

The Redactional Theologization of the Book of the Covenant: A Study in Criteriology*

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The Book of the Covenant (BC),¹ the second major divine revelation following the Decalogue in Exodus 20-23, is widely believed to contain the most ancient legal material within the Pentateuch and has thus attracted a great deal of scholarly attention. Moreover, the connections between BC and the Laws of Hammurabi have been discussed since the latter were discovered in 1901. Opinions on the origin of BC, however, differ greatly. Four monographs on BC, published by Eckart Otto, Yuichi Osumi, Ludger Schwienhorst-Schönberger and Ralf Rothenbusch between 1988 and 2000,² although disagreeing on several points, agreed on the basic assumption that BC contains originally independent collections of law that were integrated through redactional processes into the literary context of the Sinai narrative. Moreover, Otto's monograph marks a turning point in the history of this research. While the majority view had been that Israelite law was part of the realm of theology from the beginning, Otto's work represented a breakthrough for the view that casuistic collections were the work of 'secular' experts in law, while the literary presentation as divine law was a product of later redactions.³ The first decade of the new millennium, however, saw the publication of two monographs that advanced the thesis of BC's literary

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¹ I use the term "Book of the Covenant" (BC) to refer to the divine discourse in Exod 20,22-23,33 that Moses wrote down according to 24,4 and called ספר הברית (24,7). I avoid the term "Covenant Code", since ancient Near Eastern and biblical law collections do not meet a strict definition of legal "codes". See Roth, *Law Collection*, 9-31.

² Otto, *Wandel*; Osumi, *Kompositionsgeschichte*; Schwienhorst-Schönberger, *Bundesbuch*; Rothenbusch, *Rechtssammlung*. On the previous history of research see esp.: Halbe, *Privilegrecht*, esp. 391-505; Morgenstern, *Book* (1928), 1-151 (see also the subsequent parts in Morgenstern, *Book* [1930], 19-258; Morgenstern, *Book* [1931/32], 1-150.741-746; Morgenstern, *Book* [1962], 59-105); Jepsen, *Untersuchungen*; Baentsch, *Bundesbuch*.

³ Cf. Schmid, *Legislation*, 129-153, esp. 141.

unity: John Van Seters' *A Law Book for the Diaspora*⁴ and David Wright's *Inventing God's Law*.⁵ Wright dates the collection to the late Neo-Assyrian period while Van Seters attributes its authorship entirely to his exilic author J, but both assume, by and large, the literary unity of BC.⁶

Such stark divergence of opinion requires reflection on criteriology – the proper use of criteria. We need to define criteria and distinguish between strong and weak criteria. We will probably disagree on certain aspects of the use of these criteria, but unless we engage in this discussion, our proposals on the development of texts run the risk of appearing arbitrary. In the following, I shall exemplify the use of a set of criteria for the redaction criticism of BC: genre, comparison with ancient Near Eastern law collections, literary contextualization, metatextual references, comparison with other law collections and traditions within the Pentateuch, and thematic and stylistic change. The strength of this argument lies, as shall be shown, in the convergence and mutual reinforcement of these criteria.

1. Genre: Casuistic Law

A fundamental criterion in distinguishing different forms of biblical law is the identification of casuistic law, which has been commonly accepted since Albrecht Alt's fundamental study.⁷ The casuistic law clause is composed of a protasis, which is introduced by "if" (יָ or אִם) and describes the case, and an apodosis, which states the legal consequence.⁸ The pure form of casuistic law is formulated entirely in the third person. In BC, a collection of such casuistic law is found in Exod 21,2-22,16. The classical form-critical approach directly linked the form with an original *Sitz im Leben*. In the case of the casuistic law clause, Alt assumed that this was located in the secular local juridical practice in Ancient Israel.⁹ More recent studies are generally more cautious in this regard and attribute more literary productivity to

⁴ Van Seters, *Law Book*; see also Levinson, *Covenant Code*, 276-330.

⁵ Wright, *God's Law*; Wright, *Origin*, 220-244.

⁶ Van Seters, *Law Book*, 173: "Not only is the whole code of Exod 20:22-23:33 a single composition, the work of a single author, but it is also an integral part of a larger Pentateuchal source – the exilic Yahwist." Wright, *God's Law*, 346: "The evidence indicates that CC is a creative academic work, by and large a unitary composition..."

