound laborer and be released with his household in the Jubilee Year to return to his property (vv. 39–42). While not allowing an Israelite to be enslaved by another Israelite, Lev 25 permits the slavery of non-Israelites (vv. 43–46). If the impoverished Israelite is sold to a resident alien or a foreigner, he is still eligible for a release in the Jubilee. However, they may be redeemed earlier by one of his brothers with payment in proportion to his years of service (vv. 47–54). Again, the reference to slavery in Egypt is used to conclude both vv. 47–54 and the slave manumission laws as a whole (vv. 39–54).

4.3.1. Lev 25:39–55 and Exod 21:2–11

This section of Lev 25 is topically similar to the slave manumission laws in Exod 21:2–11, although the similarities are less salient than between the laws of the Sabbatical Year in Lev 25:2b–7 and Exod 23:10–11. The verb יצא "to go out," despite being differently inflected, may be considered as evidence for a literary connection. However, other words such as עבד "slave" and עבד "to enslave" may be attributed to topical similarity. Also, while CC uses the phrase בנים או בנות "sons and daughters" for children of the slave, H uses only בניו "his sons." Also, the reference to the slave's wife is missing in Lev 25:39–41 (see Table 4.3.1.1). The pronoun הוא and the prepositional phrase עמו is also shared between these texts albeit used slightly differently.

Table 4.3.1.1. The Comparison between Lev 25:39–41 and Exod 21:2–4

Lev 25:39–41	Exod 21:2–4
³⁹ וְכִי־יָמוּךְ אָחִיךָ עִמָּךְ וְנִמְכַּר־לָךְ לֹא־תַעֲבֹד בּוֹ עֲבֹדַת עָבֶד: ⁴⁰ כְּשָׂכִיר כְּתוֹשָׁב יִהְיֶה עִמָּךְ עַד־שְׁנַת הַיֹּבֵל יַעֲבֹד עִמָּךְ:	² כִּי תִקְנֶה עֶבֶד עִבְרִי שֵׁשׁ שָׁנִים יַעֲבֹד וּבַשְּׁבִעִת יֵצֵא לַחָפְשִׁי חִנָּם:

ויצא מעמך <u>הוא</u> ובניו <u>עמו</u> ושב אל־משפחתו ואל־ ⁴¹	³ אם־בגפו יבא בגפו <u>יצא</u> אם־בעל אשה <u>הוא</u> ויצאה
אחזת אבתיו ישוב:	אשתו <u>עמו</u>:
	⁴ אם־אדניו יתן־לו אשה וילדה־לו <u>בנים</u> או בנות האשה
	וילדיה תהיה לאדניה <u>והוא</u> יצא בגפו:

The rest of CC's slave manumission laws (Exod 21:5–11) deals with the possibility of perpetual slavery of an Israelite and the slavery of a female Israelite. Even though these topics are absent in H, Lev 25:39–55 and Exod 21:5–11 do share some words, such as קנה "to buy," עולם "perpetuity," כסף "silver/money," מכר "to sell," עין "eye," שאר "flesh/relative," אמה "female slave," איש "man/husband," ילד "to beget," and שנה "year." Some of these words may not be used as evidence for a literary dependence because they are common words or used in different contexts, such as שנה, איש, and עין. Even words used in association with slavery in Lev 25 are not used in the same way. For instance, both texts use the word כסף but differently: it is used in the context of redemption of an Israelite from a foreigner in Lev 25:50–51, whereas the same word is used in the context of a female slave's release if she is poorly treated by her master in Exod 21:11. The same is true for other words, such as עולם used in the context of perpetual slavery. In Lev 25, the word עולם is paired with the word אחזה "property" twice: first in the context of the Levites' perpetual ownership of the pastureland fields in v. 34 and second in the context of perpetual slavery of non-Israelites in v. 46. Levinson suggests that the prepositional phrase לעלם in v. 46 begins the second clause and not the conclusion of the first one, thereby rendering the second clause "you may enslave them perpetually."[67] Even in this case, the syntax of this clause—prepositional phrase לעלם followed by the 2mp Qal verb עבד and the preposition ב to mark the direct object—differs significantly from how it is used in Exod 21:6, which reads ועבדו

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[67] Levinson, "Manumission," 313, n. 87.

לעלם "and he shall serve him forever."[68] In the former, the subject is the owner of the slave, whereas in the latter the slave. Therefore, it is not necessary to suggest that Lev 25 borrows the word עולם from Exod 21:6, although it is likely that Lev 25 is correcting the notion of perpetual slavery of Israelites as described in CC and limiting it to only non-Israelites. Similarly, the word קנה is used multiple times in Lev 25. However, the verb is a high-frequency word, and its usage to describe the purchase of a slave is not surprising and not necessarily due to literary borrowing. It is also worth noting that this verb is also used in Lev 25 not only to describe the purchase of slaves but also the purchase of produce and property (vv. 14, 15, 28, 30). In sum, the words shared between Lev 25:39–55 and Exod 21:2–11 indicate a possible literary connection, but the literary mimicry is kept to a minimum, unlike in the case of H's and CC's laws of the Sabbatical Year.

It is also important to note that Lev 25 releases only the land in the seventh year, but indentured Israelites are released in the fiftieth year, that is, in the Jubilee Year. This rule stands in contrast to Exod 21:2–11, in which slaves are released in the seventh year, after six years of service. Various solutions have been offered to solve this difference.[69] Adrian Schenker, for example, argues that Lev 25 deals with a new case that is unaddressed in CC's law, namely, married Israelites with male children before being enslaved.[70] Therefore, he believes that Lev 25

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[68] Cf. Richard E. Averbeck, "The Exodus, Debt Slavery, and the Composition of the Pentateuch," in *Exploring the Composition of the Pentateuch*, ed. Leslie Scott Baker et al., BBRSup 27 (University Park, PA: Eisenbrauns, 2020), 42–43.

[69] For a brief survey of the various views on this problem, see Milgrom, *Leviticus 23–27*, 2251–53.

[70] Schenker, "Biblical Legislation," 32–33. Schenker's theory is followed by Kilchör, *Mosetora*, 144; Averbeck, "Exodus," 46–47. The theory that Exod 21 only deals with childless slave is criticized by Lefebvre, *Le Jubilé Biblique*, 311–27; Esias E. Meyer, "When Synchrony Overtakes Diachrony: Perspectives on the Relationship Between the Deuteronomic Code and the Holiness Code," *OTE* 30 (2017): 764.

is composed to supplement CC's slave manumission law. Schenker further contends that an

indentured Israelite in Lev 25 is no longer released after six years of service because a master

must make an expensive investment when buying a household. In his words, "The reason for this

change lies in the investment a master must make when introducing slaves into his household….

It seems reasonable to compensate for such a heavier economic burden with a longer period of

service for the whole slave family."[71] This assertion is hypothetical and not the rationale

provided in the legislation, that is, because the people of Israel are Yahweh's slaves and cannot

be sold as slaves (Lev 25:42, 55). It is hard to imagine that this principle applies only to an

Israelite head of family and not others. Milgrom offers a better explanation for this problem:

> H rejects the septennate manumission of Exodus because it abolishes the slave status for an Israelite outright. It insists that an Israelite who has to indenture himself must be treated as a *śākîr tôšāb* 'resident hireling' (vv. 40a, 53a). Moreover, since he pays no interest on his debt (reversing the Babylonian practice of personal antichresis), all his earnings can be directed toward amortizing his debt. His family, therefore, is under no obligation to redeem him.[72]

However, Milgrom maintains that this is not a discrepancy but a "marked improvement" on CC's

slave manumission law. What Milgrom calls an improvement is essentially H's rejection of the

older concept of slavery represented in CC (and D). It is by no means a rejection of CC's

authority but an attempt by H to create new legislation that differentiates between an Israelite

and a non-Israelite in the practice of slavery. In this new legislation, an Israelite can no longer be

enslaved while a non-Israelite can be enslaved in perpetuity.

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[71] Schenker, "Biblical Legislation," 33.

[72] Milgrom, *Leviticus 23–27*, 2253.

4.3.2. Lev 25:39–55 and Deut 15:12–18

H's slave manumission law in Lev 25:39–55 is also similar to Deut 15:12–18, with which it shares several content words. Some of these words are likely to be incidental because they are high-frequency words and used in dissimilar contexts, such as אמר "to say," יהוה "Yahweh," יום "day," and עין "eye." Other words are shared with Exod 21:2–11, for example, the verb עבד "to serve," the noun עבד "slave," שׁנה "year," אמה "female slave," יצא "to go out," מכר "to buy," and עולם "perpetuity." As in the case of Lev 25:39–55 and Exod 21:2–11, some of these words may be attributed to topical similarity and are not strong evidence for a literary connection between Lev 25:39–55 and Deut 12:12–18. Furthermore, if Lev 25:39–55 is literarily dependent upon Exod 21:2–11, it becomes unnecessary to posit a literary dependence upon Deut 15:12–18 for the use of these words.

However, several shared significant lexical parallels between Lev 25:39–55 and Deut 15:12–18 may indicate a connection between them, especially those not shared with Exod 21:2–11. The words shared exclusively between Lev 25:39–55 and Deut 15:12–18 are אח "brother," ארץ "land," מצרים "Egypt," יהוה "Yahweh," יום "day," and שׂכיר "hired worker." The name "Yahweh" is too common to be used as evidence for a literary dependence, and the word יום is a common word used in different and unrelated contexts in both texts. Four words that Lev 25:39–55 shared exclusively with Deut 15:12–18 are left to be considered, namely, אח, ארץ, מצרים, and שׂכיר. In addition to these words, there are other literary features worth considering as evidence for a literary dependence because of their syntactic construction, namely, the combination of verb מכר in Niphal followed by the prepositional phrase לך in Lev 25:39, the verb יצא followed by the prepositional phrase מעמך in Lev 25:41, the mirroring of the syntax of Deut 15:12 in Lev

25:39 by changing the morphology of the verb עבד from third-person to second-person, and the conjunction כי that functions as a protasis marker in Lev 25:39.

