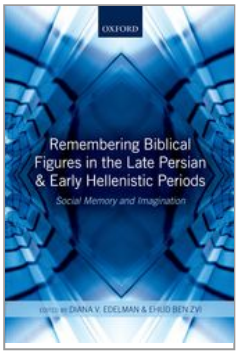

Remembering Biblical Figures in the Late Persian and Early Hellenistic Periods: Social Memory and Imagination
Diana V. Edelman and Ehud Ben Zvi

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Moses, the Royal Lawgiver

Thomas C. Römer

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Abstract and Keywords

Contrary to the ancient Near East, kings in the Hebrew Bible are not lawgivers. In the Hebrew Bible, this function is taken over by Moses, who is constructed in the Pentateuch as a royal figure. This starts in the account of his birth (Exodus 2), which parallels the birth story of the Assyrian king Sargon. In the Persian-period edition of the Pentateuch, the royal function of Moses is emphasized. In Deuteronomy, the king has to obey the Mosaic Torah (Deuteronomy 17), whose only mediator is Moses. Even the two accounts of the promulgation of the Decalogue that YHWH addressed directly to the people (Exodus 20 and Deuteronomy 5) are now revised in such a way that Moses also becomes involved in the mediation of the Ten Commandments.

Keywords: Moses, lawgiver, Sargon, Torah, Decalogue

The King as Lawgiver

In the ancient Near East, the king is the traditional mediator between the gods and the people. In Mesopotamia, the political ruler is often also first among all priests because of his special relation to a particular deity. The king receives his power and its symbols (sceptre, crown, throne) from the god. He is created or engendered by the god, or fashioned or chosen by him while still in the womb of his mother. He is the ‘servant’ of the gods, the ‘vicar’. He is also considered to be ‘shepherd’ of his people. In Assyrian iconography, the king and his god are depicted almost identically, with the same clothes and gestures.[1] The king is responsible for guaranteeing order in his land or territories; as a result, he is

primarily a lawgiver and judge. This royal function appears in the prologue of the Code of Hammurabi:

> Anu and Bel called by name me, Hammurabi, the exalted prince, who feared God, to bring about the rule of righteousness in the land, to destroy the wicked and the evil-doers; so that the strong should not harm the weak.…

In order to accomplish this function Hammurabi receives the law from Shamash. And he states in the epilogue that these are laws of justice which Hammurabi, the wise king, established. A righteous law, and pious statute did he teach the land.[2]

(p.82) The Israelite and Judahite Kings: Not Lawgivers

In Israel and Judah, kingship was apparently established according to the ancient Near Eastern pattern, even if the small kingdoms of Israel and Judah were less complex than the Mesopotamian empires. Still, the king is mediator between the territorial, dynastic god and the people. Upon accession to the throne, he becomes the 'son of YHWH' (Ps 2) and could be considered *'elohim* ('divine'; Ps 45:7–8). He is elected by the god (Ps 78:70) and loved by him (so, for example, the name David, 'beloved', and Solomon's other name, Yedidiah, 'beloved of YHWH'; cf. the name Naram-Sin that means 'the beloved of Sin'). The king is YHWH's servant (Ps 18:1; 89:4); this title is frequently used of David in the books of Samuel and Kings. Like Mesopotamian, Egyptian, and Levantine kings, Israelite and Judahite kings build or renovate temples, select priests for cult and sacrifices, and pray for the people and their welfare. We do not know from our extant sources whether the Israelite and Judahite kings were also lawgivers. In the Hebrew Bible, they do not enact laws; instead, they are judged by how well their behaviour exemplifies the 'law of Moses'. No king ever receives a divine order to promulgate new laws; 'good kings', like Josiah, act according to Mosaic law (2 Kgs 23:25).

The fact that Moses, and not David or Solomon, appears in the Hebrew Bible as the lawgiver can be explained by the situation of emerging Judaism in the Persian period. Judahite kingship had been terminated by the Neo-Babylonians, and the Judean intellectuals, who edited the Pentateuch and the Former Prophets, accepted Persian rule and were opposed to the restoration of the monarchy. Therefore, they transferred the royal prerogative of lawgiving to Moses, whom they constructed as a royal figure.

Moses as a Royal Figure

The loss of political autonomy, the deportation of the royal family to Babylon, and the acceptance of Persian rule after 539 BCE provoked the transfer of royal ideology to the figure of Moses during the sixth and fifth centuries BCE. In the book of Exodus, Moses is presented as a king from the beginning; the story of his birth and exposure shows literary dependence on the birth legend of Sargon,

the legendary founder of the Assyrian Empire. The links between the birth legend of Sargon and the birth narrative of Moses have often been observed.[3] **(p.83)** It is possible that the author of Exod 2 drew upon the Sargon legend, and if the figure of Moses' sister is a later addition,[4] this is even more likely. Sargon and Moses are both exposed by their mothers, both of whom are in some way related to the priesthood. Sargon's mother is a priestess and Moses' mother is a daughter of Levi, the ancestor of Israel's priestly tribe. Their fathers do not intervene. They are set adrift on a river in a basket, found, and adopted. In both cases, the adoption alludes to royal adoption: Sargon is 'loved' by Ishtar, and Moses becomes the son of Pharaoh's daughter.

