LAND, LABOR AND LAW: VIEWING PERSIAN YEHUD'S ECONOMY

THROUGH SOCIO-ECONOMIC MODELING

By

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Dissertation

Submitted to the Faculty of the

Graduate School of Vanderbilt University

in partial fulfillment of the requirements

for the degree of

Doctor of Philosophy

in

Religion

August, 2010

Nashville, Tennessee

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ACKNOWLEDGMENTS

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CHAPTER I

INTRODUCTION

This study is an exercise in ideological criticism with its focus in political economy that will use economic modeling to provide a theoretical contribution to the materialist tradition of analysis of Yehud. The study is within the materialist tradition set by Fredric Jameson[1] wherein a materialist representation is brought forth by ideological conflict. That conflict is found by reading a text in relationship to social and economic contexts where it is generated, seeking corollaries between textual semantics and social and economic contradictions. In this study what is read are the Deuteronomic debt release laws, not as representative of any historical data, but as representative of a historical need for their production (see Appendix E).[2] Hence, the work of the text, the production of Deuteronomic debt release, in its *contours* and *performance*, is particular, being historically contingent and correlated to the text's ideological location. For the purposes of this study, the text's final ideological location and its historical contingency is Yehud.

The primary thesis of this study is that Deuteronomic debt release in its *contours* and its *performance* was an extra-economic compulsion functioning as a legal paradigm for socio-economic organization in the struggle for assets and resource allocation in

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[1] Fredric Jameson, *The Political Unconscious: Narrative as a Socially Symbolic Act* (New York: Cornell University Press, 1981).

[2] Appendix E contains an exposition of the rhetoric of Deuteronomy 15:1-11.

Yehud. What this means is that the debt release of Deuteronomy 15 (vv. 1-11)

functioned as a negotiated code specifically within agrarian economics such as that of

Yehud. The implication of this thesis is that the function of the debt release called for by

this code of laws was capable of appearing to accommodate economically vulnerable

persons by calling for circumscribed practices to redress economic vulnerability, while

undergirding and preserving exploitative features of economic conventions specific to

agrarian microeconomics in Yehud that deprived many of the means to economic

sufficiency, but complemented the broader macroeconomic practices and structures of

the Persian imperial domain. Thus, this study performs two actions: (1) it sets the

Deuteronomic debt release laws (15:1-11) within the socio-economic matrix of the

Persian imperial domain[3] in general and Persian Yehud in particular, and (2) it interprets

the effects of the Deuteronomic debt release laws in light of the socio-economic matrices

as drawn in this study. These two actions are performed in order to: (a) emphasize the

pragmatic dimensions of the laws' effect on socio-economic relations revolving around

labor and land, and (b) to provide a reading against the grain of the biblical text as a

hegemonic text on the part of circles of authority.[4] By proceeding in this way, this study

aims to yield a reading and understanding of the Deuteronomic debt release laws: (i)

against the grain of scholarly interpretations that yield a sympathetic rendition of these

laws as ideals of social justice; and (ii) toward rendering an interpretation, in effect,

where the Deuteronomic debt release laws are seen as designed to alleviate, on the

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[3] The time period for this Persian imperial domain is the Achaemenid dynasty, 539 B.C.E. to 333 B.C.E.

[4] Cf. Douglas A. Knight, "Whose Agony? Whose Ecstasy? The Politics of Deuteronomic Law," in *Shall Not the Judge of All the Earth Do What Is Right?: Studies on the Nature of God in Tribute to James L. Crenshaw* (ed. David Penchansky and Paul L. Redditt; Winona Lake: Eisenbrauns, 2000).

surface, a condition of vulnerability, while intentionally preserving, at heart, the framework responsible for such vulnerability.

As an exercise in ideological criticism, this study seeks to unmask ways in which Deuteronomic debt release served certain interests with ramifications for understanding agrarian-based societies that enmesh labor in forms of chronic debt relating to land tenure not readily apparent when employing such techniques as source-critical, compositional and theological models, but perceptible in political economy. The study does this by using models drawn from political economy to define the *contours* and *performance* of Deuteronomic debt release as an economic mechanism for allocation of resources, mobilizing labor, and organizing and controlling land in Yehud.

Significance and Methodology

The significance of this study lies in its vision, a reading of the *contours* of Deuteronomic debt release in the text of Nehemiah 5, and finally the grounding of a *performance* of Deuteronomic debt release in Yehud in order to exhibit the legislation as both affecting and effecting the agrarian-based economy of Yehud. Hence, the point of entry for this study is the *contours* of Deuteronomic debt release in the biblical text. Its exit point, however, is a *performance* of Deuteronomic debt release within in the socio-economic matrices drawn in this study relative to Yehud in its Persian imperial domain for purposes of interpreting the Deuteronomic debt release laws.

Methodologically, the study moves through three phases. First, a brief review is made of contructs of ancient economy in order to move into and beyond constructs of Yehud in the language of sacred and temple economy toward constructing Yehud in the language of political economy. Second, an inquiry is made into the *contours* of Deuteronomic debt release as portrayed in Neh 5 in order to provide an alternative optic into the text's allusions to debt and famine through the political economics of Amartya Sen's[5] model of entitlement and food security. Third, the study moves through an adaption of the political economy of David Ricardo's[6] model of diminishing return and differential rent toward the economic pragmatism of a *performance* of Deuteronomic debt release in Yehud.

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[5] Amartya Sen, *Poverty and Famines: An Essay on Entitlement and Deprivation* (Oxford: Clarendon Press, 1981). Sen, born in West Bengal, 1933, received the 1998 Nobel prize in economics for his work on the inter-relatedness of famine, food insecurity and inequality. As a boy he witnessed the Bengal famine of 1943, where millions of Bengali perished, and as an adult he concluded the famine and deaths were unnecessary in the face of adequate Bengal-based food production and supply. Sen would later conclude that the 'famine' was caused by the inability of many Bengali to access food because of what he termed their failure of 'entitlement' in the face of Bengal-based practices of food management and distribution under the auspices of imperial British power. He is the Thomas W. Lamont University Professor and Professor of Economics and Philosophy at Harvard University.

[6] David Ricardo, *On the Principles of Political Economy and Taxation* (London, 1817; repr., ed. Edward Carter Kersey Gonner; G. Bell and Sons, Ltd, 1919). Ricardo, born in London, 1772, of parents who emigrated from Amsterdam, became an English political economist. His early years were spent in various roles at the London Stock Exchange until 1814. Retiring from his work in the City of London to became a landed country gentleman, he wrote John Mills in 1815, indicating that he had become "sufficiently rich to satisfy all [his] desires and the reasonable desires of all those about [him]" (*The Works and Correspondence of David Ricardo, Volume 6: Letters 1810-1815* [ed. Piero Sraffa and Maurice Dobb; Cambridge University Press, 1951; repr., Indianapolis: Liberty Fund, 2005], §1162). The year 1815 also saw the publication of his work, *An Essay on the Influence of a Low Price of Corn on the Profits of Stock,* containing his ideas on rent, profit, land use and diminishing return. His theoretical sophistication, however, was manifested in 1817 in his work, *On the Principles of Political Economy and Taxation,* which founded the Ricardian system of political economy. He went on to serve as an elected member of the House of Commons from 1819 to the time of his death in 1823.

Amartya Sen's Model of Entitlement and Food Security

Entitlement is defined by Sen as "the set of alternative commodity bundles that a person can command in a society using the totality of rights and opportunities that he or she faces."[7] Caution is immediately warranted when seemingly evoking issues of rights in an ancient economy. Sen's concept of entitlement is descriptive not normative; it does not connote any concept of a right to food.[8]

There are four sources of food entitlement in Sen's schema: (1) "production-based entitlement" (growing food); (2) "trade-based entitlement" (buying food); (3) "own-labour entitlement" (working for food); and (4) "inheritance and transfer entitlement" (being given food by others).[9] The complete range of goods and services that a person can receive by exchanging or bartering his or her "endowments" (labor, assets, resources) is that person's entitlement set. For example, a laborer sells or barters his or her labor in exchange for a bag of oats. The labor offered is the laborer's endowment; the bag of oats is one entitlement among others that the laborer may receive in exchange for his or her labor. If a person cannot exercise his or her full entitlement set, economic vulnerability results. This vulnerability exhibits itself within an agrarian-based society as food insecurity.

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[7] Amartya Sen, *Resources, Values and Development* (Oxford: Blackwell, 1984), 497.

[8] Jenny Edkins, "Legality with a Vengeance: Famines and Humanitarian Relief in 'Complex Emergencies,'" *Millennium: Journal of International Studies* 25 (1996): 559.

[9] Sen, *Poverty and Famines,* 2.

Dramatic declines in the exercise of entitlement resulting from natural forces as in climate changes such as drought, or geological events such as volcanic activity that diminish resource endowment of the land can lead from hunger to famine, the extreme of food insecurity. Sen's critical observation, however, is that food insecurity is foremost a social phenomenon emerging from implementations and outcomes of human policy and activities. Food insecurity may be mediated by and through natural forces, but is primarily, Sen determined, human-caused. Political-economic forces are the primary catalyst to food insecurity when access to food (food security) is limited or reduced because of processes that deny or weaken entitlement to food. Food insecurity, and its extreme, famine, Sen declares, are conditioned upon the "exercise of power and authority . . . alienation of the rulers from those ruled . . . the social and political distance between the governors and the governed."[10]

For Sen, there is always a political economy in relationship to food insecurity because Sen's understanding of power and authority is "superimposed" upon "micro-foundations."[11] Sen's understanding of power and authority allows for the entitlement approach to become the micro-foundation to any analysis of economic vulnerability involving food insecurity, particularly as it pertains to agrarian economy, and for understanding that food insecurity does not abruptly happen. Outside of catastrophic natural or human-made events, the antecedents to food insecurity progressively evolve

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[10] Amartya Sen, *Development as Freedom* (Oxford: Oxford University Press, 1999), 170.

[11] Sen's understanding is problematic for Fine, who interprets food insecurity, specifically famine, as an "irreducibly" macro-phenomenon, being greater than the sum of its parts. (Ben Fine, "Economics and Ethics: Amartya Sen as Point of Departure," *New School Economics Review* 1 [2004]: 156).

over time disabling segments of a society to gain access to food, hence creating

immediate economic vulnerability in an agrarian-based society.

What this line of thought does is move away from an analytic of supply and

demand toward an analytic where food insecurity is a result of a significant decline in the

exercise of entitlement exchange in the face of the existence of sufficient food production

and supply. Food insecurity, then, is not a supply and demand problem, but an exchange

problem. Malthusian economics of supply-demand mismatches due to geometrically

disproportionate population growth (increase demand) over and against arithmetical food

production (decrease supply), leading to food scarcity (food insecurity) are jettisoned.[12]

The ideas of Amartya Sen on entitlement and food security were selected for this

study because they allow a shift in focus from supply and demand economics towards a

household unit of analysis and effect. What Sen's central argument means when applied

to Yehud is the super-imposition of authoritative structures upon an agrarian-based

society that diminish or disable the exchange capacity of individuals and households at

the micro-level to access food in times of need, in spite of adequate production and

availability of food supplies.

David Ricardo's Model of Differential Rent and Diminishing Return

In an agrarian society constructed to include pools of debt-labor, agricultural

production is maintained by extensive, not simply intensive growth - in other words, by

[12] Phil Hubbard, Rob Kitchen, Gill Valentine, *Key Thinkers on Space and Place* (London: Sage, 2004), 256.

