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“Oracular *Novellae*” and Biblical
Historiography: Through the Lens of Law
and Narrative

The Hebrew Bible contains several different historiographical works, but the origins of the historiography in the Hebrew Bible have proven elusive. The different compositions preserved in the Hebrew Bible lack clear self-referential, self-identifying data. Moreover, indications demonstrate that the works have undergone revision and transfiguration, at times dramatic, often more than once. Indeed, the traditional boundaries of the individual biblical books do not hold up under scrutiny as original; rather, the demarcation of the canonical “books” appears to have severed earlier continuities. At the same time, traditional conceptions of overarching compositional continuity and coherence blur earlier divisions. Such confusion in the texts obscures their absolute and relative ages and masks their respective kernels together with the defining themes, genres, and purposes of those kernels. In addition, as a phenomenon in and of itself, measured against sources outside the Hebrew Bible, biblical historiography emerges with no clear lineage or antecedents. Scholars of biblical historiography have attempted, at the least, to trace the constellation that has made its rise possible.¹ Many of its components do reflect identifiable preexisting genres.

1. For a few of the more pivotal theories, see Umberto Cassuto, “The Israelite Epic,” in *Biblical and Oriental Studies*, trans. I. Abrahams (1943 [in Hebrew]; Jerusalem: Magnes, 1973–75), 2:69–109; Umberto Cassuto, “The Beginning of Historiography among the Israelites” (1951 [in Hebrew]), in *Biblical and Oriental Studies*, 1:7–16; Gerhard von Rad, “The Beginnings of Historical Writing in Ancient Israel,” in *The Problem of the Hexateuch and Other Essays*, trans. E. W. Trueman Dicken (1944 [in German]; Edinburgh: Oliver & Boyd, 1966), 166–204; and John Van Seters, *In Search of History: Historiography in the Ancient World and the Origins of Biblical History* (New Haven: Yale UP, 1983). Seth L. Sanders has put forward a new approach in his work, *The Invention of Hebrew* (Urbana: U of Illinois P, 2009).

But within the ancient Near Eastern context, one may still go so far as to describe the work of pressing these generic components into a national history as *sui generis*.

Theoretical considerations regarding the relationship between law and narrative may provide a perch from which to view a number of these texts. This essay develops a formulation of such considerations, surveys several of the biblical works, and then narrows its focus on one peculiar historiographical work, written, by all indications, by temple literati.² This ministerial historiography, denoted “Priestly” by scholars of the Hebrew Bible, includes a group of four very brief stories that climax first with a case ruling then with formal legislation—a group I call “oracular *novellae*.” This group, together with court records from Assyria in the eighth–seventh centuries BCE, may suggest the origins of the peculiar form of the Hebrew Bible’s Priestly historiography together with several of its constitutive ideas.³

Law and Narrative

As the opening comment of his work on the Torah, the eleventh century CE exemplar of Jewish exegesis, R. Shlomo Yitzhaki, known acronymically as Rashi, remarks: “The Torah should really have begun with (Exod. 12:2), ‘This month will be for you the first

2. Not only does the Tabernacle, the typologically “original” temple, mark the central concern of the history, the details reflect an author who had intimate knowledge of the objects that would stand in a temple, the activities that would take place in it, the organization of its personnel, the terminology its professionals would use, and the ideas that would animate the entire system and give it its coherence. As with biblical prose narrative generally, this work narrated by a third-person omniscient narrator does not come with a title page or a self-referential heading and never refers to its author or his world.

3. This paper crystallizes and advances work from my doctoral dissertation, *Law and Narrative in Four Oracular Novellae in the Pentateuch: Lev 24:10–23; Num 9:1–14; 15:32–36; 27:1–11* (Ph.D. dissertation, Hebrew University, 2006) [in Hebrew], to appear in translation as *Oracular Law and Narrative History: The Priestly Literature in the Pentateuch*, *Forschungen zum Alten Testament II* (Tübingen: Mohr Siebeck, 2010), and draws upon a previous lecture, “The Combination of Law and Narrative in the Torah and Early Jewish Consciousness” (lecture, Department of Hebrew Culture, Tel-Aviv University, March 20, 2006) [in Hebrew]. A version of the paper was presented at the *Rechtssatz und Fallzählung in der Bibel und ihren antiken Nachbarkulturen* [Abstract law and case narrative in the Bible and in neighboring ancient cultures] international symposium as “Oracular *Novellae*’ and the Priestly History—Between Priestly Law and Priestly Narrative” (lecture, Phillips Universität, Marburg, Germany, September 6–8, 2009). Feedback from that lecture as well as from *Clio*’s reviewers of this article proved valuable. Unless otherwise noted, all translations are my own.

of the months,' since it is the first of Israel's commandments."⁴ Rashi implies that nothing constitutes a nation so much as law, and the value of narrative lies only in introducing and framing the law. The explanation he gives for the presence of the narrative from Genesis 1 to Exodus 11 appears to support this line of thought:

Why then did the Torah start with Genesis? In line with the statement "His powerful deeds he told his people, to give them the territory of other nations" (Ps 111:6). Namely, should the nations of the world claim, "Thieves! You took the lands of the seven nations," they will be able to reply, "The entire earth belongs to the Holy Blessed One. He created it, and he gave it to whomsoever it pleased him. He willed to give it to them and he willed to take it from them and give it to us." (Rashi, 1-2)

The narrative, it would seem, holds only polemical value—in a debate no more than tangential to the many laws contained within the narrative.

However, this understanding of the import of Rashi's comment cannot suffice, for Rashi's next comment does not first appear at Exodus 12:2, "This month will be for you the first of the months," the first law given to the nation. Rashi does not wait sixty-two chapters to begin explaining the text, and for the duration of the Torah, he does not limit his comments to the legal material. Rather, he goes on to write the classic, standard-setting, canonical commentary of biblical narrative, against which subsequent Jewish commentators measure themselves. Moreover, his comments draw frequently and eclectically on the narrative amplifications of the rabbis, the *midrashim*. In other words, not only does Rashi comment extensively and productively on the narrative dimension of the Torah, but through the *midrashim* he adds to it, as it were, a second narrative layer.

Evidently, Rashi takes the narrative layer of the Torah as far more inherently connected to the law than a tangent. In justifying the presence of narrative in the Torah as polemical, Rashi means to express that the narrative has political and judicial value, constitutive value: it is the stuff of nationhood; it is nation-speak. The presence of a nation upon its land demands stories. In articulating this connection between narrative and law, between literature, nationhood, land, and politics—long anticipating developments as

4. Charles B. Chavel, ed., *The Comments of Rashi on the Torah* (Jerusalem: Mossad Harav Kook, 1983), 1 (on Gen. 1:1) [in Hebrew]. Hereafter cited parenthetically as Rashi.

diverse as the so-called law and literature movement, on the one hand, and discourse about modern Israeli statehood and nationalism, on the other—Rashi was far ahead of his time, one might venture even to say prescient.

G. W. F. Hegel defines historical writing as the combination of two components, facts and their organization relative to each other, namely, their narration or narrativization. In his definition, the state is a social system, the essence of which consists of laws, norms, and customs supported by a supreme political authority—in other words, a political constitution. Only such a system suits narrative history. It alone requires it; it alone is worthy of it. Only in a state, conscious of the full force of the concept of law, can agreements be attended by the awareness that they must be recorded, with all their circumstances, namely, narrativized.⁵

Advancing this line of thought, Hayden White amplifies Hegel as follows: “Interest in the social system, which is nothing other than a system of human relationships governed by law, creates the possibility of conceiving the kinds of tensions, conflicts, struggles, and their various kinds of resolutions that we are accustomed to find in any representation of reality presenting itself to us as history.”⁶ On this basis, White proposes that progress in historical consciousness comes together with a growing focus on the legal system. In other words, if every historical story has a moral to it, and is granted significance beyond a mere rendering of a series of events, then one must conclude that its function consists precisely of learning from the events it recounts (14). Going one step further, White makes the more comprehensive claim that the most elemental component of the very genre of narrative consists of law, even when not mentioned explicitly. This element always stands in the background, and one should understand all narrative as a grappling, to one end or another, with law and authority:

Once we have been alerted to the intimate relationship that Hegel suggests exists between law, historicity, and narrativity, we cannot but be struck by the frequency with which narrativity, whether of the fictional or the factual sort, presupposes the existence of a legal system against which or on behalf of which the typical agents of a narrative militate. And this raises the

5. G. W. F. Hegel, *The Philosophy of History*, trans. J. Sibire (repr., New York: Dover, 1956), 59–63.

6. Hayden White, “The Value of Narrativity in the Representation of Reality,” in *The Content of the Form: Narrative Discourse and Historical Representation* (1980; Baltimore: Johns Hopkins UP, 1987), 14. Hereafter cited parenthetically as White.

suspicion that narrative in general, from the folktale to the novel, from the annals to the fully realized “history,” has to do with the topics of law, legality, legitimacy, or, more generally, authority. (13)

In the eyes of Hegel and White, then, narrative derives from law and responds to it.