Even if the Sargon story concerns a third millennium king, it was written under Sargon II, his namesake, at the end of the eighth century BCE. It contains Neo-Assyrian orthographic forms and idiomatic expressions attested only in this period.[5] Thus, the story of Moses, which is modelled on it, cannot be dated prior to the seventh century BCE. Exodus 2 presupposes no knowledge of Moses, his origins, or his name; everything is explained. It is tempting, then, to understand the first written story about Moses (which cannot be reconstructed in detail) to be a reaction against Neo-Assyrian royal ideology, elaborated at Josiah's court.[6] If so, literary production in Judah during the time of Assyrian vassalship could be labelled 'counter-history'.[7] Assyrian royal and military rhetoric would have been taken over and attributed to foundational figures of Judah and Israel, like Moses and Joshua.

But the royal image of Moses makes even more sense in the context of the Persian period. Since most of the priestly and lay authorities of Persian-period Yehud and Samaria had decided to collaborate with the Achaemenid authorities, they would not have been in favour of movements that wanted to re-establish a 'Davidic monarchy' in Yehud. The acceptance of the loss of political autonomy would explain the transfer of royal functions to the figure of Moses. In this context, it is important that Moses' birth story also shares close parallels with the legend of the birth of Cyrus as related by Herodotus (*Histories* 1.107–22).[8] Like Moses, the newborn Cyrus, 'fine and fair', is **(p.84)** threatened and saved by taking a new identity. As a result, Krauss has claimed that Exod 2 is dependent upon the Cyrus legend.[9] In any event, the parallels with Sargon and Cyrus foster Moses' royal destiny.

After his birth story, royal traits reappear in association with Moses in the episode where YHWH establishes him as the one who should lead the Israelites out of Egypt. He is presented as a shepherd (Exod 3:1), which is a royal title. In the prologue to the Code of Hammurabi, the king presents himself as 'shepherd and the one chosen by Enlil'. Moses is also called YHWH's 'servant' and is 'entrusted with his house' (Num 12:8), just as Hammurabi and other ancient

Near Eastern kings are called the servants of their patron gods and act as overseers of their earthly realms.

In the plague stories, Moses appears on the same level as the king of Egypt or, perhaps, a higher one. With Aaron as his speaker, he represents YHWH, just as Pharaoh is representing the Egyptian deities. Moses is called Aaron's God (*'elohim*) in Exod 4:16 and Pharaoh's God in 7:1; both titles are comparable to Hammurabi's designation as 'god of the kings' (prologue, ll.18–19). This underlines Moses' royal depiction; the king is the representative of the main deity worshipped in his land. The expression in Exod 7:1 is intended to depict Moses' deity as more powerful than those Pharaoh represents (Exod 12:12). Moses, who makes the Israelites cross the sea with the help of YHWH, recalls a royal motif in conquest stories where the river-crossings by kings like Assurbanipal, Croesus, and Xerxes are symbolic acts by which they appear victorious.[10]

Moses appears also as the architect of the mobile sanctuary YHWH asks him to construct. The building of sanctuaries, using a divinely provided blueprint, is an important part of ancient Near Eastern royal ideology.[11] Since the Pentateuch is a collection of diverse Judahite/Judean and Israelite/Samarian origin myths, the temple that Moses builds according to divine order must be a mobile sanctuary in the desert, which can then be identified with different sanctuaries. For the Judeans, it can be read as the *typos* of the Jerusalemite temple, whereas for the Samarians, it is possible to see the sanctuary to foreshadow the temple on Mt Gerizim. The idea of the mobile sanctuary is perhaps a discrete critique of the ideology of cult centralization.[12]

(p.85) In constructing this story, the Priestly authors of Exod 25–31 and 35–40 use the old mythological concept of the triumphant creator god having his sanctuary built after he successfully defeats chaos and establishes order.[13] It has often been observed that Moses' construction of YHWH's sanctuary in the desert in Exod 35–40 is parallel to *Elohim*'s creation of the world.[14] In Gen 1, *Elohim* sees that everything was very good, in accordance with what he had said, and in Exod 39:43, Moses sees that everything the Israelites had built corresponded to what Yahweh had commanded him. Just as YHWH achieved his work, so does Moses in Exod 40:33. These parallels strengthen the royal image of Moses, since he represents YHWH in supervising the construction of his sanctuary. Moses is also a prototype of a sort of Solomon, builder of the Jerusalemite temple.

