

Eugene Merrill, *New American Commentary, Vol. 4: Deuteronomy*. Holman Reference, 1994.

5. Structure, Literary Forms, and Literary Characteristics of the Book

Traditional analyses of Deuteronomy tend to view it as an address or collection of addresses delivered by Moses to a representative gathering of his Israelite compatriots, the whole of which was then put to pen and ink. Thus the book is viewed as more or less homiletical in style with a strong hortatory or parenetic flavor.

A typical earlier approach to the nature and structure of Deuteronomy is that of S. R. Driver, who in the 1902 edition of his *International Critical Commentary* states that “the book consists chiefly of three discourses, purporting to have been delivered by Moses in the ‘Steppes’ (34:1) of Moab, setting forth the laws which the Israelites are to obey and the spirit in which they are to obey them, when they are settled in the land of promise.”¹⁴ These discourses he identifies as (1) the introductory discourse (1:6–4:40), (2) the exposition of the law (5:1–26:19; 27; 28), and (3) the third discourse, which serves as a supplement (29:1–30:20). The remainder of the book consists of various introductions (1:1–5; 4:44–49), conclusions (31:1–8; 32:48–34:12), and other matters, many of which appear not to be integral to the overall structure.

It is remarkable perhaps that Driver’s analysis anticipates and largely conforms to the organizational pattern of Deuteronomy that more recent study of ancient Near Eastern suzerain-vassal treaty texts reveals. For example, he observes that chaps. 5–26 and 28 must be subdivided into chaps. 5–11 and 12–26; 28. He even refers to the respective sections as (1) a development of the first commandment of the Decalogue and a set of general theocratic principles and (2) the code of special laws “which it is the object of the legislator to ‘expound’ and encourage Israel to obey.”¹⁵ This distinction between general and specific stipulations is very much in line with modern analyses based on covenant comparisons.

These comparisons were first set forth in a detailed and comprehensive way by G. E. Mendenhall.¹⁶ Building on the publication and study of Late Bronze Age treaty documents found at Hattušaš (or Boghazkeüi, its modern name), the capital of the New Hittite Empire, Mendenhall demonstrated that Deuteronomy (and Exod 20–23, the so-called “Book of the Covenant”) contained all the essential elements of these Hittite treaty texts and in precisely the same order. He therefore concluded that the author(s) or redactor(s) of Deuteronomy must have patterned their work after the Hittite model. With this judgment a whole host of scholars have

¹⁴ Driver, *Deuteronomy*, i.

¹⁵ *Ibid.*, ii.

¹⁶ G. E. Mendenhall, “Covenant Forms in Israelite Tradition,” *BA* 17 (1954): 50–76; now reprinted in *Law and Covenant in Israel and the Ancient Near East* (Pittsburgh: Biblical Colloquium, 1955), 24–50. His work was based on the earlier studies of V. Korošec, *Hethitische Staatsverträge* (Leipzig: J. C. Hinrichs’sche, 1931).

concurrent, especially those of a conservative persuasion, ¹⁷ though obviously others challenged the comparisons from the beginning and continue to do so. ¹⁸ The current state of the debate will receive attention below.

The implications of these comparative studies are, of course, extremely profound. For example, if one can show that Deuteronomy is patterned after late Hittite exemplars, its date presumptively must be early (no later than 1300 or so) and its Mosaic authorship more assured. But for now it is important to see how the very literary structure and form of the book, in light of these clearly attestable similarities, yields insight into its function, purpose, and meaning.

Granting the remarkable parallels suggested thus far, it is still important to point out that Deuteronomy is more than a mere formal covenant text. For one thing it is much longer than any extant documents of that kind. For another it still presents itself as a farewell address by Moses, the covenant mediator, one filled with nonlegal passages such as itineraries, pareneses, and hymns and other poetic material. ¹⁹ In other words, Deuteronomy is of mixed and varied genre. But all this does not invalidate understanding the essential core of the composition as being covenant in style and purpose. It is covenant expressed in narrative and exhortation, the whole thing together comprising a farewell address.

More than forty years of scholarship has reached a near consensus about the essential elements of standard Hittite treaty texts. These consist of (1) preamble, (2) historical prologue,

¹⁷ See especially K. A. Kitchen, *Ancient Orient and Old Testament* (London: Tyndale, 1966), 90–102; id., *The Bible in Its World* (Downers Grove: InterVarsity, 1978), 79–85; M. G. Kline, *Treaty of the Great King* (Grand Rapids: Eerdmans, 1963); id., *The Structure of Biblical Authority* (Grand Rapids: Eerdmans, 1972); J. A. Thompson, *The Ancient Near Eastern Treaties and the Old Testament* (London: Tyndale, 1964); G. J. Wenham, *The Structure and Date of Deuteronomy* (Ph.D. diss., University of London, 1969), 182–216.