The relationship described by Hegel and White, though, represents only a single link in a longer chain. On one side of this link, even if narrative depends on law for its development, this generative law itself, according to Carlo Ginzburg, reflects and manifests an underlying, basic narrative thought process—a semiotic thought process. This thought process perceives various phenomena as signifying ciphers, as shivers and shards of worlds gone by awaiting and encouraging reconstruction and completion. To Ginzburg, the hunter embodies the ancient paradigm of this mode of thought. Identifying traces in the dirt and disturbances in the rocks and trees, and reconstructing through them a sequence of events that has taken place, the hunter astounded those who accompanied him with his ability to narrate the past: “A bear passed by here.”⁷ Different social situations, each with its own circumstances, actualize this kind of thought in alternate modes of discourse, crystallizing as distinct literary genres, each subordinate to the trajectory of the temporal axis that characterizes its focus and its substance: “For the future, there was divination in a strict sense; for the past, the present, and the future, there was medical semiotics in its twofold aspect, diagnostic and prognostic; for the past, there was jurisprudence” (104–5). For Ginzburg, then, narrative thought realized with respect to the past manifests itself in law and the legal system. As jurisprudence—the recovery and description of a full past—narrative makes law possible. Law, in turn, provides narrative with subject matter and a language.

On the other side of the link between law and narrative described by Hegel and White, the narrative generated by law and dependent upon it, in turn, frames and subordinates that very law. In a broadly influential essay, Robert Cover argues for the ultimate dependence of law and of a general conception of law upon narrative.⁸ Law functions as one part of a more comprehensive, more complex whole, a normative world defined by and built with

7. Carlo Ginzburg, “Clues: Roots of an Evidential Paradigm,” in *Clues, Myths, and the Historical Method*, trans. J. and A. C. Tedeschi (Baltimore: Johns Hopkins UP, 1989), 102–5. Hereafter cited parenthetically as Ginzburg.

8. Robert Cover, “*Nomos* and Narrative,” *Harvard Law Review* 97.4 (1983): 4–68.

the power of narrative. Cover illustrates the inherent susceptibility of law or law codes to differing and even conflicting interpretations in the absence of a framing narrative. Until a narrative stands in the background and directs interpretation of laws, one cannot determine their meaning. Put more sharply, without narrative, laws by themselves have no meaning.

In the year 1917, a year of no small significance in the story of Jewish nationhood, Hayyim Nahman Bialik gave full, poetic expression to the essential, material continuities between law and narrative in an essay he named “Halakhah ve-Aggadah” (Law and lore) after the two discursive modes of Rabbinic *poiesis* out of biblical matter:⁹ “Law and narrative lore—they are really two which are one, the two faces of a single creature. . . . Law is the coalescence, the final and necessary crystallization, of narrative lore; narrative lore is the smelting of law” (334). This process, though, is not linear in character, but dialectical and cyclical:

The raucous din of the heart’s pull in the rush of its race to the point of its aspiration—that is narrative lore; the resting place, the satisfaction of the pull, its stilling—that is law. Dream runs drawn to resolution, desire to deed, thought to word, flower to fruit—and legend to law. And yet, there within the fruit is embedded already the seed from which a new flower will yet emerge. The law risen to the level of symbol . . . is itself become mother to a new narrative. . . . Living, healthy law is narrative that once was or is yet to be, and so the other way around. The beginning and the end of them both are rooted each in the other. (334)

In this bimodal, self-renewing organism Bialik saw the vitality of a nation and the means for the spiritual renewal of his people.¹⁰

Indeed, one might venture to postulate that every community has two formative facets: a normative, behavioral one, concerned with what one must do at any given moment, and a discursive one, what people tell each other about origins and developments, hopes

9. Hayyim Nahman Bialik, “Law and Lore,” *The Collected Writings of H. N. Bialik* (Tel Aviv: Vaad Hayovel, 1933), 334–49 [in Hebrew], translation mine. Bialik’s piece was first published in the newspapers *HaKenesset* and *Hadasbot Ha’aretz*, and in English as Hayyim Nahman Bialik, *Halachah and Aggadab*, trans. Leon Simon (London: Zionist Federation of Great Britain and Ireland, 1944). For the definition and derivation of the term *halakhah*, see Tzvi Absuch, “*Alaktu* and *Halakhah*: Oracular Decision, Divine Revelation,” *Harvard Theological Review* 80.1 (1987): 15–42. No comparable study appears to exist yet with regard to the term (*h*)*aggadah*. Hereafter cited parenthetically as Bialik.

10. For more on relationships between law and narrative in post-biblical Jewish sources, see the convenient illustrative collection of essays in *Diné Israel* 24 (2007).

and plans. The normative component, ever focused solely on the immediate present, has no temporal axis, whereas what defines the discursive component consists precisely of temporal horizons. Culturally and generically, in life and in literature, one encounters these two components and classifies them as law and narrative, respectively. Every society or community negotiates and transmits the values with which it identifies itself by variously configuring and reconfiguring its law and its narrative lore with respect to each other.

Law in the Hebrew Bible

The Hebrew Bible, so often proclaimed a cornerstone of Western civilization, provides a significant case in point. An anthology preserving literature produced over a period of more than seven hundred years, not only in Israel and Judah but in Babylon as well, some twelve hundred kilometers away, the Hebrew Bible includes a number of different historical compositions, each of which, in its own way, embeds within itself a systematic series of laws as a central part of its effort to forge a distinctive idea of Israelite national identity around the divine figure of Yahweh. The different compositions may, in a sense, respond to each other in a kind of implicit debate of text and counter-text. Chiefly, however, the impetus for writing should be sought in watershed historical events and drastically changed social circumstances that prompted new views of history and of national identity. Relatedly, other than in discrete instances, as a rule, the set of laws included in each of the compositions does not so much revise the set of laws in the antecedent text as make its counterclaim by drawing on a separate source of law and reformulating it to match its main idea, at some points with the prior series in mind. A brief survey of these texts can offer an instructive glimpse of the variety of possibilities when putting law into a literary framework for nonjurisprudential, rhetorical purposes.

The book of Ezekiel presents Ezekiel's first-person recollection of prophecies and related actions and events in Babylon from roughly the first three decades of the sixth century BCE.¹¹ Overall,

11. The term "prophecy" covers both a conversation between Yahweh and the prophet and the prophet's performance of a divine message. Defining biblical prophets, prophecy, and prophetic literature still poses significant problems; for an introductory discussion, see for now Joseph Blenkinsopp, *A History of Prophecy in Israel*, rev. and enlarged ed. (Louisville, KY: Westminster John Knox, 1996), 1–40.

the prophecies have a decidedly grim tenor. In the last set of the book’s recollected prophecies, in chapters 40–48, Yahweh had transported Ezekiel to a temple of the future, shown him its architecture, landscaping, interior design, and inner workings, and described the rules and regulations that will govern the activity therein. In this case, in other words, the laws have no immediate bearing. They will go into effect when the future temple is constructed. Making no claim on the present, they serve a prophecy about the future by helping to convey a concrete sense of the mythic ideal.¹²

All the other compositions systematically incorporating law currently appear together in the Torah, from which one must disentangle them.¹³ Set in the mythic, formative past, each of these compositions makes an implicit claim on the people who see themselves as the direct descendants of Israel. An editor living in the wake of the Judahite state, witnessing the perseverance of national identity in sixth–fifth centuries BCE Babylon and the

12. For this point, see Baruch J. Schwartz, “A Prophet out of Place: Reconsidering Ezekiel’s Role in the History of the Israelite Priesthood,” in *Ezekiel’s Hierarchical World: Wrestling with a Tiered Reality*, ed. Stephen L. Cook and Corrine L. Patton (Leiden: Brill, 2004), 61–71. For an analysis of the section as a literary event, see Jonathan Z. Smith, *To Take Place: Toward Theory in Ritual*, Chicago Studies in the History of Judaism (Chicago: U of Chicago P, 1987), 47–73. On the materially literary quality of Ezekiel’s prophecy generally, see Ellen F. Davis, *Swallowing the Scroll: Textuality and the Dynamics of Discourse in Ezekiel’s Prophecy*, Bible and Literature Series 21 (Sheffield, UK: Almond, 1989); Menahem Haran, “Observations on Ezekiel as a Book Prophet,” in *Seeking Out the Wisdom of the Ancients: Essays Offered to Honor Michael V. Fox on the Occasion of His Sixty-Fifth Birthday*, ed. Ronald L. Troxel, Kelvin G. Friebel, and Dennis R. Magary (Winona Lake, IN: Eisenbrauns, 2005), 3–19; and Menahem Haran, *The Biblical Collection: Its Consolidation to the End of the Second Temple Times and Changes of Form to the End of the Middle Ages*, 3 vols. (Jerusalem: Bialik Institute with Magnes P, 1996–2008), 3:334–55 [in Hebrew].