Interestingly, in the entire Torah there is almost no mention of an Israelite or Judahite king to come; Moses is the only royal figure necessary. The only mention of a king occurs in Moses' farewell discourse in the book of Deuteronomy, in which Moses re-enacts the Law and defines the role and the

power of the people's authorities. In this context, the 'future' king is mentioned, but his power is limited.

Moses and the 'Law of the King' in Deut 17:14–20

The fact that Moses is a substitute for the king is also made clear in the only 'law' dealing with a king, Deut 17:14–20. First, in the discourse, this law is given by Moses, whose voice is so mingled with YHWH's that it is impossible to decide in many passages whether the speaker is Moses or YHWH. Unlike elsewhere in the ancient Near East, the king is not the mediator of the law; he is himself object of a law stipulated by Moses.

Deuteronomy 17:14–20 is often dated in the seventh century BCE and understood as an attempt by a Deuteronomistic author to limit the king's power while increasing the power of the court officials. If dated to the Assyrian period, its intention could have been to create a balance between being loyal to YHWH and being loyal to Assyria: the king should limit his symbols of power and not appear as a threat to Assyria, and he should also show his loyalty to YHWH by reading the Torah.[15]

(p.86) It is more plausible, however, to locate this text in the sixth century BCE, at the end of the Neo-Babylonian period or the beginning of the Persian period. It can be demonstrated that the author of this passage already knows the Deuteronomistic History in its exilic edition.[16] It was probably written in order to summarize the Deuteronomistic discourse about kingship. And it was perhaps also meant as a concession to those dreaming of restoring the Davidic dynasty. The opening in Deut 17:14 ('when you have entered the land and you say: "I will set a king over me, like all the nations that are around me"') foreshadows the first story about the installation of monarchy (1 Sam 8:5). Since Samuel presents a very different description of kingship in 1 Sam 8:10–18, the author of 1 Sam 8 was apparently unaware of Deut 17:14–20. The divine election of the king in Deut 17:15 alludes to 1 Sam 8–12 (see 1 Sam 10:24, but also YHWH's election of David and rejection of Saul in 1 Sam 16–2 Sam 6). The prohibition of placing a foreign king on the throne (17:15) may allude to the 'Phoenician' (-influenced) kings of Israel. Or, is this a polemic against the discourse of Second Isaiah (Isa 40–55), who presented Cyrus as YHWH's messiah?[17] The combination of horses and Egypt (17:16) refers to different attempts by Israelite and Judahite kings to ally with Egypt, alluding to the end of the history of the Israelite and Judahite monarchy (see also Solomon's horse trade in 1 Kgs 10:26, which transfers an Assyrian practice to the ruler of the 'united kingdom'). R. Albertz has suggested that the prohibition against forcing the people to return to Egypt refers to Jehoiachin's attempt to send mercenaries to Egypt to make Pharaoh his ally.[18] This does not, however, provide a *terminus ad quem* for this passage, since Judean mercenaries are attested in Egypt during the entire Persian period. The prohibition against 'many wives' in Deut 17:16 is a clear allusion to Solomon, whose love of foreign women was the beginning of the end (1 Kgs 11:1–3). Since

the ‘law of the king’ is not quoted in 1 Kgs 11, the passage was written without knowledge of the law, although Solomon is heavily criticized. All these prescriptions afford no privileges to the king; they are all restrictions and contrast with royal power as known elsewhere in the ancient Near East.

The conclusion in Deut 17:18–20 stipulates that the king ‘shall write a copy of this *torah* in presence of the Levitical priests. It shall remain with him and **(p. 87)** he shall read it all the days of his life.’ In Deut 17, the king is a scribe of a sort[19] but not the mediator of the Law; Moses is. The king continues to copy the Mosaic law, as Joshua had already done after conquering the land (Josh 8:32, where he inscribes on stones a copy of Moses’ law).

In Deut 17:14–20, the king and all political authority depends on the transmitter of the divine law, Moses, who has taken over this royal function. This is probably the most important aspect of Moses in the Pentateuch: his role as the sole mediator of all the law codes in the Pentateuch.

Moses, the Judge Par Excellence

Before the transmission of the first code, the so-called ‘Covenant Code’, Moses is depicted as exercising the royal prerogative of judging the people (Exod 18). His acting in this capacity has been foreshadowed in Exod 2, when one of the Hebrews asks him ironically, ‘Who made you a ruler and a judge over us (2:14)?’ The Exodus narrative shows that YHWH himself has made Moses Israel’s judge and ruler.