⁷ Alt, *Origins*, 101-171.

⁸ An exemplary formulation is Exod 22,15-16: "When (יָ) a man seduces a virgin who is not engaged to be married, and lies with her, he shall give the bride-price for her and make her his wife." The sub-case in v.16 is introduced by אִם.

⁹ Alt, *Origins*, 116-117.

scribes with legal expertise.¹⁰ While the form of casuistic law could be identified within the law collections of the Pentateuch as they have come down to us, this genre can be studied more thoroughly thanks to its occurrence in the ancient Near Eastern law collections.

2. External Evidence: Ancient Near Eastern (aNE) Law Collections

Comparison of BC with aNE law collections such as the Laws of Ešnunna, the Laws of Hammurabi and the Middle-Assyrian Laws is a complex and controversial field.¹¹ For the purposes of our redaction-critical quest, two aspects should be highlighted. First, the formulation of the laws is generally very close to biblical casuistic law in that it uses the protasis-apodosis construction and third-person rather than second-person address. This reinforces the probability that biblical casuistic law belongs to the realm of a common ancient Near Eastern legal culture and is originally the work of experts in law.

The second observation concerns the literary contextualization of the aNE law collections. As is well known, the classic collections – most notably the Laws of Hammurabi – are framed by a prologue and an epilogue, in which the king presents himself as the lawgiver, commissioned by the great gods.¹² The law is thus theologically legitimized and protected by divine blessing and curse, but the real lawgiver is the king. Two aspects of the Pentateuch's literary context of law are thus unique within the aNE: the presentation of the law as directly revealed by God¹³ and its embedding into an extensive narrative of the nation's origins. These comparative observations strengthen the assumption that Israel developed a legal culture similar in form to that of its aNE neighbours, possibly in the realm of the royal court and connected with royal ideology,¹⁴ and that the presentation of law as divine speech and its integration into a large narrative framework are most likely later, redactional developments. These quite general comparative considerations gain strength as soon as we look more closely at the

¹⁰ See, e.g., Schwienhorst-Schönberger, *Bundesbuch*, 415; Rothenbusch, *Rechtssammlung*, 473-478.

¹¹ Rothenbusch, *Rechtssammlung*, provided the most elaborate comparison of the BC with aNE law collections. The thesis of the BC's direct dependence on the Laws of Hammurabi has sparked controversy. See, already before Wright's *Inventing God's Law: Wright, Laws, 11-87*; Wells, *Covenant*, 85-118; Wright, *Revision*, 5-28.

¹² See esp. Ries, *Prolog*.

¹³ Schmid, *Legislation*; Albertz, *Theologisierung*, 187-207. Markl, *Gottes Gesetz*, 49-67.

¹⁴ See, e.g., Rothenbusch, *Rechtssammlung*, 599.

concrete literary contextualization of BC within the Exodus and Sinai narrative.

3. Literary Contextualization: Divine Law in Direct Discourse

A notable occasion of both strong and weak contextualization is the presentation of the law as divine speech to Moses, addressed to Israel. Where the content of the speech corresponds to this narrative setting, the divine speaker usually appears in the first person and addresses Israel in the second person. In these regards, the picture is strikingly clear.

<i>Israel addressed in 2nd person</i>	<i>3rd person</i>	<i>2nd person</i>
Exod 20,22-26	21,2-22,16 exceptions: 21,2.13	22,17-23,33
God in 1 st person	3 rd person	1 st person
20,22-25	21,2-22,19 exceptions: 21,13.14	22,22-24.26.28-30 23,7.13-15.18.20-23.25-33

Three points are immediately visible. First, the contextualization is strong at the beginning of the divine speech, i.e. in the introduction and the altar law in Exod 20,22-26 and in the second major part, 22,17-23,33. Second, the first major section, predominantly formed by casuistic laws, in 21,2-22,16 is nearly completely devoid of any reference to the narrative situation of the speech, except for the very first verbal form in 21,2 and the regulations on asylum in 21,13-14: both exceptions can easily be seen as redactional insertions.¹⁵ Third, the two phenomena – the address in second person and the divine first person – generally go together. The texts are either very well or very weakly contextualized within the surrounding narrative.