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extending onto new lands. In David Ricardo's equation of the interchange among land, labor and rent,[13] the variable of land is broken down into categories of average fertility rates. The most fertile land produces more agricultural produce than land of poorer quality, hence it commands a higher rent. Successively poorer qualities of land command successively lower rent, with the poorest land commanding no rent, and all of its proceeds going to cover labor and capital costs. The difference in the output between the least fertile land that can be placed into agricultural production and land of successively higher quality establishes the source of rent on the superior land, where the cost of rent for fertile land increases, either as an enlarged take of the gross proceeds from production, or as an increased charge of rent for means of production such as seeds, water, animals and tools.[14] However, an agrarian-based society that increases agricultural productivity by amassing the labor needed to work cultivable lands that are successively pressed into production as former lands are exhausted of fertility must stay beyond the point of 'diminishing return' relative to land and labor. Land is, noted Ricardo, a finite natural resource, and land also varies in terms of its natural fertility to such an extent that an agrarian society's rate of production from its land ultimately depends on the amount of labor necessary to support laborers who work lands of the *least* cultivable quality.[15]

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[13] This is not the concept of contract rent as is usually understood. For Ricardo's definition of economic rent see chapter 4.

[14] Ricardo, *On the Principles of Political Economy*, 47.

[15] Ibid., 47-49.

Ricardo's model of differential rent and diminishing return was selected for this study because it concerns agricultural productivity that is eventually achieved by amassing the labor needed to work the least cultivable lands pressed into production as former lands are exhausted of fertility. What Ricardo's paradigm would mean when applied to Yehud's agrarian economy is ever increasing debt and servitude of farmers and peasants who sought loans to purchase the means necessary to work cultivable land that would yield more for all their labors.

The economic models of Sen and Ricardo come from different stages of political economy, yet they both speak to economic vulnerability at the micro-level. To speak of economic vulnerability at the micro-level is needed to address the *contours* and a *performance* of Deuteronomic debt release as effecting resources, labor, and land in Yehud.

Issues in Method

As noted by Carter, "a new study of the economic patterns within Yehud is still to be written and will require new data and methods of interpreting the existing data."[16] This study seeks to respond to this call with a focus in political economy that uses economic modeling to provide its theoretical contribution to the materialist tradition of analysis of Yehud. In response to the call for new methods, the models of Sen and Ricardo employed in this study are not a complete resolution to extrapolating an

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[16] Charles E. Carter, *The Emergence of Yehud in the Persian Period: A Social and Demographic Study* (Sheffield: Sheffield Academic Press, 1999), 285.

economic 'reality' of Yehud. The models selected for this study seek, however, to address

Horsley's[17] observations that models and analyses employing terms such as 'capitalism'

and 'cash economy' in reference to ancient economies as that of Yehud are controlled by

their own assumptions and are open to critique as projections of modern economic

conventions.

This study is also an exercise in ideological criticism, correlating the production

of Deuteronomic debt release, its *contours* and *performance*, to the text's final ideological

location, Yehud. Yet, the study does not offer a resolution to extrapolating any economic

'reality' of Yehud from the biblical text.   The ideological dimension of this study,

however, does broadly address concerns such as those voiced by Halligan[18] that biblical

texts do enter into socio-economic constructions that can negotiate, define and render an

alternative soci-economic world.[19] The issues raised by Horsley and Halligan's

observations concern the extent to which contemporary economic thought and biblical

texts can be blended to construct socio-economic 'realities' and offer the opportunity to

use economic modeling.

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[17] Richard A. Horsley, "Empire, Temple and Community - But No Bourgeoisie: A Response to
Blenkinsopp and Petersen," in *Second Temple Studies 1. Persian Period* (ed. Philip R. Davies et al.;
Sheffield: JSOT Press, 1991), 165.

[18] John M. Halligan, "Nehemiah 5: By Way of a Response to Hoglund and Smith," ibid., 152.

[19] Concerning such issues, the biblical text alone may not be completely dependable as indicated in the
work of Grabbe who questions the authenticity of data embedded in biblical texts as Ezra and Nehemiah
(Lester L. Grabbe, "Reconstructing History from the Book of Ezra," ibid., 98, 103-104).

CHAPTER 2

CONSTRUCTS OF ANCIENT ECONOMY

Three Constructs of Ancient Economy

The following discussion of some major constructs of ancient economy is

not meant to be an exhaustive review, but to be a guide to constructs created for

understanding ancient economy in general and Yehud in particular. Drawing a

definitive picture of ancient economy and the economic structure of Yehud is a

formidable task, primarily because of limitations in extracting the kind of

economic data that modern scholarship may seek over and against that which

ancient sources may yield. Thus, one is mostly faced with constructs of ancient

economy.

In general, constructs used to explain ancient economy are framed in broad

theoretical approaches. The three approaches can be summarized by non-market-

oriented constructs such as those of Polanyi,[1] Renger,[2] and Finley[3] on the one side,

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[1] Karl Polanyi, "The Economy as an Instituted Process," in *Trade and Market in the Early Empires* (ed. Karl Polanyi, Conrad M. Arensberg, and Harry W. Pearson; Glencoe: Free Press, 1957); idem, *The Great Transformation: The Political and Economic Origins of Our Time* (New York: Farrar & Rinehart, 1944; repr., Boston: Beacon Pres, 2001); idem, "Our Obsolete Market Mentality: Civilization Must Find a New Thought Pattern," *Commentary* 3 (1947): 109-117.

[2] Johannes Renger, "Trade and Market in the Ancient Near East, Theoretical and Factual Implication," in *Mercanti e politica nel mondo antico* (Saggi di storia antica 21; ed. Carlo Zaccagnini; Rome: L'Erma di Bretschneider, 2003), 15-39; idem, "On Economic Structures in Ancient Mesopotamia," *Or* 63 (1994): 157-208; idem, "Institutional, Communal, and Individual Ownership or Possession of Arable Land in Ancient Mesopotamia from the End of the Fourth to the End of the First Millenium BC," *Chicago-Kent Law Review* (1995): 269-319.

[3] Moses I. Finley, *Ancient Economy* (London: Hogarth Press , 1985).

and rational-action constructs espoused by, for example, Ellickson and Thorland,[4] on the other side. The third approach is distinguished by the movement toward modernist market orientations, beginning with semi-market constructs such as that of Liverani[5] and ending with total market-oriented constructs such as that of Silver.[6]

Polanyi's model of ancient Near Eastern economy was affected by his vision of nineteenth-century European society, dominated by market exchange as the primary mode of meeting the society's needs. This led him to draw a divide between modern economies and ancient economies. He characterized ancient economies not as market-oriented but primarily as redistributive, having a redistributive mechanism at their center such as a temple or by imperial dictate. Polanyi, however, later reversed this characterization, indicating that economies, ancient or modern, might be dominated by more than one mode of economic integration, including exchange, redistribution and reciprocity. Renger, makes the self-sufficient producing *oikos*-based economy or household economy the center of economic activity from the late third millennium (Ur III), which he argues was later replaced by tributary economics centered in temple-palace activities such as

[4] Robert C. Ellickson and Charles Thorland, "Ancient Land Law: Mesopotamia, Egypt, Israel," *Kent-Chicago Law Review* 71 (1995): 321-411.

[5] Mario Liverani, "The Influence of Political Institutions on Trade in the Ancient Near East (Late Bronze to Early Iron Age)," in *Mercanti e politica nel mondo antico* (Saggi di storia antica 21; ed. Carlo Zaccagnini; Rome: L'Erma di Bretschneider, 2003), 119-138; idem, "Communauté de village et palais royal dans la Syrie du IIème millénaire," *JESHO* 18 (1975): 146-164; idem, "Land Tenure and Inheritance in the Ancient Near East: The Interaction Between 'Palace' and 'Family' Sectors," in *Land Tenure and Social Transformation in the Middle East* (ed. Tarif Khalidi; Beirut: American University of Beirut, 1984).

[6] Morris Silver, *Economic Structures of Antiquity* (Westport: Greenwood Press, 1995); idem, *Economic Structures of the Ancient Near East* (Totowa, NJ: Barnes & Noble Books, 1986); idem, *Prophets and Markets: The Political Economy of Ancient Israel* (Boston: Kluwer-Nijhoff, 1983).

management of labor and arable lands, and collection of product surplus from the

second millennium B.C.E. onward. Finley, making no room for modernist market

dynamics in ancient economy, reflected Oppenheim's[7] ideas of status and civic

ideology as having governed the allocation of resources. Finley's frame of

reference, however, was the early Graeco-Roman economy of the first millennium

B.C.E. This frame of reference may have influenced Finley's construct because

he incorporated Oppenheim's theorizations on the rise of urban centers in southern

Mesopotamia, which in turn were derived from Oppenheim's construct of the

Greek *polis*. Additionally, greater distinction may not have been drawn between

ancient Near Eastern economy and Greek civic economics because in Weber's[8]

stages of social development, Weber envisioned a common origin for the economy

of the ancient Near East and the Greco-Roman city-state as derived from his

typology of the *Bauerngemeinwesen,* agriculturally-based peasant communities.

Nevertheless, the theoretical approaches of Polanyi, Renger, and Finley

complement one another by their opposition to the application of modernist

economic theories of market forces to ancient economy, creating an orientation

that modern market dynamics driven by motivations of capital profit are

anachronistic when applied to ancient economy. A step away from this orientation

is Ellickson's proposal, which expounds a rational-actor-optimist behavioral

construct to account for patterns of land tenure in the ancient Near East. Ellickson

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[7] A. Leo Oppenheim, *Ancient Mesopotamia: Portrait of a Dead Civilization* (Chicago: University of the Chicago Press, 1977).

[8] Max Weber, *The Agrarian Sociology of Ancient Civilizations* (1909; trans. R. I. Frank; New York: Verso, 1998).

and Thorland contend that evidence from the ancient Near East suggests "a small close-knit social group will typically succeed in developing land-tenure institutions that maximize the welfare of the group's members."[9] What Ellickson and Thorland are arguing toward is the idea that rational economic behavior will supersede politically motivated behavior. Two problems arise from this supposition. The arching assumption of close-knit social groups underlies the presumption of ample and sustainable social cohesion in the absence presumably of significant conflicting interests. Additionally, the assumption that the group's welfare is sought to be maximized suppresses the theoretical problem of what are the measures of group welfare.

Finally, theoretical approaches that seek to disprove or significantly engage 'primitivist' understandings of ancient economy, find place for market-based trade and motivation. Liverani's construct shifts from a vision of Late Bronze Syria-Palestine economy with Ugarit at its center as palace-oriented and controlled to an Early Iron age economy where a profit driven merchants' oligarchy arose, determining and controlling city-state trade and trade policy. Silver, seeks to challenge Polanyi's substantivist construct of ancient retributive economy with his construct of supply-demand-price responsive markets in the ancient Near East, wherein the primary mode of response was through transaction costs. Silver borrows North's[10] idea of transaction costs to construct ancient Near Eastern economy as emerging from the need to control transaction costs, these costs being

[9] Ellickson and Thorland, *Ancient Land Law*, 408-409. Cf. Robert C. Ellickson, *Order Without Law: How Neighbors Settle Disputes* (Cambridge: Harvard University Press, 1991), 167-172.

[10] Douglass C. North, *Structure and Change in Economic History.* New York: Norton, 1981.

defined as resources expended in exchanging ownership. The primary supposition

of the construct is that economies of the ancient Near East sought to reduce

transaction costs, this having been a compelling motivation. The sacred became

intricate to reducing transaction costs when through syncretism, Silver envisions,

gods, religious myths and practices were created or shared between ancient

peoples in order to, for example, contractually limit costs of commercial or trade

enterprises. In Silver's construct the arena of the sacred becomes an input variable

in ancient economy for facilitating economic growth, the output being the giving

over of a portion of the growth for cultic purposes. The primary issue with

market-oriented constructs, such as those of Liverani and Silver, however, is not

the presumption of markets, market-centeredness or even incentives for

commercial venture or profit, but the presumption of capitalization having been

the primary asset in ancient agrarian economy. Where capitalization is defined

simply as the use of resources to produce more wealth, certainly, dynamics leading

to capitalization becoming the primary asset can be envisioned in ancient or

modern scenarios of economy. However, the primary assets of agrarian economy,

whither ancient or modern, are land and labor that must be dealt with from the

arena of political economy, not market economy. For this reason, market-oriented

constructs of ancient economy may be overreactions to non-market constructs,

thereby becoming fixated on negating such constructs, making it difficult to depart

from issues and approaches of market constructs.