The story in Exod 18 (see also Deut 1:9–18) shows that jurisprudence can be delegated; following the advice of his Midianite father-in-law, Moses chooses judges who replace him and judge the people on their own. This idea is also expressed in the laws dealing with judges in Deut 16:18–20 and 17:8–13. In these two texts, the office of judge is presented as an innovation connected with the centralization of the cult (see especially 17:8–13). The origin of these texts is disputed; although they could go back to the seventh century BCE,[20] they certainly applied to the situation in Yehud and Samaria under Persian rule. The Persians permitted local jurisprudence when it was related to problems that did not affect the stability of the *medinah*.[21]

The placement of Exod 18 before YHWH’s revelation at Sinai and Moses’ installation as the mediator of the law underlines the idea that there is a difference between ‘law’, which has a uniquely Mosaic source, and the application and interpretation of the law, which can be delegated.[22] All the **(p. 88)** Pentateuchal law codes are first communicated by YHWH to Moses, who then is in charge of their communication to Israel. The statement in Exod 18:26, ‘hard cases they brought to Moses, but any minor case they decided on their own’, reflects the following principle: any question that refers to a prescription addressed directly in the Torah can be adjudicated by designated authorities; cases that do not seem to be covered by the prescriptions of the Torah must be

investigated directly by Moses. This is the situation in Num 27:1–11. This text is clearly a supplement to the Mosaic Torah: Moses is confronted with a question concerning the inheritance of women for which no answer has been given in the foregoing law codes so he has to consult YHWH directly. The answer becomes ‘a statute and ordinance as YHWH commanded to Moses’ (27:11).[23]

Moses and the Pentateuchal Law Codes

The Covenant Code, whose original opening was probably ‘These are the ordinances you shall set before them’ (Exod 21:1), has been expanded by the addition of Exod 20:22–6 as the new opening. It begins, ‘Thus YHWH said to Moses: “Thus you shall say to the Israelites”’ (v. 22).[24] After the prohibition of images (v. 23), the section deals with the building of sacrificial altars, and YHWH promises to come and bless the people at every place he causes his ‘name’ to be remembered. In this way, the Covenant Code is made parallel in its opening content to the Deuteronomistic Code, which begins with the stipulation by YHWH that he will select a single place for sacrificial offerings to be made to him (Deut 12:4–14).[25]

At the same time, however, Exod 20:24–6 might be seen to ‘correct’ the ‘single altar’ claim of Deuteronomy by allowing the legitimate construction of other sacrificial altars wherever followers of YHWH live, assuming the unit post-dates Deut 12.[26] This would also require us to assume that the first set of **(p.89)** revelations at Sinai are to take precedence over the subsequent ones made in the plains of Moab. Alternatively, it could be argued that Exod 20:22–6 was placed before the Covenant Code to endorse the single-altar law announced in Deut 12. Since Deuteronomy is presented as subsequent revelation or an ‘actualization’ of the Sinai revelation that is to apply once the people enter the land, it would supersede the multiple-altar law in Exod 20:24–6.[27] A third option would be to see the addition of Exod 20:24–6 as a compromise allowing the existence of sacrificial altars in Diasporic communities outside ‘the Promised Land’ while endorsing a single site within that territory—at Mt Gerizim for the residents of Samara and at Jerusalem for the residents of Jerusalem.

The earliest form of Deut 12–26 was probably created to replace the Covenant Code, but the editors of the Pentateuch have integrated the two codes into their authoritative writings and attributed both to Mosaic mediation. This decision seems to reflect a view stemming from royal ideology and the king’s function as lawmaker: a king is never wrong; if a new edict is necessary, it is joined to the older edict. Officially, both laws apply, even if, in fact, the newer one prevails over the older. The story of Esther alludes to this practice: the king allows Esther to write a new edict and to modify the older law, even if ‘an edict written in the name of the king and sealed with the king’s ring cannot be revoked’ (Esth 8:8).[28]

The so-called Holiness Code (Lev 17–26) probably never existed as an independent collection but was created to conclude the ‘P’ material in Lev 1–16 and to establish a compromise between, or an interpretation of, the ‘D’ code and Priestly ‘legislation’.[29] This explains why there is no clearly marked introduction; it begins simply, ‘YHWH spoke to Moses: “Speak to Aaron and his sons and to the whole people of Israel and say to them…”’ (17:1). This introduction continues the format of the preceding Priestly instructions (see 15:1; 16:1). Nevertheless, Lev 17 also parallels Exod 20:22–6 and Deut 12 by presenting the entrance of the ‘tent of meeting’ as the place where permitted sacrifices were offered.[30]

(p.90) The law in Deut 12–26 is presented as a Mosaic discourse in which he reminds the people of Yahweh’s law revealed to him on Mt Horeb. Like Exod 21:1, Deut 12:1 may reflect the older title of a law collection not yet related to Moses, even if a reconstruction of its content is difficult. The lengthy introduction in Deut 1–11 suggests that, in the context of the Pentateuch, Deuteronomy and the Deuteronomic law are to be understood as a recapitulation or an explanation of the former law codes revealed to Moses during his sojourn on Sinai (1:1–5). For the redactors of the Pentateuch, the entire law was revealed through Moses at Sinai; as a result, Deuteronomy had to be presented as a resumptive speech in which the law was ‘remembered’. This means that the redactors of the Pentateuch considered Deuteronomy to have the same degree of authority as the preceding codes.

