

# The Headings of the Book of Deuteronomy

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The book of Deuteronomy not only talks about “a book within the book”<sup>1</sup> but is in itself a book within books. As the fifth book of Moses, Deuteronomy is part of the canonical division of the Torah, forming not only its conclusion but also acting as the boundary or the transition to the canonical division of Nevi'im. It is closely associated with the biblical narrative on both sides of this boundary and, therefore, also part of the *historia sacra* from Gen 1 to 2 Kgs 25. In a contribution to the *Festschrift* honoring Lothar Peritt published in 2000, I tried to localize the literary-historical place of Deuteronomy between the Torah and the Former Prophets more exactly and, in addition, to examine the book and its earlier literary stages in the context of Pentateuch, Hexateuch, and Enneateuch.<sup>2</sup> The point of departure for my previous contribution was the long-neglected narrative and literary connections that join, in particular, the framework of Deuteronomy in Deut 1–11 and 27–34, but also the body of the laws in Deut 12–26, with the Torah and the Former Prophets. Since the result may be interpreted in different ways, my contribution started a controversy over what connection would constitute a literary context and how such a context would have to be defined.<sup>3</sup> I would like to use this oppor-

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<sup>1</sup> J.-P. SONNET, *The Book within the Book: Writing in Deuteronomy* (BibInt 14; Leiden: Brill, 1997).

<sup>2</sup> R.G. KRATZ, “Der literarische Ort des Deuteronomiums,” in *Liebe und Gebot: Studien zum Deuteronomium* (ed. R.G. Kratz and H. Spieckermann; FRLANT 190; Göttingen: Vandenhoeck & Ruprecht, 2000), 101–120. See also IDEM, *The Composition of the Narrative Books of the Old Testament* (trans. J. Bowden; London: T&T Clark, 2005), 114–133; trans. of *Die Komposition der erzählenden Bücher des Alten Testaments* (Göttingen: Vandenhoeck & Ruprecht, 2000), 118–138; IDEM, “Der vor- und der nachpriesterschriftliche Hexateuch,” in *Abschied vom Jahwisten: Die Komposition des Hexateuch in der jüngsten Diskussion* (ed. J.C. Gertz et al.; BZAW 315; Berlin: de Gruyter, 2002), 295–323; IDEM, “The Pentateuch in Current Research: Consensus and Debate,” in *The Pentateuch: International Perspectives on Current Research* (ed. T.B. Dozeman et al.; FAT 78; Tübingen: Mohr Siebeck, 2011), 31–61.

<sup>3</sup> E. OTTO, *Das Deuteronomium im Pentateuch und Hexateuch: Studien zur Literaturgeschichte von Pentateuch und Hexateuch im Lichte des Deuteronomiumrahmens* (FAT 30; Tübingen: Mohr Siebeck, 2000); J.C. GERTZ, “Kompositorische Funktion und literarhistorischer Ort von Deuteronomium 1–3,” in *Die deuteronomistischen Geschichtswerke: Redaktions-*

tunity to address this question again, albeit from a different angle. In this paper I will investigate the various headings in Deuteronomy and ask whether they introduce a single book or a larger literary work consisting of several books, or if perhaps they are markers for both a break and the continuation of the narrative within a larger unit consisting of several books.

## 1. Deuteronomy 1:1–5

Let me begin with the verses that open the book of Deuteronomy as we have it today (Deut 1:1–5)<sup>4</sup>:

1:1 אלה הדברים אשר דבר משה אל־כל־ישראל בעבר הירדן  
 במדבר בערבה מול סוף בין־פארן ובין־תפל ולבן וחצרת ודי זהב:  
 1:2 אחד עשר יום מחרב דרך הר־שעיר עד קדש ברנע:  
 1:3 ויהי בארבעים שנה בעשת־יֶעֶשֶׂר חדש באחד לחדש דבר משה אל־בני ישראל  
 ככל אשר צוה יהוה אתו אלהם:  
 1:4 אחרי הכתו את סיחן מלך האמרי אשר יושב בחשבון ואת עוג מלך הבשן  
 אשר־ישב בעשתרת באדרעי:  
 1:5 בעבר הירדן בארץ מואב הואיל משה באר את־התורה הזאת לאמר:

1:1 These are the words that Moses addressed to all Israel on the other side of the Jordan. – Through the wilderness, in the Arabah near Suph, between Paran and Tophel, Laban, Hazeroth, and Di-Zahab, 2 it is eleven days from Horeb to Kadesh-Barnea by the Mount Seir route. 3 It was in the fortieth year, on the first day of the eleventh month, that Moses addressed the Israelites in accordance with the instructions that the LORD had given him for them, 4 after he had defeated Sihon king of the Amorites, who dwelt in Heshbon, and King Og of Bashan, who dwelt at Ashtaroth and Edrei. 5 On the other side of the Jordan, in the land of Moab, Moses undertook to expound this Torah. He said: [...]

The heading provides information about the author, the addressee, the place, and the time of “the words of Moses” that will begin in Deut 1:6. Some scholars find an elaborate, concentric, or chiasmic construction,<sup>5</sup> while others see the

*und religionsgeschichtliche Perspektiven zur “Deuteronomismus”-Diskussion in Tora und Vorderen Propheten* (ed. M. Witte et al.; BZAW 365; Berlin: de Gruyter, 2006), 103–123; E. BLUM, “Pentateuch – Hexateuch – Enneateuch? Oder: Woran erkennt man ein literarisches Werk in der hebräischen Bibel?” in *Les dernières rédactions du Pentateuque, de l’Hexateuque et de l’Ennéateuque* (ed. T. Römer and K. Schmid; BETL 203; Leuven: Leuven University Press, 2007), 67–97.

<sup>4</sup> The translation of biblical texts is quoted – with a few changes – according to NIPS.