Sacred/Temple-Oriented Constructs of Ancient Economy

Boer understands the dominant form of economy in the ancient Near East in light

of his construct, the sacred economy. It is a non-market-oriented construct. Boer uses

the term sacred economy to define a society that attributes to its deity or deities the

productive and allocative capabilities of its economy,[11] thereby requiring the activity of

its god(s).[12] The foundation of Boer's argument for sacred economy is his supposition of

theo-economics, the "theological metaphorization of allocation"[13] By allocation in the

sacred economy, Boer basically means the distribution of elements in the process of

production not directly under the control of human agency (e.g. land, soil fertility,

rainfall) that are determined by "decisions of the deity, which . . . stands in as a code for

those with power [chieftains, kings or depots] to make decisions concerning allocation."[14]

The deity as the focal point and causal agent of a society's productive abilities and

allocation of divinely determined elements, in contrast to the allocation of that which is

produced (e.g. grains, fruits), is what Boer labels theo-economics of sacred economy.

Boer understands the sacred economy with its regimes of allocation to have been the

dominant form of ancient Near Eastern economy. The regime of allocation of land would

have been determined by, for example, the deity's promise of land. The regime of

allocation of fertility would have involved a deity's assertion or affirmation for fertility of

the land. Additionally, the function of judiciary categories (e.g. widow, orphan,

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[11] Roland Boer, *Political Myth: On the Use and Abuse of Biblical Themes* (Durham: Duke University Press, 2009), 107.

[12] Roland Boer, *Marxist Criticism of the Bible* (London: Sheffield Academic Press, Ltd., 2003), 105.

[13] Roland Boer, "The Sacred Economy of Ancient 'Israel'" *SJOT* 21 (2007): 43.

[14] Ibid., 39.

foreigner) in the sacred economy was not to carve out class distinctions, but to promote and to direct such regimes of allocation. The jurisprudence directed toward these judiciary categories (e.g. Code Urukagina of Lagash, Ur Nammu, Hammurabi) portraying the deity or an agent of the deity as 'allocating' to judicially determined groups is evidence for Boer of the dominance of the sacred economy of allocative economics in the ancient Near East. Allocation in the sacred economy as drawn by Boer would not involve extractive economics, exploitation involving the acquisition of goods produced by those who labor to produce them by those who do not. Extractive economics, Boer argues, was not a dominant form of economy in the ancient Near East, "for what we do not have in the Ancient Near East is a market economy" . . . . requiring a "complex and widespread schema of production, distribution and consumption."[15] Exclusive of extractive economics was tributary extraction of surplus value by the imperial domain from its colonies, which Boer understands to be taxation, drawn from the village communities but cycled into support not only of the imperial state but back to support of the temple-city complex.[16]

The temple as a central place in relationship to city/state and the imperial domain often arises within non-market-oriented constructs of ancient Near Eastern economy. A construct of ancient economy in the Near East as a temple-city was advanced as early as 1920 by economic historian, Schneider.[17] The conceptualization of ancient economy

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[15] Ibid.

[16] Ibid., 41.

[17] Anna Schneider, *Die sumerische Tempelstadt: Die Anfänge der Kulturwirtschaft* (Essen: G.D. Baedeker, 1920).

as temple-oriented was continued in the Sumer temple-city construct put forward by Assyriologist, Deimel in 1931.[18] Deimel's position essentially placed all agricultural land under the domain of the temple with all landed labor working under constraints imposed by the temple. Although the temple was thought to be the central redistributive economic zone in these early constructs of Sumerian economy, Schneider made room for a mixture of temple-centered economics with that of decentralized feudal relationships. Thus the ancient economy of the third millennium was constructed as a 'theocracy,' the temple being the central controlling agency in the redistribution of resources.

Constructs of Yehud as a Temple-Oriented Economy

Stern's[19] analysis of recent archaeological evidence from areas related to Yehud enables him to envision the Temple at Jerusalem as a central feature in the life and economy of the Judeans during the Persian period. Kessler[20] adds to this point when he observes the establishment of a temple-centered community in Yehud acted mainly as a "tangible anchor," a central cohesive geographical focal point, for the Babylonian *gôlâ* of Yehud and particularly for the *gôlâ* communities in the east. Yehud would have exhibited aspects of a temple-oriented community, simply by virtue of the centrality of its Jerusalem temple. A construct of Yehud as temple-centered in its organization is

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[18] Anton Deimel, *Sumerische Tempelwirtschaft zur Zeit Urukaginas und seiner Vorgänger* (Analecta Orientalia 2; Rome: Pontifical Biblical Institute, 1931).

[19] Ephraim Stern, "The Religious Revolution in Persian -Period Judah ," in *Judah and the Judeans in the Persian Period* (eds. Oded Lipschitz and Manfred Oeming; Winona Lake: Eisenbrauns, 2006), 202, 204.

[20] John Kessler, "Persia's Loyal Yahwists: Power Identity and Ethnicity in Achaemenid Yehud," in *Judah and the Judeans in the Persian Period* (eds. Oded Lipschitz and Manfred Oeming; Winona Lake: Eisenbrauns, 2006), 104.

Weinberg's *Bürger-Tempel Gemeinde* (citizen-temple community).[21]   Weinberg's vision

of a mid-fifth century merger of persons attached to the Temple with free, land-owning

citizenry of Yehud, resulting in a privileged and autonomous social class in Yehud is

problematic, however, in two ways.[22]   One, Dandamayev[23] and Stolper [24] indicate that

Yehud's governance and administration was directly responsible to the satrap of

Babylonia and Across the River (cf. Ezra 5:3, 6; 6:6, 13), the satrap having divided into

two distinct satrapies after 486 B.C.E. Weinberg's construction of an autonomous, self

regulating, collectivity creates an entity in Yehud less responsive to an administrative

representation of the imperial domain, its *Bürger-Tempel,* citizen-temple community

being understood by Weinberg as exempt from imperial taxes.[25] This tax-exempt

community certainly could not have included the common people portrayed in Neh 5:1-4

who having borrowed money to pay the king's taxes raise their voices in distress. Hence,

Weinberg's construction moves away from Dandamayev's[26] concept of temple complexes

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[21] Joel Weinberg, *The Citizen-Temple Community (*trans. D. L. Smith-Christopher; JSOTSup 151; Sheffield JSOT Press, 1992).

[22] For a more thoroughgoing discussion of these issues and criticisms of Weinberg's *Bürger-Tempel* see Hugh G. M. Williamson, *Studies in Persian Period History and Historiography* (FRLANT 38; Tübingen: Mohr Siebeck, 2004), 25-45; Joseph Blenkinsopp, "Temple Society in Achaemenid Judah," in *Second Temple Studies 1. Persian Period* (ed. Philip R. Davies et al.; Sheffield: JSOT Press, 1991), 22-53; Daniel L. Smith, "The Politics of Ezra: Sociological Indicators of Postexilic Judaean Society," in *Community, Identity, and Ideology: Social Science Approaches to the Hebrew Bible* (ed. Charles E Carter and Carol L. Meyers; Winona Lake: Eisenstein, 1996), 537-556; and Carter, *Emergence of Yehud*, 47.

[23] Muhammad A. Dandamayev, "State and Temple in Babylonia in the First Millennium B.C," in *State and Temple Economy in the Ancient Near East II (*ed. Edward Lipiński; Orientalia Lovaniensia Analecta 6; Leuven: Department Orientalistiek, 1979), 589-596; and idem, "Achaemenid Imperial Policies and Provincial Governments" *Iranica Antiqua* 24 [1999], 273.

[24] Matthew W. Stolper, "The Governor of Babylon and Across-the-River in 486 B.C.," *JNES* 48 (1989): 289, 293-294.

[25] Weinberg, *Citizen-Temple*, 117.

[26] M. A. Dandamayev, "State and Temple in Babylonia in the First Millennium B.C," in *State and Temple Economy in the Ancient Near East II (*ed. Edward Lipiński; Orientalia Lovaniensia Analecta 6; Leuven:

of people and environs as extensions of ancient Near Eastern imperial tributary economics. Dandamayev did, however, understood Ez 7:21-24 as indicative of an exemption from Persian imperial taxes, but only for all those *directly* associated with cultic operations (e.g. priests, Levites, musicians, porters) of the Jerusalem Temple. Two, Weinberg's construction of free, land-owning citizenry in Yehud is problematic in relationship to Hoglund's[27] understanding of an imperial derived mandate for depositing dependent, land-bound, labor collectives for the promulgation of agrarian productivity meeting imperial wants and needs, but of necessity having to meet the subsistence needs of members of the collective. Hoglund posits that toward the beginning of the Persian period settlements within formerly unoccupied areas of the Iron II period (~950-586 B.C.E.) dramatically increased by some 65% of the total settled area of the Persian Yehud. The reason he gives for this increase is the imperial domain's mandate of ruralization. The idea of ruralization encapsulates his understanding of the Persian policy of management of land tenure by settling peoples onto abandoned sites for the purpose of economic revitalization of areas, principally through schema of agricultural collectives made up of land-dependent labor. It would be in keeping with Hoglund's understanding to deduce that any groups of 'exiles' returning to what became Yehud were subject to the domain's mandate. This, Hoglund states, eliminates "the presumption of a class struggle over land rights between exiles and 'remainee'" thought to have moved onto the cultivatable lands following Judah's demise under Babylon power. Such presumptions,

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Department Orientalistiek, 1979), 589-596; and idem, "Achaemenid Imperial Policies and Provincial Governments" *Iranica Antiqua* 24 [1999], 275.

[27] Kenneth G. Hoglund, "The Achaemenid Context" in *Second Temple Studies 1. Persian Period,* (ed. Philip R. Davies et al.; Sheffield: JSOT Press, 1991).

Hoglund notes, do not "fit the evidence of the pattern of . . . Persian villages" in Yehud. Promulgation of the Persian imperial domain would have effected *all* populations: remainder, imported and drift, requiring their reorganization along with that of the 'exiles' toward forming agricultural collectives.[28] Nevertheless, from selected biblical texts (cf. Ezek 11:14-18; 33:23-27) the significant issue of land possession for the 'exiles' is foregrounded and the implication of land dispossession in relation to the 'returning' exiles must be considered.

Boer constructs Yehud as a temple-oriented economy in a different way from that of Weinberg. He builds nodes, the first of which is his village 'commune,' which he understands to have persisted into the Persian period.[29] Boer's 'commune' is akin to Lewis Henry Morgan's "syndyasmian family," where a community of about twenty-five families form a village commune.[30] Initially it seems counter productive for Boer to start with his notion of the village 'commune' because it is the initial form of class-based society in Marx's Asiatic mode of production, while Boer himself defines 'class' as the conflict between village 'commune' and his second node, the temple-city complex. However, Boer starts with the village 'commune' because the state, his third node, arose according to Boer, "in the conflict between the social stratification [of the] . . . [exploitative] group and the village 'commune.' [31] Boer points out that making the

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[28] Ibid., 57-60.

[29] Boer's use of the term commune is a technical term, which he uses in describing the first node in his construct of sacred economy. Additionally, Boer's idea that the 'commune' persisted into the Persian period is not demonstrated nor argued for in this study as having charactered the Persian Yehud.