13. For the isolation of sources, see J. Estlin Carpenter and G. Harford-Battersby, *The Hexateuch According to the Revised Version*, 2 vols. (London: Longmans, Green, 1900); and Richard E. Friedman, “Torah (Pentateuch),” in *The Anchor Bible Dictionary*, ed. D. N. Freedman (New York: Doubleday, 1992), 6:605–18. With respect to the law-giving in particular, see Baruch J. Schwartz, “The Priestly Account of the Theophany and Law-giving at Sinai,” in *Temples, Texts, and Traditions: A Tribute to Menahem Haran*, ed. M. V. Fox et al. (Winona Lake, IN: Eisenbrauns, 1996), 103–34; and Baruch J. Schwartz, “What Really Happened at Mount Sinai?” *Bible Review* 13.5 (1997): 20–30, 46. On the process of the combination of the sources, see Joel S. Baden, *J, E, and the Redaction of the Pentateuch*, Forschungen zum Alten Testament (Tübingen: Mohr-Siebeck, 2009). For a different critical approach to the sources and coalescence of the Torah, see Reinhard G. Kratz, *The Composition of the Narrative Books of the Old Testament*, trans. J. Bowden (London: Clark, 2005). For a comprehensive discussion, see Baruch J. Schwartz, “The Torah: Four Sources and Five ‘Books,’” in *The Hebrew Bible: Introductory Essays*, ed. Z. Talshir et al. (Jerusalem: Yad Ben Zvi, 2010) [in Hebrew].

Persian province of Yehud where the kingdom of Judah once stood, conjoined the distinct compositions into a distinctive kind of history and law-book.¹⁴ In this history, God makes repeated promises to Abraham, Isaac, and Jacob that they will propagate in blessed fashion and inherit the land of Canaan.¹⁵ The fulfillment of blessed propagation takes place already in Exodus 1, and the promise of conquest of the land reappears shortly thereafter, introducing the exodus from Egypt.¹⁶ One would therefore have expected the narrative of the combined Torah to have included the story of the conquest and apportionment of Canaan by Joshua, making a six-part Hexateuch, from Genesis through Joshua. However, as far back as one can trace, tradition attests the five-part Pentateuch that ends with Deuteronomy and the death of Moses, with the book of Joshua considered as a separate work. Literarily, terminating the text at Moses's death throws the thematic weight of the narrative on the law-giving that characterizes the period from the exodus from Egypt through the wilderness travels up to Moses's death, which in effect creates a history that defines the origins of Israel and the essence of its nationhood not by land and borders, with law serving subordinately as divine leverage, but rather by divine law alone. The textual borders of this Torah are fixed by the life of Israel's prophet, Moses, from his birth in Egypt to his death in Moab.¹⁷ Indeed, successive interpolations at the very outset of the story of Joshua transform Joshua's divine charge from military conquest¹⁸

14. Fixing the period in which the Torah emerged as a single composition rests mainly on its palpable absence from biblical literature before the Babylonian destruction of Judah in the sixth century BCE, on the one hand, and clear familiarity with it in subsequent centuries, on the other. Pivotal in scholarship but inconclusive are the late biblical texts Ezra–Nehemiah, especially Ezra 7 and Nehemiah 8, and Chronicles. See, for instance, Julius Wellhausen, *Prolegomena to the History of Ancient Israel*, trans. J. S. Black and A. Menzies (1883 [in German]; Edinburgh: Black, 1885; repr., Cleveland and New York: Meridian, 1957, 1965), 1–5; Abraham Kuenen, *An Historico-Critical Inquiry into the Origin and Composition of the Hexateuch (Pentateuch and Book of Joshua)*, trans. P. H. Wicksteed (London: Macmillan, 1886), 174–214; and the collection of articles in *The Pentateuch as Torah: New Models for Understanding Its Promulgation and Acceptance*, ed. Gary N. Knoppers and Bernard M. Levinson (Winona Lake, IN: Eisenbrauns, 2007).

15. Gen. 12:1–7; 13:14–17; 15:1–21; 17:1–8; 22:15–18; 26:1–5; 28:1–4, 10–14; 35:10–13; 48:3–4; 50:24–25; also 27:27–29.

16. Exod. 3:7–8, 16–17; 6:1–9; also 12:1–13:16.

17. Moses's life encompasses Exodus 2–Deuteronomy 34. The material beforehand in Genesis 1–Exodus 1 effectively sets the scene.

18. Josh. 1:1–6, 9.

to the obedient performance of Yahweh’s Torah¹⁹ to the study of Torah as an end in and of itself.²⁰

Significantly, the replacement of territorial nationhood, of kingdomhood, of a royally voiced story by religious nationhood and a story of divine law crystallizes a series of modulations that had already taken place in one measure or another through the different compositions interwoven in the Torah. One of the compositions, found in Deuteronomy 1:1–32:47 and deriving, as most scholars hold, from seventh century BCE Judah, takes the form, significantly like that encountered in Ezekiel, of a collection of first-person direct speeches, this time from the distant past when Israel stood on the edge of Canaan ready to enter. At that time Moses delivered to them his last will and testament, which centers on the laws that Yahweh had revealed to Moses back on Mount Horeb and which Moses relays to the people for the first time in Moab for observance in Canaan.²¹ Imparted like deathbed wisdom, Moses’s instruction will ensure successful life—security and prosperity—to those who hear and commit to it.²²

Two more are third-person prose narrative histories, each one of which purports to present the complete and exclusive law code or set of laws that Moses transmitted to Israel.²³ One of these

19. Josh. 1:7.

20. Josh. 1:8. Compare Alexander Rofé, “The Piety of the Torah-Disciples at the Winding-Up of the Hebrew Bible: Josh 1:8; Ps 1:2; Isa 59:21,” in *Bibel in jüdischer und christlicher Tradition: Festschrift für Johann Maier zum 60 Geburtstag*, ed. H. Merklein et al. (Frankfurt am Main: Hain, 1995), 78–85.

21. See Deut. 4:45–6:3; also 4:1–14.

22. For some useful works on the Deuteronomistic source (“D”), see Moshe Weinfeld, *Deuteronomy and the Deuteronomistic School* (Oxford: Clarendon, 1972; repr. Winona Lake, IN: Eisenbrauns, 1992); Jeffrey H. Tigay, *The JPS Torah Commentary: Deuteronomy* (Philadelphia: Jewish Publication Society, 1996); Bernard M. Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation* (New York and Oxford: Oxford UP, 1997); Bernard M. Levinson, “The First Constitution: Rethinking the Origins of Rule of Law and Separation of Powers in Light of Deuteronomy,” *Cardozo Law Review* 27.4 (2006): 1853–88; and Alexander Rofé, *Deuteronomy: Issues and Interpretation* (Edinburgh: T & T Clark, 2002).

23. Both of these works may originally have told of the conquest of Canaan in segments that now appear as part of the separate book of Joshua. Many scholars of the Hebrew Bible isolate another complete document, also a prose narrative history (the “Yahwistic” one or “J”). In addition to Carpenter and Harford-Battersby, *Hexateuch*; Friedman, “Torah (Pentateuch)”; and Baden, *J, E, and the Redaction*; see Shimon Bar-On, “The Festival Calendars in Exodus XXIII 14–19 and XXXIV 18–26,” *Vetus Testamentum* 48.2 (1998): 161–95, whose study helps bring out that instead of presenting a Mosaic law code or systematic series of laws, “J” integrates a few representative, presumably definitive customs into the deeds of the forefathers, as natural, commemorative outgrowths of them, closest in some ways to Bialik’s terms.

narrative histories, probably from eighth century BCE Israel, in a section that comprises most of Exodus chapters 19–24, draws upon and melds Levantine and Mesopotamian traditions to tell of the kingship of Yahweh covenanted with Israel at Mount Horeb, the terms of which included a series of civil, religious, and moral laws.²⁴

The other narrative history, a composition evidently by temple personnel, brings law and narrative into mutual relation more rigorously, continuously, and organically than all the other compositions. This Priestly work—provisionally named here the History of the Tent of Counsel for reasons that will become apparent—weaves a legal, legislative strand into the fabric of the narrative history it relates and accentuates the strand at several watershed moments that alter the patterns of history as it unfolds.²⁵ At Creation, Yahweh stood at a great distance from humankind and its world, but gradually he drew closer, and the closer he drew, the greater the number of laws required and generated, until the pivotal moment when the Israelites reached Mount Sinai and Yahweh descended to dwell in a glorious tent in their midst—which issued in a host of rules, requirements, and regimens, all organized around the central trope of Yahweh as a noble, life-enabling lord.