<sup>5</sup> N. LOHFINK, “Der Bundesschluß im Lande Moab: Redaktionsgeschichtliches zu Dt 28,69–32,47,” in *Studien zum Deuteronomium und zur deuteronomistischen Literatur, Vol. I* (SBAB 8; Stuttgart: Katholisches Bibelwerk, 1990), 53–82, here 53 n. 2; J.H. TIGAY, *Deuteronomy* (JPSTC 5; Philadelphia: Jewish Publication Society, 1996), 3–5 (chiasmic order, p. 3):

A. The site of Moses’ addresses (1)

result of a complicated literary history in the convoluted verses.<sup>6</sup> In any case, initially the verses must be seen as a unity.

In this unity, “the words of Moses” (v. 1) are identical with “this Torah” (v. 5), which can only mean the book of Deuteronomy. Moses spoke the words that have been written in this book “to all Israel” or “the Israelites” (v. 3) and “undertook to explain this law” (v. 5)<sup>7</sup> “in accordance with the instructions that the LORD had given him for them” (v. 3). The place where Moses delivered the speech is mentioned as being “on the other side of the Jordan (in the land of Moab),” which, however, is only the last station of the forty-year journey through “the desert.” In anticipation of the historical retrospective in Deut 1–3, individual stations on this journey are mentioned in vv. 1–2, where Moses is also said to have given speeches.<sup>8</sup> Verses 3–4 give a precise date and mention the place of departure “on the other side of the Jordan, in the land of Moab” and thus come back to the day and the place where Moses is going to die (Deut 32:48–50; 34:5).

With regard to the wording, the heading is full of literary allusions and linkages to other literary contexts. The formulations point to the books of Exodus–Numbers and Joshua as well as to Deuteronomy itself. These literary linkages demonstrate that the present shape of Deuteronomy, which is introduced by Deut 1:1–5, cannot be separated from the literary context in which it is now situated and must, therefore, be read and understood in this context. The superscription of the book of Deuteronomy has already determined its place in the biblical narrative, i.e., the *historia sacra* between Numbers and Joshua, or between Torah and Former Prophets, respectively.

We must, however, distinguish between literary allusions, which simply refer to another context without constituting a literary relationship, and linkages, which also constitute a relationship between the literary corpora or texts involved. In particular, the geographical details (Siph, Paran, Laban, Hazerot,

B. The foreshadowing of the first message of the first address in 1:19–46 (2)

C. The date when Moses began these addresses (3)

B'. The foreshadowing of the second message of the first address (4)

A'. The site where he delivered his addresses (5)

<sup>6</sup> G. BRAULIK, *Deuteronomium 1–16,17* (NEB.AT 15; Würzburg: Echter Verlag, 1986), 21; L. PERLITT, *Deuteronomium* (BKAT 5/1–5; Neukirchen-Vluyn: Neukirchener, 1990–2008), 6–7; T. VEJOLA, *Das 5. Buch Mose: Deuteronomium Kapitel 1,1–16,17* (ATD 8/1; Göttingen: Vandenhoeck & Ruprecht, 2004), 7–8.

<sup>7</sup> For the meaning of the phrase הַיְהוָה בְּאֵר אֶרְצֵהָתּוֹרָה הַזֹּאת, see PERLITT, *Deuteronomium* (see n. 6), 22–23; VEJOLA, *Das 5. Buch Mose* (see n. 6), 10; SONNET, *Book within the Book* (see n. 1), 29–32.

<sup>8</sup> For the localization of the places mentioned in Deut 1:1–5, see the commentaries, e.g. TIGAY, *Deuteronomy* (see n. 5); PERLITT, *Deuteronomium* (see n. 6); or VEJOLA, *Das 5. Buch Mose* (see n. 6), *ad loc.* The individual locations describe the whole journey from Horeb to the land of Moab beyond the Jordan.

Kadesh-Barnea in vv. 1–2, Ashtarot in v. 4) and the post-Priestly dating in v. 3 refer to a context outside Deuteronomy.<sup>9</sup> This, however, would hardly constitute a literary connection, be it within the Tetrateuch, the Former Prophets, or the work usually called the Deuteronomistic History (DtrH).<sup>10</sup> Rather, the relevant references in Deut 1:1–5 clearly refer to the book of Deuteronomy itself.

After all, the heading in Deut 1:1–5 clearly marks a new beginning. The closest parallels to the beginning of the speech in Deut 1:1 can be found in Deut 31:1 and 32:45–46, at the end of the speech. The statement about the author and the addressee thus creates a framework around Deuteronomy, and it is impossible to anticipate something other than the speech of Moses before his death, which is recounted in Deut 34.

The details of time and place in Deut 1:1–5 point in the same direction. The geographical and chronological notes do not necessarily rely on the context of Torah and Former Prophets but are independent. They are, just like the history in Exodus–Numbers, the basis of the narration for the following historical retrospective in Deut 1–3 and, therefore, indicate not only the place but also the contents of Moses’s speech.<sup>11</sup>

“On the other side of the Jordan (in the land of Moab)” in v. 1a and v. 5 is the place that Deuteronomy presupposes until Moses’s death (3:27, 29; 4:41, 46–47; 32:49; 34:1, 5–6). “Through the wilderness, in the Arabah” in v. 1b specifies the expression “on the other side of the Jordan (in the land of Moab)” but widens the perspective. Under consideration are the locations of the journey through the desert, which, similarly to the material in Chronicles, have been gathered from tradition or have been freely invented by combination (v. 1b). Some of them, however, can also be found in Deut 1–3, and they describe the way from Horeb to the location “on the other side of the Jordan (in the land of Moab)” (1:19–2:14).<sup>12</sup> The opening of the territorial perspective suggests that “Moses [...] held his farewell address before the actual settlement, and consequently ‘in the desert.’”<sup>13</sup> In addition, the dating of the

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<sup>9</sup> Cf. v. 3 with Exod 16:1; 19:1; Num 1:1; 9:1; 10:11; 33:38; and see L. PERLITT, “Priesterschrift im Deuteronomium?” in *Deuteronomium-Studien* (FAT 8; Tübingen: Mohr Siebeck, 1994), 123–143; for the locations in vv. 1–2 and their parallels in Num, see PERLITT, *Deuteronomium* (see n. 6), 10–15.

<sup>10</sup> Thus PERLITT, *Deuteronomium* (see n. 6), 7; VEIJOLA, *Das 5. Buch Mose* (see n. 6), 8–9, both ignoring the connections to Num.