All the laws in the Pentateuch are attributed to Moses; it appears that for nascent Judaism, Moses was identical to Law. No new laws are given in the Prophets; Joshua and the kings are expected to follow the ‘law of Moses’.

Moses as a Lawgiver in the Books of Kings

David’s testament to Solomon, which opens the history of kingship in the book of Kings, provides criteria by which to evaluate the history of the two kingdoms: ‘keep the charge of YHWH your God, walking in his ways and keeping his statutes, his commandments, his ordinances, and his testimonies, as it is written in the law of Moses, so that you may prosper in all that you do and wherever you turn’ (2 Kgs 2:2).

In the book of Kings, Moses is mentioned ten times.[31] In six passages Moses appears as the mediator of the law. In three others, all in 1 Kgs 8, he is associated with the Horeb covenant (with placing the stone tablets in the ark in v. 9 and with Israel’s adoption as YHWH’s people in vv. 53 and 56). Finally, he is remembered as having made a bronze serpent (2 Kgs 18:4).

The first king who explicitly respects the Mosaic book of the law is Amaziah,[32] who ‘did not put to death the children of the murderers; according to what is written in the book of the law of Moses, where YHWH commanded, “The parents shall not be put to death for the children or the children be put to death for the

parents; but all shall be put to death for their own sins"' (2 Kgs 14:6). This passage contains a quotation from Deut 24:16, but this does not **(p.91)** necessarily mean the '*torah* of Moses' was restricted to the book of Deuteronomy in the late Persian period. The next king who respects the law of Moses more fully is Hezekiah: 'he was loyal to YHWH; he did not depart from following him but kept the commandments that YHWH had commanded Moses' (2 Kgs 18:6). By contrast, the fall of Samaria during his reign happened because the Israelites 'did not listen to the voice of YHWH their God but transgressed his covenant, all that Moses, YHWH's servant, had commanded; they neither listened nor acted (= conformed)' (18:12).

In order to underline Manasseh's infamous behaviour, the editors inserted an alleged quotation from a speech made by YHWH to David and Solomon that does not exist in the book of Kings. It appears to be a summary of selected topics from Solomon's speech at the inauguration of the temple:[33] '"…I will not cause the feet of Israel to wander any more out of the land that I gave to their fathers, if only they will be careful to do according to all that I have commanded them, and according to all the law that my servant Moses commanded them." But they did not listen; Manasseh misled them to do more evil than the nations had done that YHWH destroyed before the people of Israel' (21:8–9). The passage prepares for the final appreciation of king Josiah: 'Before him there was no king like him, who returned to YHWH with all his heart, with all his soul, and with all his might, according to all the law of Moses; nor did any like him arise after him' (2 Kgs 23:25). This is the last mention of Moses and the Torah in the book of Kings, and Josiah is the only king who conforms to all the *torah* of Moses.

Indeed, the entire account of Josiah's reign is about the discovery and installation of the 'book of the law' in the Jerusalemite temple. Interestingly, this book is not explicitly identified as the Mosaic Torah until the final comment on Josiah's achievements. In the narrative context, the finding of the law book is surprising, since there is no story in Kings or elsewhere that tells how this book had been lost. This could indicate that the book of the law comprises more than the book of Deuteronomy as commonly assumed; it is likely the whole Pentateuch or a 'proto-Pentateuch' (see also the expression 'book of the covenant' in 2 Kgs 23:21,[34] which refers to Exod 24:7). With Josiah's death 'in peace', kingship disappears and gives way to the Mosaic Torah, which becomes the new authority to which not only kingship has to submit.

(p.92) Moses and the Decalogues

In the Pentateuch, all laws are presented as having been mediated by Moses except the two Decalogues, which are depicted as direct divine revelation to all the people gathered at Sinai (Exod 20; Deut 5). The two versions exhibit minor differences, but one major one concerns the reason for respecting the Sabbath. As already mentioned, the inclusion of three different collections of laws (the Covenant Code, the D-Code, and the Priestly law) in the Pentateuch, all

attributed to Moses, necessitated an emphasis on the coherence of the ‘multicultural’ Torah. The insertion of the Decalogues at two strategic positions in the narrative addressed this need.