As pointed out in §4.1, the word אח has been used by scholars as evidence for a literary connection, but this evidence is not sufficient to argue for literary dependence. Nevertheless, special attention must be given to the phrase אחד מאחיו "one of his brothers" in Lev 25:48, which is similar to the phrase מאחד אחיך "from one of your brothers" in Deut 15:7.[73] However, in addition to the different constructions, these phrases appear in different contexts in their legislations. In Lev 25:48, the phrase אחד מאחיו is used to refer to one of the brothers of the impoverished Israelite, who may act as a kinsmen redeemer in the case of debt bondage. By contrast, Deut 15:7 uses the phrase מאחד אחיך to refer to the impoverished Israelite, not the redeemer. Furthermore, this phrase appears in Deut 15 in the section concerning the requirement to treat the impoverished Israelite with kindness and not in the section on slavery.

The reference to the slavery in Egypt in H's slave manumission law is comparable to the similar reference in Deut 15:15. Stackert postulates that this memory of slavery is inserted in Lev 25 because of D's influence.[74] Since he believes that there is an extensive dependence of Lev 25:39–42 upon Deut 15:12–15, the reference to the Israelite enslavement in Lev 25:38 is also understood as evidence of D's influence on H. Nevertheless, H's dependence upon D, in this case, is uncertain. It is more likely that H uses P's narrative as the source for its reference to the slavery in Egypt (cf. Exod 1:13–14 and Lev 25:43, 46), a point masterfully demonstrated by

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[73] Cf. the similar phrase אחד מאהי "one of my brothers" in Neh 1:2.

[74] Stackert, *Rewriting*, 158–61.

Stackert.[75] If H had borrowed extensively from D, as argued by Stackert, it is unclear why it had

to avoid using the wording of D but instead used the wording of P to compose its reference to the

slavery in Egypt. In this case, a connection between H and D is possible, although it is more

likely to be conceptual rather than literary.

With regard to the use of the word שָׂכִיר "hired worker" in both Lev 25 and Deut 15,

scholars have proposed a literary dependence in both directions.[76] Arguing for the dependence of

D upon H, Japhet first suggests that the analogy of a slave's labor and that of a hired worker,

which signifies a limited bondage duration, is an alien concept in Deuteronomy.[77] She believes

this concept of a limited bondage duration is incompatible with the possibility of permanent

bondage in the same law. Thus, it must be a borrowed concept from Lev 25, differentiating

between the temporary bondage for an Israelite slave and the permanent bondage of a foreign

slave. Nevertheless, D's concepts concerning temporary bondage and the possibility of

permanent bondage are not necessarily incompatible. As pointed by Levinson, "The point in D is

not so much to equate the slave with a hired laborer (as in H) as it is to urge alacrity in

compliance with the law by emphasizing the economic benefit of slave labor to the owner."[78]

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[75] Stackert, *Rewriting*, 158–59. While Stackert is correct in seeing the connection between Lev 25 and Exod 1:13–14, his argument concerning the inverted citation of Exod 1:14bβ and Exod 21:6bβ in Lev 25:46aβ is less persuasive.

[76] Statistically, the word שָׂכִיר is more common in H (Lev 19:13; 22:10; 25:6, 40, 50, 53) compared to D (Deut 15:18; 24:14). Nevertheless, the literary dependence cannot be determined based on this statistic. See Bergsma's criticisms for the use of statistics to determine the direction of literary dependence in this case ("Biblical Manumission Laws," 73–74).

[77] Japhet, "Relationship," 83–84.

[78] Levinson, "Manumission," 317, n. 98. A similar argument is also made by Milgrom, who argues that D "implores the master to shower his manumitted slave with gifts, and reminds him that he has benefited from the slave twice as much as from a *śākîr* (Deut 15:18). Thus for D, he is no7t a *śākîr*, as in H, but an *ʿebed* (*Leviticus 23–27*, 2256).

Milgrom holds the same view as Levinson that the indentured Israelite in D is not a שָׂכִיר but an עֶבֶד but agrees with Japhet that D's conception of slavery has been influenced by H. He avers, "I submit that the best explanation of this paradoxical situation is that D has been influenced by H to ameliorate its attitude toward the slave; but without H's theological postulate that all Israelites are slaves of God (25:42, 55), it has no basis for abolishing Israelite slavery."[79] Stackert, however, reaches a different conclusion based on the same observation. For him, it is Lev 25 that develops upon the concept of שָׂכִיר in D: "H exploits D's tangential comparison between the שָׂכִיר and the making it the cornerstone of its theological reconceptualization of Israelite slavery."[80] It seems that the literary dependence may be argued in both directions. Even if Lev 25 is more developed and builds upon D's analogy between a slave and a hired worker or vice versa, there is barely any evidence of an intentional borrowing of a literary feature in the same way as H's borrowing of P's or CC's literary features or D's borrowing of CC's literary features. Bergsma is correct when he observes,

> In the midst of the polemics, it is easy to lose sight of the fact that we are dealing with a single shared lexeme admittedly uncommon but not terribly so (eighteen times in the MT), deployed in formally dissimilar contexts in the two texts. In actuality, neither Japhet nor Stackert are engaging primarily in formal literary analysis, but are rather proposing plausible lines of *conceptual* development from one text to the other.[81]

Here, while it is likely that Lev 25 may have contained a more advanced conceptual development of the legislation, the evidence of literary dependence is minimum, if any.

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[79] Milgrom, *Leviticus 23–27*, 2256.

[80] Stackert, *Rewriting*, 149.

[81] Bergsma, "Biblical Manumission Laws," 73–74, n. 18. Emphasis original.

Another significant literary feature shared by Lev 25 and Deut 15 is the clause נמכר לך "is sold to you." The verb מכר in Niphal followed by the prepositional phrase לך in Lev 25:39 and Deut 15:12 has also been suggested as evidence of a literary dependence between these texts. Bergsma, however, casts doubt on the use of this clause to prove a literary dependence between H and D. He points out that the verb מכר is the only Hebrew word for "to sell" and its use in Niphal is not uncommon in the context of slavery. Bergsma maintains, "In the absence of any more specific lexical parallels or rare vocabulary, the shared sequence נמכר לך can be explained as a spontaneously arising parallel due to common subject matter and a second-person form of address characteristic of both H and D as well as parts of CC."[82] Nevertheless, except for Jer 34:14, which is likely to be literarily connected to Deut 15, the use of the verb מכר in the Niphal form immediately followed by the preposition לך is unique to both texts in the Pentateuch. Bergsma, unfortunately, does not address this rare syntax. Although the use of this phrase in both texts supports the notion that these texts may be literarily connected, the reason for H's borrowing of this phrase is unclear. The lack of a clear motivation for borrowing this clause from D weakens the argument for literary dependence. Furthermore, the verb מכר followed by the preposition ל is used three times in H with two different pronominal suffixes and one noun (vv. 39, 47, 50). The second person pronominal suffix in v. 39 is natural since it is addressed to the people of Israel in a second-person address. If a literary connection is granted in this case, it is more likely that Deut 15 is the borrowing text because it conflates this phrase from Lev 25:39

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[82] Bergsma, "Biblical Manumission Laws," 78.

with other literary features from Exod 21:2.[83] Moreover, as keenly observed by Bergsma, the

verb מכר in the Niphal form is more common in H, whereas it is only used once in D.[84]

The clause יצא מעמך "to go out from you" has also been considered evidence for a literary

dependence between Lev 25 and Deut 15. First of all, Milgrom and Stackert maintain that the

prepositional phrase מעמך is used in Lev 25 and Deut 15 with a special meaning, that is, "from

under your authority."[85] This interpretation is intended to show the special connection between

these two texts. However, there is no reason to argue for this nuance when the literal meaning of

the phrase, "from before you," would suffice.[86] Furthermore, although the verb יצא and the

prepositional phrase מעמך are high-frequency words, the pairing of them constitutes a low-

frequency word order. This combination only appears three times in Exod 8:25, Lev 25:41, and

Deut 15:16. Moreover, even though the prepositional phrase מעמך is shared between Lev 25 and

Deut 15, it is absent in Exod 21:2–11 where the verb יצא is used. Concerning this low-frequency

word order, Bergsma correctly notes,

> [The use of the clause יצא מעמך] could possibly betray literary dependence in either
> direction. However, the scenario—in which the Holiness author, modifying his presumed
> Covenant Code source text concerning the departure of slaves (Exod 21:2), suddenly
> reaches into the text of Deuteronomy 15 (lying open before him?) in order to borrow an
> unremarkable prepositional phrase (מעמך) out of a conceptually antithetical context (v.
> 16, the refusal of departure!) because he could not come up with a suitable prepositional
> phrase on his own—strains credibility. In other words, it fails MacDonald's criterion of
> "interpretability" and Hays' "satisfaction."[87]

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[83] This point has been argued by Kilchör, *Mosetora*, 140–41.

[84] Bergsma, "Biblical Manumission Laws," 77–78.

[85] Milgrom, *Leviticus 23–27*, 2256; Stackert, *Rewriting*, 150.

[86] Bergsma, "Biblical Manumission Laws," 81–82.

[87] Bergsma, "Biblical Manumission Laws," 82–83. Cf. Dennis Ronald MacDonald, "Introduction," in
Mimesis and Intertextuality in Antiquity and Christianity, ed. Dennis Ronald MacDonald (Harrisburg, PA: Trinity

Interestingly, as shown in Table 4.3.2.1, no other element is shared between Lev 25:41 and Deut 15:16. In other words, the use of the same prepositional phrase מעמך could be due to a literary borrowing, but it is more likely that the use of a similar combination is incidental since there is no apparent reason for H to borrow this relatively insignificant phrase from D while leaving out the other more significant elements surrounding this clause.

Table 4.3.2.1. The Comparison between Lev 25:41 and Deut 15:16

Lev 25:41	Deut 15:16
⁴¹ ויצא מעמך הוא ובניו עמו ושב אל־משפחתו ואל־ אחזת אבתיו ישוב:	¹⁶ והיה כי־יאמר אליך לא אצא מעמך כי אהבך ואת־ ביתך כי־טוב לו עמך:

It has been noted that the verb עבד in Lev 25:39–55 may be attributed to the subject matter of the legislation or its literary dependence upon CC. Nevertheless, the syntax of the sentence in which this verb occurs in Lev 25:39 has been used as evidence to argue for its literary dependence upon Deut 15:12. According to Stackert, Lev 25:39 reuses the verbal root עבד in Deut 15:12 and changes from the third-person singular to the second-person singular to mirror the syntax of the source text.[88] He then points out how these two verses mirror each other syntactically:

> These verses exhibit precise correspondence with regard to their verbal morphosyntax: (+ כי) third person masculine singular imperfect + third person masculine singular converted perfect + second person masculine singular imperfect. Surprisingly, this morphosyntactic structure is otherwise unattested in pentateuchal legislation, lending

Press International, 2001), 2–3; Richard B. Hays, *Echoes of Scripture in the Letters of Paul* (New Haven; London: Yale University Press, 1989), 29–32.