<sup>11</sup> See PERLITT, *Deuteronomium* (see n. 6), 14.

<sup>12</sup> See Horeb in Deut 1:6, 19; (Mount) Seir in 2:4; Kadesh(-Barnea) in 1:19, 46; 2:14; counting of days in 2:14.

<sup>13</sup> PERLITT, *Deuteronomium* (see n. 6), 11: “Im jetzigen Kontext von Dtn 1–3; 34 besagt במדבר allenfalls, Mose habe seine Abschiedsrede vor der eigentlichen Landnahme – und in

speech in Deut 1:3–4 prepares the reader for the historical retrospective in Deut 1–3, referring to Sihon and Og (2:16–3:7), and offers a bridge to Deut 32:45–52 (vv. 46, 48), the repetition of the announcement of Moses’s death on the same day that Moses delivers his speech and dies. This narrative thread is also concluded with Deut 34.

Thus, the complex net of the narrative and literary linkages in Deut 1:1–5 clearly assumes Deuteronomy to be the primary literary context. The heading either presupposes or constitutes the book’s independence. At the same time, however, it also links the book to its place in the biblical narrative between exodus and settlement, and to this extent is related to the context of Pentateuch and Former Prophets. By attaching it to the day and the place of Moses’s death and with the pointed emphasis on “this Torah,” the book is moved closer to the Pentateuch than to the Former Prophets.

The demarcation can also be seen clearly from the relationship of Deut 1:1–5 to the colophon in Num 36:13:

אלה המצוות והמשפטים אשר צוה יהוה ביד משה אל בני ישראל בערבת מואב  
על ירדן ירחו

These are the commandments and regulations that the LORD enjoined upon the Israelites, through Moses, on the steppes of Moab, at the Jordan near Jericho. [cf. Num 35:1]

While God’s discourse with Moses is being concluded here, in Deut 1:1 Moses’s address “to all Israel” is just beginning. However, both verses relate to each other by similar formulations. They mark both the separation *and* the connection of the books and – according to Deut 1:5 – function as “text” and “commentary” (הואיל משה באר את ההחלטה הזאת).<sup>14</sup>

Up to now we have been discussing Deut 1:1–5 as a literary unity. However, there is a consensus in critical scholarship that this heading is not a unity but has in fact grown successively.<sup>15</sup> The core is generally found in Deut 1:1a:

אלה הדברים אשר דבר משה אל כל ישראל בעבר הירדן

These are the words that Moses addressed to all Israel on the other side of the Jordan.

Everything else in Deut 1:1–5 is – for good reason – seen as being a literary supplement. Among the various supplements, first v. 4 and then v. 5, which

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diesem Sinne noch ‘in der Wüste’ gehalten”; see also U. RÜTERSWORDEN, *Das Buch Deuteronomium* (NSK.AT 4; Stuttgart: Katholisches Bibelwerk, 2006), 23.

<sup>14</sup> See VEIJOLA, *Das 5. Buch Mose* (see n. 6), 9, with reference to J.L. SKA, “La structure du Pentateuque dans sa forme canonique,” *ZAW* 113 (2001), 331–352, here 351; differently, PERLITT, *Deuteronomium* (see n. 6), 7.

<sup>15</sup> See PERLITT, *Deuteronomium* (see n. 6); VEIJOLA, *Das 5. Buch Mose* (see n. 6); and RÜTERSWORDEN, *Das Buch Deuteronomium* (see n. 13), *ad loc.*; with caution also M. WEINFELD, *Deuteronomy 1–11* (AB 5; New York: Doubleday, 1991), 129.

have the same context in time and place, would have been added to v. 1a. Then vv. 1b–2 were inserted, adding the whole period of the journey through the desert. Verse 3 dates the speech of Moses exactly on the day of the fortieth year of the wandering through the desert and points out that what “Moses addressed to all Israel” is “in accordance with the instructions that the LORD had given him.”

After removing the supplements, the introduction of the speech “on the other side of the Jordan” remains. It is this introduction that constitutes, together with Deut 31:1 and 32:45, the frame for the farewell speech and that has the death of Moses and thus the end of the book of Deuteronomy as well as the end of the Pentateuch in Deut 34 in view. Thus, the literary-critical analysis of the heading does not change our result in any way.<sup>16</sup> Furthermore, the likely original heading in Deut 1:1a introduces nothing other than the book of Deuteronomy between Numbers and Joshua or, in other words, between Torah and Former Prophets.

This result has consequences for the explanation of the historical retrospective associated with the heading in Deut 1:1a(–5).<sup>17</sup> Furthermore, these chapters presuppose the present context in Pentateuch and Former Prophets and not simply some general knowledge of the tradition. The fiction of the retrospective, including the variations of the narration within the recapitulation of Exodus and Numbers in Deut 1–3 (and 4), only makes sense if one knows the texts to which Deut 1–3 (and 4) refer, regardless of whether or not those texts are part of a pre- or a post-Priestly *Vorlage*. The narrative logic also excludes the possibility, which some assume, that Deut 1–3 (or Deut 1–11 *in toto*) might have been the model for the formulation of the narration in Exodus–Numbers.

It is more likely the case that Deut 1–4 is what is called a *relecture* or *re-writing*, with the peculiarity, however, that the text is situated within the narration it reproduces and interprets and thus itself becomes a part of this narration.<sup>18</sup> Its place in the narration between the exodus and the settlement is not, however, constituted by its literary context but explicated by the retrospective

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<sup>16</sup> For a different view see GERTZ, “Kompositorische Funktion” (see n. 3), 112–113, 122 n. 60.

<sup>17</sup> KRATZ, “Der literarische Ort” (see n. 2); for further discussion see R. HECKL, *Moses Vermächtnis: Kohärenz, literarische Intention und Funktion von Dtn 1–3* (ABG 9; Leipzig: Evangelische Verlags-Anstalt, 2004); GERTZ, “Kompositorische Funktion” (see n. 3).