24. The majority of the narrative in Exodus chapters 19–24 and the laws within it belong to this source. See Schwartz, “What Really Happened.” Useful studies include Shalom M. Paul, *Studies in the Book of the Covenant in the Light of Cuneiform and Biblical Law*, Supplements to *Vetus Testamentum* 18 (Leiden: Brill, 1970; repr., Eugene, OR: Wipf & Stock, 2006); and Dennis J. McCarthy, *Treaty and Covenant: A Study in Form of the Ancient Oriental Documents and in the Old Testament*, 2nd ed. (Rome: Biblical Institute, 1978). For the Levantine and Mesopotamian traditions melded herein, see respectively Sanders, *The Invention of Hebrew*; and David P. Wright, *Inventing God's Law: How the Covenant Code of the Bible Used and Revised the Laws of Hammurabi* (Oxford: Oxford UP, 2009). I have presented on this historiographical section in a lecture, “A Kingdom of Priests and an Earthen Altar—Meaning, Context, Impact” (lecture, Fifteenth World Congress of Jewish Studies, Jerusalem, Israel, August 2–6, 2009). On the interaction of law and narrative in this section, see the rewarding study by Harry P. Nasuti, “Identity, Identification, and Imitation: The Narrative Hermeneutics of Biblical Law,” *Journal of Law and Religion* 4.1 (1986): 9–23.

25. A few useful works on the shape and central ideas of the Priestly History include Michael V. Fox, “The Sign of the Covenant: Circumcision in the Light of the Priestly *col* Etiologies,” *Revue Biblique* 81.4 (1974): 557–96; Menahem Haran, *Temples and Temple Service in Ancient Israel* (Oxford: Clarendon, 1978; repr., Winona Lake, IN: Eisenbrauns, 1985, 1995); Jacob Milgrom, *Leviticus*, Anchor Bible, 3 vols. (New York: Doubleday, 1991–2001); and Victor Avigdor Hurowitz, *I Have Built You an Exalted House: Temple-Building in the Bible in the Light of Mesopotamian and North-West Semitic Writings* (Sheffield, UK: JSOT P, 1992).

On the historical plane, the laws respond to human events and developments of universal scope (Gen. 9:1–7); shape events and developments of national import and memory (for example, Exod. 12:1–28); and provide pinpoint adjustments on narrowly focused issues as required (for example, Num. 27:1–11; 36:1–12). On the cosmic plane, the universe itself pulsates with legal potency from its very inception, as made manifest with regard to diet, procreation, and time. Ingrained behavior in humankind in Genesis 1:26–30 and portentous behavior by Yahweh in Genesis 2:1–3, nurtured by law, will blossom into obedience in Genesis 9:1–7 and fully bloom in Exodus 31:12–17 and 35:1–3; Leviticus 11, 17, and 24:10–23; and Numbers 35:9–34. On the theological plane, the History of the Tent of Counsel extends the trope of divine will as law far beyond the categories and conceptions of the other compositions in the Torah that present law. In this mythic narrative history, law represents a translation into mundane, human categories, formulations, and terms of the necessary effect of the presence of the ever-generative god Yahweh upon the world.

The Priestly History: Oracular Law and Oracular *Novellae*

As stated previously, the Priestly narrative history climaxes with the descent of the God of life to dwell upon the earth in Israel’s midst, in a majestic mobile home. This mythic moment alters the world dramatically, advancing creation itself, as redolent language conjures up.²⁶ A mass of legislation attends the construction of Yahweh’s abode,²⁷ and once set up, the Tent of Counsel will serve as the locus of all legislation ever after. Indeed, at several critical junctures, the story spotlights the centrality to the tent not of sacrifice, not of purgation, but of oracular legislation and decision making. Moses will serve as the oracle, the prophetic herald who receives and transmits Yahweh’s statements.²⁸

26. See the analysis of Moshe 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 (Kevelaer: Butzon & Bercker; Neukirchen: Neukirchener, 1981), 501–12. Weinfeld’s conclusions, though, require qualification; compare Baruch Halpern, “The Assyrian Astronomy of Genesis 1 and the Birth of Milesian Philosophy,” Hayim and Miriam Tadmor volume, *Eretz Israel 27* (2003): 74*–83*.

27. Exod. 25:1–31:18; 35:1–3.

28. Exod. 25:22; 29:42–46; 30:6, 36; 34:29–35; Lev. 1:1; Num. 7:89; also Lev. 10:1–11. Contributing clarity with regard to Moses, see Menahem Haran, “The Shining of Moses’ Face: A Case Study in Biblical and Ancient Near Eastern Iconography,” in *In the Shelter of*

In his work on the life of Moses, the first century CE Jewish philosopher Philo of Alexandria reserved a special discussion for four stories that, taken together as a unified group, cast an unusual light upon Moses as prophet and as lawgiver, illustrating a unique form of Mosaic prophecy and a unique form of Mosaic legislation—four stories of the oracular generation of new law, when people of Israel sought instruction regarding someone who had cursed God (Lev. 24:10–23); Passover observance for the impure (Num. 9:1–14); a man who had violated the Sabbath (Num. 15:32–36); and inheritance by daughters (Num. 27:1–11).²⁹ In Rabbinic-period sources, a singular Palestinian Targum tradition preserves a midrashic exposition of the four episodes together, which holds up Moses’s behavior in them as a model for judicial sagacity.³⁰ Picking up on these themes of prophecy and law to consider them from the point of view of the midrashic impulse that drives their mutual engagement, the modern scholar Michael Fishbane analyzed all four of these narratives of legal decisions and

Elyon: Essays on Ancient Palestinian Life and Literature in Honor of G. W. Ahlström, ed. W. Boyd Barrick and J. R. Spencer (Sheffield, UK: JSOT P, 1984), 159–73. Among the non-Priestly sources of the Torah, Exodus 18:13–26 and 33:7–11 similarly depict the centrality to Israel of oracular counsel. For a suggestive anthropological treatment that aims to delineate distinct conceptions of the tent among the texts, see Israel Knohl, “Two Aspects of the Tent of Meeting,” in *Tehillab 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), 73–79.

29. Philo, “On the Life of Moses,” *On Abraham. On Joseph. On Moses*, 1st ed., Loeb Classical Library, trans. F. H. Colson (Cambridge: Harvard UP; London: Heinemann, 1929, 1935), 6:§§192–245. On the meaning and history of this section within Philo’s work, see Suzanne Daniel-Nataf, ed., *Philo of Alexandria: Writings*, vol. 1, *Historical Writings, Apologetical Writings* (Jerusalem: Bialik Institute and Israel Academy of Sciences and Humanities, 1986), 203–12, esp. 206–9 [in Hebrew].