¹⁸ K. Baltzer, *The Covenant Formulary in Old Testament, Jewish, and Early Christian Writings* (Philadelphia: Fortress, 1970); R. Frankena, “The Vassal-Treaties of Esarhaddon and the Dating of Deuteronomy,” *OTS* 14 (1965): 122–54; D. R. Hillers, *Covenant: The History of a Biblical Idea* (Baltimore: Johns Hopkins, 1969); D. J. McCarthy, *Treaty and Covenant*, *AnBib* 21 (Rome: Pontifical Biblical Institute, 1963); *ibid.*, *Old Testament Covenant* (Atlanta: John Knox, 1972); R. Smend, *Die Bundesformel*, *TS* 68 (Zürich: EVZ, 1963); M. Weinfeld, *Deuteronomy and the Deuteronomistic School* (Oxford: Clarendon, 1972).

¹⁹ For literary and form-critical analyses see the following examples of a vast literature: G. Braulik, *Die Mittel deuteronomischer Rhetorik* (Rome: Biblical Institute Press, 1978); D. L. Christensen, “Form and Structure in Deuteronomy 1–11,” in *Das Deuteronomium*, ed. N. Lohfink (Leuven: University Press, 1985), 135–44; F. Garcia-Lopez, “Analyse Littéraire de Deutéronome, 5–11,” *RB* 84 (1977): 481–522; *RB* 85 (1978): 5–49; J. L’Hour, “Formes littéraires, structure et unité de Deutéronome,” *Bib* 45 (1964): 551–55; N. Lohfink, *Das Hauptgebot*, *AnBib* 20 (Roma: Pontificio Instituto Biblico, 1963); A. D. H. Mayes, “Deuteronomy 4 and the Literary Criticism of Deuteronomy,” *JBL* 100 (1981): 23–51; S. Mittmann, *Deuteronomium 1:1–6:3*, *BZAW* 139 (Berlin: de Gruyter, 1975); B. Peckham, “The Composition of Deuteronomy 5–11,” in *The Word of the Lord Shall Go Forth*, ed. C. Meyers and M. O’Connor, *BASOR* Special Volume Series 1 (Winona Lake, Ind.: Eisenbrauns, 1983), 217–40; J. Plöger, *Literarkritische, formgeschichtliche und stilkritische Untersuchungen zum Deuteronomium* (Bonn: Peter Hanstein, 1967).

(3) general stipulations, (4) specific stipulations, (5) blessings and curses, and (6) witnesses.²⁰ These are all represented to some degree or other in Deuteronomy, but Deuteronomy, as has been suggested already, expands upon these by adding unique covenant elements such as covenant recapitulation and other material of a hortatory or narrative nature. When examined from this perspective, the structure of the book may be analyzed as follows:

1. *The preamble (1:1–5)*. The purpose here is to introduce matters of setting and occasion. Since it is important to show that the covenant text to follow is one originated by the Great King himself (i.e., Yahweh) and that it is being mediated by a divinely appointed mediator-spokesman (i.e., Moses), this information is carefully spelled out.

2. *The historical prologue (1:6–4:40)*. The right of the Great King to assert his hegemony over his vassals is often based on their past relationships. Perhaps he or an ancestor had conquered them or had delivered them from the oppression of a third party. There may have been instances of special protection or other favor extended by the Great King, benefits that certainly ought to elicit loyalty and gratitude from his people. It might even be that the relationship had been stormy and that the present covenant was being imposed in order to prevent thought of rebellion or other insubordinate or recalcitrant behavior. The historical résumé here in Deuteronomy consists primarily of a retracing of Israel's journey from Sinai to the plains of Moab, a narrative account punctuated by instances of Israel's rebellion (1:26–28, 32; 3:26) and God's retribution (1:34–40, 45; 2:14–15; 4:3). The entire section is designed to show that the Lord had a claim on his people and despite their disobedience had brought them to the present time and place so that he might reaffirm his covenant commitment to them.

3. *The general stipulations (5:1–11:32)*. This section spells out the principles of the relationship between the parties to the covenant. It clarifies who the Great King is, what he has done for those whom he has chosen for covenant fellowship, what he will do for the years to come, and how they are to respond. As for Deuteronomy, the essence of the relationship is intimated in the so-called Shema of 6:4–5: "Hear, O Israel: The LORD our God, the LORD is one. Love the LORD your God with all your heart and with all your soul and with all your strength." Who the Lord is is further amplified in the first four commandments of the Decalogue (Deut 5:6–15), and how the love of Israel is to be expressed is outlined in the remaining six (5:16–21). The general stipulation section as a whole focuses on these two poles, the kingship of Yahweh and the appropriate response of his people Israel.