<sup>18</sup> As an analogy one might compare the *Epistula Ieremiae*, which uses Jer 10 and 29 in order to reformulate an additional letter to the *golah*. See R.G. KRATZ, “Die Rezeption von Jer 10 und 29 im pseudepigraphen Brief des Jeremia,” in *Das Judentum im Zeitalter des Zweiten Tempels* (2nd ed.; FAT 42; Tübingen: Mohr Siebeck, 2006), 316–339; IDEM, “Der Brief des Jeremia,” in *Das Buch Baruch – Der Brief des Jeremia – Zusätze zu Ester und Daniel* (ed. O.H. Steck et al.; ATD.A 5; Göttingen: Vandenhoeck & Ruprecht, 1998), 69–108.

of the book itself, which refers to the context in Pentateuch and Former Prophets. This and the quantity of material that has been integrated in Deut 1–3 (and 4) implies that the heading and the historical retrospective were formulated for an individual writing and have something to do with the separation of the books (or the scrolls, respectively). The historical retrospective has the twofold function of continuing the narration of the Tetrateuch and, at the same time, of bridging the distance from Mount Sinai to the land of Moab by looking back once more to the journey that was already told in the book of Numbers. In this way, Deut 1–3 connects both the two places and the two revelations of the law at Mount Sinai/Horeb and in the land of Moab, following the narrative perspective of Deut 5.

Concerning the heading in Deut 1:1a(–5) and the retrospective in Deut 1–3, any hypothesis that considers Deut 1–3 to be the beginning of a Deuteronomistic History is rather doubtful.<sup>19</sup> Similarly doubtful is a hypothesis that regards Deut 1–3 as a supplement (*Fortschreibung*) responsible, at the same literary level as Deut 5:1–6:3, for integrating the formerly independent Deuteronomy into the narration of the Hexateuch, as has been suggested recently by Jan Christian Gertz.<sup>20</sup> It is more likely the case that the heading Deut 1:1a(–5) and chapters 1–3 identify Deuteronomy as an independent book that concludes the Pentateuch and points to the continuation of the narration in the Former Prophets in the same way as does the Pentateuch as a whole.

## 2. Deuteronomy 4:44–49

A second lot of headings appears in Deut 4:44–49. For a considerable period of time, scholars have seen the doublet to Deut 1:1–5 as a clue to the editorial history of Deuteronomy and, therefore, have suggested that once there existed two different editions of the book: one beginning with 4:44 or 4:45 and another beginning with 1:1–5 and including the retrospective in Deut 1–3 (and 4).<sup>21</sup> The alternative, that both headings are the planned result of one hand,

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<sup>19</sup> See, e.g., BLUM, “Pentateuch – Hexateuch – Enneateuch?” (see n. 3), 109, 164. It makes no difference if one reduces the DtrH to a certain “DtrL” extending from Deut 1 to Judg 2; see N. LOHFINK, “Kerygmata des Deuteronomistischen Geschichtswerks,” in *Studien zum Deuteronomium und zur deuteronomistischen Literatur, Vol. II* (SBAB 12; Stuttgart: Katholisches Bibelwerk, 1991), 125–142, here 132–137; followed by OTTO, *Das Deuteronomium im Pentateuch und Hexateuch* (see n. 3).

<sup>20</sup> GERTZ, “Kompositorische Funktion” (see n. 3).

<sup>21</sup> J. WELLHAUSEN, *Die Composition des Hexateuchs und der historischen Bücher des Alten Testaments* (3rd ed.; Berlin: Reimer, 1899; repr., Berlin: de Gruyter, 1963), 193, suggested two editions; G. HÖLSCHER, “Komposition und Ursprung des Deuteronomiums,” *ZAW* 40 (1922), 161–255, convincingly argued for another explanation and proposed a supplementary

based on a “four heading system of Deuteronomy,” as Norbert Lohfink suggested based on 1:1; 4:4; 28:69; and 33:1, is highly unlikely, as Lothar Perlitt has shown.<sup>22</sup> The headings are indeed related to each other, but they are not on the same literary level and can hardly be of the same origin.

Within Deut 4:44–49, the literary nucleus is generally found in 4:45:

אלה העדה והחקים והמשפטים אשר דבר משה אל-בני ישראל בצאתם ממצרים

These are the decrees, laws, and rules that Moses addressed to the people of Israel, after they had left Egypt.

A closer look at the other elements in Deut 4:44–49 indicates that they are most certainly a conglomeration of additions, which, similarly to Deut 1:1–5, has been supplemented successively. The announcement of the Torah here in 4:44 reminds one of 1:5, and the geographical details in 4:46–49 of 1:1b–4.<sup>23</sup> The formulations, as the many repetitions show, want to specify the previous locations or want to expand them, and refer generally to Deut 1–3. In detail, the facts are as follows:

“Beyond the Jordan in the valley opposite Beth-Peor” is the summary of 1:1a and 3:29 and the phrase presupposes, as a repetition of Deut 1–3, the insertion of Deut 4.<sup>24</sup> Just as in Deut 1–3, the speech has been moved expressly to the place of Moses’s death (34:6).

As in Deut 1:4, and with almost the same words, 4:46–47 summarize the events of 2:26–3:10, the battle against Sihon and Og. According to Deut 23:5, the mention of Sihon of Heshbon specifies the statement “after they had left Egypt” from v. 45, and the mention of Og of Bashan specifies the statement “beyond the Jordan” from v. 46, augmented by “to the east,” in accordance with 4:41. Whether the two notes became part of the text at the same time or one after another is hard to say.<sup>25</sup> While in v. 46 it is only about geography and, therefore, only about Sihon, v. 47 recapitulates the narration, which in v. 46b is only hinted at and which applies to both Sihon and Og, as can be seen from the wording (see 2:31; 3:12) and the supplement “the two Amorite kings” (see 3:8).

Verses 48–49 presuppose the settlement in the region “to the east of the Jordan” in v. 47 and “the two Amorite kings” from 3:8, and add the relevant

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hypothesis (*Ergänzungs- or Fortschreibungshypothese*). For Deut 4, see D. KNAPP, *Deuteronomium 4: Literarische Analyse und theologische Interpretation* (GTA 35; Göttingen: Vandenhoeck & Ruprecht, 1987), 27–29 and *passim*.