[88] Stackert, *Rewriting*, 146.

further weight to the argument for direct dependence between Deut 15:12 and Lev 25:39.[89]

This proposal, however, is rejected by Kilchör, who argues that the change of subject to second person is not necessarily due to D's influence.[90] Ironically, what Stackert proposes as evidence for the literary dependence of H upon D is reversed by Kilchör, who contends, "Da diese Struktur in Lev 25 durch die Gesamtstruktur der Bruderverarmungs-Gesetze weitgehend vorgegeben ist (Lev 25:35 ist syntaktisch identisch aufgebaut wie Lev 25:39), spricht diese Einzigartigkeit, wenn sie überhaupt für etwas spricht, dann eher fur eine H-Priorität."[91]

Finally, Levinson argues that the use of the preposition כי in Lev 25:39 and Deut 15:12 indicates a literary dependence between these texts. He posits that since the use of כי as an initial protasis marker is more common in D than in H, H must have borrowed this lexeme from D.[92] As noted by Bergsma, this observation, however, only suggests that H uses כי less frequently than D but not that H is dependent upon D.[93] Also, the conjunction כי in Lev 25:39 may have been borrowed from Exod 21:2 and not Deut 15:12. Furthermore, the syntax of the protasis and apodosis that follow the preposition כי is also used to argue for a literary dependence of H upon D. Stackert argues,

> H's revision in Lev 25:39, however, while following the morphosyntax of Deut 15:12's verbal formulation, alters the configuration of the Deuteronomic verse's protasis and apodosis. Deut 15:12's protasis is simple and thus contains a single clause (ימכר). Its

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[89] Stackert, *Rewriting*, 146.

[90] Benjamin Kilchör, "Frei aber arm? Soziale Sicherheit als Schlüssel zum Verhältnis der Sklavenfreilassungsgesetze im Pentateuch," *VT* 62 (2012): 389–90.

[91] Kilchör, "Frei aber arm?," 390.

[92] Levinson, "Manumission," 318.

[93] Bergsma, *Jubilee*, 141.

apodosis, however, is complex, containing two clauses (תשלחנו, ועבדך). The scenario is reversed in Lev 25:39, which exhibits a complex protasis (with two clauses: ימוך, ינמכר) and a simple apodosis (one clause: לא תעבד).[94]

Stackert further argues that D follows the syntax of Exod 21:2, which also combines a simple protasis with a complex apodosis. Responding to Stackert's conclusion, Kilchör correctly points out that the syntax in Lev 25:39 may also be a reversal of Exod 21:2 and not Deut 15:12.[95]

The striking differences between Lev 25:39–55 and Deut 15:12–18 have also been used to prove a literary dependence between these two texts. Cholewiński lists several differences between H's and D's slave manumission laws: (1) the postponement of the slave manumission to the fiftieth year in H; (2) the subordination of the release of the slaves under the Jubilee; (3) the abolition of the slavery of fellow Israelites; (4) the emphasis on the right of the person who falls into debt bondage instead of the right of the owner by using the verb יצא instead of the verb שלח used in Deut 15; and (5) the differentiation between an Israelite and a stranger or foreigner when it comes to debt slavery.[96] For Cholewiński, all these additional details in Lev 25 are H's innovation on D's law. Cholewiński's conclusion is possible but not necessary since all these innovations in H might have been based on the laws in Exod 21:2–11 alone.

While most scholars argue for the literary priority of D's slave manumission law over the similar law in H, Kilchör argues for the opposite direction based on the conflation of materials from Exod 21:2–6 and Lev 25:39–46 in Deut 15:12–18.[97] The prime example of this conflation, according to Kilchör, can be found in Deut 15:12, in which materials from Exod 21:2 (7) and

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[94] Stackert, *Rewriting*, 147.

[95] Kilchör, "Frei aber arm?," 390–91.

[96] Cholewiński, *Heiligkeitsgesetz*, 236–38. Cf. Nihan, *From Priestly Torah*, 528–29.

[97] Kilchör, "Frei aber arm?"; Kilchör, *Mosetora*, 136–41; cf. 131, n. 237.

Lev 25:39–41 are conflated (see Figure 4.3.2.1).[98] For Kilchör, this conflation is evidence that

Deut 15 knows both Exod 21 and Lev 25.[99] Although it is true that Deut 15 could have conflated

Exod 21 and Lev 25 in this case, there is no reason why Lev 25:39–41 could not be the one

borrowing from Deut 15:12 in this specific case. Furthermore, as discussed above, these shared

words are hardly sufficient to assert a literary dependence. Even if Deut 15:12 did borrow from

H, as argued by Kilchör, the reason for the borrowing is unclear. Moreover, it is difficult to

imagine that Deut 15:12 would borrow materials from Lev 25:39–41 without addressing the

abolition of Israelite slavery in that very text. The slave manumission law in Deut 15 also does

not seem to be composed in response to Lev 25:39–55. Instead, all the elements in Deut 15:12–

18 may be understood as a response to Exod 21:2–11 (see Excursus in §5).

Figure 4.3.2.1. Kilchör's Conflation of Exod 21:2 (7) and Lev 25:39–41 in Deut 15:12

כִּי יִמָּכֵר לְךָ אָחִיךָ הָעִבְרִי אוֹ הָעִבְרִיָּה וַעֲבָדְךָ שֵׁשׁ שָׁנִים וּבַשָּׁנָה הַשְּׁבִיעִת תְּשַׁלְּחֶנּוּ חָפְשִׁי מֵעִמָּךְ:

Bold: Materials common to all three texts.
Italic: Materials common to only Deut 15:12 and Lev 25:39–41
<u>Underline</u>: Materials common to only Deut 15:12 and Exod 21:2 (7)

5. Excursus: The Literary Connection between D's and CC's Slave Manumission Laws

Unlike Exod 23:10–11, Deut 15:1–11 does not deal with the rest of the land in the seventh year.

Instead, the Deuteronomic legislation transforms the Sabbatical Year in Exod 23:10–11 from a

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[98] In addition to Deut 15:12, Kilchör also list two other examples of D's borrowing of H: the reference to the memory of slavery in Deut 15:15 and the use of the word שָׂכִיר in Deut 15:18 (*Mosetora*, 140).

[99] Kilchör, *Mosetora*, 141.

celebration that deals with the fallow land with a socio-economic dimension into one that deals exclusively with a socio-economic situation without any agricultural implication. The people of Israel are commanded to forgive the debt of fellow Israelites every seven years and treat impoverished Israelites with kindness and help them even when the year of release approaches.[100] The literary connection between Exod 23:10–11 and Deut 15:1–11 is indicated by the use of the rare verb שמט "to release/rest"[101] and the adjective אביון "needy/poor" in both texts. The verb שמט is only used three times in the Pentateuch, i.e., Exod 23:11, Deut 15:2, 3. Outside of the Pentateuch, this verb occurs six more times, all of which have nothing to do with the calendrical system in ancient Israel (2 Sam 6:6; 2 Kgs 9:33; Jer 17:4; Ps 141:6; 1 Chr 13:9). The adjective אביון is only used nine times in the Pentateuch, and eight of them appear in Exod 23 and Deut 15.

Table 5.1. The Comparison between Deut 15:12, 16–17 and Exod 21:2, 5–6

Deut 15:12, 16–17	Exod 21:2, 5–6
[12] כי־ימכר לך אחיך ה<u>עברי</u> או העבריה ו<u>עבדך שש שנים</u> ובשנה ה<u>שביעת</u> תשלחנו <u>חפשי</u> מעמך:	[2] כי תקנה עבד <u>עברי שש שנים יעבד ובשבעת</u> יצא ל<u>חפשי</u> חנם:

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[100] Scholars have documented the evidence from across the aNE (except Egypt) for the practice of royal decrees of debt-release, "which cancelled not only taxes and debts owed to the crown but also debts arising out of private transactions, as well as land and persons pledged, sold, or enslaved in direct consequence of debt" (Raymond Westbrook, "The Character of Ancient Near Eastern Law," in *A History of Ancient Near Eastern Law*, ed. Raymond Westbrook, vol. 1 of *HdO* 72 [Leiden: Brill, 2003], 15-16). For more discussion, see e.g., 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; Weinfeld, "Sabbatical Year and Jubilee"; Moshe Weinfeld, *Social Justice in Ancient Israel and in the Ancient Near East* [Jerusalem: Magness Press, 1995], 75–96; Michael Hudson, "Reconstructing the Origins of Interest-Bearing Debt and the Logic of Clean Slates," in *Debt and Economic Renewal in the Ancient Near East*, ed. Michael Hudson and Marc Van de Mieroop, International Scholars Conference on Near Eastern Societies 3 [Bethesda, MD: CDL, 2002], 7–58.

[101] Cf. Eckart Otto, *Deuteronomium 12,1–23,15* (Freiburg im Breisgau: Herder, 2016), 1337.

¹⁶ והיה כי־יאמר אליך <u>לא אצא</u> מעמך כי <u>אהבך</u> ואת־ביתך כי־טוב לו עמך: ¹⁷ ולקחת את־המרצע ונתתה <u>באזנו ובדלת</u> והיה לך <u>עבד עולם</u> ואף לאמתך תעשה־כן:	⁵ ואם־אמר יאמר העבד <u>אהבתי</u> את־אדני את־אשתי ואת־בני <u>לא אצא</u> חפשי: ⁶ והגישו אדניו אל־האלהים והגישו אל־<u>הדלת</u> או אל־המזוזה ורצע אדניו את־<u>אזנו</u> במרצע <u>ועבדו</u> לעלם:

Literary borrowing is also evident when one compares the slave manumission laws in Deut 15:12, 16–17 and Exod 21:2, 5–6 (see Table 5.1).[102] As pointed by Bergsma, even though the terms shared between these texts are high-frequency, the cluster of these lexemes is low-frequency.[103] Bergsma also shows the striking similarities between the opening formulae in both texts and how the borrowing text modifies the source text (see Table 5.2).[104] These texts are also more similar in content: both deal with the sale of Hebrew slaves, the release from slavery in the seventh year, the possibility of perpetual slavery if the slave decides to remain a slave, the same procedure for establishing perpetual slavery. These similarities indicate the presence of literary dependence.[105]

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[102] Cf. Driver, *Deuteronomy*, 181–82.