Further aspects of contextualization concern the links between divine speech and the narrative framework via themes, key words or longer formulations. Here again, the evidence is striking. While potential links with the narrative context are scarce and weak in the casuistic section, they become frequent and strong as soon as the second person address begins. The last casuistic case, of the conflict between the father of a deflowered virgin and her rapist or lover (22,16), for example, does not appear any-

¹⁵ In 21,2, it is only the very first verb of the casuistic laws that is worded in the second person address (תקנה), which required only a minimal redactional change. On 21,13-14 see below, criterion 6.

where else in the Book of Exodus.¹⁶ The picture changes remarkably a few verses later, as the text switches to the second person address:

“You shall not wrong or oppress (לחץ) a resident alien, for you were aliens in the land of Egypt. You shall not abuse (ענה) any widow or orphan. If abusing you do abuse (ענה) them, when they cry out (צעק) to me, I will surely heed their cry (צעקה).” Exod 22,20-22

Beyond the explicit reference to the exodus narrative in the motive clause “for you were aliens in the land of Egypt”, there are several more key words that resonate in the ears of readers who know the preceding narrative. The verbs “oppress” (לחץ) and “abuse” (ענה) echo the same key verbs introduced at the outset of the story and in the call of Moses for the oppression of Israel (cf. ענה in 1,11 and לחץ in 3,9). “Cry” (צעקה) connects with 3,9 as well, so an entire scheme becomes discernible. Just as Israel was oppressed, cried out to God and was heard by God, in the same way God will listen if Israel oppresses the *personae miserae* and they cry out to him. Thus, this passage derives its rhetorical force from the readers’ knowledge of the preceding narrative, and at the same time redefines that narrative of deliverance in its pragmatic force as ethical motivation.¹⁷ This is thus one of the key passages for the integral connection between the exodus narrative and divine revelation of law at Sinai. In terms of our overall question it is important to note the stark contrast between the lack of contextualization in most of the preceding casuistic laws and this passage, which really gives meaning to the divine law within the context of the exodus narrative.¹⁸

I shall limit myself to a brief aside regarding the criterion of *Numeruswechsel*, on which much ink has been spilled. There is a case of *Numeruswechsel*, that is, a switch from second person singular to plural address in 22,20. The switch here makes perfect sense in the two clauses as they stand: “You”– singular, that is, each and every one of you – are obliged not to “wrong or oppress a resident alien, for you”– plural, that is, all you Israelites –

¹⁶ Moreover, Exod 22,15-16 contains several words that do not occur anywhere else in the Book of Exodus: בתולה (verb and noun) and שקל (verb).

¹⁷ Cf., similarly, Wright, *God’s Law*, 337: “The narrative works in tandem with CC to achieve common ideological goals.”

¹⁸ One may note, in addition, that the introduction of the casuistic laws by the manumission laws (Exod 21,2-11) is in line with the prominence given to slaves in the exodus narrative (and in the prologue of the Decalogue), which suggests deliberate redactional arrangement. This goes hand in hand with the observation that the first verbal form of the manumission law is redactionally contextualized in 2ps (תקנה, 21,2).

“were aliens in the land of Egypt.” The collective experience of all the people (and not just of the individual) is the ethical motivation for each individual not to oppress aliens. Whether it was the first author or a redactor who added the motive clause, he most likely used the change of number deliberately and meaningfully. Therefore, the *Numeruswechsel* as such is at best a very weak criterion for postulating a redactional insertion in this verse. This is not to say that the *Numeruswechsel* cannot be a criterion worth considering in other contexts,¹⁹ but it is one of those criteria that have been applied too easily and mechanically,²⁰ while its creative literary potential has been underestimated.

4. Metatextuality: The ‘Book within the Book’

The term “metatextuality”, borrowed from Gérard Genette, is here used to signify the ways in which a text refers to itself or to parts of itself.²¹ In this context, the references to literary genres within BC (Exod 21,1) and in its narrative frame (24,3), as well as those to BC as a product of Moses’ writing (24,4, 7) deserve consideration.