<sup>22</sup> See LOHFINK, “Der Bundesschluß im Lande Moab” (see n. 5) and the discussion of his suggestions by PERLITT, *Deuteronomium* (see n. 6), 388–390.

<sup>23</sup> See PERLITT, *Deuteronomium* (see n. 6), 387–400; VEIJOLA, *Das 5. Buch Mose* (see n. 6), 122–125.

<sup>24</sup> See PERLITT, *Deuteronomium* (see n. 6), 397.

<sup>25</sup> See PERLITT, *Deuteronomium* (see n. 6), 398.

geography accordingly in compilation with 2:36: “from Aroer on the edge of the Arnon valley” (2:36); “from the wadi Arnon to Mount Hermon” (3:8); then “also the whole Arabah on the east side of the Jordan, as far as the Sea of the Arabah, at the foot of the slopes of Pisgah” (4:49) according to 3:17. In this way, the authors have again reached the place of Moses’s death in 34:1, where the speech is delivered according to Deut 1–4 (4:46; 1:1–5a; 3:27, 29).

After discounting the literary supplements, the two headings in 4:44 and 4:45 remain, one of which corresponds in its formulation to 1:5, the other to 1:1. In accordance with the analysis of 1:1–5, scholars conjecture that 4:44 (וְזֵאת הַתּוֹרָה אֲשֶׁר־שָׂם מֹשֶׁה לְפָנֵי בְנֵי יִשְׂרָאֵל) is secondary while 4:45 (אֵלֶּה הָעֲדָוָה וְהַחֲקִים וְהַמִּשְׁפָּטִים) is primary. With regard to the relative dating, scholars assume that 4:45 is the older heading and 1:1a is the younger. This links up with the theory that 4:45 is the oldest heading, which introduced the formerly independent original Deuteronomy, followed by 5:1; 6:4; 12:13ff.<sup>26</sup>

There is, however, a problem with this reconstruction. The hypothesis forces us to remove the words “the decrees and” (הָעֲדָוָה וְ) from the phrase “these are the decrees, laws, and rules” in v. 45, because the expression does not match the collocation “laws and rules” that is typical for Deuteronomy (5:1; 12:1; *et al.*). In a somewhat bold statement, Norbert Lohfink has concluded that the expression הָעֲדָוָה had been the original expression, instead of the collocation “statutes and ordinances,” and had designated the Josianic Ur-Deuteronomy.<sup>27</sup> It would appear that the Neo-Assyrian contract language (*adê*) and its proximity to the theology of the covenant in Deuteronomy supports this view, which has on occasion led to some incredible speculation and still does. However, as Lothar Peritt has shown, this hypothesis does not stand up to scrutiny.<sup>28</sup> The relevant term – whether deriving from the Neo-Assyrian or, not to forget,<sup>29</sup> the Aramaic *adê*; or from the Hebrew root עָד, “witness, witness statement,” and the abstract form ‘*edut*, as used in the Priestly writing as *terminus technicus* for the content of the ark of the covenant – is typical for late Hebrew (Ps 119) and for late Deuteronomistic literature, where it always appears in combination with other expressions of the

<sup>26</sup> Thus, e.g., VEIJOLA, *Das 5. Buch Mose* (see n. 6), 122–123; PERLITT, *Deuteronomium* (see n. 6), 387, 391, seems to include also v. 46aα (“beyond the Jordan, in the valley of Beth-Peor”).

<sup>27</sup> N. LOHFINK, “‘d(w)t im Deuteronomium und in den Königsbüchern,” in *Studien zum Deuteronomium und zur deuteronomistischen Literatur, Vol. III* (SBAB 20; Stuttgart: Katholisches Bibelwerk, 1995), 167–177.

<sup>28</sup> PERLITT, *Deuteronomium* (see n. 6), 393–397; see also VEIJOLA, *Das 5. Buch Mose* (see n. 6), 123.

<sup>29</sup> See C. KOCH, *Vertrag, Treueid und Bund: Studien zur Rezeption des altorientalischen Vertragsrechts im Deuteronomium und zur Ausbildung der Bundestheologie im Alten Testament* (BZAW 383; Berlin: de Gruyter, 2008), 97–105.

law and the covenant.<sup>30</sup> Thus, the term cannot be original. But does this conclusion justify the equally bold literary-critical removal of the expression  $\text{וְהָעֵדוּת הַזֶּה}$  in Deut 4:45? Precisely the fact that the term always appears in line with other expressions, and in exactly the same order in 6:20 as in 4:45, speaks against such a literary-critical operation.

Furthermore, there is another problem. If we consider 4:45 to be the original beginning, we are confronted with the problem of the historicization of the law in Deuteronomy. We can only learn who Moses was and what the exodus from Egypt was all about from the narration of the Pentateuch, on which we have to rely, even with a “vague dating” (*lockere Zeitangabe*)<sup>31</sup> such as the statement “after they had left Egypt” in v. 45. There is no basis at all for the generally accepted view that the Exodus narration should be regarded as common cultural knowledge. It would also be unclear where on the long march between Egypt and the promised land Moses proclaimed the law to the people. It would be rather strange to assume that the law had been proclaimed somewhere in the middle of nowhere. This is probably also the reason why Lothar Peritt still counts the statement “beyond the Jordan in the valley at Beth-Peor” in v. 46a $\alpha$  as part of the basic layer. This, however, contradicts the hypothesis that v. 45 is an earlier beginning of Deuteronomy, because, as Peritt himself writes, the geographical statement in 4:46 summarizes Deut 1:1a and 3:29 and presupposes the addition of Deut 4.<sup>32</sup>

With or without v. 46a $\alpha$ , the hypothesis that v. 45 was once the original beginning of Deuteronomy obviously causes more problems than it solves. Therefore, another solution is more likely, namely that 4:44 and 4:45 are later headings inserted into the text after Deut 1–4 was added. There would have been more than enough opportunities to do this, because the text in Deut 1–4 is not a literary unity but has grown successively. This applies not only to the retrospective in Deut 1–3 but also to the supplement (*Fortschreibung*) in Deut 4:1–40, which maintains the style of Moses’s speech, and to the passage in Deut 4:41–43, which moves to a narrative style. Before the speech of Moses (re)commences in 5:1, a transition is necessary, and just at this place we find the two headings in question, v. 44 and v. 45(–46a $\alpha$ ).