[103] Bergsma, "Biblical Manumission Laws," 72.

[104] Bergsma, "Biblical Manumission Laws," 71–72.

[105] The direction of the literary dependence in the case of CC and D is beyond the scope of this study. Nevertheless, scholars generally argue for the literary dependence of D upon CC. See e.g., Levinson, "Manumission," 301–4; Bergsma, "Biblical Manumission Laws," 71–72. The only notable exception is Van Seters, who contends for the opposite direction ("The Law of the Hebrew Slave," *ZAW* 108 [1996]: 534–46; "Law of the Hebrew Slave: A Continuing Debate," 169–83).

Table 5.2. Bergsma's Comparison between Exod 21:2 and Deut 15:12.

לחפשי	יצא	ובשבעת	יעבד	שש שנים	עבד עברי	תקנה	כי	Exod 21:2
חפשי	תשלחנו	ובשנה השביעת	שש שנים	ועבדך	אחיך העברי או העבריה	ימכר לך	כי	Deut 15:12

Structurally, these two legislations are also similar. The slave manumission law in Exod 21:2–11 deals with the release of a Hebrew slave in the seventh year (vv. 2–4), followed by two additional cases: the case of a servant who wishes to remain enslaved (vv. 5–7) and the case of a man selling his daughter into slavery (vv. 8–11). Similarly, Deut 15:12–18 also deals with the release of Hebrew slaves, male and female, in the seventh year (vv. 12–15) and the case of a servant who wishes to remain enslaved (vv.16–18). The languages used in Exod 12:1–11 and Deut 15:12–18 are strikingly similar. However, unlike Exod 21 that treats female slaves differently, Deut 15 declares that a female slave shall be treated the same as a male slave (vv. 12, 17), hence D's omission of the case of a man selling his daughter into slavery.[106] Here, CC's distinction between a male slave and a female slave is rejected by D.[107] Furthermore, Deut 15

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[106] Cf. Cornelis Houtman, *Exodus* (Kampen: Kok, 2000), 3:121; Adrian Schenker, "Affranchissement d'une esclave selon Ex 21, 7-11," *Bib* 69 (1988): 547–56.

[107] Richard Averbeck argues that the debt-slave regulations in Deut 15:12–18 do not oppose the female slave regulations in Exod 21:7–11 because they are dealing with different situations ("The Exodus, Debt Slavery, and the Composition of the Pentateuch," in *Exploring the Composition of the Pentateuch*, ed. Leslie Scott Baker et al., BBRSup 27 [University Park, PA: Eisenbrauns, 2020], 40). He notes that the regulations in Exod 21:7–11 deal with a female slave who would become the wife [or concubine] of the owner or his son, whereas this case is not considered in Deut 15:12–18. However, it seems that the female slave regulation in Deut 15:12–18 abolishes the different treatment between a male slave and a female slave, including in the case described in Exod 21:7–11. While the authors of D formulated Deut 15:12–18 by mimicking the literary style of Exod 21:2–6 concerning the treatment of a male slave, they intentionally omitted Exod 21:7–11 and prescribed the same treatment of a female slave. Here, D only prescribes a general treatment of all slaves—male or female, single or married—as opposed to CC's different treatment for each case. In Exod 21:2–11, only male slaves are to be released in the seventh year but not female slaves. By contrast, Deut 15:12 states intentionally that both male and females slaves are entitled to the seventh-year release. Nevertheless, Averbeck is correct that the command to give to the released slave in Deut 15 is a revision of CC but not subversion.

omits the word חנם and adds the prescription to provide the slave generously (vv. 13–14) in contrast to CC's commandment that the slave should go חנם, without giving or taking anything (Exod 21:2–4). This expansion indicates the literary priority of CC over D. The same, however, cannot be said about the relationship between the slave manumission laws in Lev 25 and Deut 15. Even if there is a connection between them, their similarities are better attributed to the same subject matter or a conceptual dependence rather than an intentional borrowing of literary features for the purpose of responding to the other text.

6. Conclusion

The present study yields several conclusions. First, Lev 25 is literarily dependent upon Exod 23:10–11, but it may only be conceptually dependent upon Exod 21:2–11. In formulating its law of the Sabbatical Year in Lev 25:2b–7, H borrows words and follows the word orders in Exod 23:10–11 to supplement CC's legislation. Nevertheless, H's literary borrowing of CC is kept at a minimum when formulating its slave manumission law in Lev 25:39–55, which replaces the older slave manumission law in Exod 21:2–11.[108] The lack of literary borrowing from CC may also be observed in the prohibition against exacting interest from the poor in Lev 25:35–38. In this case, CC's principle against lending with interest in Exod 22:24 might have been assumed by H, but the text is not reproduced.

Second, the evidence for a literary relationship between Lev 25 and Deut 15 is inconclusive. While Deut 15 is literarily dependent upon both Exod 21:2–11 and Exod 23:10–11

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[108] Notice that significant words in Exod 12:2–11, such as עברי "Hebrew," שׁשׁ שׁנים "six years," חפשׁי "free," חנם "for nothing," are not used in H.

as evidenced by the shared low-frequency words and word-orders, the same cannot be said about

Lev 25 and Deut 15.[109] Bergsma astutely observes,

> Strikingly, *there are no contiguous, identically-inflected sequences of any length that are*
> *unique to Leviticus 25 and Deut 15:1– 18* (i.e., not found elsewhere in the MT). The
> shared sequences נמכר לך and יצא מעמך, albeit differently inflected in each text, could be
> examples of literary dependence, or else examples of the kind of parallels one would
> expect to arise periodically due to similarity in subject matter of the two texts.[110]

This study does not prove the absence of a literary connection between Lev 25 and Deut 15.

Instead, it demonstrates that the evidence for a literary dependence is not as compelling as

believed by many scholars.[111] It is shown here that although Lev 25 and Deut 15 do share some

lexical features, most of them are relatively insignificant parallels or occur in contexts that are

often different and unrelated. However, the more significant lexemes are not shared between

these texts.[112] Moreover, Lev 25 does not seem interested in responding to Deut 15 and vice

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[109] Scholars have argued for the literary dependence of D upon CC in this case. See e.g., Driver,
Deuteronomy, 181–82; Gerhard von Rad, *Deuteronomy: A Commentary* (Philadelphia: Westminster Press, 1966),
107–8; Weinfeld, *Deuteronomy and the Deuteronomic School*, 282–83; Japhet, "Relationship," 69–70; Richard D.
Nelson, *Deuteronomy: A Commentary*, OTL (Louisville: Westminster John Knox, 2004), 191; Otto, *Deuteronomium*
12,1–23,15, 1338–39.

[110] Bergsma, "Biblical Manumission Laws," 86. Emphasis original.

[111] While denying the literary connection between Lev 25 and Deut 15, Bergsma believes that Deut 15 is
from a later period in Israel's history than Lev 25. He suggests, "Based on the evidence of socio-economic
development between the Holiness Code and Deuteronomy, which broadly agrees with the general reconstruction of
the development of ancient Israel from a tribal-agrarian to an urban-monarchic society, it was argued that Deut 15
relates to a later period in Israelite history than Lev 25. Thus, Deut 15 is not a source for the later. Although it is
possible that Deut 15 abrogates or ignores the Levitical legislation, it seems more likely that the divergences
between the two laws are to be explained by the quite different contexts each was formulated to address" (*Jubilee*,
147). Furthermore, Bergsma proposes two possibilities concerning D's stance on the earlier Jubilee legislation in
Lev 25 (*Jubilee*, 142–3). First, the deuteronomic legislation was intended to abrogate the Jubilee legislation. Second,
the Jubilee regulations in Lev 25 were irrelevant and defunct by the time of D's composition. Bergsma admits that
these possibilities are conjectural and not necessary to understand the relationship between Lev 25 and Deut 15.

[112] Unique lexemes in Lev 25 such as דרור "release/liberty," גאל "to redeem/redeemer," משׁפחה "clan," מוך
"to become impoverished," and אחזה "possession" do not occur in Deut 15. Similarly, significant words in Deut 15,
such as שׁמטה "release," אביון "poor," באל משׁה "creditor," and נחלה "inheritance," are not used in Lev 25. For the

versa.[113] In sum, while there are shared words between Lev 25 and Deut 15, there is no evidence

of intentionality, which weakens the argument that there is a direct literary borrowing between

these texts.[114]

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different formulations of similar concepts in Lev 25 and Deut 15, see Bergsma, "Biblical Manumission Laws," 84–86.

[113] Cf. Bergsma, who maintains, "It cannot be maintained that the Holiness Code, at least in the case of the manumission laws, appropriates the diction of Deuteronomy with hostile intent in order to subvert it" ("Biblical Manumission Laws," 88).

[114] That one text may be cognizant with the language or content of the other text is not disputed here. Milgrom, for instance, argues that "In any event, a comparison between the slave laws of D and H, as shown by the evidence adduced above, leads to the conclusion that D was cognizant of the very language of H. That is why I feel constrained to reject, as well, the third possibility that the slave laws of D and H are totally independent compositions. Nonetheless, it should not be forgotten that the postulates underlying the two and, hence, their content (enumerated above) are at total variance with each other" (Milgrom, *Leviticus 23–27*, 2256–57). While H and D may not be totally unaware of each other, their relationship in the case of Lev 25 and Deut 15 is most likely not a direct literary dependence either.

Chapter 6

The Compositional Method and Logic of H

1. Introduction

In the previous three chapters, three laws in H—the animal slaughter laws in Lev 17, the festival

laws in Lev 23, and the Sabbath and Jubilee Years laws in Lev 25—have been compared with

their parallels in other pentateuchal legal corpora to determine their literary relationships. Based

on the findings from the previous chapters, this chapter summarizes the extent of H's literary

connections with CC, D, and P. Then, the concerns or goals of the authors of H in composing

these three laws in connection to the other pentateuchal legal corpora are assessed. However,

before discussing the literary relationship between H and other pentateuchal legal corpora, the

possible models for understanding the relationships between these legal corpora will first be

reviewed in the next section.