The first instance of metatextual self-reference in BC occurs in Exod 21,1: “These are the ordinances (משפטים) that you shall set before them.” This introduction is not found at the very beginning of the divine speech (20,22), but introduces the series of casuistic laws. “Ordinances” (משפטים) should thus most likely be understood as a term for the casuistic laws (or, maybe, for various mixed genres of law that include casuistic laws). It is worth noting that after the divine discourse the narrator relates that Moses transmits to the people “all the words of Yhwh (דברי יהוה) and all the ordinances” (24,3). The “words of YHWH” seems to be a broader description, referring to the entire divine speech, while “ordinances” is more

¹⁹ A significant example of *Numeruswechsel* is the change from 2pp in Exod 20,22c-23 to 2ps in 20,24-26. Exod 20,22c connects strongly with 19,4 (אתם ראיתם) etc.) and 20,23 is closely related to 32,31 (“do not make for yourselves gods of gold” – “they made for themselves gods of gold”) so that the introduction in 2pp seems to serve the integration of the divine speech into the wider context of the Sinai narrative. It may well thus derive from a different redactor than the altar law (20,24-26) that is, in contrast, entirely worded in 2ps.

²⁰ A continuous layer in 2pp was proposed, e.g., by Osumi, *Kompositionsgeschichte*, esp. 50-53 and 183-217.

²¹ The term is thus used in a more restricted sense than in Genette’s *Palimpsestes* and is related to what linguists circumscribe as “textual deixis”. See, e.g., Redder, *Textdeixis*, 283-294.

specific and refers to the strictly legal material (introduced by 21,1).²² An analogous phenomenon is found in Deuteronomy, which is framed by the most general reference to the “words” of Moses (1,1; 32,45). These “words” include the “torah” of Deuteronomy (Deut 5-26), and, most specifically, the “statutes and ordinances (הַחֻקִּים וְהַמִּשְׁפָּטִים)” (introduced in 12,1).²³ Exod 21,1 thus quite clearly introduces a genre, one that is specifically related to the realm of law.

Exodus 24 provides us with another type of narrative metatextuality, namely the report of Moses’ writing of the “Book of the Covenant” (24,4.7). Special attention has been paid to this phenomenon by Jean-Pierre Sonnet in his study of the narrative motif of writing in Deuteronomy.²⁴ Concerning the writing of the Torah and the Song of Moses (Deut 31,9.24), Sonnet has also evaluated the likelihood of redactional interpolation.²⁵ It is Eckart Otto, however, who has applied Sonnet’s observations most systematically to diachronic questions.²⁶ On a literary level, the report of Moses’ writing of the “Book of the Covenant” attributes great prestige to the legal material and the divine revelation as a whole, but this report is, at the same time, part of the Pentateuch’s internal “theory of writing” (*Verschriftungstheorie*). As Otto suggests, such references should be taken seriously in our diachronic reflections. Could the narrative of Moses’ writing be an implicit hint at the composers’ use of written sources in BC? Given the strong indications from the previous considerations of genre, external evidence and contextualization, this seems very probable.

5. Comparison with Other Law Collections and Traditions in the Pentateuch

Since the Pentateuch contains similar laws as BC in other law collections, especially in Deuteronomy, comparison can shed additional light on the literary characteristics of BC. One of the classic opportunities for such comparison is the manumission laws in Exod 21,2-11 and Deut 15,12-18.

²² For the history of research on this issue see Schwienhorst-Schönberger, *Bundesbuch*, 299-303.

²³ On the system of introductions in Deuteronomy see Markl, *Gottes Volk*, 18-25.

²⁴ Sonnet, *Book*.

²⁵ Sonnet, *Book*, 160-161.

²⁶ See esp. Otto, *Antike*, 447-460. (For Otto’s view of Deuteronomy’s diachronic growth and synchronic meaning within the Pentateuch see his *Deuteronomium* 1,1-4,43, esp. 231-257 and 258-280.) In a similar vein, Raik Heckl recently proposed considering metatextuality as an index to the literary growth of the book of Ezekiel: Heckl, *Ezechielbuch*, 520-540.