[30] Lewis Henry Morgan, *Ancient society or Researches in the Line of Human Progress from Savagery through Barbarism to Civilization* (New York: H. Holt and Company, 1907), 27-28, 435.

[31] Boer, "Sacred Economy," 37.

exploiting group identical to the state and/or confusing the state with the temple-city is

counter productive for addressing his fourth node, labor and class, where class is not

representative of patterns of inequality, but *is* the conflict "between village commune and

temple-city complex."[32]   This is why Boer is adamant that his notion of the village

'commune' and temple-city complex must be concurrent and in relationship to one

another. Thus, Boer criticizes Weinberg's *Bürger-Tempel* model for its sequential

historical development, diachronic sequencing, making the Babylonian exile the

beginning of a transition from Weinberg's *bêt 'ābôt*, 'father's house,' what Boer calls the

village 'commune,' to a temple-city community during the Achaemenid period.[33]   Note

that Boer is also sidestepping suppositions of 'returnees' to Yehud having reconstituted

themselves along ancestral lines (Weinberg's *bêt 'ābôt*), merging with temple personnel

under the leadership of tribal elders and imperial appointees with the objective of getting

back land distributed to the class, *dallat hā'ārets* ('poor of the land'). Suppositions of

socio-economic differentiations between elite 'returnees,' peasantry and their descendants

who remained in the land (*dallat hā'ārets*) after the Babylonian deportations have

however provided the setting for concepts of a class-aligned conflict between the temple

and 'commune'[34] In the way that Boer builds and channels his nodes there is no transition

from village 'commune' to temple-city, thus enabling Boer to place the locus of conflict

between concomitant elements, the village 'commune' and temple-city complex, in order

to envision Yehud as a temple-oriented economy, but in opposition to Weinberg's vision,

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[32] Ibid.

[33] Ibid., 36.

[34] Cf. Enno Janssen, *Juda in der Exilzeit: Ein Beitrag zur Frage der Entstehung des Judentums* (FRLANT 69; Göttingen: Vandenhoeck & Ruprecht, 1956), 39-56.

where the temple, not possessing land of its own, was void of temple-centered economics.[35]

Beyond Constructs of Ancient Sacred/Temple Economy

Deimel and Schneider's constructs of early ancient economy may exhibit the classic symptom of Abraham Maslow's[36] 'law of instrument' involving a hammer for striking everything that will invariably look like a nail. Simply put, these early constructs placed an over-reliance on a familiar tool, the temple, as the lens through which to cast all ancient economy of the Near East. Deimel's construct of ancient temple-centered economy relied on evidence collected from Sumerian archival records of the temple,[37] which Daniel Snell observes, "Deimel and Schneider were generalizing from a single group of texts, which certainly did derive from a temple and so, quite reasonably showed the concerns of the temple leaders and staff members."[38] The construct of ancient economy as temple-centered still persists, Snell observes,[39] but more importantly the construct influenced Polanyi, and his follows toward a vision of ancient economy in central and northern Mesopotamia as not exhibiting or influenced by market interests or forces. As John Postgate observes, "We cannot any longer maintain that because the

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[35] *Weinberg, Citizen-Temple*, 103-104.

[36] Abraham H. Maslow, *The Psychology of Science* (New York: Harper & Row, 1966), 15.

[37] J. Nicholas Postgate, *Early Mesopotamia: Society and Economy at the Dawn of History* (London: Routledge, 1992), 186.

[38] Daniel C. Snell, *Life in the Ancient Near East, 3100-332 B.C.E.* (New Haven: Yale University Press, 1997), 149.

[39] Ibid.

temple collected commodities and distributed them to its dependants the entire economy operated through 'redistribution,' or that the priests controlled all agricultural production and commercial activity."[40]

A movement away from the temple-centered construct of ancient Near Eastern economy is contained in the work of Soviet historian and linguist Diakonoff[41] who indicates that temple property was not inclusive of an ancient city's total territory. Indeed, Petr Charvát[42] concurs with the idea of temple lands being large "blocks of arable soil, which could be used by entitled persons, administered by temple personnel and distributed under supervision of the city-state rulers." In Diakonoff's schema of the temple-city complex, the land nonaligned to the temple was occupied by village communities and extended family units, but were subordinated to and tributary to the locus of political power centered at the temple.[43] In the hands of Assyriologist, Gelb[44] the opening in Diakonoff's two-sector model of aligned and nonaligned temple property became the space for proprietary property holding. For instance, in the Ur III period, Gelb understood farmers to have worked their lands under the auspices of institutionalized structures of management, but envisioned the lands as privately held

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[40] Postgate, *Early Mesopotamia,* 109.

[41] Igor M. Diakonoff, "The Rise of the Despotic State in Ancient Mesopotamia" in *Ancient Mesopotamia: Socio-economic History: A Collection of Studies by Soviet Scholars* (ed. idem; Moscow: Nauka Publishing House, Central Department of Oriental Literature, 1969), 176-177; and idem, "Sale of land in Pre-Sargonic Sumer" in *Papers Presented by the Soviet Delegation at the XXIII International Congress of Orientalists, Assyriology* (Moscow: USSR Academy of Sciences, 1954), 26.

[42] Petr Charvát, *Mesopotamia Before History* (London: Routledge, 2002), 259; cf. Joseph G. Manning and Ian Morris, *The Ancient Economy: Evidence and Models* (Stanford: Stanford University Press, 2007), 49.

[43] Diakonoff, *Despotic State*, 176-179.

[44] Ignace J. Gelb, "On the Alleged Temple and State Economics in Ancient Mesopotamia," in *Studi in onore di Edoardo Volterra* 6 (1969): 137-154.

property of the farmers.[45] Gelb's vision of ancient economy is reflected in the work of

Veenhof[46] and Foster.[47] Specifically, Veenhof stresses independence of Mesopotamian

merchants from that of state or temple. Foster indicates doubt that the archival records

used by Deimel to construct the ancient temple-centered economy may indeed not have

been that of a temple.[48] More importantly, Foster points out that Deimal's 'lens' through

which he examined the data was skewed: "Deimel did not really prove the existence of a

temple state . . . He believed in the temple state *a priori,* calling it a 'universal religious

concept of the Sumerians.'"[49]   Hence, one way to move away from constructs of ancient

temple economy is to simply shift the focus of the lens.

Shifting the focus of the lens as it relates to the Persian period and Yehud is

performed by bearing in mind that the Persian Empire operated what Pierre Briant[50] terms

a tribute economy, which he variously refers to as 'royal economy,' or 'satrapal economy'

What Briant means through the use of this varying terminology is the greater economy of

the Persian imperial domain driven by royal appropriation through tribute. A look into

the land tenure system of the 'royal economy' of Achaemenid Persia is visible through the

Murašû archive, when these 5th century B.C.E., Aramaic epigraphs written on cuneiform

tablets are used as a lens. The basic unit in the organization of land tenure from the early

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[45] Ibid., 149-150.

[46] Klaas R. Veenhof, *Aspects of Old Assyrian Trade and Its Terminology* (Leiden : E.J. Brill, 1972).

[47] Benjamin Foster, "A New Look at the Sumerian Temple State," *Journal of the Economic and Social History of the Orient* 24 (1981): 225-241.

[48] Ibid, 240.

[49] Ibid, 235, 237.

[50] Pierre Briant, *From Cyrus to Alexander: A History of the Persian Empire* (Winona Lake: Eisenbrauns, 2002), 417.

years of Achaemenid domain to the Selucid, Stolper[51] indicates, using a feudal

designation, was the fief (*bit qašti* ['bow land']), which usually included orchards and

grain fields.[52] Feudatories, who leased fiefs, Stolper observes, formed agnatic derived

family chains,[53] which can be understood to be ethnically related familial collectives,[54]

along the lines of Hoglund's ethnically characterized agricultural collectives.[55] Fiefs

were, in turn, organized into larger units, the ḫaṭru. Each ḫaṭru was managed by a *šaknu*,

responsible for allocating the fiefs in a ḫaṭru, collecting payments, and the taxes due from

each fief laid to lease.[56] The fiefs making up a ḫaṭru, Stolper deems, were of modest

proportions.[57] The large estates were those held my the Persian crown and it appointees,

but managed by officials entitled *paqdu*. Circling the issues raised by Halligan[58] and

Hoglund[59] as to the private domain of land under Persian dominion, Stolper answers that

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[51] Matthew W. Stolper, *Entrepreneurs and Empire: The Murašû Archive, the Murašû Firm, and Persian Rule in Babylonia* (Istanbul: Nederlands Historisch-Archaeologisch Institutte Istanbul, 1985), 25.

[52] Ibid., 104; cf. M. A. Dandamayev, "On the Fiefs in Babylonia in the Early Achaemenid Period," in *Kunt, Kultur und Geschichte der Achämenidenzeit und ihr Fortleben* (Archaeologische Mitteilungen aus Iran 10; ed. Heidemaaire Koch and D. N. Mackenzie; Berlin: Reimer, 1983), 57,

[53] These family chains are not Boer's concept of about twenty-five families forming a village 'commune.'

[54] Stolper, *Entrepreneurs and Empire,* 70.

[55] For a discussion on dimensions of the concept of 'ethnic collective,' see Appendix C, note 25.

[56] Stolper, *Entrepreneurs and Empire,* 25, 70.

[57] Liverani describes late Babylonian "Type I" fields "belonging to the early Achaemenid period" . . . as "cereal producing fields, whose average area [was] ca. 40.000 square cubits, or 2.77 *iku* . . . The date-palm groves (so-called 'Type 2'), obviously used to cultivate cereals as well, [had] roughly the same size (ca. 47.000 square cubits, or 3.2 *iku*) but a more elongated shape, with the length of the sides ca. seven times that of the fronts, as a result of more specific irrigation needs and practices." (Mario Liverani, "Reconstructing the Rural Landscape of the Ancient Near East," *JESHO* (1996): 35.

[58] Halligan, "Nehemiah 5," 149.

[59] Hoglund, "Achaemenid Context," 59, 66.

tenure to smaller fiefs and larger estates "derived ultimately from crown grants."[60]   The

Crown, then, *ultimately* held any and all encumbrance to and on granted lands. This does

not automatically signify that the Crown did not release land under extra-palatial

ownership,[61] hence, the ability of a vassal, lessor (e.g. *šaknu)*, to proportion, sell, lease

and pledge land in a ḫaṭru. However, it does mean that all land under Persia's Crown

dominion participated in the state-controlled agrarian economy. Stolper recognizes that

such a system would have inherent instability. Stolper describes the beginning of an

unstable order based on the continual division of fiefs into ever smaller units of

subsistence plots unable to support the lessor (*not* the lessee). The limited agricultural

production from the minute proportioning of fiefs shifts the equation toward meeting the

minimal food needs of the lessee from the limited produce derived from subsistence plots

and away from meeting the terms of a land lease contract, promissory note or bartered

contract terms with the lessor for payment in agricultural produce or in capital assets,

such as silver. Under such circumstance, the lessor would have no superordinate claim to

produce from the land and would have severely limited capacity to collect against any

terms of payment with the lessee.[62]   When the equation is shifted toward the lessee's

needs, the move by lessors would be toward leasing fiefs for either commodity food-

production, not directly need-related to meet the minimal maintenance of the lessee, or

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[60] Stolper, *Entrepreneurs and Empire,* 26.

[61] Cf. Carlo Zaccagnini, *Production and Consumption* (Budapest: Chaire d'Égyptologie de l'Université Eötvös Loránd de Budapest, 1989), 41-42. Stolper's understanding is that the Persian Crown "ceded part of the revenue otherwise due to the Crown, and delegated responsibility for collecting the remainder of the Crown's levies" (*Entrepreneurs and Empire*, 53).

[62] Ibid., 26.