2. Models for H's relationship with Other Pentateuchal Legal Corpora

In her study on the reworking of the pentateuchal texts in 4QReworked Pentateuch (4QRP),

Molly M. Zahn distinguishes between compositional technique and exegesis. She defines the

former as "a specific way of manipulating or altering the base text, such as addition of new text,

rearrangement, or paraphrase,"[1] and the latter "the process of coming to a decision about the meaning or appropriate application of the text."[2] She further explains,

> Compositional techniques can be identified by comparison of the rewritten text with its scriptural source; that is, by a fairly empirical process. On the other hand, determining the exegetical or theological purpose behind a particular change is a much more subjective procedure, involving judgments about the concerns or goals of the author.[3]

Zahn further notes that the same compositional techniques may be used for different interpretive goals in exegesis.[4] In other words, the exegetical purpose of a borrowing text in relation to its source text can be determined by analyzing its compositional technique, although the techniques do not in themselves contain apparent exegetical goals.

The comparison between H and other pentateuchal legal corpora shows the different levels of literary relationships among them. Literary borrowing and reworking (Zahn's "compositional technique") is evident in some cases, as indicated by the shared use of low-frequency word choice and low-frequency word order in both H and its parallel laws. In other cases, literary connections are less certain and even unlikely due to the lack of unique shared literary features. The empirical process of comparing these texts only identifies the possibility of a literary connection but not the exegetical goals behind the literary connection. Therefore, even when scholars agree that H and its parallel laws are literarily connected, they may not agree on the exegetical purpose behind the reworking of one text on the other.

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[1] Molly M. Zahn, *Rethinking Rewritten Scripture: Composition and Exegesis in the 4QReworked Pentateuch Manuscripts*, STDJ 95 (Leiden: Brill, 2011), 12.

[2] Zahn, *Rethinking*, 14.

[3] Zahn, *Rethinking*, 14.

[4] Zahn, *Rethinking*, 233–36.

Scholars have proposed several models to explain the purpose of the composition of newer legislation vis-à-vis an older one. The most popular models are the replacement model and the supplement model.[5] The proponents of the replacement model argue that the newer legislation is composed with the purpose of replacing the older one, whose authority is now rejected. According to Jeffrey Stackert, for example, the author of a borrowing text reuses the language of an older revered text "to benefit from the prestige of his source."[6] He further contends that, although using the language of the source text, "the author [of a borrowing text] does not intend for his readers/audience to check his sources. Such an act would highlight the differences between source and revision and potentially undermine the new composition in the eyes of those whose allegiance is to the old."[7] In a similar vein, Bernard M. Levinson believes that, while the source text's language is used in the borrowing text, the author of the borrowing text does not intend for the reader to identify the source text. He postulates,

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[5] For more detailed discussion on these two models, see e.g., Joshua A. Berman, "Supersessionist or Complementary? Reassessing the Nature of Legal Revision in the Pentateuchal Law Collections," *JBL* 135 (2016): 201–22; Kevin Mattison, *Rewriting and Revision as Amendment in the Laws of Deuteronomy*, FAT 2. Reihe 100 (Tübingen: Mohr Siebeck, 2018), 7–14. Mattison, however, focuses on the relationship between D and CC. Both models have been argued in the case of H's relationship with other pentateuchal legal corpora. For example, scholars have interpreted H's slave manumission laws as either a replacement of or a supplement to older legislations in CC and D. For scholars who argue for the replacement model in the case of H's slave manumission laws, see e.g. Bernard M. Levinson, "The Manumission of Hermeneutics: The Slave Laws of the Pentateuch as a Challenge to Contemporary Pentateuchal Theory," in *Congress Volume Leiden 2004*, ed. André Lemaire, VTSup 109 (Leiden: Brill, 2006), 281–324; Jeffrey Stackert, *Rewriting the Torah: Literary Revision in Deuteronomy and the Holiness Legislation*, FAT 52 (Tübingen: Mohr Siebeck, 2007), 138–41. For the complementarian position on the same issue, see e.g., Adrian Schenker, "The Biblical Legislation on the Release of Slaves: The Road from Exodus to Leviticus," *JSOT* 23 (1998): 23–24, 32–38; John S. Bergsma, *The Jubilee from Leviticus to Qumran: A History of Interpretation* (Leiden: Brill, 2007), 43–48, 139–47; Benjamin Kilchör, *Mosetora und Jahwetora: Das Verhältnis von Deuteronomium 12–26 zu Exodus, Levitikus und Numeri*, BZABR 21 (Wiesbaden: Harrassowitz, 2015), 137–56; Roy E. Gane, *Old Testament Law for Christians: Original Context and Enduring Application* (Grand Rapids: Baker Academic, 2017), 286–93.

[6] Stackert, *Rewriting*, 217, n. 7.

[7] Stackert, *Rewriting*, 219, n. 18.

As a result of this tension [among biblical laws], the biblical authors developed a number of sophisticated literary strategies to present new law as not in fact involving the revision or annulment of older laws ascribed to God. The biblical authors develop what I call a "rhetoric of concealment" which serves to camouflage the actual literary history of the laws.[8]

Levinson further explains the ways by which the revising authors might conceal their intention to innovate on older laws:

This ingenuity required striking technical means—dodges of voice, including devoicing, revoicing, and pseudepigraphy, as well as dodges of the scribal craft, including Zeidel's law, interpolation, and lemmatic citation and reformulation. This sophisticated repertoire of sleights of scribal hand suggests the difficulty of explicit literary innovation in ancient Israel.[9]

In other words, a revising legal text is composed as an independent composition that is not supposed to be read with the source text side-by-side.

By contrast, in the supplement model, a borrowing legal text is understood as complementing the older legislation in the source text. A more nuanced approach in this model acknowledges that a newer law may revise an older one without supplanting its authority despite the revisions.[10] Joshua A. Berman, for example, avers,

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[8] Bernard M. Levinson, "The Human Voice in Divine Revelation: The Problem of Authority in Biblical Law," in *Innovation in Religious Traditions: Essays in the Interpretation of Religious Change*, ed. Michael A. Williams, Collett Cox, and Martin S. Jaffee, Religion and Society 31 (Berlin: de Gruyter, 1992), 45. Levinson's theory has been rightly criticized by Berman, who points out, "This understanding of lemmatic invocation falters, however, when we imagine the audiences such a theory implies. Consider the revision of the Covenant Code by the author of Deuteronomy. If Levinson assumes an ignorant audience for the book of Deuteronomy, the author would have had no need to employ exegetical tools that retain the language of the Covenant Code, even as he revised it. Conversely, if Levinson assumes that the audience of Deuteronomy was, in fact, familiar with the Covenant Code, it is difficult to see how this audience could have failed to see through alleged exercises in concealment" ("Supersessionist or Complementary?," 220).

[9] Levinson, "Human Voice," 60.

[10] Cf. Joseph Blenkinsopp, *The Pentateuch: An Introduction to the First Five Books of the Bible* (New York: Doubleday, 1992), 210.

> Indeed, as authors revised the collections, they certainly intended to invalidate former normative practices. But that did not entail a rejection of the authority of that text. Rather the earlier prescription was seen to be fulfilled through its reapplication to meet a new challenge. This … is the reason that lemmatic citation and expansion are so ubiquitous throughout this legal literature. A revised legal text is a new formulation and new application of an old, revered norm.[11]

Some proponents of this model also argue for the notion that legal collections in the ancient Near East were "records of *precedent* but not of *legislation*."[12] Simply put, the pentateuchal law collections are viewed not as a collection of statutory laws which had to be strictly adhered to by later jurists but as a collection of precedents that became a resource for later jurists to reuse and rework as new situations emerged.[13]

Recently, Kevin Mattison has proposed the amendment model as an alternative to the supplement and replacement models. In his study of the relationship between D and CC, Mattison recognizes that D seems to fill the informational gap in CC in some places while the contradictions between D and CC seem irreconcilable in other places. Thus, he hypothesizes "D overwrote specific parts of its source but left the rest intact."[14] In this model, Mattison analyzes how D uses various compositional techniques, which he classifies in three categories:

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[11] Berman, "Supersessionist or Complementary?," 211. Cf. Joshua A. Berman, *Inconsistency in the Torah: Ancient Literary Convention and the Limits of Source Criticism* (New York: Oxford University Press, 2017), 179; Joshua Berman, "The History of Legal Theory and the Study of Biblical Law," *CBQ* 76 (2014): 35–36.

[12] Berman, "Supersessionist or Complementary?," 209. Emphases are original.

[13] Cf. Eckart Otto, "The Pre-exilic Deuteronomy as a Revision for the Covenant Code," in *Kontinuum und Proprium: Studien zur Sozial- und Rechtsgeschichte des Alten Orients und des Alten Testaments*, by Eckart Otto (Wiesbaden: Harrassowitz, 1996), 112–22; Eckart Otto, "Ersetzen oder Ergänzen von Gesetzen in der Rechtshermeneutik des Pentateuch: Zu einem Buch von Jeffrey Stackert," in *Die Tora: Studien zum Pentateuch; Gesammelte Schriften*, BZABR 9 (Wiesbaden: Harrassowitz, 2009), 248–56; Christophe Nihan, *From Priestly Torah to Pentateuch: A Study in the Composition of the Book of Leviticus*, FAT 25 (Tübingen: Mohr Siebeck, 2007), 545–59; Hindy Najman, *Seconding Sinai: The Development of Mosaic Discourse in Second Temple Judaism*, JSJSup 77 (Leiden: Brill, 2003), 22–26.

[14] Mattison, *Rewriting*, 7.

presupposition, complementation, and overriding.[15] He concludes, "The results of Deuteronomy's interactions with its sources—it presupposes and complements them while also overriding them at key points—support a larger design aimed at amending rather than supplementing or replacing."[16] In other words, in the amendment model, a borrowing text supplements certain aspects of the source text, replaces others, and assumes the rest. Thus, the borrowing and source texts are intended to be read alongside each other. Although Mattison rightly highlights both the supplement and replacement aspects in the reworking of older legislation in the new one, it seems that this model is just a more nuanced approach of the supplement model as some versions of the latter also recognize the replacement aspect albeit not as salient as in the former.[17]

3.   H's Literary Relationships with Other Pentateuchal Legal Corpora

3.1. H and P

In the three laws analyzed in this study, the literary dependence of H upon P is identified in each case. In the case of the animal slaughter laws, Lev 17 employs P's language, from the language used in the sacrificial procedures in Lev 3:1–17; 7:11–21 to the prohibition against blood consumption in Gen 9:4–6 to the law concerning the consumption of animal carcasses in Lev 11:39–40. In these cases, one can identify the use of unique literary features, such as low-

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[15] Mattison, *Rewriting*, 22–27.

[16] Mattison, *Rewriting*, 23, cf. 175–77.