Several observations suggest that the law in Deuteronomy rewrites the one of Exodus.²⁷ While a slave who wants to stay with his master is supposed to be brought “before God” according to Exodus (21,6) – that is, in all likelihood, to the local sanctuary –, Deuteronomy’s cult centralization requires a different regulation:²⁸ the rite at the sanctuary’s doorpost is transferred to the home and ‘secularized’ (Deut 15,17). Moreover, the gender-inclusive formulation of the law in Deuteronomy (15,12, 17) corresponds to an increased sensitivity towards women visible in several laws in that book.²⁹

Particularly interesting for our inquiry is Deuteronomy’s continuous rewriting of the law using second-person address. While in Exod 21,2 just one verbal form is adapted to the narrative context – at the very beginning of the casuistic laws – the text is subsequently formulated strictly in the third person. The comparative evidence of Deuteronomy’s rewriting shows that an author who freely adapted the law to its new narrative setting – now an address of Moses to the people – felt the discrepancy between the narrative setting and its formulation in the third person and adapted the entire passage to his rhetorically effective style of address. Deuteronomy thus provides additional evidence for the tension between the formulation of casuistic law in the third person and its narrative setting as direct speech. This tension was already apparent during the formation of the Pentateuch.

While the slave laws at the beginning of BC provide an illuminating example of the transformation of ancient casuistic law in Deuteronomy in terms of style and content, the final section of the same divine discourse (Exod 23,20-33) contains a remarkable cluster of motifs and stylistic features typical of Deuteronomy (cf. esp. Deut 7).³⁰ The passage is concerned with the conquest of the land and thus provides a strong contextuali-

²⁷ For exemplary interpretations see Ska, Introduction, 40-43; Levinson, *Manu-mission*, 281-324, esp. 293-304; Otto, *Deuteronomium* 12,1-23,15, 1360-1368.

²⁸ This is similar to Deuteronomy’s introduction of profane slaughter (12,21) and the cities of refuge (19,1-10). Each of these regulations become necessary because of the abolition of the local sanctuaries.

²⁹ A prominent example is Deuteronomy’s reformulation of the last commandment(s) of the Decalogue (cf. Exod 20,17; Deut 5,21): Markl, *Words*, 13-27, esp. 22; see also Markl, *Women. Deuteronomy*, however, does not question the patriarchal structure of Israelite society: Pressler, *View*.

³⁰ On the history of research on this passage and its characterization as either “proto-Deuteronomic” or “Deuteronom(ist)ic” see Ausloos, *Proto-Deuteronomist*, 17-29.

zation of BC within its wider narrative framework (see esp. Judg 2,1-5).³¹ This clearly shows a redactional interest in integrating the divine discourse at Sinai into these narrative contexts – a feature signally lacking in its collection of casuistic law.³²

6. Thematic Change

The casuistic laws of Exod 21,1-22,16 are framed by thematically clearly distinct sections. The theme of cultic worship, predominant in 20,22-26, reappears in their immediate aftermath (see זבח in 20,24 and 22,19) and in the final section (23,13-19, with זבח in v.18). The only occurrence of the motif of the “altar” (מזבח) within the casuistic laws provides a beautiful example of a redactional insertion, which is connected through both its communicative structure and theme with the framing contexts of BC:³³

- 20,24-26 “You shall make an *altar* (מזבח) of earth for me ...
 At every *place* (מקום) where I let my name be remembered ...
 And if you make an *altar* (מזבח) of stones for me ...
 And you shall not go up by steps to *my altar* (מזבחי) ...”
- 21,13-14 “I will appoint for you a place (מקום)... from *my altar* (מזבחי)...”
- 23,20 “... to bring you to the place (מקום) that I have prepared ...”



Communicatively, the first-person divine voice and the you-address to the people are exceptional in the casuistic laws of BC (21,2.13-14, see above, p. 50). Thematically, the motifs of the “altar” (מזבח) and the divinely envisioned „place” occur in BC exclusively in the abovementioned passages. Both exceptional phenomena relate the asylum law of 21,13-14 closely to the framing sections, clearly identifying it as a redactional addition to qualify the capital punishment for murder (21,12) in relation to the cultic concerns of the framing passages.

A major thematic shift occurs between the casuistic laws, which are basically concerned with two social strata – free farmers and their slaves – and the subsequent section with its “you”-address, which pays specific attention to the *personae miserae*. The “stranger” (גר), the “widow” (אלמנה),

³¹ Blum, Studien, 365-377, attributed the passages concerning the “messenger” (מלאך) to a “Mal’ak-Bearbeitung”, which presupposes dtH and Blum’s D-composition (Blum, Studien, 377).