'cash' (payment in silver).[63] This process would create a rank of feudatories or debt labors[64] directly attached to the land over whom lessors would have superordinate claims for commodity produce or capital asset,and against whom lessors could alienate from the land if contract terms or claims were not met. However, the Murašû archive indicates that the Murašû enterprise, functioning as a ḫaṭru holding association offered short-term credit to lessees against the land, and as Stolper notes outright repossession of the land, 'foreclosure,' by eviction of the lessee was not standard practice. Fiefs could be pledged, 'released' back to the *šaknu* or lessor as payment toward the incurred debt if not payable otherwise. This 'release' enabled the lessor to convert the debt contract into an 'antichresis' contract that then allowed the lessor to use, re-lease or occupy the land for the interest on the debt contract. Hence, the debt contract generally remained outstanding with the original tenant occupying the land and still paying rent *not* against the debt, but for occupation and use of the land. The 'release' referred here may have been the kind of 'release' or 'return' of land that Nehemiah ordered of the *chōrîm* and *sᵉgānîm* (Neh 5:11). This state of being could be quite lengthy, given that lessors were then incumbent upon to pay the lessee's tax. The lessor, meanwhile, was able to lease the land to a third party. This extended system of lending served well a feudal-like system where fiefs were incapable of being alienated from the lessor. The lessor held the lands in 'fee' as an allegiance and reciprocal obligation to the vassal lessor's lord, the Persian Crown[65]

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[63] Ibid., 27.

[64] The *gardus* -- slave, prisoner of war, slave artisan, one reduced to slavery -- should be included among the feudatories who leased land for farming (ibid., 56). For an in dept analysis of the *gardu*, see Pierre Briant, *From Cyrus to Alexander: A History of the Persian Empire* (Winona Lake: Eisenbrauns, 2002), 456-459.

[65] Stolper, *Entrepreneurs and Empire,* 104-107.

The structures of land tenure observed through Stolper's study of the

Murašû archive mirrors Liverani's land tenure model involving two primary

sectors (modes),[66] divided between the mid-third to first millennium Assyrian

palace sector (as oppose to temple) and land-bound labor (what Liverani refers to

as the 'family sector'), for describing structures with continuity in time moving

toward the Persian period. The labor was drawn mostly from deportees throughout

the Assyrian empire,[67] collected, and relocated[68] for establishing and maintaining

royal cities. Noting that much of the land surrounding the cities to be insufficient

to maintain such a work force and city habitants, marginally arable lands were

placed under production.[69] The model for Assyria's land tenure system included

the successive phasing in of lands of diminishing quality and increase dependency

of labor to land in the move toward increase debt servitude. What Liverani's

model is indicative of is an empire's efforts at risk-management. The transferring

of risk-management, as Stolper observed in the Neo-Babylonian archives of

Murašû under the Achaemenid empire, was performed by the Crown (palace)

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[66] Aware of Marx's formulation of the Asiatic mode of production, the palace and family are the two 'modes' of production in Liverani's model (Liverani, "Land Tenure and Inheritance in the Ancient Near East," 35). For additional comments on the palace mode see J. Nicholas Postgate, "The Economic Structure of the Assyrian Empire," in *Power and Propaganda: A Symposium on Ancient Empires* (ed. Mogen Trolle Larsen; Copenhagen: Akademisk Forlag, 1979), 200. Postgate proposed a three-level model for the Neo-Assyrian land tenure system, involving the the modes of palace, government, and private.

[67] Ibid., 210.

[68] The labor was land bound, but not slave labor. Because laborers were bound to specific estates, Postgate labels such laborers, *helots,* borrowing Diakonoffs terminology for persons who were state-owned cultivators (Igor M. Diankonoff, "Slaves, Helots and Serfs in Early Antiquity," *Acta Antiqua Academiae Scientiarum Hungaricae* 22 [1974] 45-78).

[69] J. Nicholas Postgate, "The Ownership and Exploitation of Land in Assyria in the 1st millennium BC," in *Reflets des fleuves: Volume de mélanges offerts à Andrá Finet* (Akkadica Supplementum 6; ed. Marc Lebeau and Ph. Talon; Leuven: Peeters, 1989), 141-152.

granting lands to peers or trustees of the realm and vassals in return for revenue

primarily in the form of taxes. But peers and vassals also performed risk-

management and transfer, passing on risk as witnessed in the Murašû enterprise's

land management techniques. What these techniques document and give evidence

of was the trend within the empires examined of the transfer of risk from macro to

micro-levels, downward into land divided into decreasing units, ever smaller fiscal

units (e.g. ḫaṭrus to *bit qašti* ['bow land']) for the purposes of rents and taxation.[70]

Redress of instability in such a system Ellickson and Thorland indicate in their

model was met by altering property institutions. But the larger imperial land

tenure systems described do not allow great flexibility,[71] and Ellickson and

Thorland's model only provides redress at the level of the small clan or group

working for its own welfare, presupposing rational-actors. This would only enact

redress then at the survival level of the lessees, not the empire. The only way to

stabilize a destabilized imperial system experiencing ever increasing risk

transferred downward is to transfer the risk back upward. Because this transfer

cannot be adequately performed from above or by altering property institutions,

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[70] The Murašû included in their charge of rent for a bow fief the *qēme šarri* and *ba-ar-ri*, two elements of the *iku* (cf. G. van Driel, "The Murašûs in Context," *JESHO* 32 (1989); 218). Additionally, Stolper indicates that the real cost to lessees was not so much the land but the livestock and equipment needed to work the land. Additionally, land cost were appreciable in cost only when accompanied by payment for use of canal water and added water rights (Stolper, *Entrepreneurs and Empire,* 130-133, 140).

[71] This would be difficult in the Achaemenid context being that the ḫaṭrus were "not isolated groups, but were embedded in larger structures. Some were demonstrably attached to landed estates, others to state offices. There are grounds for supposing that such attachment was a regular feature of the ḫaṭrus even where their names do not suggest it. In some instances, at least, foremen were the subordinate of figures to whom their ḫaṭrus had no nominal attachment: a foreman of grooms, for example, was the servant of a *mašennu* official, and a foreman of 'scouts' the servant of the courtier Artahšar. Conjecturally, all landholding groups of dependent workers were attached for purpose of taxation and conscription to larger manors or to administrative estates (ibid., 99).

where a land tenure system is embedded in imperial power from above, it most be

performed from below through the labor supply attached to the land at the micro-

level (the colony), which will be demonstrated in this study by: (1) situating the

inquiry into Yehud within the realm of political economy rather than constructs of

sacred or temple economy, and (2) through the economic modeling of a

performance of Deuteronomic debt release in Yehud economy.

Constructing Ancient Economy in Political Economy

Boer[72] asserts that the "most viable historiography for the Ancient Near East is

one that deals with terms of economics," but not from the realm of political economy, in

contrast to this study. To be viable historiography, Boer indicates, the realm

of the sacred economy - that is, economic arrangements occurring within a social system

understood in the language of the sacred rather than the political - must be engaged with

its concomitant, the theo-economics of allocation.[73] Sacred language, particularly within

sacred texts, is an important determinant in the historiography of ancient Near Eastern

economy. Thereby, Boer's theory of the sacred economy in the ancient Near East is

indicative of the materiality that ancient economy influenced by or spawned from sacred

language is inclusive of conflict derived from the realm of secular politics, as in Boer's

location of internal tensions and conflict between his village 'commune' and temple-city

complex. Boer's observations, however, are exclusive of the ideological - that the

language of the sacred, whether interjected before, during or after, acts as a powerful tool

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[72] Boer, "Sacred Economy," 34.

[73] Ibid, 30.

for sanctioning and giving coherent form and explanation to secular political and

economic affairs. Sacred language then may not be a dependable representation of socio-

political or economic realities, as indicated in Carroll's[74] observation that sacred texts are

complex social constructions produced under the controlling influence of ideological

factors. Moreover, contrary to Boer's understanding, the use of political economy as a

lens upon ancient economy does not exclude the sacred. What is does exclude is viewing

ancient economy through exclusively a sacred lens. Such a singularly inclined optic

disavows an understanding that the sacred can be used for political purposes, and is

thereby subsumed in the political to the point that it *becomes* the political.

Situating the Conflict in the Political Economy of Yehud

The conflict is situated between the village 'commune' and temple-city complex in

Boer's construct of the sacred economy. In political economy, the primary assets of an

agrarian economy are land and labor, which are held in tension and from which major

resources of the economy derive. The conflict or struggle is then situated as between

and/or among any group(s) or institutional form(s) over the primary assets, land and

labor, within an agrarian economy. This definition clarifies the *content* of the conflict,

land and labor, leaving between and/or among whom the conflict occurs open to

typology. Thus the typology of the entities in conflict can change, but the content of the

conflict remains constant. With this definition, Eisenstadt's theoretical framework of

historical empires has special relevance. In Eisenstadt's framework, the focal point of

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[74] Robert Carroll, "Textual Strategies and Ideology in the Second Temple Period," in *Second Temple Studies 1. Persian Period* (ed. Philip R. Davies et al.; Sheffield: JSOT Press, 1991), 114 no. 2.

conflict is sanctioned authoritative appropriation of a colony's resources derived from its

assets by the empire through mechanisms of institutionalized centralization.[75] However,

by shifting Eisenstadt's framework from the level of the empire to the sphere of the

colony as the central point of appropriation of resources from assets, conflict or struggle

in the differential control of assets at the level of the colony results in socio-economic

heterogeneity in the colony. Critical to Eisenstadt's framework is also *how* conflict

occurs when he indicates that a society's authorities struggle for control using ideology

and rhetoric.[76] This is reminiscent of Anderson's deductions that "political, legal and

ideological superstructures" functioned as extra-economic coercion in processes of

appropriation in the socio-economic formation of pre-capitalist modes of production.[77]

Anderson's deduction is a recasting of Marxist theory where jurisprudence becomes an

extra-economic, politico-legal, compulsion performed solely for economic reasons.[78]

What is not clearly explicated, however, is that when the sacred, the theological

metaphorization of allocation at the level of the colony, acts as or is construed as

jurisprudence it also becomes a politico-legal instrument of extra-economic compulsion,

functioning beyond just judicious allocation to vulnerable members (e.g. widows,

orphans, foreigners) of a society. Indeed, when the sacred acts as extra-economic

compulsion in a colony, then it is at the level of the colony that the struggle over assets

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[75] Shmuel N. Eisenstadt, *Power, Trust, and Meaning: Essays in Sociological Theory and Analysis* (Chicago: University of Chicago Press, 1995), 91; and idem, *Revolution and the Transformation of Societies: A Comparative Study of Civilizations* (New York: Free Press, 1978), 82, 102, 222-223.

[76] Shmuel N. Eisenstadt, *The Political Systems of Empires* (New York: Free Press of Glencoe, 1963; repr., New Brunswick, NJ: Transaction Publishers, 1993), 159.

[77] Perry Anderson, *Lineages of the Absolutist State* (London: New Left Books, 1974), 403-404.

[78] Cf. Boer, "Sacred Economy," 38.

calls for the legitimation of authority through the use of rhetoric for socio-economic organization poised as or in the sacred, perhaps as exemplified in the debt release laws of Deuteronomy, embedded in sacred language.[79]

Situating Yehud in Models of Political Economy

This study proposes that the Deuteronomy debt release laws be analyzed through models born of political economy. Within the models selected for this study, Amartya Sen on entitlement and food security, and Ricardo's theory of diminishing return and differential rent, the Deuteronomic laws of debt release are treated as a matter of what was posited (decided, ordered, practiced, and tolerated). They would thereby mirror economic customs and practices of an agrarian economy rooted allocation and exchange systems. The laws then are not treated as sacred conventions, requiring "theological metaphorization of allocation,"[80] but as falling squarely within the political economics of entitlement - the exercise of power through an agrarian-based society's group or institutional entities in conflict for control and allocation of its primary assets, land and labor. Use of Sen's model of entitlement and food security exhibits the conflict in systems of food production by assigning political instrumentality to the micro-level, within the colony itself, as opposed to the macro-level, the level of the imperial domain, as the proximate cause of economic vulnerability in Yehud. In other words, Sen perceives that the super-imposition of micro-level authoritative rhetoric and structures onto an agrarian-base that diminishes or disables the exchange capacity of individuals

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[79] For an exposition of the rhetoric of Deuteronomy 15:1-11, see Appendix E.