[17] Mattison acknowledges that his model is closer to the supplement model but maintains that "it still fails to capture important aspects of the relationship between D and CC, including the magnitude of the contradictions between them, the importance of the disputed issues to D, and the power dynamics between the revising text and the text on which it exerts its interpretive will" (*Rewriting*, 9).

frequency lexical items, low-frequency word order, and even some structural similarity between these two legal corpora. In borrowing material from P texts, H introduces new concepts. For example, by employing the literary features of Gen 9:4–6, Lev 17 expands P's prohibition for shedding human blood by stating that the pouring of animal blood outside of the sanctuary also constitutes murder.

The literary connection between H and P is even more evident in the festival laws. Most notably, Lev 23 displays striking similarities with Num 28–29. Here, not only does the structure of Lev 23 parallel that of Num 28–29, but other lexical features, such as word choice and word order, are also mimicked closely.[18] While borrowing literary features from P, H's festival laws also add new elements while modifying other elements from P. For instance, Lev 23 abbreviates the sacrificial lists from Num 28–29 but incorporates new elements into its new legislation. The most significant modification is found in the legislation on the Firstfruits celebration in Lev 23:9–22. In contrast to one celebration with one sacrificial list in Num 28:36–31, H introduces two distinct but related celebrations with two sacrificial lists.

The evidence for H's dependence upon P is the weakest in the legislation on the Sabbath Year and the Jubilee Year since it is unique to H and has no comparable legislation in P. However, even in this case, one can still detect the literary dependence of Lev 25 upon P's tradition of the slavery in Egypt. It is evident that Lev 25:43, 46 employs the literary features from the priestly narrative in Exod 1:13–14 to ban the inhumane treatment of an Israelite who is in indentured servitude by alluding to the Israelites' experience as foreign slaves in Egypt.

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[18] It has been demonstrated in Chapter 4 that it is more likely that Lev 23 is built upon Num 28–29.

In the three laws analyzed in this study, H never abolishes P's laws but rather supplements them.[19] For instance, although the commandment to slaughter sacrificeable animals at the entrance of the tent of the meeting in Lev 17 may be understood as polemical against Gen 9, this reading is unnecessary when they are "read in sequence as a developing narrative."[20] Profane slaughter, which was allowed in Gen 9 only because there was no centralized sanctuary, is now prohibited in Lev 17 because a centralized sanctuary had existed at that point. Another example is the more detailed legislation concerning the consumption of animal carcasses in Lev 17:15–16. It has been argued that this law is in tension with P's legislation in Lev 11:39–40. Christophe Nihan, for instance, claims, "Against P, H reinforces the gravity of the pollution (the man must wash not only his clothes, as in Lev 11,40, but also himself), and specifies the consequences should the instructions for purification not be followed (the man must "bear his sin", נשׂא עון, Lev 17,16)."[21] H's revision in this case, however, is not a replacement of P's law but rather a supplementation, in which H expands P's purification requirements.

Similarly, H's festal legislation in Lev 23 does not contain elements that may be construed as polemical against P's festal legislation in Num 28–29, as suggested by some scholars. Again, Nihan argues that H's legislation on the Passover and the Feast of Unleavened Bread is polemical against P in at least two ways.[22] First, Lev 23 is against P by combining the

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[19] *Pace* Nihan, who contends, "In many aspects the holiness legislation in Lev 17–26 stands in tension with P, and apparently seeks to correct or revise it" (*From Priestly Torah*, 546).

[20] Paavo N. Tucker, *The Holiness Composition in the Book of Exodus* (Tübingen: Mohr Siebeck, 2017), 61.

[21] Christophe Nihan, "The Holiness Code between D and P: Some Comments on the Function and Significance of Leviticus 17–26 in the Composition of the Torah," in *Das Deuteronomium zwischen Pentateuch und deuteronomistischem Geschichtswerk*, ed. Reinhard Achenbach and Eckart Otto (Göttingen: Vandenhoeck & Ruprecht, 2004), 103.

[22] Nihan, "Holiness Code," 104. Emphasis original.

Passover and the Feast of Unleavened Bread. Second, these two festivals are connected to the

sanctuary in Lev 23 but not in Exod 12:1–13 (P). Nevertheless, these points do not necessarily

support Nihan's conclusion. First, the combination of the Passover and the Feast of Unleavened

Bread may be understood as a further development of, and not against, P. Second, the narrative

in Exod 12:1–13 should be read as an instruction on how to celebrate the Passover *during the*

event of Exodus and not how the Israelites should celebrate the Passover when the central

sanctuary has been established, which is the concern of the author of H in Lev 23.

As noted above, H's commandment not to rule over an Israelite ruthlessly in Lev 25:43,

46 is built upon P's narrative of the slavery in Egypt in Exod 1:13–14. In this case, P's narrative

is the basis for H's commandment, with no indication in the commandment that H is attempting

to subvert P. Nevertheless, Nihan finds a potential polemic between H and P by contrasting the

different conceptions about the ownership of the land in these two legal codes:

> Another important difference lies in the fact that H develops a systematic conception
> according to which the Israelites have been brought by YHWH out of Egypt to be his
> slaves and serve him on his land (cf. Lev 25,55), a notion entirely absent from P. As a
> consequence, the land is defined as YHWH's exclusive possession (25,23), whereas in P
> the land is represented, on the contrary, as having been given to Abraham's offspring as a
> "permanent possession" (לאחזת עולם, Gen 17:8; 23,4.9.20; 36,43).[23]

The contrast between the giving of the land to Abraham's offspring as a "permanent possession"

in P and the claim that the land belongs to Yahweh in H do not indicate a polemical intent

against, or the replacement of, P's older notion. It would be unthinkable that P would assume

that Yahweh does not own the land once it is given to the people of Israel. More likely, H makes

an explicit statement about Yahweh's possession of the land to make its point about its

legislation on the redemption of property in Lev 25. After all, H's legislation on property

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[23] Nihan, "Holiness Code," 105.

redemption allows the people of Israel to return to *their* property that Yahweh has given to their ancestors.

In the case of H's literary dependence upon P, at least in Lev 17 and 23, the reader's knowledge of the source texts is assumed and required to fully grasp the meaning of the newer legislations. For example, H's animal slaughter legislation assumes the reader's knowledge of the procedures for offering sacrifices, especially the sacrifice of peace offerings, which can only be found in P. The reader's knowledge of P's festival laws in Num 28–29 is also required since H does not repeat the sacrificial lists for the festivals in Lev 23. In other words, H and P are intended to be read side-by-side. Thus, H should be understood not as an independent legal corpus intended to subvert P and supplant its authority but rather as a supplemental corpus to, and one depending on, P.

3.2. H and CC

While H shows a high degree of literary dependence upon P, it is substantially less dependent upon CC. H's animal slaughter law in Lev 17 almost does not show any literary dependence upon CC, except for the possible allusion to the ban on eating תרפה in Exod 22:30 (ET 22:31). The festal legislation in Lev 23 shows evidence of a literary dependence as evidenced by a number of shared lexical parallels. Nevertheless, most of them may be attributed to topical similarities and shared culture. Furthermore, these similarities are also shared with other texts, such as Num 28–29. Thus, if Lev 23 depends on Num 28–29 as argued in this study, its dependence upon Exod 23 is not necessary. The clearest evidence of H's literary dependence upon CC is H's formulation of the Sabbath Year legislation in Lev 25:2b–7, which borrows lexical items from, and follows the word order of, Exod 21:10–11. The rest of the legislation in

Lev 25 does not seem to be literarily connected to CC, although a conceptual dependence in the case of the slave manumission law is possible, albeit not necessary.[24]

Although H does not seem to be interested in supplementing, amending, or replacing CC *as a corpus*, a small number of its individual laws correspond to, and even build upon, CC. For example, H reconciles the prohibition against eating animal carcasses in Exod 22:30 and the permission to do so in Lev 11:39–40. In Lev 17:15–16, H follows P's instructions on purification after eating animal carcasses, thereby affirming P's legislation. Nevertheless, H revises the absolute ban on eating animal carcasses in CC and limits the ban to only priests in Lev 22:8. Like in CC, the prohibition against eating animal carcasses in H is also connected to the notion of holiness, albeit expressed differently. Unlike CC, however, H uses this connection to emphasize the priests' special degree of holiness over the laypeople. In this case, CC's ban is not entirely rejected but reinterpreted as only binding to the priests. The same is true concerning the literary dependence of H upon CC in the case of the Sabbath Year legislation (Lev 25:2–7; Exod 23:10–11), in which H improves the language of CC, clarifies the procedure for the observance of the Sabbath Year, and expands CC's legislation to include the religious motivation and the function of the Sabbath Year. In other words, H's Sabbatical Year legislation supplements and does not replace CC's seventh-year legislation.[25]

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[24] On this point, see more below.

[25] *Pace* Stackert, who argues that H is significantly different from CC in its Sabbatical Year legislation that it can only be understood as irreconcilable (*Rewriting*, 129–41, 219 n. 20). See also Jeffrey Stackert, "The Holiness Legislation and Its Pentateuchal Sources: Revision, Supplementation, and Replacement," in *The Strata of the Priestly Writings: Contemporary Debate and Future Directions* (Zürich: Theologischer Verlag Zürich, 2009), 197, n. 30; Jeffrey Stackert, "The Sabbath of the Land in the Holiness Legislation: Combining Priestly and Non-Priestly Perspectives," *CBQ* 73 (2011): 243–44.

While the slave manumission legislation in Lev 25:39–55 is not literarily connected to CC's slave manumission law (Exod 21:2–11), certain concepts in the former may be read as either supplementing or replacing the latter. Some scholars believe that Lev 25 supplements CC's slave manumission laws by addressing different cases than CC's. For example, Adrian Schenker argues that H addresses the case of married Israelites with male children before being enslaved. He then concludes, "It therefore seems reasonable to assume that Lev. 25.39–55 intends to fill in lacunas of the previous manumission laws of the Covenant Code, not replacing, but completing them."[26] Even if this reading is accepted, the prohibition against enslaving an Israelite in H does seem to contradict CC's permission to enslave an Israelite. Furthermore, H's prohibition against an Israelite being in perpetual indentured labor is also in tension with the possibility of perpetual servitude of an Israelite in CC. Because of these tensions, Nihan argues, "The general principle underlying [the legislation in Lev 25] is the abolishment—against the earlier legislation (CC and D)—of the possibility of an Israelite enslaving another Israelite; and this innovation is itself justified through a reinterpretation of the exodus according to which the Israelites have been freed from Egypt to become Yahweh's own slaves (v. 42, 55)."[27] Nevertheless, since H does not seem to be literarily dependent upon CC's slave manumission laws, it is also possible that H does not specifically respond to CC but the general practice of enslaving the Israelite, which is reflected in CC.