If we accept the suggested sequence of the additions, v. 45(–46a $\alpha$ ) – referring back to 1:1a; 3:29 – could be connected with the insertion of the

<sup>30</sup> See Deut 5:31; 6:17, 20; 7:11; 2 Kgs 2:3; 17:5; 23:5; Jer 44:23.

<sup>31</sup> VEIJOLA, *Das 5. Buch Mose* (see n. 6), 123 n. 5.

<sup>32</sup> PERLITT, *Deuteronomium* (see n. 6), 397: “V. 46a $\alpha$  will nach der großen Unterbrechung durch 4,1–40 noch einmal den Ort nennen, an dem Mose zu den Israeliten redete (V. 45). Das geschieht einerseits mit der weiträumigen Angabe von 1,1a ‘jenseits des Jordans’ [...], andererseits mit der genauen Angabe über das vorläufige Ziel des Wüstenzuges vom Horeb her ‘im Tal gegenüber Beth Peor’ aus 3,29 [...]”

speech in 4:1–40, and 4:44 – referring back to 1:5 – could be connected with the addition of the short narrative in 4:41–43. The “laws and rules” (חֲקִים וּמִשְׁפָּטִים) are already mentioned in Deut 4 (vv. 1, 5, 8, 14), so that the repetition (*Wiederaufnahme*) in 4:45 with the addition of הַעֲדָה would not come as a surprise (see also 6:20; 4:9–10). Additionally, the exodus from Egypt is a topic in Deut 4 (vv. 20, 34, 37), which would easily explain the “vague dating” in v. 45 (“after they had left Egypt”), which – with the reference to 3:29 in 4:46 and with the additions in 4:46–49 – was then expounded in further detail. Even the heading in 4:44, which refers back to 1:5 and is probably later, would then have a point of contact in Deut 4 (v. 8).

After all, in comparison to 1:1–5, we have before us in the headings in 4:44–49 not the earlier but the later formulations. Deuteronomy 4:45(–46aα) is, therefore, written with the knowledge and according to the example of 1:1a (and 3:29), while 4:44 is written to emulate 1:5. After the heading in 1:1a that is to be connected with the addition of Deut 1–3, the heading 4:45(–46aα) became necessary with the insertion of Deut 4:1–40, and was followed by the heading in 4:44 before or after the addition of 4:41–43. In both places, in 1:1b–4 and 4:46–49, the headings have been augmented several times and filled in with material from Deut 1–3.

### 3. Deuteronomy 5:1

After discussing the headings in Deut 1 and 4 we now turn to Deut 5:1, the second beginning of Moses’s speech, which runs from here to ch. 26: “Moses summoned all Israel and said to them,” וַיִּקְרָא מֹשֶׁה אֶל-כָּל-יִשְׂרָאֵל וַיֹּאמֶר אֲלֵהֶם. In relation to Deut 1–4, this is an older beginning, as is indicated by Moses’s getting straight to the subject matter, which is also announced in Deut 1:1–5 and 4:44–49: the declaration of the law. Deuteronomy 1–4, on the other hand, are clearly secondary, since they recapitulate the history as already told in Exodus–Numbers and prepare the reader for a recall of the scene at Horeb in anticipation of Deut 5. The question that arises here concerns what exactly begins in Deut 5 with the immediate introduction of the speech.

Before Moses comes to the declaration of the law in Deut 12–26, which has already been announced several times, he also needs a long prelude in Deut 5–11. This prelude too is full of historical reminiscences of the exodus, the desert, and Sinai/Horeb. But in contrast to Deut 1–3, it is not primarily about the course of history from the beginning to the end of the journey through the desert. Rather, it is about the parenetic meaning of the individual historical examples, in particular the rest at Mount Sinai/Horeb, for the “here and now,” the fictive presence of Moses, or the presence of the author and his readers, respectively.

The hermeneutical key for all this is the historical fiction in Deut 5.<sup>33</sup> The scene is based on the opposition of the “here and now” (5:1, 3) and the experience of the presence of God at Mount Sinai/Horeb “at that time” (5:5), which is recalled and contemporized for the fictive audience (and actual readers) of today. Both locations, Sinai/Horeb and the “here and now,” are collapsed into one. The synchronization is, on the one hand, created by the quotation of the Decalogue, which the people are supposed to have heard at the time; and in quoting the Decalogue, which contemporizes the past situation, the people are listening to it again. On the other hand, the correlation between the past and the present is made through the theory that the revelation of the other parts of the law was given by God on the mountain only to Moses, who is now passing it on to the people.

The focus of Deut 5 is to emphasize the relationship between Deuteronomy and the Covenant Code in the book of Exodus, demonstrating that it is the same law in both places. Once this has been clarified in Deut 5, the proclamation of the law in Deut 12–26 can follow, introduced by 6:1 and the שמע ישראל in 6:4. Like the retrospective in Deut 1–3 and 4, which covers the distance between Sinai/Horeb and the “here and now” in terms of theological geography and history,<sup>34</sup> the extensive parenthesis in Deut 6–11 is also secondary to the basic scene in Deut 5:1–6:3 and the שמע ישראל in 6:4, which is presupposed and time and again reformulated throughout Deut 6–11.<sup>35</sup>

If one, therefore, assumes an original connection between Deut 5:1–6:4 and Deut 12–26, the following question will arise: What actually is the “here and now” of Deut 5:1, 3? Without the retrospective in Deut 1–3 (3:27, 29), which has proved itself to be a supplement (*Fortschreibung*), the scene at the beginning of the speech lacks geographical and historical placement. Would we, therefore, still have to assume that one of the headings, in 1:1–5 (1:1a) or 4:44–49 (4:45), is the beginning of Deuteronomy? But then why does the speech not just begin immediately after the annunciation in 1:1a or 4:45: “These are the words [...]” or “These are the decrees [...]: Hear, O Israel”?