³² Even Wright, who assumes a homogenous composition of BC, calls Exod 23,20-33 an “appendix”: Wright, Covenant Code, 47-85.

³³ Cf. the argument, with additional (esp. syntactic) reasons and references in Schwienhorst-Schönberger, Bundesbuch, 39-42.

the “orphan” (יתום) and the “poor” (עני, דל and אביון) are absent from the casuistic laws, but their protection is a major concern in the subsequent collection (esp. 22,22-26; 23,6-12).³⁴ This thematic shift is likely to reflect a change in the socio-historical circumstances behind the text.³⁵

7. Stylistic Change

The change of genre and communicative structure (criteria 1 and 3) already involve stylistic features. Another remarkable stylistic change goes along with the aforementioned thematic focus on the *personae miserae*. Motive clauses are completely absent in the casuistic laws but massively present from 22,20 onwards.³⁶ Five such clauses are introduced by “because” (כי; Exod 22,20.26; 23,7.8.9). Twice, the protection of strangers is motivated by the exodus experience (22,20; 23,9). A powerful rhetorical style, involving no fewer than three instances of *figura etymologica* (22,22) and God’s threat “your wives shall become widows and your children orphans”, warns against the oppression of widows and orphans (22,21-23). The prohibition on taking a cloak as a pledge and the requirement to restore it before sunset (22,25) are justified by a double reference to its essential importance “for that is his covering only, it is his garment for his skin” and, in addition, a rhetorical question: “In what (else) shall he sleep?” (22,26). An implicit threat, “for I will not acquit the guilty” warns against bringing false charges (23,7) and sapiential reasoning undergirds the prohibition of bribes (23,8; cf. Prov 17,8.23).³⁷ There seems to be a clear relation, thus, between the theme of the protection of endangered groups in society introduced in the second major part of BC and the heightening of its rhetorical style. While the casuistic laws are pronounced in the sober tone of legal expertise, the divine voice of the second part (Exod 22,20-23,19) has a cause to plead for seriously endangered groups of society. This circumstance reinforces the idea that the latter responds to new historical and social circumstances.

³⁴ Protection for the “stranger” (גר) is formulated three times in 22,20; 23,9.12. The “widow” (אלמנה) and the “orphan” (יתום) feature prominently in 22,21-23. No interest shall be taken from the עני (22,24). Neither should the poor (דל) receive partiality in the lawsuit (23,3) nor must their justice be perverted (23,6; אביון). The harvest of the seventh year shall be left for the אביון (23,11).

³⁵ Cf., e.g., Otto, Wandel, 41: “Der Prozeß der Theologisierung der Rechtsbegründung hat sozialhistorisch betrachtet seine Ursache in der zunehmenden sozialen Heterogenität israelitischer Gesellschaft in staatlicher Zeit.”

³⁶ On motive clauses in biblical law see Watts, Law, esp. 65-67; Sonsino, Motive Clauses; Gowan, Reflections, 111-127; Gemser, Importance, 50-66.

³⁷ For comparative material on corruption see Greengus, Laws, 278-281.

8. The Coincidence of Criteria

The coincidence of criteria is in itself a criterion – perhaps the most important of all. None of the aforementioned criteria could be absolutely convincing on their own. A change of genre (1) or style (7) could be employed merely as a literary device. Comparisons with aNE law collections (2) and with other law collections within the Pentateuch (5) have been evaluated very differently. Metatextual references (4) can be employed as an authorial device. Thematic change (6) may occur naturally in a thematically structured discourse. The different degrees of contextualization within the narrative context (3) – in themselves perhaps the strongest indication of redactional growth in BC – could be placed in question by claiming that the requirements of laws in terms of form and content do not lend themselves to systematic contextualization.

It is the coincidence of criteria, which lends strength to the argument. All seven criteria set the collection of laws in Exod 21,1-22,16 apart from its surrounding contexts in the BC. It belongs to a clearly distinct genre (1), which is corroborated by the external evidence of aNE law collections (2). The casuistic law collection is loosely contextualized, while the surrounding parts are strongly related to their narrative framework (3). The casuistic laws are distinguished by metatextual references (in 21,1 and 24,3), and the Pentateuch's internal theory of writing is likely to hint at the use of sources (4). Deuteronomy's rewriting and the attempt to integrate the divine discourse into its larger narrative contexts demonstrate that the casuistic laws' weak contextualization was already perceived during the growth of the Pentateuch (5). And the surrounding texts are clearly distinguished by thematic and stylistic change (6 and 7).