30. *Tg. Yer.*, Lev. 24:12; *Tg. Ps.-Jon.*, Lev. 24:12; *Tg. Neophyti*, Lev. 24:12; Num. 9:8; 15:34; 27:5; *Frag. Tgs.* MS P, Lev. 24:12; MS V, Lev. 24:12; Num. 9:8; 15:34; 27:5 in the following editions, respectively: Moses Ginsburger, ed., *Targum Yerushalmi of the Torah* (Berlin: Calvary, 1899); E. G. Clarke, ed., *Targum Pseudo-Jonathan of the Pentateuch: Text and Concordance* (Hoboken, NJ: Ktav, 1984); Alejandro Diez-Macho, ed., *Targum Neophyti I: Palestinense Ms de la Biblioteca Vaticana*, 6 vols. (Madrid and Barcelona: Consejo Superior de Investigaciones Científicas, 1968–79); Michael L. Klein, ed., *The Fragment-Targums of the Pentateuch According to Their Extant Sources*, *Analecta Biblica* 76, 2 vols. (Rome: Biblical Institute P, 1980). For an initial literary analysis of the *midrash* and consideration of its original point of entry in the Targum tradition, see B. Barry Levy, *Targum Neophyti I: A Textual Study* (Lanham, NY: UP of America, 1986–87), 2:44–47, 73–74. On its uniqueness in all Rabbinic literature, see Avigdor Shinan, “The Aggadah of the Palestinian Targums of the Pentateuch and Rabbinic Aggadah: Some Methodological Considerations,” in *The Aramaic Bible: Targums in Their Historical Context*, JSOT Supplement 166, ed. D. R. G. Beattie and M. J. McNamara (Sheffield, UK: JSOT P, 1994), 213–14.

legislation for the correspondence in them between the oracular jurisprudence portrayed in the text and the legal draftsmanship that, in a mode of inner biblical exegesis, produced the text.³¹

Pulling back one analytical frame further to focus on the generic dimension shared by the four passages highlights their form as a particularly striking integration of law and narrative. Cast uniformly as a narrative frame with a jurisprudential plot leading to an oracular legislative climax formulated doubly as case ruling modified by formal statutory law, the four passages comprise a distinct class. To express both their form (short story) and their substance (oracular legal innovation), I term them “oracular *novellae*.”³²

Viewed in this generic manner, the oracular *novellae* illustrate that, in addition to serving as an essential principle in overarching plot design and structure, in the organization of an entire history, the deliberate juxtaposition of law and narrative occurs productively at the tightest episodic level. Namely, the oracular *novellae* represent a concentrated version of the Priestly History of the Tent of Counsel itself, uniquely encapsulating its structure and its essential ideas, of narrative history organized around and climaxing with God-given law. In fact, independent indications have led source-critics unanimously to identify the four oracular *novellae* as part of the Priestly work. What follows argues further that, though the notion so important to the Priestly conception of Israelite nationhood—of the noble and valiant deity enthroned in his newly built temple issuing life-giving and life-sustaining decrees—devolves from a rich legacy in the ancient Near East, the

31. Michael Fishbane, *Biblical Interpretation in Ancient Israel*, 2nd ed. (1986; repr. Oxford: Clarendon, 1989), 98–104, 236–37.

32. On the history of the term *novella* in literature and the definition of the genre, see *Oxford English Dictionary Online*, s.v. “novel,” etymology and §4, <http://dictionary.oed.com> (accessed December 13, 2009); J. A. Cudden, *A Dictionary of Literary Terms and Literary Theory*, 3rd ed. (Cambridge, MA: Basil Blackwell, 1991), 641–42; *Encyclopedia Britannica Online: Academic Edition*, s.v. “novel,” <http://search.eb.com/eb/article-50989> (accessed December 13, 2009); and Paul Schellinger et al., eds., *Encyclopedia of the Novel* (Chicago: Fitzroy Dearborn, 1998), s.v. “novella.” For the history of the term in law, see W. A. Shumaker and G. F. Longsdorf, *The Cyclopedic Law Dictionary*, 3rd ed. (Chicago: Callaghan, 1940), 770; *OED online*, s.v. “novel,” §5 (accessed December 13, 2009); *Encyclopedia Britannica Online*, s.v. “Roman law: The law of Justinian” (accessed December 13, 2009). The term “precedent” does not suffice; see *OED online*, s.v. “precedent,” §2b (accessed December 13, 2009); *Encyclopedia Britannica Online*, s.v. “precedent” (accessed December 13, 2009); in legal literature, see David M. Walker, *The Oxford Companion to Law* (Oxford: Clarendon, 1980), 977–80, esp. 980; in British law, see L. B. Curzon, *Dictionary of Law*, 6th ed. (Harlow, UK: Longman, 2002), 324; and in American law, see B. A. Garner, *Black’s Law Dictionary*, 8th ed. (St. Paul: Thomson-West, 2004), 1214–15.

four oracular *novellae* hold a special capacity to illuminate the literary contours and the social background of this singular Priestly narrative and its law. First of all, against the above background of law and narrative as social as well as literary categories, formative and experiential as well as interpretive categories, analysis of the poetics of the oracular *novellae* can help sharpen the Priestly ideas about law and narrative. Secondly, typologically, the oracular *novellae* appear to anticipate, even to provide a template for, the History of the Tent of Counsel, even if the form of the oracular *novellae* differs somewhat from that of the larger History in that it highlights the oracular query as the immediate trigger for law whereas the form of the History foregrounds formal, statutory law initiated by Yahweh. Third, with an eye towards history, comparing the oracular *novellae* to ancient records of court proceedings can suggest a real-life setting that could have nurtured the Priestly ideas about law and narrative and made their distinctive integration in the History of the Tent of Counsel possible.

The four oracular *novellae* hew to a single, fixed model—in their theme, plot, and structure, specialized terminology, characterization of Moses and the other protagonists, borderline form between the genres of narrative and law, theory of legislation and its abiding authority, and literary expression of bedrock social values. They sketch a challenge to the existing order, the resolution of which lies in judicial action. The people approach Moses, who turns to Yahweh, who renders his decisions to Moses, who relays them back to the people, who then carry them out. The four *novellae* break down into two sets of two episodes each. In two “action” episodes, someone violates the community ethos in a rather horrific manner, and the people approach Moses to hear the law, which in both cases condemns the criminal to death by stoning. Law in these cases serves formally to entrench behavioral boundaries and expunge trespassers. In two “situation-dramas,” circumstances conspire to threaten a group of people unfairly with exclusion from the community, and the group petitions Moses successfully. Law in these cases amends itself in order to retain community members.

Scholars have long derided the style of the Priestly History as dry, factual, and schematic, in essence not much more than an embellished list. One might more profitably appreciate the History of the Tent of Counsel as serene, measured, and rhythmic, as befits its majestic main character and sublime subject matter, Yahweh and his mythic, fructifying descent to earth. That said, the characterization really does apply to the four oracular *novellae*, the

threadbare narrative style of which, lacking nearly all setting and background, character motive, and plot development, barely covers the law that makes up the form’s climax. Still, the style does suit the subject matter and function, oracular law and legislation. Hypothetical case law, which speaks in future verbs and covers a set of implicit possibilities, *must* sketch in broad outline. Although as narratives of past events the oracular *novellae* speak in past verbs and *can* specify richly and fully, they do not, but rather limit themselves to those details deemed necessary and sufficient to convey the oracular process and lead to the legal climax. Expressions employed in the *novellae* draw on technical terminology to project the stages of achieving a judicial oracle: קרב (approach, bring), הנה במשמר (put in holding), עמד (stand before), אמר (state, claim), למה נגרע (why should we be cut off?), שמע (hear), פיש (decide), and פי ה' (Yahweh’s oracle).

These biblical, Priestly oracular *novellae* do not represent pure fiction. The traits that characterize them—their form, style, plot, and terminology—appear together in *dēnu*, records of judicial case resolution from the Neo-Assyrian period (the ninth–seventh centuries BCE) collected and analyzed by Remko Jas. These records regularly employ such cognate judicial terms as *qarābu* (approach) and *parāsu* (decide); their structure has the same narrative progression climaxing with the legal decision; and Jas’s description of them applies neatly to the biblical genre, without Jas’s having intended as much:

Almost every *dēnu* is characterized by the use of the third person and by the absence of dialogue, resulting in very short and terse documents. . . . The occasion for the trial is only briefly mentioned at the beginning of the text, and most of the document is occupied by a description of the judge’s verdict, or of the agreement reached between the parties with the assistance of the judge. When a more elaborate background of the conflict is given, the main concern of the writer seems to have been to formalise the conflict so that the ensuing verdict or settlement seemed a logical consequence of it.³³

The fact that the *dēnu* come from disparate settings and have no substantive relation to each other but someone has seen fit to store them all together in an archive finds correspondence in the four biblical oracular *novellae* which, in the light of source-critical analysis,

³³ Remko Jas, *Neo-Assyrian Judicial Procedures*, State Archives of Assyria Studies (Helsinki: Neo-Assyrian Text Corpus Project, 1996), 5:5–6.

appear to have developed largely independently of each other and entered the Priestly History at separate stages. Finally, despite the disparate provenances, the *denu* do share one dramatic point of contact, projecting together an ideology that courts resolve dilemmas and bring about social cohesion. The oracular *novellae* likewise dramatize that communal continuity depends upon Yahweh's ongoing judicial involvement. Moreover, they portray Yahweh as open-minded, willing to hear cases at the initiative of the people and even follow their legal, social, and religious intuition in amending the system he, in all his divine wisdom, set up.