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[26] Schenker, "Biblical Legislation," 38. The notion that CC addresses only the case of a slave male without children has been rightly criticized by Jean-François Lefebvre, *Le jubilé biblique: Lv 25, exégèse et théologie*, OBO 194 (Fribourg, Suisse: Vandenhoeck & Ruprecht, 2003), 311–27; Esias E. Meyer, "When Synchrony Overtakes Diachrony: Perspectives on the Relationship Between the Deuteronomic Code and the Holiness Code," *OTE* 30 (2017): 764.

[27] Nihan, *From Priestly Torah*, 534.

3.3. H and D

The evidence for the literary dependence of H upon D is minimal, and the shared literary features between them do not seem to be the result of an intentional literary borrowing.[28] In the case of animal slaughter laws in Lev 17 and Deut 12, only the blood prohibition may possibly be used as evidence for literary dependence. Nevertheless, the formulations of the prohibition are different and may not necessarily be attributed to a direct literary dependence but a mediated dependence (via P) or a shared culture. Similarly, the festal legislation in Lev 23 shares almost no literary features with D beyond those that are shared with Num 28–29 or those that may be attributed to thematic similarities. The evidence of literary dependence is the strongest when one compares Lev 25 and Deut 15. Even in this case, the shared features are inconclusive since most are insignificant parallels or appear in unrelated or different contexts. While the conceptual connection between H and D is possible, there is virtually no conceptual dependence of H upon D that cannot be attributed to P or CC. Furthermore, in all three legislations examined in this study, H does not seem to address the concern of D or vice versa.

A similar observation concerning the lack of evidence for a literary dependence between H and D has been made by Julia Rhyder, who analyzes the animal slaughter laws in Lev 17 and the festival laws in Lev 23. She notes, "There is very little evidence in H's discourse of centralization for direct dependence on corresponding passages in D."[29] However, instead of dismissing the connection between H and D, she avers,

> [The lack of literary dependence in the case of H and D] is not because H is unaware of D or disinterested in its legislation. To the contrary, this study has affirmed … that H

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[28] *Pace* Nihan, who contends, "H's literary and conceptual dependence upon D is most evident in Lev 17; 23 and 25" (Nihan, "Holiness Code," 83).

[29] Julia Rhyder, *Centralizing the Cult: The Holiness Legislation in Leviticus 17–26*, FAT 134 (Tübingen: Mohr Siebeck, 2019), 398.

frequently draws on D and coordinates its language and concepts with other scriptural traditions when it considers this necessary for articulating new legal rulings. However, when it comes to conceptualizing centralization, H shows little interest in teasing out the implications of D."[30]

Furthermore, she also rejects the notion that H predates D as a legitimate explanation for H's lack of literary dependence upon D.[31] Instead, she suggests that multiple pentateuchal traditions develop their own discourse, and while H was aware of D, it intentionally did not use material from D to develop its own legislation. Rhyder contends that, instead of depending on D, "H develops a centralizing logic that looks primarily to the earlier P materials for inspiration."[32] It is, however, unclear why H would intentionally avoid material from D only when developing its centralization discourse. Moreover, it is worth pointing out that the evidence for H's reuse of D in other laws is not more compelling.[33]

Moreover, the lack of shared literary features between these two legal corpora does not support the notion that H was composed as a response to D or vice versa. Carly L. Crouch points

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[30] Rhyder, *Centralizing*, 398.

[31] Rhyder, *Centralizing*, 399.

[32] Rhyder, *Centralizing*, 399.

[33] Consider, for example, the literary relationship between H and D in the blasphemy-talion pericope in Lev 24:10–23. In his study on this passage, David P. Wright argues for a literary connection between H and D. Even then, he admits that the similarities between H and D is less covert and more incidental than between H and CC. In his words, "In general, H interacted with CC and D differently. It cites or alludes to CC in a more visible manner, as we have seen in Lev 24. This indicates that H's primary hermeneutic interest was in CC, as an established authoritative or prestige text. In contrast, H reflects D in a more incidental or oblique fashion. This gives the impression that it esteemed D differently" ("Source Dependence and the Development of the Pentateuch," in *The Formation of the Pentateuch: Bridging the Academic Cultures of Europe, Israel, and North America*, ed. Jan Christian Gertz et al., FAT 11 [Tübingen: Mohr Siebeck, 2016], 672). All the examples that Wright provides as evidence for a literary connection between H and D are superficial at best since none of them share literary features that are similar enough to argue for a literary dependence. Wright, however, may be correct that either text might have been aware of, but was not interested in borrowing the literary features of, the other text due to a lack of esteem. Nevertheless, due to the lack of evidence for a literary dependence between H and D, any claims concerning the attitude of H towards D, and vice versa, are highly conjectural.

out the importance of the audience's ability to recognize the intention of the borrowing text to respond to the source text, especially in the case of subversion. She argues, "The audience must recognize an element of the text as originating outside the text; be able to identify its origins; and then juxtapose the original and secondary uses so that their differences are appreciated and the interpretation of the latter is affected accordingly."[34] The lack of shared literary features between H and D would hinder the reader from recognizing the borrowing text's subversive nature against the source text.

The lack of shared literary features between H and D may also result from the lack of interest in responding to each other. The notion that H is not interested in responding to D is further evidenced by the lack of H's language in D, a notion that has been commonly recognized.[35] For example, while arguing for the literary dependence of H upon D, Nihan admits, "No clear trace of H can be found in Deuteronomy. Apparently, the H school was not interested in the editing of this scroll."[36] The same is true about the language of D in H: there is virtually no trace of D in H. Moshe Weinfeld correctly argued long ago,

> Had P been dependent on D—as Wellhausen assumed—then we should be able to discern this dependence in verbal and conceptual parallels, but no such dependence has yet been convincingly demonstrated. Moreover, since the Priestly editor incorporated his own traditions in the earlier JE material, it would be fair to assume that he would similarly have incorporated his traditions in D as well if the deuteronomic material had antedated him."[37]

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[34] Carly L. Crouch, *Israel and the Assyrians: Deuteronomy, the Succession Treaty of Esarhaddon, and the Nature of Subversion* (Atlanta: SBL Press, 2014), 27.

[35] *Pace* Kilchör, who argues that H is extensively quoted in D (*Mosetora*, 314–15); Benjamin Kilchör, "Did H Influence D on an Early or a Late Stage of the Redaction of D?," *OTE* 29 [2016]: 502–12.

[36] Nihan, "Holiness Code," 120.

[37] Moshe Weinfeld, *Deuteronomy and the Deuteronomic School* (Oxford: Clarendon, 1972), 180. Weinfeld, however, believes that D and Dtr were familiar with the priestly literature as indicated by the traces of priestly views

The fact that H and D deal with similar issues without sharing literary features or responding to

each other's concerns supports Weinfeld's theory that these two legal codes were of different

sociological backgrounds and not different chronological ones.[38]

Despite the lack of evidence for a literary dependence, scholars continue to propose the

way H might relate to D. Certain aspects in H are indeed in conflict with D, at least conceptually.

Nevertheless, since these aspects are also shared with CC, the notion that H's legislations were

composed to respond to D's is unnecessary, although not impossible. For example, Nihan argues

that H combines the term נבלה (Deut 14:21) with תרפה (Exod 22:30) but corrects the prohibition

against eating animal carcasses in view of P.[39] This argument is weakened if it is accepted that

Lev 17:15–16 is literarily dependent upon Lev 11:39–40, in which the word נבלה also occurs.[40] In

other words, the word pair in Lev 17:15–16 may have resulted from the combination of Lev

11:39–40 and Exod 22:30. If this is correct, the notion that H must have depended upon both CC

and D becomes unnecessary.

Nihan further argues that H's festal regulation is not only influenced by CC but also D.

He contends, "The systematic reinterpretation and development of earlier traditions is similarly

at work in the calendar of Lev 23, which is built on the pattern of the three pre-exilic pilgrimage

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and phraseology (Weinfeld, *Deuteronomy and the Deuteronomic School*, 180–82). Nevertheless, the examples provided by Weinfeld are not from Lev 17–26. Thus, it is possible that D was aware of P's language but not H's.

[38] Weinfeld, *Deuteronomy and the Deuteronomic School*, 180.

[39] Nihan, "Holiness Code," 103.

[40] The dependence of Lev 17:15–16 upon Lev 11:39–40 is acknowledged by Nihan, who argues, "H's redactor attempts to harmonize contradictory instructions, suggesting the necessity of a unified interpretation of such laws. An admirable illustration of this device is found, inter alia, in the legislation on carrion in Lev 17:15–16, which reinterprets all the previous laws in Ex 22:30; Deut 14:21a and Lev 11:39–40 (P)" (*From Priestly Torah*, 549).

festivals originally presented in Ex 23, 14-17 and reinterpreted in Dtn 16,1-17 in the perspective

of D's ideology of cultic centralization."[41] The authors of H may indeed have been aware of the

pattern of three pre-exilic pilgrimage festivals as described in CC's festal regulation.[42] If H knew

about these pilgrimage festivals as described in CC, it is unsurprising that Lev 23 also assumes

CC's requirement that all the male Israelites must appear before Yahweh, which in H's theology

is in the tent of meeting, to present their offerings during the annual festivals. However, unlike in

Deut 16, the centralization of place for celebrating the festivals in Lev 23 is never explicitly

mentioned; it is only assumed based on Lev 17's command to offer sacrifices at the tent of

meeting. Given the lack of unique shared literary features between Lev 23 and Deut 16, it

remains doubtful that H's festal legislation is influenced by D's festal regulation or vice versa.

Concerning Lev 25, Nihan argues that H innovated on CC and D in three ways.[43] First,

Lev 25:35–38 combines the exhortation to be generous in Deut 15:7–11 with the prohibition

against taking interest from the poor in Deut 23:20–21, which in itself is dependent upon the

similar legislation in Exod 22:24 [ET 22:25]. Second, H redefines debt-slavery by rendering

superfluous CC's and D's concept of perpetual slavery and D's instructions to give generously to

the released slave since the Israelite would go back to his inheritance in the Jubilee Year. In

relation to this legal innovation, H also creates new laws that are not found in CC and D, namely,

the permission to enslave foreigners and the instructions concerning an Israelite who becomes a

slave of a foreigner. Third, Lev 25 also combines the Sabbatical Year and the seventh-year slave

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[41] Nihan, "Holiness Code," 88.