<sup>33</sup> See the commentaries, and R.G. KRATZ, “‘Höre Israel’ und Dekalog,” in *Die Zehn Worte: Der Dekalog als Testfall der Pentateuchkritik* (ed. C. Frevel et al.; QD 212; Freiburg: Herder, 2005), 77–86.

<sup>34</sup> That Deut 1–3 and 5:1–6:3 stem from one hand, as suggested by GERTZ, “Kompositorische Funktion” (see n. 3), 121, is rather improbable. One wonders why the author of Deut 1–3 did not place the material – as was done with the *Wiederaufnahme* in v. 46 – after but before the supposed original heading in 4:45. Furthermore, the different calculations of the generations in Deut 5:2–3 and 1:34ff.; 2:14–16 still require an explanation.

<sup>35</sup> See H. SPIECKERMANN, “Mit der Liebe im Wort: Ein Beitrag zur Theologie des Deuteronomiums,” in *Liebe und Gebot: Studien zum Deuteronomium* (ed. R.G. Kratz and H. Spieckermann; FRLANT 190; Göttingen: Vandenhoeck & Ruprecht, 2000), 190–205.

Why is it reintroduced with the narrative ויקרא משה אל-כל-ישראל ויאמר אלהם “Moses summoned all Israel and said to them”?

The introduction with a narrative (ויקרא משה) suggests another possible explanation. The narrative could continue a preceding narration that took Moses and all Israel to the place meant by the “here and now” in Deut 5. In fact, such a narration has been preserved immediately before the book of Deuteronomy in its canonical position in the book of Numbers, which is also the basis for the (later) recapitulation of the same story in Deut 1–3. What could be easier than to assume that Deut 5:1 originally continued this narration?

Numbers 27:12–13 and Num 25:1a are two passages that need to be taken into account as points of contact here, discounting the later passages in Deut 1–4 and the equally later supplements to the book of Numbers in Num 25–36.<sup>36</sup> The second passage, Num 25:1a, is part of the (original) framework connecting the narration of the exodus from Egypt in the books of Exodus–Numbers to the narration of the settlement in the book of Joshua (Num 25:1a–Josh 2:1; 3:1); in between is the death of Moses (Deut 34:5–6),<sup>37</sup> which was the starting point for inserting the farewell speech of Moses in the book of Deuteronomy.<sup>38</sup> The place of the “here and now” in Deut 5 is, therefore, the last stop on the journey through the desert before entering the promised land, in Shittim in the land of Moab. The scene of Deut 5 is written into the narration just at this place, so that at this level the book of Deuteronomy is part of the narration extending at least from the book of Exodus to the book of Joshua, and maybe even further. This localization is presupposed and adapted by the later supplements (*Fortschreibungen*) in Deut 1–4 and in particular in the headings in Deut 1:1–5 and 4:44–49, and is explicated in further detail within the independent book.

#### 4. Deuteronomy 6:4

Scholars often have assumed that the oldest Deuteronomy, known as the “Ur-Deuteronomy,” began with the שמע ישראל in Deut 6:4 and was followed immediately by the laws in Deut 12–26.<sup>39</sup> There is a lot to be said for this as-

<sup>36</sup> See KRATZ, “Der literarische Ort” (see n. 2), 116.

<sup>37</sup> According to my analysis, the original wording is: “So Moses [...] died there, in the land of Moab [...], and they buried him in the valley in the land of Moab, near Beth-Peor [...]”

<sup>38</sup> See KRATZ, “Der literarische Ort” (see n. 2), 119; IDEM, *Composition* (see n. 2), 125–126 (*Komposition*, 129–130); IDEM, “Der vor- und der nachpriesterschriftliche Hexateuch” (see n. 2).

<sup>39</sup> See H.D. PREUSS, *Deuteronomium* (EdF 164; Darmstadt: Wissenschaftliche Buchgesellschaft, 1982), 100–101; VEIJOLA, *Das 5. Buch Mose* (see n. 6), 175.

sumption, such as the close relationship between the idea of a “unity” of YHWH proclaimed by the שמע ישראל and the commandment of cultic centralization, which begins in Deut 12 (originally vv. 13ff.) and which is, as commonly known, the core of the Deuteronomic law. The שמע ישראל in Deut 6:4<sup>40</sup> could, therefore, be understood as a proem to the new version of the cultic laws in Deut 12–26 (in its basic layers), which has the Covenant Code in Exod 20–23 as its example.<sup>41</sup>

As we have seen, the historical scene of Deut 5, the recall and the recontemporization of the Sinai/Horeb scene for the “here and now” (i.e., the time of the narrator as well as the reader), is the narrative realization of this literary-historical relationship between the Covenant Code and Deuteronomy. This literary relationship, however, and the narrative connection seem to be older than the scene in Deut 5. Obviously the introduction of the speech in Deut 5:1, ויקרא משה אל-כל-ישראל ויאמר אלהם, originally introduced a שמע ישראל, “Hear, O Israel.” However, the שמע ישראל is not necessarily the one in Deut 5:1, but could also have been the one in Deut 6:4; only later was this introduction augmented by Deut 5:1–6:3 and, therefore, reformulated: שמע ישראל אתהחקים ואתהמשפטים, “Hear, O Israel, the laws and the rules.” Deuteronomy 6:1–3 again takes up the “laws and rules” from 5:1 (וזאת המצוה) (וזאת החקים והמשפטים), linking them with the שמע ישראל in 6:4 according to the transition in 5:1.<sup>42</sup>

Thus, with the narrative in Deut 5:1 introducing Moses’s speech (ויקרא יקרא) (משה אל-כל-ישראל ויאמר אלהם), the older version of Deuteronomy, which did not yet contain the scene in Deut 5:1–6:3 and the Decalogue, also continues the narration of the book of Numbers and is encased between Num 25:1 and Josh 2:1 or 3:1, at the last station before crossing the Jordan and entering the promised land, in Shittim. What is said implicitly here in the course of the

<sup>40</sup> For the analysis of Deut 6:4–9, see C. LEVIN, *Die Verheißung des neuen Bundes in ihrer theologiegeschichtlichen Zusammenhang ausgelegt* (FRLANT 137; Göttingen: Vandenhoeck & Ruprecht, 1985), 99 n. 103; T. VEIJOLA, “Das Bekenntnis Israels: Beobachtungen zur Geschichte und Theologie von Dtn 6, 4–9,” in *Moses Erben: Studien zum Dekalog, zum Deuteronomismus und zum Schriftgelehrtentum* (BWANT 149; Stuttgart: Kohlhammer, 2000), 76–93; IDEM, *Das 5. Buch Mose* (see n. 6), 175, 177–182; KRATZ, *Composition* (see n. 2), 126 (*Komposition*, 130–131). I am still of the opinion that Deut 6:4–5 or (with Levin) 6:4–6 and not 6:4, 6–9 (Veijola) is the basic text introducing the collection of the laws of centralization in Deut 12–26.