[80] Boer, "Sacred Economy," 43.

and households at the micro-level to access food in times of need, in spite of the

adequate production and availability of food supplies, is *the* proximate cause of

economic vulnerability at the micro-level. Use of Ricardo's model of the interchange

among land, labor and economic rent exhibits the conflict in a system of *inadequate* food

production at the micro- level of the colony. In other words, Ricardo envisioned

diminishing returns in a labor-embroiled, land fertility dynamic where farmers and

peasants bartered or borrowed to provision themselves with the means necessary to work

an ever increasing supply of less cultivable land over and against an ever decreasing

supply of cultivable land. Less agricultural product, and little or no agricultural surplus,

moved these agrarians toward debt and servitude, becoming *the* proximate cause of

economic vulnerability in Yehud. Having proposed how each model exhibits the conflict

and exposes the proximate cause of economic vulnerability in Yehud, this study now

proceeds to an analysis of the *contours* of Deuteronomic debt release using Amartya

Sen's model of entitlement and food security, and an analysis of a *performance* of

Deuteronomic debt release using David Ricardo's model of economic rent and

diminishing return.

CHAPTER 3

AMARTYA SEN'S MODEL AND THE
CONTOURS OF DEUTERONOMIC DEBT RELEASE IN NEHEMIAH 5

In this chapter Amartya Sen's model of entitlement and food security is used as the lens through which to discern the *contours* of Deuteronomic debt release affecting economically driven processes in Yehud as portrayed in the text of Nehemiah 5. It is argued that the use of Sen's paradigm as the lens can assist in seeing the *contours* of Deuteronomic debt release functioning as extra-economic compulsion in the conflict over land and labor. Use of Sen's model places the conflict within the political economy of systems of food production and allocation, while the sacred language of Deuteronomy 15:1-11 draws the deity as the supreme arbiter of allocation (see Appendix E). The primary supposition guiding this chapter, however, is that the *contours* of Deuteronomic debt release in Neh 5 are *not* to be treated as sacred jurisprudence or conventions, but as extra-economic compulsion wrapped in the sacred. The primary extra-economic compulsion is revealed to be consolidation of peasant and tenant landholdings for creating pools of landless labor subject to reduced and variable compensation. The *contours* are part of the political economics of entitlement in the exercise of power through institutional forms and motivational attributes in the conflict for control of colony assets, land and labor, and allocation of colony resources in Yehud.

Proximate Representations of Vulnerability

The *contours* of Deuteronomic debt release are hypothesized to mirror economic customs and practices in Yehud-based processes of food production and allocation as *the* proximate cause of economic vulnerability in Yehud. Proximate representations of vulnerability look from the bottom upwards, rather than starting the search from the top downward. When using Sen's model of entitlement and food security as the lens to see through, the search starts not only at the micro-level of the colony, the search looks within structures and rhetoric legitimating authority in the colony for reflections of customs and practices of production and allocation that *decrease* Sen's notion of food security, leading first to the undermining of allocation logic in the micro-economics of the colony, and second to economic vulnerability at the level of the colony.

The text of Nehemiah 5 yields indicators of circumstances in the post-exilic Yehud. Those circumstances included population growth, and two other reasons for the populace's insufficiency and need for food: (1) famine[1] and (2) the need to pay royal tax on what lands the populace still possessed (Neh 5:3). Reading the text with typical Malthusian notions of food supply in relationship to population density has lead some scholars[2] to speculate that overpopulation relative to food supply may have been a significant contributing factor to the economic condition

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[1] For the allusion to drought and the effects of climatic phenomena on the post-exilic community, cf. Hag 1:10-11; 2:16-1.

[2] For example, Jack Pastor, *Land and Economy in Ancient Palestine* (London: Routledge, 1997), 16.

in Yehud. When a population grows geometrically disproportionately to the
arithmetical production of food over time, Malthusian theory[3] dictates that scarcity
of food or famine will occur. Stated in another manner, where food production is
high enough per head count in a population, there can be no threat of famine or
hunger under Malthusian theory. However, it is equally true that food output per
head may rise, but if the allocation of the output is hindered or impeded, the level
of food security *deceases* or equally stated the level of food insecurity increases,
thus making human-induced hunger and famine more probable. This is precisely
what the text of Neh 5 suggests as the proximate cause of hunger, eventually
leading to famine conditions in Yehud.

Using Sen's paradigm of entitlement and food security, which emphasizes
production and allocation of food, a representation of hunger in Yehud can be
drawn. The traditional approach to famine analysis, based on the writings of
Thomas Malthus, proposes that famines are primarily caused by a sudden decline
in food availability.[4] This supply-based account was an accepted explanation for
famines until Sen's work. Sen emphasizes that while a shortage in per capita food
output may cause famines, it is only one of many possible causes.[5] In his studies

[3] Thomas R. Malthus and George Thomas Bettany, *An Essay on the Principle of Population or a View of Its Past and Present Effects on Human Happiness* (London: Ward, Lock and Co., 1890), 552.

[4] Adam Smith, making a distinction between dearths and famines, basically attributed dearths to harvest shortfalls, and famines to "the violence of government attempting, by improper means, to remedy the inconveniences of a dearth" (Adam Smith, *An Inquiry Into the Nature and Causes of the Wealth of Nations*, Volume 2 [London, 1776; repr., J. M. Dent & Sons, 1921], 26). Smith places the remedy for dearth and famine within the confines of market economics, a "liberal system of free exportation and free importation" trade is "not only the best palliative of a dearth, but the most effectual preventative of a famine" (ibid., 38).

[5] Sen clarifies ambiguities when he says "famines imply starvation, but not vice-versa. . . " (Sen, *Poverty and Famines,* 39). The vulnerability of a community to famine depends on the size *and* distribution of its reserve stocks of food, as well as assets which can be used to buy food (cf. Meghnad Desai, "The Ecology

of several historical famines, he found that famines occurred even when per capita

food output was maintained. Hence, his entitlement approach focuses on the

allocation of food as well as its absolute level, and is of particular relevance for this

study because it stands in contrast to Malthusian economics. Contrary to

Malthusian concepts, famine can occur under conditions of greater food production

relative to population growth. Famine cannot be explained by simple relations

between food supply and population. These are the starting points of Sen's

understanding, and when used as the baseline for understanding the allusion to

famine (*rā'āb*) in Neh 5 simply means that the allusion to famine in the text results

from the working of the economic system of the time in allocating the ability of

peoples to acquire food, and is not to be accounted for by simple scarcity of food

and overpopulation.

Authority and the Contours of Deuteronomic Debt Release

In the political economics of ancient economy the legitimacy of authority

does not derive from the sacred but from custom and practices, and a proximate

representation of vulnerability locates the imposition of that authority not as

originating within the imperial domain but within colony itself, hence the authority

is proximate to that which it immediately effects. Neh 5 provides an opportunity

for inquiry into pragmatic dimensions of authority portrayed in the text by viewing

the allusion to famine (Neh 5:3) and its consequences through the dynamics of

of Famine," in *Famine* [Biosocial Society 1; ed. Geoffrey A. Harrison; Oxford: Oxford University Press, 1988], 128-132). Famine, in other words, is a complex socio-economic and political phenomenon of a specific society.

food systems and entitlement.[6] Yehud, as a colony, produced enough for its food

needs. Surveys of the region's agricultural patterns, performed by Carter[7] suggests

that farmsteads and food installations provided for food security, and functioned as

efficient centers of cultivation and production of marketable food goods. Both

domestic and industrial complexes, such as village-worked threshing floors, wine

and olive oil-presses, played a part in maintaining the economy and supporting

individual households.[8] Additionally, Carter's surveys evidence agricultural

terracing necessary for more efficient food production in the hill country of

Palestine. Although there are difficulties with using survey data to reconstruct a

society's agricultural past, Carter's surveys suggest that in addition to settlements

that directly provided for agricultural goods to Yehud's capital, Jerusalem, the

province participated in the temple and governmental economy of the time. The

agricultural patterns in Yehud appear consistent with that known from the Iron

Age, being an economic mix of agrarian production, primarily of grains, wine, oil,

and animal husbandry.[9] However, Carter's surveys relative to the text of Neh 5

suggest that in spite of a steady rise in the per head grain output, there was no

decrease in the proportion of the total population that remained deprived. The

problem for the community was that the distribution of the increased average

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[6] The text's allusion to famine (Neh 5:3) and its consequences is presented in the text as independent of the efforts to rebuild the walls of Jerusalem

[7] Carter, *Emergence of Yehud*, 250.

[8] Ibid., 252.

[9] Ibid., 255.

supplies was not towards those who were the most in need or food deprived but toward an elite group of consumers, so that the needy remained numerous.

In response to the needs and plight of the common populace (Neh 5:1-5), Nehemiah is portrayed as having ordered nobles and elites (Neh 5:7)[10] to cease usury, and to release a part of the money, grain, wine, and oil that had been exacted from the people (Neh 5:11). The *chōrîm* and *seḡānîm* were to cease usury (*maššā'*), the text not indicating any particular excess in their charges (Neh 5:7). Only at the complaint of the people, 'their brethren,' were the *chōrîm* and *seḡānîm* found in violation of Deut 23:19, and were enjoined to perform that which has similitude to Deut 15:7-8. This was done, however, with no reference to cyclical sabbatical patterns of debt remission (e.g. Deut 15:9; cf. Neh 10:31), or clarification of the cessation of usury as a permanent state of affairs or as a temporary cessation of usury on existing current balance of payments. This study does not understand Neh 5:12 to be indicative of a pledge of the *chōrîm* and *seḡānîm* toward permanent cessation of usury. If indeed the *chōrîm* and *seḡānîm* were commercial and mercantile creditors, the pledge of cessation of usury would only make sense as temporary, pertaining to the current balance of accounts. A permanent cessation of usury would have been damaging, if not ending, their business affairs in Yehud, and disabling farmers from accessing needed credit to purchase means and implements for production. With the text revealing that usury was known and permitted, up to the time of complaint, and there being no illusion

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[10] Neh 5:7; 4:14; 'nobles' חורים (*chōrîm*) and 'rules' סגנים (*seḡānîm*).

to a cyclical debt remission in the resolution to the complaint, it is difficult to understand that Deut 15:9-10 would have been enforceable at some later time or have been implicitly a part of the oath (Neh 5:12-13). The *chōrîm* and *s^eganîm* are also ordered by Nehemiah to release a part of the money, grain, wine, and oil that had been exacted from the people (Neh 5:11). Jose Croatto discusses the construct of *m^e'at* in Neh 5:11b as to whether it should be interpreted as a 'hundredth part' of the money, corn, wine, and oil or the return of 'a hundred (for one) of the money,' and presumably, if interpreted as such, of the corn, wine, and oil.[11] This study understands a 'hundredth part' of money, corn, wine, and oil for the immediate relief and sustenance of the populace. The true object of Nehemiah's 'reform' was that the *chōrîm* and *s^eganîm* were also to return foreclosed and repossessed lands, vineyards, olive groves, and homes (Neh 5:11a), the means to and for production and maintenance of livelihood. As Cataldo points out, Yehud should be understood, based on a small population size in alignment with Carter's conclusions, to have been "a society based on survival"[12] Hence, the dominant concern characterizing an adequate redress of the imbalance would emphasize *not* an over provisioning ('a hundred for one') in an attempt to make up for over appropriation, but the allocation of the resource of land.