The high degree of correlation between the Neo-Assyrian *denu* and the biblical oracular *novellae* casts an illuminating light on what stands out in the oracular *novellae*. As a part of the Priestly history of Israel's formative past, the oracular *novellae* tap into and draw upon a large and detailed narrative, which the *denu* do not. Accordingly, Yahweh as the judge and legislator enjoys greater personification. The figure of Moses comes into sharper focus not as a supreme court judge or repository of and authority on judicial lore, but rather as the oracle, the prophetic medium and herald consulted when the judiciary reaches its limits and the people must seek divine illumination and guidance. Yoked to the narrative enterprise of justifying law in these passages, literary devices do play a rhetorical role in shaping Yahweh's oracular decisions and conveying ideas about them. The symmetrical formulation of Yahweh's instructions and Israel's performance of them in the two "action" episodes (Lev. 24:10–23 and Num. 15:32–36)³⁴ places Yahweh's laws in the center of Israel's story, as the pivot on which that story turns and without which the story cannot proceed to a fruitful conclusion. Perhaps most significant, Yahweh does not limit himself to deciding the case at hand, which only by implication would apply ever after, but goes on explicitly and formally to legislate for the future as well, in the style of the majority of the larger Priestly History of the Tent of Counsel.

34. In Leviticus 24, 13 = 23c, 14 = 23b, and 15a = 23a. The laws stand in the center at 15b–22. In Numbers 15, 35a = 36c, 35b = 36b, and 35c = 36a. Compare Nils W. Lund, "The Presence of Chiasmus in the Old Testament," *American Journal of Semitic Languages and Literatures* 46.2 (1930): 106, 119–20.

Decision and Statute in the Oracular *Novellae*: Poetics and Hermeneutics

In the context of the four oracular *novellae*, each one of the extended sections of formal law represents a special point of emphasis. Quantitatively, in such short *novellae* they command disproportionate space. Qualitatively, they pull the thrust of the event from its immediate, narrative moorings towards a hypothetical future and shift that thrust towards the atemporal mode, assimilating, as said, to the majority form of law-giving in the Priestly History. Moreover, following closely on the heels of the case rulings that serve as the climax of the narrative, the extended formal legal sections qualify those case rulings. Importantly, they do so variably, each one in a different way.

The narrative in Leviticus 24:10–23 tells, in minimal detail, of some Israelite who in the course of some brawl with some other Israelite somewhere in the camp uttered a curse against Yahweh. The people who heard the curse brought the one who uttered it to Moses for a divine oracle. Moses turned to Yahweh, who resolved that the curser must die by stoning (Lev. 24:10–14). The story dramatizes emphatically the concern in Leviticus 18–22 for the sanctity of Yahweh and his name,³⁵ going so far as to give the curser an Egyptian father in order to link him to the Canaanites and Egyptians repeatedly derided in these chapters for their desecrating ways.³⁶ The case and its ruling serve to supplement and thereby modify the configuration of divine-human relations schematized and dramatized in the first half of Leviticus. In that half, defined quintessentially by hierarchy, encroachment and crimes create impurity, flecks of death that infect and corrode the Tabernacle, the abode of Yahweh, the source of life. Left to accumulate, impurity will drive him out, which in turn will leave in its wake drought and famine, spelling death and doom for Israel. The purgation ritual (not atonement) detailed in Leviticus 16 has some impurities carried off to the realm of death and others it dissolves and wipes clean with the blood of domesticated, namely, nonviolent, life-supporting animals, which restores the Tabernacle to the glistening, pristine condition that projects the ultimate vitality of the one who dwells therein.³⁷ In the story of the curser, not

35. See also Lev. 18:21; 19:2, 8, 12; 20:1–3, 26; 21:6–8, 10–15, 23; and 22:2–3, 9, 15–16, 31–33.

36. Lev. 18:3, 24–30; 20:22–26.

37. For a fine statement and full bibliography, see Baruch J. Schwartz, “The Bearing

priestly Tabernacle ritual but human camp law removes crime and any perceived threat to the divine.³⁸

But the story does not stop at case resolution. Yahweh expresses his verdict formally (Lev. 24:15–16) and adds to it a string of laws about civil crimes and damages (Lev. 24:17–21). Scholars routinely see the civil series as a tangent to the body of the text, linked by the point of capital punishment. Moreover, its symmetrical shape has suggested a secondary insertion.³⁹ However, one can, and therefore should, understand the civil series as part of the discourse about the topic of cursing God. Specifically, it functions to explain the nature of the crime and its capital punishment. The civil series manifests two principles—one, the significance of both the blood in animate creatures and the form of human beings as having divine qualities and, two, the method by which one accounts for their desecration or deformation, “eye for an eye” or talion.⁴⁰ The structure of symmetrical repetition in the passage corresponds to, and may even serve to indicate, its conceptual function of explanation by analogy, which equates the cursing of Yahweh with the desecration of his image and the shedding of the blood that contains life. Just as one resolves homicide, which combines both forms of desecration, through capital punishment, so does one resolve capitally the cursing of Yahweh. In this story, then, formal law adds to the case and its ruling an expositional dimension and invokes underlying, cosmological beliefs and principles.⁴¹

of Sin in the Priestly Literature,” in *Pomegranates and Golden Bells: Studies in Biblical, Jewish, and Near Eastern Ritual, Law, and Literature in Honor of Jacob Milgrom*, ed. David P. Wright, David Noel Freedman, and Avi Hurvitz (Winona Lake, IN: Eisenbrauns, 1995), 3–21.

38. On the relationship of Leviticus 17–26 and related texts to the rest of the Priestly literature, see the differing positions of Israel Knohl, *The Sanctuary of Silence: The Priestly Torah and the Holiness School*, trans. J. Feldman and P. Rodman (Minneapolis: Augsburg Fortress, 1995); and Baruch J. Schwartz, *The Holiness Legislation: Studies in the Priestly Code* (Jerusalem: Magnes, 1999), 11–34 [in Hebrew]. See also Jan Joosten, *People and Land in the Holiness Code: An Exegetical Study of the Ideational Framework of the Law in Leviticus 17–26* (Leiden: Brill, 1996). On Leviticus 17–26 having taken shape in stages, see Karl Elliger, *Leviticus*, Handbuch zum Alten Testament (Tübingen: Mohr Siebeck, 1966).

39. In Lev. 24, v. 17 = v. 21b, v. 18 = v. 21a, and v. 19 = v. 20. Many have inferred the secondary nature of the unit, in part because of its supposedly tangential quality and in part because of the resumptive repetition of v. 16, “as for the citizen so for the resident alien,” that they identify in v. 22, “one law shall there be for you, as for the citizen so for the resident alien shall it be.” See especially Fishbane, 97n7, 101n41.

40. See Gen. 9:1–7. For a refreshing, corrective view of talion, see A. S. Diamond, “An Eye for an Eye,” *Iraq* 19.2 (1957): 151–55.

41. I have presented on various aspects of the topic: “Revelation and Sin at Sinai

The second of the oracular *novellae* appears in Numbers 9:1–14. In this story, one year after the exodus from Egypt and the Passover observed there,⁴² with the Tabernacle just having gone up⁴³ and its attendants just having consecrated themselves and inaugurated its serviceability,⁴⁴ the time has arrived for the Israelites to perform the Passover again, the first in the wilderness. Several people (not necessarily of the same family) claim to have contracted impurity (not necessarily at the same time or in the same way) and, therefore, cannot participate in the Passover, thereby risking elimination from the community. Yahweh amends the law to provide for those who are impure at the time of the Passover and for those who, once the Israelites settle in Canaan, will live too far away to arrive at the one legitimate site on time, for instance, in a rainy season or when the barley harvest requires immediate, uninterrupted attention.⁴⁵

As in the case of Leviticus 24:10–23, the story caps the series of texts preceding it, in Numbers 5–8, by dramatizing the main themes they highlight—sacrifice, impurity, and camp membership. Moreover, together, the series of texts in Numbers 6:22–10:10 conveys the stages in the building and investiture of a sacred structure, and the story in Numbers 9:1–14 dramatizes the festival that would have inaugurated it. Relatedly, Numbers 6:22–8:26 highlights the roles and contributions of specific groups in Israel—Aaron, the priests, the Levites, and the tribal heads—and Numbers 9:1–14 closes the series with the people at large.⁴⁶

Unlike the story in Leviticus 24:10–23, the story in Numbers 9:1–14 does not conclude by depicting or remarking on how the people did as Yahweh had decided. In fact, in this story, Yahweh does not direct a ruling to their specific case at all. Rather, he only provides formal, hypothetical legislation. From a literary-historical point of view, this may reflect that a stripped-down version of the

According to the Pentateuchal Sources” (lecture, The Thirteenth World Congress of Jewish Studies, Jerusalem, August 12–17, 2001); and “Leviticus as a Book” (lecture, Evening in Honor of Prof. Jacob Milgrom, The Van Leer Institute, Jerusalem, April 27, 2003); and, in print, “Leviticus 24: Appendix D—Lev 24:10–23: Apostasy in H,” in Milgrom, 3:2140–45.