The Decalogue in Exod 20 precedes the Covenant Code, the first expression of YHWH’s law (Exod 21–23), and the Priestly legislation (Lev 1–Num 10). Since Exod 20:11 appeals to the Priestly creation account in Gen 1:1–2:3 to legitimize the Sabbath, the first Decalogue strengthens the link between Genesis and Exodus; this was probably the work of Priestly authors. The Decalogue in Deut 5, on the other hand, ties the book of Deuteronomy to the former books of the Moses story, Exodus–Numbers. Deuteronomy 5 presents the motivation for keeping the Sabbath by reminding the addressees of Egyptian oppression. It thus creates a link to the beginning of the book of Exodus and underlines the coherence of the ‘biography’ of Moses running from Exodus through Deuteronomy. Like Exod 20, Deut 5 introduces an important law collection (Deut 12–26).

The existence of two Decalogues also suggests that the Covenant Code, the Priestly legislation, and the Deuteronomic Code all have the same authoritative status.[35] The first part of the Decalogue can be understood as a summary of nascent Judaism, a presentation of ideas that became constitutive for the redefinition of the ancient Israelite and Judahite religions in the Persian period. The calls for the exclusive worship of YHWH, aniconism, the sacralization of the divine name, observance of the Sabbath, and the transformation of the cult of the dead ancestors into the commandment to honour the living parents all include explanations or motivations, showing they represent innovations, in contrast to the second half of the Decalogue, where such additional material is visibly absent. Perhaps the redactors of the Torah viewed both Decalogues as a summary of all the law collections in the Pentateuch.

In the introduction to the Decalogue in Deut 5:4, Moses states, ‘YHWH spoke to you face to face out of the fire’ (see also Deut 4:12–13). The same idea **(p.93)** underlies Exod 20:1, even if the addressees of YHWH’s word are not explicitly mentioned. This direct communication of the divine word to the people distinguishes the Decalogue from the other law codes, all of which depend on Mosaic mediation. However, for the final redactors of the Pentateuch, it apparently contradicted their claim that Moses had been the only person with whom YHWH had ever communicated ‘face to face’ (see Num 12:6–8 and Deut 34:10–12).

To remedy the situation, they came up with literary strategies to downplay the inherited tradition of the direct communication of the Decalogues. They inserted Exod 19:20–5 as a new introduction to the revelation of the Ten Commandments in Exod 20. The verses focus on Moses’ superiority to the priests and the people, but their ending is enigmatic: ‘Moses went down to the people and said to

them…' It is often argued that the content of Moses' speech has been lost or that the entire verse is a 'fragment'.[36] However, it appears instead that this phrase is meant to introduce 20:1 as though it were the beginning of a direct speech by Moses in which he relays to the people the contents of the Decalogue that YHWH had revealed directly to him during his sojourn on the mountain.[37] Thus, it is designed to avoid the impression otherwise given that YHWH spoke words directly to the people.

A similar phenomenon may be detected for the Decalogue in Deut 5. In the original introduction in v. 4, the statement, 'YHWH spoke to you face to face out of the fire on the mountain', was directly followed by the phrase *le'mor* introducing YHWH's direct speech that currently begins in v. 6. The final redactors of the Pentateuch interpolated a new statement between v. 4 and its final introductory word in v. 6 that had originally introduced the proclamation of the Decalogue directly to the people by YHWH: 'At that time I stood between YHWH and you to declare to you the word of YHWH because you were afraid of the fire and did not go up to the mountain' (v. 5).[38] In this way, they made the Decalogue in Deut 5 appear to have been transmitted by Moses, not declared directly by YHWH, just as they had done in Exod 20. While these additions have not totally disguised the direct revelation of the Decalogue to the people in an earlier form of the text, they demonstrate that for the final redactors of the Torah, Moses had to be the agent responsible for the transmission of the Ten Commandments, just as he was for the rest of the Torah.

(p.94) Conclusion

Although the figure of Moses in the Pentateuch reveals a variety of functions, his role as a lawgiver is probably the most important one. Because of the transfer of a royal function to Moses, who before the conquest of the land and the foundation of monarchy transmitted all laws to Israel, Judaism was able to exist as a religion without land and without statehood.

Notes:

([1]) See, for instance, J. B. Pritchard (ed.), *The Ancient Near East in Pictures Relating to the Old Testament* (Princeton, NJ: Princeton University Press, 1954) 180, n. 534; 154, n. 447.

([2]) Quoted from ⟨http://www.public.wsu.edu/~dee/MESO/CODE.HTM⟩ (21 July 2011).