<sup>41</sup> For the criteria for the analysis and reconstruction of the basic layers in Deut, see KRATZ, *Composition* (see n. 2), 117–118 (*Komposition*, 120–122).

<sup>42</sup> See VEIJOLA, “Das Bekenntnis Israels” (see n. 40), 77 n. 10; IDEM, *Das 5. Buch Mose* (see n. 6), 129, 175; KRATZ, “Der literarische Ort” (see n. 2), 118; IDEM, *Composition* (see n. 2), 124–125 (*Komposition*, 129).

narration, the historical scene in Deut 5 makes explicit, and this, again, is presupposed by the headings and the literary expansions in Deut 1–4.

I do not want, nor have I ever wanted, to deny or exclude the possibility that Deuteronomy was once an individual piece of literature in its own right before it was integrated into the course of the biblical narration, the *historia sacra* of Pentateuch and Former Prophets. However, such a formerly independent version of Deuteronomy cannot have begun with headings such as Deut 1:1 or 4:45 or 5:1, all of which presuppose or continue the biblical narration in Exodus and Numbers. It is more likely that it would have started without any heading, if the original heading has not been lost, and most certainly without a narrative introduction such as 5:1. It is possible that it started directly with 6:4(–6): שָׁמַע יִשְׂרָאֵל יְהוָה אֱלֹהֵינוּ יְהוָה אֶחָד, “Hear, O Israel: The LORD is our God, the LORD alone,” followed immediately by the laws of centralization. The closure of the original Deuteronomy that corresponds to Deut 6:4–6 can be found at Deut 26:16.<sup>43</sup>

The fact that makes Deut 6:4(–6) suitable for an absolute beginning of an independent legal corpus is that it mentions the addressee and requires neither information on who is speaking nor a localization in the course of the biblical history. Only the imperfect in the formula of centralization (“in the place that the LORD will choose,” בַּמְקוֹם אֲשֶׁר יִבְחַר יְהוָה, Deut 12:14, etc.) causes a certain hesitation. Within the narrative and literary context of the narration from Exodus to Joshua, this formula points to the imminent entering into the land and is the beginning of the historicization of the law in Deuteronomy.<sup>44</sup> As the textual variants of the versions indicate, the ancient readers were clearly aware of the problem.<sup>45</sup> I would not exclude the possibility that when Deuteronomy was still an independent book, the formula and its verbal form might have had another meaning. The evidence, however, must still be brought forward. The assumption that anyone knew the place of Deuteronomy within the biblical narration, so that any detailed localization in the later literary layers can basically be applied to the independent older Deuteronomy, does not convince me. However, this problem should only be dealt with in the broader

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<sup>43</sup> KRATZ, *Composition* (see n. 2), 124 (*Komposition*, 128–129); for a different view see VEIJOLA, “Das Bekenntnis Israels” (see n. 40), 77 n. 10: “Es versteht sich allerdings von selbst, daß ein *Buch* nie unmittelbar mit der Anrede Dtn 6,4, ohne jegliche Überschrift und Redeeinleitung, hat beginnen können.” I have to confess that for me it is not that evident at all.

<sup>44</sup> KRATZ, *Composition* (see n. 2), 123 (*Komposition*, 128).

<sup>45</sup> See R.G. KRATZ, “‘The Place Which He Has Chosen’: The Identification of the Cult Place of Deut. 12 and Lev. 17 in 4QMMT,” in *A Festschrift for Devorah Dimant* (ed. M. Bar-Asher and E. Tov; Meghillot 5–6; Jerusalem: Bialik Institute; Haifa: University of Haifa, 2007), \*57–\*80.

context of the composition of the Pentateuch and therefore cannot be considered here.

## 5. Conclusion

The investigation into the headings of Deuteronomy confirms the result of the literary-historical analysis of the book. The oldest Deuteronomy, known as the “Ur-Deuteronomy,” which only contained the commandments of cultic centralization, is likely to be introduced by Deut 6:4(–6) and concluded with Deut 26:16. With the exception of the centralization formula, there are no traces of any historicization, which could be taken as evidence that Deuteronomy was originally composed as an independent work. Only the introduction to the speech in Deut 5:1a $\alpha$ , followed by the “Hear, O Israel” in Deut 6:4(–6) and the commandments of cultic centralization in Deut 12–26, place Deuteronomy into the course of the biblical narration and locate it between the last station of the journey through the desert (Num 25:1a) and the departure for the promised land (Josh 2:1; 3:1), in Shittim in the land of Moab. Here Moses recapitulates the essentials of the cultic laws of the Covenant Code in a revised form, in a farewell speech just before his death (Deut 34:5–6). The scene in Deut 5:1a $\beta$ –6:3 adds the Decalogue and the hermeneutical key, which expressly relates the law at Mount Sinai/Horeb to the law in the land of Moab, to this narrative and (literary) context. Based on this narrative context, the retrospective in Deut 1–3 recapitulates, introduced by 1:1a, the narration of the journey through the desert from the book of Numbers and bridges the distance from Sinai/Horeb to Moab by the speech of Moses. This retrospective contributes to the independence and the separation of the book. As a result of the supplement of Deut 4, which anticipates the scene of Deut 5, the headings in 4:44–49 (originally only 4:45 or 4:45–46a $\alpha$ ) mark a transition from the preface to the corpus of the speech, which runs from Deut 5 to Deut 26.