42. Compare Num. 9:1–2 with Exod. 12:1–20.

43. Exod. 40:1–2, 17.

44. Lev. 8–9 (see Exod. 29); Num. 7–8.

45. Simeon Chavel, “The Second Passover, Pilgrimage, and the Centralized Cult,” *Harvard Theological Review* 102.1 (2009): 1–24.

46. See Hurowitz, *I Have Built You an Exalted House*.

law existed prior to the story, which an author subsequently composed as a way secondarily to insert the law in the Priestly History.⁴⁷ In any case, in this instance, this unique, even unprecedented, law of a make-up date for a time-bound sacrifice generated follow-up discussion, in Numbers 9:11–12, concerning its details and application, specifically, how it affects the Passover laws of Exodus 12. First of all, with the Passover disconnected from the Festival of Unleavened Bread, which the impure and the faraway must still observe along with everyone else in the first month, perhaps one should eat the delayed Passover without unleavened bread and bitter herbs? (Answer: No.)⁴⁸ Secondly, given the reduced size of each family celebrating the delayed Passover and sharing in it, must the members still consume the entire animal in one night and burn what remains? (Answer: Yes.)⁴⁹ Relatedly, if one need *not* worry about burning all the remains, may one quarter the Passover? (Answer: No.)⁵⁰ In this story, then, formal law doubles as the case ruling and invites extended, midrashic-style deliberation over its particulars, rather than argue a principled justification.

A third oracular *novella*, in Numbers 27:1–11, centers on the topic of inheritance by daughters. At the very inception of the division of Canaan among the Israelites, the five daughters of the prematurely deceased Šēlophad (or perhaps Šēlpaḥad) raise the problem that, for lack of sons, the branch that would have stemmed from their father will never strike its roots, but break off permanently, his land, by implication, to be parceled out among his generation of immediate kin and his founding name to go to oblivion (Num. 27:1–4). Like the other *novellae*, this one dramatizes the topic treated beforehand, the census taken for the purposes of land allotment in Numbers 26. At the same time that the narrative appears formulated for its present location, as the direct continuation of Numbers 26, literary indications, other biblical evidence, and the presence of several of the daughters' names among ninth

47. Heinrich Holzinger, *Numeri*, Kurzer Hand-Kommentar zum Alten Testament, Abteilung 4 (Tübingen-Leipzig: Mohr-Siebeck, 1903), 35; Diether Kellerman, *Der Priesterschrift von Numeri 1:1 bis 10:10*, Literarkritisch und traditionsgeschichtlich untersucht, Zeitschrift für die alttestamentliche Wissenschaft 120 (Berlin: Walter de Gruyter, 1970), 129–32; Jacob Licht, *Commentary on the Book of Numbers* (Jerusalem: Magnes, 1985–95), 1:135, 138–39 [in Hebrew]; Knohl, *Sanctuary of Silence*, 90.

48. Compare Exod. 12:8 and Num. 9:11b.

49. Compare Exod. 12:10 and Num. 9:12aα.

50. Compare Exod. 12:9 and Num. 9:12aβ.

century BCE receipts of tax payments (known as the Samaria Ostraca) as the names of regions in the northern kingdom of Israel⁵¹ lead to the conclusion that the episode represents the literary crystallization of an isolated tradition long in the making and that it aims to authorize and normalize the tradition by embedding it in the Priestly history of Israel’s origins.⁵² However, in this instance, the formal law neither explains the case ruling nor elaborates upon it, but rather significantly qualifies it, and additional indications further suggest that the narrative with its case ruling and the formal law section come from different authors.

The daughters speak of *giving* them an *estate* alongside their father’s kinsmen, תנה לנו אחזה בתוך אחי אבינו, such that the principle of continuing the father’s name supersedes marriage rights (Num. 27:4b), whereas the formal law section speaks of *transferring* them an *inheritance*, והעברתם את נחלתו לבתו, namely, the land will go out of the family with them when they marry (Num. 27:8b).⁵³ The current form of Yahweh’s case ruling works to weld the two together. First, Yahweh affirms the daughters’ argument, “Justly do the daughters of Šēloḥhad petition”; then in his actual ruling he goes so far as to repeat their very own words.⁵⁴ At the same time, the decision formulated in the words of the petition adds what looks

51. Nos. 45, 47, 50. See Shmuel Ahituv, *HaKetav VeHaMiklav: Handbook of Inscriptions from the Land of Israel and the Kingdoms beyond the Jordan from the Period of the First Commonwealth*, 2nd ed. (Jerusalem: Bialik Institute, 2005), 284–85, 286–87, 290–91 [Hebrew, with photos]; F. W. Dobbs-Allsopp et al., eds., *Hebrew Inscriptions: Texts from the Biblical Period of the Monarchy with Concordance* (New Haven: Yale UP, 2005), 466–67, 468, 470–71, also the reconstructions of nos. 43 and 46 at 465–66, 467 [in transliteration].

52. Comparative materials, both earlier Mesopotamian ones and subsequent Jewish ones, show the problem of sonless families to have been a constant source of anxiety and activity with regard to inheritance. See respectively the earlier texts conveniently gathered in Zafrira Ben-Barak, *Inheritance by Daughters in Israel and the Ancient Near East: A Social, Legal and Ideological Revolution*, trans. B. Sigler Rozen (Jaffa, Israel: Archaeological Center Publications, 2006); and the later archives analyzed in Michael L. Satlow, *Jewish Marriage in Antiquity* (Princeton: Princeton UP, 2001). The *novella* does codify with Mosaic authority the innovation that the dying father need not make any explicit stipulations when he has only daughters; the law itself provides.

53. The difference would have implications for land-redemption, as per Lev. 25:25, 47–49, as well as inheritance.

54. Formulating the decision in the words of the winning argument marks a convention of rulings in Neo-Babylonian legal records; see Cornelia Wunsch, “Neo-Babylonian Forensic Documents and Their Relationship to Codified Law” (lecture, Rechtssatz und Fallerzählung in der Bibel und ihren antiken Nachbarkulturen [Abstract law and case narrative in the Bible and in neighboring ancient cultures], Phillips Universität, Marburg, Germany, September 6–8, 2009).

like a harmonizing modification. The daughters claimed, תנה לנו (Give us an *estate* alongside our father's kinsmen) (v. 4b), and Yahweh rules, נתן תתן להם אחוזת נחלה בתוך אחי (You shall give them an *estate inheritance* alongside their father's kinsmen) (v. 7a). Furthermore, before Yahweh goes on to provide a formal law (vv. 8–11), he continues with the case ruling, וְהֵעֵבַרְתָּ אֶת נַחֲלַת אֲבֵיהֶן לָהֶן (you shall transfer their father's inheritance to them) (v. 7b), and in its terminology, formulation, and conception of full transferral, this second part of the ruling corresponds precisely to the link in the chain of the formal inheritance law that treats the daughter, וְהֵעֵבַרְתָּ אֶת נַחֲלֹתָ לְבִתּוֹ (you shall transfer his inheritance to his daughter) (v. 8b). In other words, the second half of Yahweh's case ruling (v. 7b), added secondarily onto the first half (v. 7a), together with the slight but significant alteration in the first half of the ruling (from “estate” to “estate inheritance”) functions to integrate the formal law of land transference and inheritance into the story of the daughters of Sēloḥhad. The switch in pronominal suffix form midway through the case ruling, from *mem* in the first half (v. 7a, אֲבֵיהֶם . . . להֶם) to *nûn* in the second (v. 7b, אֲבֵיהֶן לָהֶן), a change classically taken to indicate the work of two different authors, presents additional evidence for this conclusion.