([3]) C. Cohen, 'The Legend of Sargon and the Birth of Moses', *Journal of the Ancient Near Eastern Society* 4 (1972) 46–51; P. R. Ardiñach, 'La leyenda acádia de Sargón', *Rivista Bíblica* 50 (1993) 103–14; J.-D. Macchi, 'La naissance de Moïse (Exode 2/1–10)', *Etudes théologiques et religieuses* 69 (1994) 397–403; M. Gerhards, *Die Aussetzungsgeschichte des Mose* (WMANT 109; Neukirchen-Vluyn: Neukirchener Verlag, 2006).

([4]) Exodus 2:1–2 explicitly states that Moses is the firstborn, which does not cohere with the subsequent reference to an elder sister. Her introduction could be the work of a later scribe, who wanted to emphasize that Moses had not been entirely abandoned by his family.

([5]) B. Lewis, *The Sargon Legend* (ASOR Dissertation Series 4; Cambridge: American Schools of Oriental Research, 1980) 98–110.

([6]) T. Römer, 'Moïse entre théologie et histoire', *Lumière & Vie* 237 (1998) 7–16; E. Otto, 'Mose und das Gesetz: Die Mose-Figur als Gegenentwurf politischer Theologie zur neuassyrischen Königsideologie im 7. Jh. v. Chr.', in *Mose* (ed. E. Otto; Stuttgarter Bibelstudien 189; Stuttgart: Katholisches Bibelwerk, 2000) 42–83.

([7]) For the concept, see A. Funkenstein, 'History, Counter-History and Memory', in *Probing the Limits of Representation* (ed. S. Friedlander; Cambridge, MA: Harvard University Press, 1992) 66–81.

([8]) H. Zlotnick-Sivan, 'Moses the Persian? Exodus 2, the "Other" and Biblical "Mnemohistory"', *ZAW* 116 (2004) 189–205.

([9]) R. Krauss, *Moïse le Pharaon* (trans. from 2000 German edition; Monaco: Editions du Rocher, 2000).

([10]) T. Römer, *The So-Called Deuteronomistic History* (London: T & T Clark—Continuum, 2005) 134.

([11]) V. A. Hurowitz, *I Have Built You an Exalted House* (JSOTSup 115; Sheffield: Sheffield Academic Press, 1992).

([12]) The temple of the Judean community in Elephantine is well known and there was perhaps also a Yahwistic sanctuary in Idumea, see A. Lemaire, 'Nouveau temple de Yahou (IV^{e} s. av. J.-C.)', in '*Basel und Bibel*' (ed. M. Augustin and H. M. Niemann; Beiträge zur Erforschung des Alten Testaments und des antiken Judentums 51; Frankfurt am Main: Peter Lang, 2004) 265–73.

([13]) M. Weinfeld, 'Sabbath, Temple and the Enthronement of the Lord—The Problem of the Sitz im Leben of Genesis 1:1–2:3', in *Mélanges bibliques et orientaux en l'honneur de M. Henri Cazelles* (ed. A. Caquot and M. Delcor; AOAT 212; Neukirchen-Vluyn: Neukirchener, 1981) 501–12.

([14]) M. Buber and F. Rosenzweig, *Die Schrift und ihre Verdeutschung* (Berlin: Schocken, 1936) 39–45; J. Blenkinsopp, 'The Structure of P', *CBQ* 38 (1976) 275–92 (280); Weinfeld, 'Sabbath', 503.

([15]) P. Dutcher-Walls, 'The Circumscription of the King: Deuteronomy 17:16–17 in Its Ancient Social Context', *JBL* 121 (2002) 601–16.

([16]) There is no need to distinguish different layers within this late passage; see R. Achenbach, ‘Das sogenannte Königsgesetz in Deuteronomium 17,14–20’, *Zeitschrift für altorientalische und biblische Rechtsgeschichte* 1 (2009) 216–33.

([17]) According to E. W. Nicholson, the prohibition should be understood as a critique of those who accepted the Assyrian king as their suzerain (‘“Do Not Dare to Set a Foreigner Over You”: The King in Deuteronomy and the “Great King” ’, *ZAW* 118 [2006] 46–61). This interpretation presupposes, however, a seventh century date for this passage.

([18]) R. Albertz, ‘A Possible *terminus ad quem* for the Deuteronomic Legislation? A Fresh Look at Deut. 17:16’, in *Homeland and Exile* (ed. G. Galil, et al.; VTSup 130; Leiden: Brill, 2009) 271–96.

([19]) ‘He shall scribe’ does not necessarily mean that the king has to do it; he may delegate this task to professional scribes. The same holds true for the king, who ‘builds’ the temple.

([20]) J. C. Gertz, *Die Gerichtsorganisation Israels im deuteronomischen Gesetz* (FRLANT 165; Göttingen: Vandenhoeck & Ruprecht, 1994) 82–4.