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[11] José Severino Croatto, "The Debt in Nehemiah's Social Reform: A Study if Nehemiah 5:1-19," in S*ubversive Scriptures: Revolutionary Readings of the Christian Bible in Latin America* (ed. Leif E. Vaage; Valley Forge: Trinity Press International, 1997), 44-45.

[12] Jeremiah Cataldo, "Persian Policy and the Yehud Community During Nehemiah" *JSOT* 28 (2003): 246.

Curiously, within the face of famine affecting many, no explanation is given as to how or why a socio-economic elite class of people, *chōrîm* and *sᵉgānîm*, within direct proximity to the common populace their activities effected, had been able to withhold from the common people that which is made manifest in text - 'stores' of grain and foodstuff that could be released and made available to relieve food shortage and the hunger of many, if and when the elites were pressed to do so. This study proposes two primary reasons. First, the stores of foodstuff (e.g. corn, wine, and oil) which are implied in the text (Neh 5:11) from which the *chōrîm* and *sᵉgānîm* are indicated to have 'returned' to the common people (Neh 5:12) were stores not for allocation but for receipting. Aperghis'[13] study of the text of the Persepolis Fortification Tablets indicates that 'stores' constituted storehouses, places for the receiving of planned quantities of commodities supplied by both common producers and from Persian nobles' lands, the commodities collected being a form of taxation. In this regard, Aperghis counters Hallock's[14] conclusions that the grain accounting shown in the Tablets as 'provisions provided' were not citations of allocation of provisions going out to recipients, but of allocations coming into the storehouses from producers. Storehouses dispensed rations

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[13] Gerassimos G. Aperghis, "The Persepolis Fortification Texts - Another Look," in *Studies in Persian History: Essays in Memory of David M. Lewis* (Achaemenid History 11; ed. Maria Brosius and Amélie Kuhrt; Leiden: Nederlands Instituut voor het Nabije Oosten, 1998), 35, 37, 44). For further discussion on the relationship of the Persepolis Fortification Tablets and the mission of Ezra and Nehemiah, see H. G. M. Williamson, "Ezra and Nehemiah in the Light of the Texts from Persepolis" *BBR* 1 (1991): 41-61. Additionally, see Joachim Schaper, "The Jerusalem Temple as an Instrument of the Achaemenid Fiscal Administration," *VT* 45 (1995): 535-539 for a discussion of the Achaemenid system of taxation. See also Renger's objection to ancient Near Eastern storage systems being thought of as solely or primarily for the support of commercial operations and trade (Johannes Renger, "On Economic Structures," 178).

[14] Richard T. Hallock, *Persepolis Fortification Tablets* (University of Chicago Oriental Institute Publications 92; Chicago: University of Chicago Press), 1969.

according to a arithmetical calculation (e.g. [grain 'on hand' (residual from previous year(s)) + "provisions provided" - that 'dispensed' (as rations to local producers) - that 'withdrawn' (dispersed to other storehouses or to other areas of the empire) = that 'carried forward' to the next year].[15] Second, readers of the text (Neh 5:1-5) should not assume that they are 'hearing' the voice of the common people formulated as giving the complaints. The 'voice' that is being heard is that of 'authority,' 'official(s)' who bore their legitimacy through their carrying out customs and practices in the colony, including that of 'standard,' not over, appropriation, with inadvertent references to hunger and famine, in accounts and records of transactions. These observations are consistent with Croatto's observation that Neh 5 is "redactionally placed."[16] What is witnessed in the text of Neh 5 is an embedded conflict among 'brethren' that then embeds Nehemiah's 'reforms' within the *contours* of a Deuteronomic-related debt release, seemingly performed for socio-economic relief in the struggle for asset control and resource allocation among 'brethren' in Yehud. This may be the reason why Fishbane[17] sees the *ad hoc* reform (Neh 5:1-14) instituted by Nehemiah during his procuratorship of Yehud as having similitude to a *mišarum* act instituted by Mesopotamian kings toward the beginning of their reigns as a temporary measure for socio-economic relief. The

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[15] Aperghis "Persepolis Fortification Texts," 35, 37, 44.

[16] Croatto, "Debt in Nehemiah's Social Reform," 40-41. Croatto indicates that the present location of Neh 5 cuts into the Sanballat conflict narrative (Neh 2:10, 4:7-6:14), hence observes Croatto, the context for the narrative of Neh 5 is uncertain, but fits best from its narrative point of view with chapter 7. The reason for the location of Neh 5, Croatto surmises, was to place it before the reading of the law (Neh 8-10) and after the dedication (Neh 12:27-43) of the wall (ibid.).

[17] Michael Fishbane, *Biblical Interpretation in Ancient Israel* (Oxford: Clarendon Press, 1985), 130.

beginning point, however, of what Croatto and Fishbane observe in the text of

Nehemiah is the redactional activity surrounding King Zedekiah's manumission

(*dᵉrôr*) in Jer 34, which was subject to the over reaching vision of tradents in the

Babylonian Diaspora. These tradents' editorial activity resulted in a Jeremanic text

exhibiting embedded ideological dimensions of group conflict among 'brethren,'

and a 'politic' of debt remission through a *dᵉrôr* attributed to Zedekiah that were

then taken up in the text of Nehemiah (see Appendix C and B). What results is an

extension of the conflict among 'brethren' that effectively couched Nehemiah's

'reforms,' as was Zedekiah's *dᵉrôr*, within the *contours* of Deuteronomic-related

debt release, but which functioned (when performed) as an extra-economic

compulsion in the struggle for control of Yehud assets and allocation of resources

among 'brethren.'

Morton Smith[18] associates the *chōrîm* with local land-owning gentry, *non-gôla*

persons and their descendants who had continued to reside in the land, having not been

exiled to Babylon. Fried[19] concludes from her investigation that the two groups, *chōrîm*

and *sᵉgānîm*, were members of the local aristocracy, Jewish landowners who took on

pledges for loans from Yehud's farmers, but were in the employ of the Persians. Halligan

associates them with a "class of [Judean] creditors" who arose in Yehud as an extension

of the general commercial and mercantile climate in Achaemenid Persia. They

"acted as agents, wholesalers, and regional marketers for the goods produced in the

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[18] Morton Smith, *Palestinian Parties and Politics that Shaped the Old Testament* (2nd ed. London: SCM, 1987), 100, 102.

[19] Lisbeth S. Fried, "The Political Struggle of Fifth Century Judah," *Transeuphratène* 24 (2002): 14.

agricultural *bêt āb* of Yehud. They were Judeans not Persian; they made money, they were not born to it."[20]

This study proposes that there are at least three groups of Jews or 'brethren' operational in the text of Nehemiah. There are: (1) the 'poor Jews' (*non-gôla*) and their descendants who did not experience exile in Babylon, but remained in the area of Judah (Neh 1:2, 'Jews that escaped the captivity'; Neh 5:1, 'brethren the Jews'); (2) the returned *gôla* and progeny who had been exiled to Babylon, many of whom became tenant farmers (Neh 5:5, 'our flesh is become as our 'brethren' [*non-gôla*]); and (3) the returned 'brethren' (*gôla)* of acquired or inherited economic means, having Persian imperial backing (*chōrîm* and *s[e]gānîm*) who lent monies to their *gôla* 'brethren' (Neh 5:7), who because of debt (owed to their *chōrîm* and *s[e]gānîm* 'brethren') and imperial taxes (Neh 5:3-4) had been reduced to the level of their 'brethren' the *non-gôla*. This means that Eckert Otto's notion of *Brüderethos* from his late pre-exilic Deuteronomy (Urdeuteronomium)[21] is *not* in operation in the book of Nehemiah (see Appendix D). Additionally, Nehemiah himself is *not* to be interpreted as elevating, extending or reflecting sentiments of Deut 15:7-9, making every 'Hebrew' a brother to another 'Hebrew.' The *chōrîm* and *s[e]gānîm* (Neh 5:7) are to be understood as or derived from Crüsemann's understanding[22] of the *'am hā'ārets* (see Appendix A). This means that the *chōrîm* and *s[e]gānîm* (Neh 5:7), but *not* Nehemiah, are to be associated with the free, male

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[20] Halligan, "Nehemiah 5," 150.

[21] Eckart Otto, *Theologische Ethik des Alten Testaments* (Stuttgart: W. Kohlhammer, 1994), 192.

[22] Frank Crusemann, *The Torah: Theology and Social History of the Old Testament Law* (trans. Allan W. Mahnke; Minneapolis: Fortress, 1996), 220-221.

and landed, 'you' addressed in DL[23] (see Appendix D). Nehemiah positions himself with

the *non-gôla,* indicating that the common people complained against 'their brethren,' not

our brethren (Neh 5:1). So, Nehemiah is speaking exclusively, *not* inclusively. In Neh

5:7, Nehemiah is to be understood as indicating that if he and his household had

redeemed *non-gôla* Jews from their plight of debt servitude to non-Jews ('the heathens'),

then how much more should the *chōrîm* and *s^egānîm* redeem their *gôla* 'brethren' from the

debt they had imposed, or were they (*chōrîm* and *s^egānîm)* intending on selling their

'brethren' to the heathens to collect payment. Worse yet, were they, the *chōrîm* and

s^egānîm, expecting to sell 'their brethren' to Nehemiah and the 'Jews' (*non-gôla*) as a form

of redeeming 'their brethren' from the debt they owed to the *chōrîm* and *s^egānîm* (in other

words, collecting payment for the sell of 'their brethren' (*gôla*) from their brethren, the

'Jews' (*non-gôla*). Hence, a Deuteronomic-associated remission of debt is not at stake in

the text relative to the choice made by the *chōrîm* and *s^egānîm,* remembering that during

the time of a brother's service, a brother is not a part of DL's "you."[24]   The trade off is

that it would be a hideous thing if they (*chōrîm* and *s^egānîm*) sold 'their brethren' to the

heathens, and certainly not a vast improvement in their social standing if they sold their

'brethren' to their *other* 'brethren.' [25]

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[23] Ibid.

[24] Ibid.

[25] For additional discussion on this topic see Carl Schultz, "The Political Tensions Reflected in Ezra-Nehemiah" n.p. [cited 20 April 2009]. Online: campus.houghton.edu/orgs/rel-phil/schultzweb/Ezra.htm.

Food Systems, Entitlement, and Nehemiah 5

The text evidences elite persons (*chōrîm* and *s^{e}gānîm*) in the midst of dearth victims as exempt from food shortage. This elite class is portrayed as having direct control over the amount and availability of food stuff. Hence, it must be asked whether famine (Neh 5:3) and population growth, as generally understood in the reading of the text, are to be interpreted as considerable economic variables in the plight of the common people. Additionally, the text evidences an aggregate supply of food available for release to increase food availability to those suffering hunger and to avoid a continuous subsistence crisis. This being the case, it must be proposed that the crisis was human-made rather caused by natural phenomena, and clearly avoidable within the policy of the day. Famine amid surplus, as indicated in the text of Nehemiah, was not caused by natural phenomena or disasters but by the dramatic redistribution of entitlements to foodstuff.