4. *The specific stipulations (12:1–26:15)*. Next follows a continuing enlargement of the covenant regulations outlined in the form of apodictic laws (see discussion on p. 144). One might view the development in terms of concentricity in which the Shema forms the focal point, the Decalogue a specific categorizing of the principles of the Shema, the remainder of the general stipulation section as a narrative and parenetic comment on the Decalogue, and the specific stipulation section as the application of the principles to every aspect of life, that is, as case law rooted and grounded in the covenant relationship.

Prior to the development of recent study that links Deuteronomy with treaty form and function, scholars were at a loss to account for the structure of the book as a whole and particularly the arrangement of the laws in this very section. To most they seemed random,

²⁰ Mendenhall, "Covenant Forms in Israelite Tradition," 58–60.

without internal coherence and without clear linkage to the rest of the book.²¹ A number of recent scholars have argued that Deut 12:1–26:15 is a statement of specific stipulation (a point already noted by scholars such as Driver) and, moreover, that its arrangement is not haphazard but deliberate and discernible. This point has been compellingly made by S. Kaufman particularly, who has shown that the key to the order of the section lies in the Decalogue itself. That is, the specific stipulations are elaborations or applications of the Ten Commandments in order.²² The likelihood of this approach will be argued in the commentary itself although, as will be seen and as has been pointed out by other scholars, it is not without its problems and may have to be modified here and there. Despite these disclaimers there can be little doubt about the essential correctness of the view that Deut 12:1–26:15 is a more specific and detailed exposition of the general principles of relationship and behavior addressed in 5:1–11:32.

5. *The blessings and curses (27:1–28:68)*. Any treaty must have its statement of reward and sanctions. To the extent the vassal was true and faithful to the relationship into which he entered either willingly or by coercion, to that extent he could expect the favor of his sovereign to be displayed. Conversely, disloyalty and disobedience called forth disciplinary wrath and judgment. It could even result in an annulling of all the benefits outlined in the list of blessings. In no respect has Deuteronomy scholarship benefited more from the recognition of its covenant nature than here. What appeared to be more or less arbitrary lists of divine response to human behavior may be seen now as standard expressions of expectation deriving from a relationship of mutual commitment.

6. *The witnesses (30:19; 31:19; 32:1–43)*. Inasmuch as a treaty arrangement was, in the final analysis, a legal transaction, proper protocol required that it be drawn up before and certified by appropriate witnesses. In the Hittite tradition the ceremony was enacted in the presence of the gods, who presumably took careful note of all that was said and done and who would guarantee their favor to the contracting parties as they were faithful to the covenant terms but withdraw it in the event of covenant infidelity.

In the case of a covenant between the Lord and Israel such as that of Deuteronomy, it was obviously impossible for the “gods” to be invoked as witnesses since they did not exist in Israel’s view. Indeed, it was inconceivable that the Lord could or would be subject to the scrutiny and judgment of any other being. That being the case, the technical nature of the legal and covenant arrangement could be fully expressed only by the formality of calling upon heaven and earth as witnesses (Deut 30:19). Whenever either the Lord or his people took note of the created world around them, they would “remember” their mutual commitment the one to the other. In addition, Moses was to compose a song the singing of which would call to mind the Lord’s nature, his gracious dealings with his people, his historical acts of judgment because of their sin, and his promise of deliverance and salvation in the ages to come (31:19; 32:1–43). Thus the song would

²¹ Thus R. H. Pfeiffer writes that “the disorder [of chaps. 12–26] is so extreme that one would almost call it deliberate, unless it arose as a result of successive additions of new material” (*Introduction to the Old Testament* [London: Adam & Charles Black, 1952], 232).

²² S. A. Kaufman, “The Structure of the Deuteronomic Law,” *Maarav* 1/2 (1978–79): 105–58; cf. also A. Rofé, “The Arrangement of the Laws in Deuteronomy,” *ETL* 64 (1988): 265–87; J. H. Walton, “Deuteronomy: An Exposition of the Spirit of the Law,” *GTJ* 8 (1987): 213–25.

witness in its own way to the binding nature of the relationship established by the Lord with his elect servant people.

The foregoing is sufficient to show that the elements that are critical in identifying Deuteronomy as a covenant document are in place. In addition, of course, there are other components that result in the structure of the composition, all of which will appear in the analysis of contents and in the relevant discussions in the commentary itself.

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¹Merrill, Eugene H.: *Deuteronomy*. electronic ed. Nashville : Broadman & Holman Publishers, 2001, c1994 (Logos Library System; The New American Commentary 4), S. 27