([21]) P. Briant, *From Cyrus to Alexander* (trans. from 1996 French original; Winona Lake, IN: Eisenbrauns, 2002) 510.

([22]) Nevertheless, the place of Exod 18 before the revelation of the Law is intriguing. The older part in 18:1–12* probably conserves an old Midianite tradition about the origins of Yahwism; see C. H. W. Brekelmans, ‘Exodus xviii and the Origins of Yahwism in Israel’, *OTS* 10 (1954) 215–24. See further C. Frevel, ‘“Jetzt habe ich erkannt, dass YHWH größer ist als alle Götter”: Ex 18 und seine kompositionsgeschichtliche Stellung im Pentateuch’, *Biblische Zeitschrift* 47 (2003) 3–22.

([23]) Interestingly, the decision of Num 27 is revised in Num 36. See D. T. Olson, *The Death of the Old and the Birth of the New* (Brown Judaic Studies 71; Chico, CA: Scholars Press, 1985) 165–78.

([24]) Some authors see in v. 22* the original opening, and vv. 23, 24–26 additions to the original *mishpatim*; for instance, W. Oswald, *Israel am Gottesberg* (OBO 159; Freiburg, CH: University Press and Göttingen: Vandenhoeck & Ruprecht, 1998) 111–12. For an alternative solution, see J. Van Seters, ‘The Altar Law of Ex 20,24–26 in Critical Debate’, in *Auf dem Weg zur Endgestalt von Genesis bis II Regum* (ed. M. Beck and U. Schorn; BZAW 370; Berlin: de Gruyter 2006) 157–74.

([25]) E. Otto, ‘Die Rechtshermeneutik des Pentateuch und die achämenidische Rechtsideologie in ihren altorientalischen Kontexten’, in *Kodifizierung und*

Legitimierung des Rechts in der Antike und im Alten Orient (ed. M. Witte and M. T. Fögen; BZAR 5; Wiesbaden: Harrassowitz, 2005) 71–116.

([26]) So, for instance, Van Seters, ‘The Altar Law’.

([27]) According to the traditional opinion, Deut 12* is a theological correction of Exod 20:24–6; see B. M. Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation* (Oxford: Oxford University Press, 1997) 36–8.

([28]) For this parallel, see F. Crüsemann, ‘Le Pentateuque, une Tora: Prolégomènes à l’interprétation de sa forme finale’, in *Le Pentateuque en question* (ed. A. de Pury and T. Römer; 3rd ed.; Le Monde de la Bible 19; Genève: Labor et Fides, 2002) 339–60 (351–2).

([29]) C. 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. E. Otto and R. Achenbach; FRLANT 206; Göttingen: Vandenhoeck & Ruprecht, 2004) 81–122.

([30]) Leviticus 17 can be read as mediating between Exod 20:24–6 and Deut 12; see C. Nihan, *From Priestly Torah to Pentateuch* (FAT II/25; Tübingen: Mohr Siebeck, 2007) 429–30.

([31]) See also P. Davies, ‘Moses in the Books of Kings’, in *La construction de la figure de Moïse—The Construction of the Figure of Moses* (ed. T. Römer; Transeuphratène Sup 13; Paris: Gabalda, 2007) 77–87.

([32]) Amaziah belongs to the kings who were not too bad but who wrongly tolerated the high places (14:3–4).

([33]) T. Römer, *Israels Väter* (OBO 99; Freiburg, CH: University Press and Göttingen: Vandenhoeck & Ruprecht, 1990) 370–1.

([34]) The MT has ‘this book of the covenant’ and suggests an identification of the ‘book of the covenant’ with the ‘book of the law’. The LXX, Vulgate, and a Hebrew ms read, however, the ‘book of this covenant’.

([35]) For details and the following, see T. Römer, ‘Moses, the Only Mediator? The Question of the Origin of the Two Decalogues’, in *Houses Full of All Good Things* (ed. J. Pakkala and M. Nissinen; Publications of the Finnish Exegetical Society 95; Helsinki: Finnish Exegetical Society and Göttingen: Vandenhoeck & Ruprecht, 2008) 27–41.

([36]) M. Noth, *Das zweite Buch Mose: Exodus* (Das Alte Testament Deutsch 5; Göttingen: Vandenhoeck & Ruprecht, 1959) 129.

([37]) W. H. C. Propp, *Exodus 19–40* (AB 2A; New York: Doubleday, 2006) 166: ‘Thus, at last in the composite text, 20:1 could be taken as Moses’ words’.

([38]) According to M. Rose, 5:5 is a ‘theological correction’ (*5. Mose* [Zürcher Bibelkommentare AT 2/5; Zürich: Theologischer Verlag, 1994] 420–2).