A supporting indication that the formal law of inheritance transferral existed independently of the story and entered it secondarily occurs at the end of the formal law, the statement, וְהָיְתָה לְבְנֵי יִשְׂרָאֵל לְחֻקַּת מִשְׁפָּט (and it shall become for the Israelites a civil law) (v. 11c), the force of which says: this case shall serve as a precedent. This forward-looking statement cannot belong to the narrator, who would have had to have said retrospectively, וַתְּהִי לְבְנֵי יִשְׂרָאֵל לְחֻקַּת מִשְׁפָּט (and it became for the Israelites a civil law) and must, therefore, represent Yahweh's own words. However, as Yahweh's statement, the clause appears awkwardly superfluous after the very detailed formal law section. Why mark the case as a precedent when Yahweh has just drafted a complete legal paragraph? Significantly, the statement flows smoothly as the direct continuation of Yahweh's original case ruling, where it would establish the case with its decision as precedent. Reconstructed on this basis, Yahweh's original case ruling would have read: כֵּן בְּנוֹת צִלְפַּחַד דְּבַרְתָּ נָתַן תִּתֵּן לָהֶם אַחְזָה בְּתוֹךְ אֲחֵיהֶם וְהָיְתָה לְבְנֵי יִשְׂרָאֵל לְחֻקַּת מִשְׁפָּט (Justly do the daughters of Sēloḥhad petition. You shall give them an estate alongside their father's kinsmen. And it shall become for the Israelites a civil law).

A third set of indications comes from the intertextual sphere, the literary impact of the case of the daughters of Šēlophad on a variety of biblical passages. Briefly summarized, literary-critical analysis leads to the conclusion that successive editors in Joshua 17:1–6 and then Numbers 26:28–34 had before them only the story with the case ruling. However, Numbers 36:1–12 and the tale of Ruth engage the full text, the story and case ruling along with the formal law section.

This long and complicated reconstruction of the development of this oracular *novella* aims to bring out yet a third function for the formal law section. In this instance, the section does not explain the principles behind the case ruling, as in Leviticus 24:10–23, nor does it make explicit some of the details implicit in the case ruling, as in Numbers 9:1–14. Rather, it drastically qualifies the case ruling, indeed, undercuts it, and it may even have entered the text secondarily for this very purpose. Quantitatively, the formal section overwhelms the case ruling. Qualitatively, the specificity of the chain creates the impression that the formal law merely spells out the implications of the case ruling that precedes it. This impression hardens from the way the language of transferral in the crucial subsection has entered the case ruling at two points, first to create a blended expression, then as its final, determinative clause. One may measure the success of this move by the appeal in the follow-up episode in Numbers 36:1–12, which seeks to thwart the ruling in Numbers 27:1–11, on precisely the understanding that the original case has resolved that the inherited land will leave the family with the inheriting daughter when she marries (and has children).⁵⁵

The fourth oracular *novella* appears in Numbers 15:32–36, the brief story of the man caught gathering wood on the Sabbath. Like the other *novellae*, this one plays a structural role, dramatizing the ideas treated in the passage that precedes it, the violation of Yahweh’s laws, in Numbers 15:22–31. In a sharp and somewhat surprising contrast to the others, this *novella* has no formal law section at all. Yahweh’s oracular decision and Israel’s performance of it (Num. 15:35–36) have a symmetrical structure, as in the *novella* about cursing Yahweh (Lev. 24:13–15a and 23), but with no

55. One fragmentary ancient manuscript of the Torah, found in the caves of Qumran by the Dead Sea, has made sure to place the two episodes side by side so that the one follows immediately on the heels of the other—4Q365 frag. 36. See Harold W. Attridge et al., eds., *Qumran Cave 4. VII: Parabiblical Texts, Part 1*, vol. 13 of *Discoveries in the Judaean Desert*, Emanuel Tov, ser. ed. (Clarendon: Oxford, 1994), 13:310.

intervening material.⁵⁶ Relatedly, every element of the text has a correspondence in another biblical, Priestly text. The centrality of the Sabbath appears in Exodus 31:12–17. The prohibition against fire is specified in Exodus 35:1–3. The motif of gathering and prohibitions against all manner of food preparation are developed in the manna story of Exodus 16. The plot, structure, characterization, terminology, and overall style mirror those of Leviticus 24:10–23.

The lack of a paragraph of formal law together with the multitude and variety of intertextual links suggest that the author of this *novella* had a very modest legislative aim in composing it, merely to flesh out in explicit terms what the other texts about the Sabbath had left implicit, the stoning of the Sabbath violator. Possibly, the author did so to put Sabbath violation on a par with other crimes against Yahweh as the source of all life, like worshipping Molek, consulting the dead, namely, serving as a medium, and cursing Yahweh (Lev. 20:1–6, 27; 24:10–23). Again, the link between Sabbath and Creation—Yahweh’s life-giving quality—appears twice in the Priestly History of the Tent of Counsel, in Genesis 2:1–3 and Exodus 31:12–17.

At the same time, the way the *novella* about gathering wood on the Sabbath begins, ויהיו בני ישראל במדבר (When the Israelites were in the wilderness), indicates that, at the time of its composition, its author did not imagine inserting it into the text of the running Priestly narrative. It would stand separately and locate itself as a piece of lore tracing itself back to the mythic wilderness period of original divine legislation. Only eventually did the narrative find its way into a scroll of the Priestly History.⁵⁷

Conclusions

On the one hand, the four oracular *novellae* treat four unconnected topics and themes, and coalesced in response to different catalysts, even different kinds of catalysts. They appear in distant portions of the Priestly work, took shape through separate processes of composition and editing, and illustrate four contrasting approaches to the use of a formal legal section. Although,

56. See footnote 34.

57. See Simeon Chavel, “Num 15:32–36—A Microcosm of the Living Priesthood and Its Literary Production,” in *The Strata of the Priestly Writings: Contemporary Debate and Future Directions*, ed. S. Shechtman and J. Baden, *Abhandlungen zur Theologie des Alten und Neuen Testaments* (Zürich: Theologischer Verlag, 2009) 45–55.

in effect, the four passages mark each one of the significant periods of the Priestly History—the beginning and end of the time in which the Tabernacle stands at Sinai (Lev. 24:10–23 and Num. 9:1–14), the wilderness period (Num. 15:32–36), and on the plains of Moab immediately before the crossing into Canaan (Num. 27:1–11)—the source-critical analysis that uncovered a separate process of development and inclusion for each *novella* makes the existence of these four passages more an accident of history than a matter of design. On the other hand, they share a single literary form, one that realizes and projects a certain conception of law. In this conception, as stated previously, law resolves narrative tension and establishes social cohesion and coherence. Significantly, these ideas appeared in the Neo-Assyrian *dēnu* in strikingly similar form.

Moreover, among the *dēnu* one finds cases resolved by divine oracle, and Jas reasons that such records come to the archive from temples. If biblical literature can serve as a guide, one cannot question that in ancient Israel and Judah, too, people sought divine adjudication.⁵⁸ In the light of the Neo-Assyrian *dēnu*, one may reason that, like their Mesopotamian counterparts, temple functionaries in Israel and Judah kept records of such oracular consultations, that the form of such records has cast the oracular *novellae* found in the Priestly History of the Tent of Counsel in their mold, and that the oracular *novellae* demonstrate changes the form may take when appropriated by historiography—primarily, the personification of the consulted deity and of his prophetic medium, the amplified literary quality in the shaping of the oracular moment, and the central significance granted to formal legislation.

Furthermore, the idea that divine decision resolves cases and creates social cohesion, that divine legislation impels narrative forward and creates and sustains nationhood, forms the bedrock of the Priestly History of the Tent of Counsel itself. Ironically and counterintuitively perhaps, though the particular oracular *novellae* included in the History of the Tent of Counsel belong to its later layers and describe an oracular decision sought by human initiative that contrasts with the statutory form of legislation that dominates the History, typologically and historically the oracular *novellae*

58. See Exod. 18:13–26; 22:6–8; 33:1–7; 34:29–35; Num. 5:11–31; Deut. 17:8–13; Judg 5:4–5; 1 Sam. 7:15–17; Ezek. 44:23–23; also Gen. 25:21–23; 1 Sam. 9:3–10; Ezek. 14:4–11. See also Johannes Pedersen, *Israel: Its Life and Culture*, trans. A. Møller and A. I. Fausbøll (London: Oxford UP; Copenhagen: Branner, 1926–40; repr., 1946) 1:406–10, 2:102–97 esp. 103–4, 157–64, 190–91; and Philip J. Budd, “Priestly Instruction in Pre-Exilic Israel,” *Vetus Testamentum* 23.1 (1973): 1–14.

represent the real-life, intellectual, and literary paradigms that led to the development of the History.

Finally, despite the heterogeneous origins and development of each of the oracular *novellae*, all four have been located in the text in a fundamentally similar way, such that the *novella* dramatizes the themes treated by the formal, unnarrativized or loosely narrativized laws that precede it. This placement of the oracular *novellae*—in which law precedes narrative and the narrative then climaxes with further law, or in which speech dictating behavior precedes an action or event, which then leads to further speech—emphasizes the multidimensional relationship between law and narrative, as Bialik would have it, the dynamic chain of alternating regeneration that animates them as the organic elements of communal identity.

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