[42] Nevertheless, it does not follow that Lev 23 must be built upon Exod 23:14–17, especially because they lack unique shared literary features.

[43] Nihan, "Holiness Code," 86–88.

release, which are distinct in CC and D. Furthermore, H reworks D's שמטה by setting a fixed date

for debt release and slave release. In response to Nihan's arguments, three observations can be

made. First, one cannot confidently argue that Lev 25:35–38 combines Deut 15:7–11 and Deut

23:20–21 due to the lack of literary features that these texts. Second, H's redefinition of debt-

slavery might have assumed the permission to enslave an Israelite as described in CC and D.

However, H's slavery law might not necessarily be composed as a response to *both* CC and D.

The abolition of the Israelite slavery in H can be understood as a response to *only* CC and not D.

In fact, H's prohibition against the slavery of an Israelite might not even necessarily be a direct

response to CC but rather a correction of a common practice in ancient Israel. Furthermore, there

is no evidence that the absence of the exhortation to give generously to the released slave is an

intentional omission with D's legislation in mind. Third, the combination of the Sabbatical Year

and the Jubilee Year in H does not necessarily need to be attributed to *both* CC and D. It should

also be pointed out that, unlike D but similar to CC, there is no debt-release in Lev 25.

Because the legislation in Lev 25 is vastly different from Exod 21 and Deut 15, Berman

contends, "The author of Lev 25 addressed the institution of the Jubilee … and hence speaks of

release during the Jubilee Year. We cannot know his opinion about release following the six-year

term of work found in Exod 21 and Deut 15; these were not his subject matter."[44] This

observation supports the notion that the legislation in Lev 25 is independent of the slave

manumission laws in CC and D.[45] In a similar vein, Jeffrey H. Tigay argues,

> It therefore seems likely that Leviticus 25 represents a system for the relief of poverty
> that is independent of the one in Exodus and Deuteronomy. This conclusion is consistent

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[44] Berman, "Supersessionist or Complementary?," 211.

[45] H's abrogation of the perpetual slavery of Israelites, however, does seem to contradict CC's and D's permission to enslave an Israelite in perpetuity, although it may not necessarily be a direct response to them.

with the fact that Leviticus 25 seems textually unrelated to Exodus 21–23. It lacks the terminological similarities, noted above, that connect Deuteronomy to Exodus, and it uses different terms to say the same things. It describes the activity of the seventh year, for example, as the land "having a sabbath" rather than the farmer "dropping" or "releasing" it.[46]

He further notes, "It is not clear if this system is derived from a geographical or chronological background different from that of Exodus 21–23 and Deuteronomy, or if it simply reflects the approach of another school of thought."[47]

4. Replacement, Supplement, or Amendment?

The following conclusions may be drawn concerning the three major laws in H analyzed in this study. First, the literary relationship between H and P is extensive and systematic, as evidenced by the high degree of literary borrowing of the latter by the former. Furthermore, the reading of H's laws, particularly the animal slaughter laws and the festival laws, presuppose the knowledge of P. In these two laws, H simply assumes that the reader is familiar with P's sacrificial procedures, including its sacrificial lists for the festivals in Num 28–29. Moreover, in no cases are H's laws irreconcilable with P with the intention to supplant the latter's authority. These observations support the idea that H is intended to be read with, and as a continuation of, P. In other words, H supplements and rewrites certain aspects of P but leaves the rest intact.

Second, in contrast to the literary relationship between H and P, the literary relationship between H and non-Priestly pentateuchal legal corpora is less salient. Despite claims that H overtly revises non-priestly legislation, this study finds that H's reuse of non-Priestly legislation

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[46] Jeffrey H. Tigay, *Deuteronomy* (Philadelphia: Jewish Publication Society of America, 1996), 467.

[47] Tigay, *Deuteronomy*, 467.

is generally covert, if present at all.[48] In some instances, H's laws may have been literarily

dependent upon CC, for example, in the cases of the ban on eating animal carcasses and the law

of the seventh year. In most cases, however, H is not literarily dependent upon CC and may only

be understood as conceptually related, but not necessarily as a direct response, to CC's laws.

While H is aware of and has reused CC's laws on a few occasions, the evidence is insufficient to

determine whether H was composed as a replacement or supplement of CC as a whole. It is

likely that in supplementing P, H repurposes some aspects of CC that may be used to serve H's

theological agenda while ignoring the rest, including the laws with which it is in tension.

Furthermore, while it is true that the authors of H were familiar with CC as evidenced by the

reworking of CC in H's laws, the same knowledge of CC is not assumed of the reader of H.

Simply put, it is not necessary for the reader of H to consult CC or even be aware of CC in order

to comprehend H despite H's reuse of CC in some of its laws. It is in this sense that H reworks,

but is not designed to be read alongside, CC.

Third, the relationship between H and D, by contrast, is more complicated. The literary

relationship between H and D cannot be identified with certainty due to the scarcity of literary

features uniquely shared between these legal corpora. In most cases, neither text seems to

address the concerns in the other text. In some cases, however, H's laws could be understood as

responding to D's laws, although they may also be read as responding to P's or CC's laws,

thereby rendering the argument that H responds to D unnecessary.[49] Despite these findings, it is

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[48] *Pace* Stackert, for example, who argues, "H's revision of non-Priestly legislation are overt attempts to marginalize these sources, even as the Holiness author culls ideas from them and formulates law on the basis of his interaction with them" ("Holiness Legislation," 189). Similarly, Nihan avers, "In numerous instances, H, as we have seen, explicitly revises D (see in particular Lev 17; 23; 25!)" ("Holiness Code," 106).

[49] Similarities between two texts do not necessarily indicate a literary dependence, especially when the motivation behind the literary borrowing is uncertain. Thus, one of Dennis R. MacDonald's criteria for identifying a literary dependence is the criterion of interpretability, which "involves an assessment of why the author may have

argued here that the literary relationship between H and D, at least in the three laws analyzed in this study, is not proven and that the evidence for the case has been exaggerated. In light of these observations, H's attitude towards D, or vice versa, cannot be accurately determined and will always be highly conjectural.

5. Conclusion

In his SBL presidential address in 1961, Samuel Sandmel famously warned biblical scholars of "parallelomania," which he defined as "that extravagance among scholars which first overdoes the supposed similarity in passages and then proceeds to describe source and derivation as if implying literary connection flowing in an inevitable or predetermined direction."[50] In this warning, Sandmel did not deny the existence of literary parallels and literary influence among ancient texts. Instead, he cautioned against the exaggeration of literary parallels and textual influence without sufficient evidence. In order to avoid parallelomania, this study does not presuppose a certain kind of compositional model of the Pentateuch or a certain religio-historical theory when analyzing pentateuchal legal texts. Rather, it starts with the final text and focuses on the linguistic features of the texts this study has proposed a method that focuses on the analysis of the linguistic features of the texts, i.e., lexical features, syntactic features, semantic features,

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targeted the model for imitation, such as the replacement of its values and perspectives with different ones" ("Introduction," in *Mimesis and Intertextuality in Antiquity and Christianity*, ed. Dennis Ronald MacDonald [Harrisburg, PA: Trinity Press International, 2001], 3). Similarly, Samuel Sandmel points out the importance of identifying the significance of the alleged parallels before making the claim of a literary dependence between two texts ("Parallelomania," *JBL* 81 [1962]: 5). See also Richard L. Schultz's distinction between verbal parallel, verbal dependence, and quotation in *The Search for Quotation: Verbal Parallels in the Prophets* (Sheffield: Sheffield Academic, 1999), 217.

[50] Sandmel, "Parallelomania," 1.

and structural-thematic features, to determine their literary relationship between H and its parallel laws in the Pentateuch.

The analyses of Lev 17, 23, and 25 have demonstrated that the degrees of H's literary connection with other pentateuchal legal corpora vary from one corpus to another, which may be summarized as follows. First, H is literarily dependent upon P, evidenced by the extensive sharing of literary features between these two legal corpora. H assumes and builds upon P's laws. Since the knowledge of P is required to comprehend H's laws fully, H was composed to be read with, and as a supplement of, P. Second, the literary connection between H and CC is less overt. However, the former is familiar with the latter, as indicated by the sharing of low-frequency words and word orders between H's law of the Sabbath Year and CC's law of the seventh year. Despite this occasional dependence, H is not literarily dependent upon CC in most cases, although certain aspects of H's laws are evidently in tension with and conceptually revise CC's laws. Unlike with P, however, H's laws are not intended to be read in conjunction with CC since the reader's knowledge of CC is not required. Third, the evidence for a literary connection between H and D is inconclusive. These two legal corpora share some literary features, but none of them are sufficient to establish the presence of a literary dependence between them. While certain aspects in H may be read as responding to D, they may also be understood as responding to P or CC, thereby making the notion of H responding to D unnecessary, albeit not impossible. Although this study cannot disprove the possible connection between H and D, it serves as a correction to the notion that the literary relationship between these two corpora is evident and compelling.

In light of these findings, it is unlikely that H proper was composed as a legal code that supersedes all the pentateuchal legal corpora as argued by Stackert:

> What can be said is that the Holiness Legislation, through its simultaneous revision of existing Priestly law on the one hand and the Covenant Collection and Deuteronomy on the other, creates a thoroughly "learned" composition, a sort of "super law" that collects and distills the several law collections (CC, D, P) that precede it. By accommodating, reformulating, and incorporating various viewpoints from these sources, the Holiness authors create a work that is intended to supersede them all.[51]

H is also not a "systematic, comprehensive reception and reinterpretation" of all other pentateuchal legal corpora as suggested by Nihan.[52] The holiness legislation in Lev 17–26, or at least the three laws analyzed in this study, is not composed to replace or supplement *all* other laws in the Pentateuch. Instead, it is composed to supplement P with the occasional reworking of CC's laws and little to no interest in D's laws. Future research should apply these methods and conclusions to a fresh examination of other laws in H proper in Lev 17–26 and other so-called H passages outside of H proper in order to draw more comprehensive conclusions concerning H's literary relationship with other pentateuchal legal corpora.

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[51] Stackert, *Rewriting*, 224–25.

[52] Nihan, *From Priestly Torah*, 547.

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