Several of the aforementioned criteria reinforce each other. The specificity of the casuistic laws becomes even clearer as soon as they are compared with other aNE law collections and contrasted with the stylistically different, rhetorically far more elaborate, norms in Exod 22,20-23,19 and with their better contextualized rewriting in Deuteronomy. They are further highlighted by metatextual references and by the strong contextualization of the preceding and following texts. In addition, this global picture corresponds to phenomena in details:³⁸ while Exod 21,2-22,16 are generally homogenous in genre and style, the very first verbal form in 21,2 and several converging observations in 21,13-14 suggest small-scale redactional interventions.

³⁸ I thank Reinhard Müller for pointing this out in our discussion at SBL and EABS 2017 in Berlin.

While all of the aforementioned criteria are based on literary evidence, historical considerations feed into the reconstruction of literary development and add to its plausibility. While the originally secular setting of casuistic laws deals with the resolution and prevention of conflicts in an agrarian society consisting of free men and servants, the theologically authorized and rhetorically elevated protection of endangered groups within society quite clearly addresses different socio-historical circumstances. The redacted form of BC thus presents a dynamic moving from sober legislation to an increasing theological and rhetorical intensity that aims at protecting strangers, widows, orphans and the poor. The diachronic growth of the text through the redactional integration of previously independent laws resulted in a dynamics of literary intensification that targets the readers' growth in ethical sensitivity.³⁹

The coincidence and mutual reinforcement of several criteria based on literary evidence, plausibly explained by historical considerations, can leave little doubt that BC integrates originally independent sources from the realm of legal expertise in its collection of laws. Contemporary theories as to the precise redactional processes that integrated the casuistic laws into BC and the Exodus narrative and of their theologization diverge – and are likely to continue to diverge. The principal question of the integration of older legal material into BC, however, can be clarified by using a wide range of criteria. Few other diachronic problems in the Pentateuch can be addressed with a similarly variegated set of observations. The combined use of criteria confirms the redactional integration and theologization of originally independent casuistic laws into BC with relative certainty, or, as we would say in German, *mit an Sicherheit grenzender Wahrscheinlichkeit*.

Summary

The claim of the compositional unity of the Book of the Covenant (BC) in the monographs by John Van Seters and David P. Wright requires a renewed discussion of BC's historical emergence with special attention to criteriology. The present article applies seven criteria for analyzing the differences between the collection of casuistic laws in Exod 21,1-22,16 and their contexts: genre, comparison with ancient Near Eastern law collections, literary contextualization, metatextual references, comparison with other law collections and traditions within the Pentateuch, and thematic and stylistic change. The coincidence and mutual reinforcement of these criteria confirm with relative certainty that BC contains originally independent sources from the realm of legal expertise, which were redactionally integrated into BC and presented as divine law.

³⁹ Cf. Fischer / Markl, Buch, 237-238.

Zusammenfassung

Die Entstehung des Bundesbuches (Ex 20,20-23,33) ist auf dem Hintergrund der These seiner einheitlichen Komposition in den Monographien von John Van Seters und David P. Wright erneut und mit vertiefter kriteriologischer Reflexion zu diskutieren. Der vorliegende Beitrag wendet exemplarisch sieben Kriterien auf die Unterscheidung zwischen der kasuitischen Rechtssammlung in Ex 21,1-22,16 und ihren Kontexten an: literarische Gattung, Vergleich mit altorientalischen Rechtssammlungen, literarische Kontextualisierung, metatextuelle Bezugnahmen, Vergleich mit anderen Rechtssammlungen und Traditionen innerhalb des Pentateuch, Themawechsel und stilistische Veränderung. Das letzte und entscheidende Kriterium ist die Koinzidenz und wechselseitige Verstärkung mehrerer Kriterien. Die These der redaktionellen Integration ursprünglich selbständiger Rechtssammlungen in das Bundesbuch und seine narrativen Kontexte lässt sich so mit an Sicherheit grenzender Wahrscheinlichkeit nachweisen.

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