With a customary system of food storage *implied* in the text (Neh 5:11), the question must be asked what happened in the case represented in Neh 5, which seemingly indicates a breakdown (5:1-5) in the allocation of even the least amount of rations to common producers of the area. Generally food shortage occurs when a system for regional allocation fails, as in harvest failures. Understanding the cause of hunger in Yehud, however, as an entitlement loss or failure is important for seeing that a system may also fail because of over appropriation of food produced and under allocation at the regional level of production. Aperghis' work helps to envision a redistributive storehouse system using a mathematical formula that facilitated growing capacity to create surplus

above that needed to reproduce common producers' support. This surplus then could be appropriated for distribution throughout the empire, support of trade and military operations, and more importantly, the movement upward of the surplus into levels of hierarchy in the development and maintenance of a stratified society. Hence, hunger can and does occur at the intersection of production and surplus appropriation beyond the capacity of producers against a background of effects, including variations in natural resources (soil fertility), climatic and environmental hazards, labor incapacitation (including hunger, sickness, etc.), leading to food poverty. Food poverty is the particular circumstances where a household cannot access (have entitlement) to adequate food supplies to meet basic needs within a customary pattern of allocation. Hence, within the economics of food allocation, it is not food shortage that causes hunger, but food poverty, food poverty being the sign of either or both radically imbalanced allocation of entitlement to foodstuff and/or the absence of a secured basis of entitlement. The "famine" among surplus spoken of in Neh 5:3, then, was not a result of natural phenomenon but an entitlement problem.

Elasticity Measures and Food Economy of Yehud

Where elasticity measures the responsiveness of an effect (dependent variable) to bring about a cause (independent variable), this problem led to two structural features in the food economy of Yehud: (1) low price elasticity for the total demand of foodstuff (changes in price had little influence on demand); and (2) a large gap between the food

demand elasticities of the *chōrîm* and *s^egānîm,* and farmers,[26] that is Yehud's *chōrîm* and

s^egānîm would have had an inelastic (less responsive) demand for grains (their desire or

need for grains not greatly varying with increase or decrease in grain prices). This was

because the share of their income that arose from possession of grain or grain-producing

lands was equal to or greater than the share of their income spent on consumption of

grains[27] than farmers who became unattached to land (unable to produce), for whom the

share of income from possession of grains equalized zero[28] and for whom the share of

grains in total consumption expenditures was large.[29] Simply put, when the *chōrîm* and

s^egānîm were both producer and consumer, they were able to command and get a better

[more] price. In other words, the *chōrîm* and *s^egānîm* were better off if grain prices

increased.

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[26] Equation A is relative to the *chōrîm* and *s^egānîm* as a group. The elasticities are stated as follows where foodstuff can be represented as grains:

$$PED_i = [SI (1 - PE_t) - SG_i] IED_i - IP_i \quad \text{(Equation A)}$$

PED_i = the responsiveness of demand for foodstuff (e.g grains) given a change in price (price elasticity of demand)

IED_i = responsiveness of demand for e.g. grains given a change in income (income elasticity of demand)

IP_i = income-adjusted price elasticity of demand for e.g. grains

SG_i = share of grains in total consumption expenditures

SI_i = share of income from possession of e.g. grains

PE_t = price elasticity of total aggregate demand for e.g. grains

i = subscript for the ith grouping (*chōrîm* and *s^egānîm*; farmers)

Equation A indicates that the price elasticity of demand (responsiveness of demand for gains given a change in price) by grouping was a function of: (1) IP_i (income-adjusted price elasticity); (2) the relative magnitude of $(1 - PE_t)$ SI or elasticity of nominal income relative to the price of grains; and (3) of SG_i.

[27] That is because ($[1 - PE_t] SI_i$ was greater than or equal to the SG_i).

[28] SI_i

[29] SG_i

Inferences

The text of Nehemiah 5 does *not* correspond to Malthusian notions of famine and overpopulation. Indeed, the text indicates otherwise. Marx pointed out that the theories of Malthus lend themselves to hegemonic ideology, particularly when overpopulation is made synonymous with poorer classes of people.[30] Malthus himself indicated that inequality was to be expected as a result of overpopulation in the poorer classes due to their supposed inability to constrain their reproductive activities.[31] When the effects of natural phenomena are

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[30] Marx criticizes Malthus' theory, when he says:

> His conception is altogether false and childish . . . he regards overpopulation as being of the same kind in all the different historic phases of economic development; does not understand their specific difference, and hence stupidly reduces these very complicated and varying relations to a single relation, two equations, in which the natural reproduction of humanity appears on the one side, and the natural reproduction of edible plants (or means of subsistence) on the other, as two natural series, the former geometric and the latter arithmetic in progression. In this way he transforms the historically distinct relations into an abstract numerical relation, which he has fished purely out of thin air, and which rests neither on natural nor on historical laws. . . . He stupidly relates a specific quantity of people to a specific quantity of necessaries. Ricardo immediately and correctly confronted him with the fact that the quantity of grain available is completely irrelevant to the worker if he has no employment; that it is therefore the means of employment and not of subsistence which put him into the category of surplus population (Karl Marx, "Grundrisse der Kritik der Politischen Ökonomie," n. p. [cited 3 April 2009] Online: http://www.marxists.org/archive/marx/works/1857/grundrisse/ch12.htm#p604).

[31] Thereby, Malthus effectively shifted the burden of welfare upon the poor themselves:

> . . . the most squalid poverty and wretchedness might universally prevail from an inattention to the prudential check to population. And as this cause of unhappiness has hitherto been so little understood, that the efforts of society have always tended rather to aggravate than to lessen it, we have the strongest reasons for supposing that, in all the governments with which we are acquainted, a great part of the misery to be observed among the lower classes of the people arises from this cause (Malthus and Bettany, *Essay,* 479).

Directly related to hunger and food supply, Townsend's theory, a precursor to Malthus', connected population ratios to food, proposing that the poor, lacking such characteristics as pride and ambition are left only one motivation "hunger which can spur and goad them on to labour" (Joseph Townsend, "A Dissertation on the Poor Laws by a Well-wisher of Mankind," in *A Select Collection of Scarce and Valuable Economical Tracts: From the Originals of Defoe, Elking, Franklin,Turgot, Anderson, Schomberg, Townsend, Burke, Bell, and Others* [ed. John Ramsay McCulloch; London: Lord Overstone, 1859], 404). In Townsend's construct of sacred economy, hunger was ordained by God and nature as the motivating factor of the poor to be dutiful labor. To relieve the poor's hunger, Townsend argued,

excluded, such notions place the blame for famine on the shoulders of those who suffer inequality and poverty, and diverts attention from human agency and political mechanisms that make for food scarcity. When diverging from Malthusian notions of food scarcity and overpopulation to account for the allusion to famine in the text (Neh 5:3), the *contours* of Deuteronomic debt remission in Nehemiah 5 fall within the political economics of entitlement - the exercise of power through authoritative forms and its motivational attributes in the conflict for control of colony assets, land and labor, and allocation of food resources in Yehud.

Power and politics are evident in the economic crisis described in Nehemiah 5. When reading this text, Greenberg emphasizes Nehemiah's command for the nobles and other societal elite to return properties and land to the commoners, and to cease usury, as a movement toward equalization and democratization among the people, thus making operational Greenberg's own value claim interpreted in Deuteronomic law. Greenberg notes, underlying biblical law and society is a "tendency to equalize resources among citizenry," which resembles "democracy."[32] The economic scenario described in Nehemiah 5 has little to do with attempts at equalization or democratization. The issue of power in the text of Neh 5 is a vertical relationship of exploitation intrinsic to the predominant economic activity of the Achaemenid empire, the production of food, which

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"destroys the harmony and beauty, the symmetry and order of that system, which God and nature have established in the world" (ibid. 416).

[32] Moshe Greenberg, "Biblical Attitudes Toward Power: Ideal and Reality in Law and Prophets," in *Religion and Law: Biblical-Judaic and Islamic Perspectives* (ed. Edwin Brown Firmage, Bernard G. Weiss, and John W. Welch; Winona Lake: Eisenbrauns, 1990), 109.

distinguishes it from issues of power in the text of Nehemiah as some political strategy to dehierarchize power into a negotiable construct.

The text indicates that those who were requiring relief were presently or formerly land tenants or landowners, hence it is often inferred that their plight as portrayed in the text (Neh 5:1-5) was the result of their inability to produce enough foodstuff to feed themselves, even as single farming families. Various reasons are offered to explain this inability, including the marginality and impotence of the land and the use of much of the crop fields to pay against interest, loans, and taxes.[33] The text's portrayal of Nehemiah's resolution for the common people's plight, however, would have done little to remedy the cycle of mortgaging, debt servitude, and particularly the need for food. The nobles' and rulers' release of the peoples' lands and collected monies would have done little to increase the availability of food, if the lands released were marginal or even unproductive, either as a result of continuous intensive use of the land or due to environmental causes. Additionally, the waiver of payment on loans or the return of monies to the commoners would have done little to feed a people if limited food was available for purchase. An embedded and complex system of food entitlement was at work rather than actual food shortage from famine. The economic scenario of Yehud, as portrayed in the text, had more to do with the failure of the common people to establish command over or entitlement to an adequate amount of food. The economics of power as portrayed in Nehemiah 5 fits squarely within the political

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[33] Pastor, *Land and Economy,* 15.

economics of food entitlement, not food scarcity, and certainly would have done little to affect equalization or democratization.

Sen's Model and Nehemiah 5: A Critique

The text of Nehemiah 5 focuses on the need for the acquirement of food by individuals and households, not the scarcity of food relative to the absolute level of food available. Using Sen's entitlement model as the lens to read the text concentrated on the authoritative forces that determined the bundles of commodities over which vulnerable persons could establish command. These forces, effecting food security, can have a deleterious effect on endowment (e.g. alienation from the land, loss of profit from one's own labor), and limited exchange (e.g. significant rises in food prices). These forces can hinder or make it impossible for persons to acquire commodity bundles having enough food. Thus, it can be observed that Sen's approach sees food security and famine-prevention as a matter of "entitlement protection," requiring reconnecting or re-creating the loss of entitlements of vulnerable persons. Contrary to Rangasami's[34] criticism of Sen's paradigm as being punctiliar, limited only to the immediate time and circumstances of food insecurity or famine, Sen's model is processional, including, particular attention to the operation of civil allocative structures of food at the micro-level of the vulnerability. The only problem is that Sen does not seem to employ a hermeneutic of suspicion. One could believe that the primary reason behind any

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[34] Amrita Rangasami, "'Failure of Exchange Entitlements': Theory of Famine, A Response," *Economic and Political Weekly,* 20 (1985), 1747-1752, 1797-1801.

economic or civic act of withholding food relief to vulnerable person is "negligence or smugness or callousness on the part of the non-responding authorities," observes Drèze and Sen.[35] For Drèze and Sen, civic failure to act in the public interest is simply a failure in public policy. But when civic action does occur, it is not possible, for example, to label measures toward relieving food insecurity or famine as successful because *some* people benefited. But then again, it may not be justifiable to label measures as unsuccessful because *all* people involved did not benefit. Most important is the observation from the text of Neh 5 that the process toward 'famine,' as presented in the text, was a process where the community made vulnerable to food insecurity was steadily deprived of resourcing, assets, and ability to labor (lack of entitlement to labor toward one's own good, Sen would observe) under proximate economic and socio-political pressure exerted at a micro-level of the imperial domain. If one subscribes to the view that food insecurity and famines can actually be *beneficial* to certain groups in a society, then it follows that these groups would also have an interest in preventing effective relief, *until mandated to do so*. For example, by withholding relief, the price of grain can increase, and the costs of labor decrease. Keen[36] documents the occurrence of this diametric economic phenomenon in the impact that lobbying efforts by merchants had on the British decision not to import food during the Irish famine of the mid-1800's. Similarly, grain merchants in Malawi lobbied against relief in 1949. Additionally, Keen demonstrates the higher profits

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[35] Jean Drèze and Amartya Sen, *Hunger and Public Action* (Oxford: Clarendon Press, 1989), 262.

[36] David Keen, *The Benefits of Famine: The Political Economy of Famine and Relief in Southwestern Sudan, 1983-1989* (Princeton: Princeton University Press, 1994), 7.

that merchants were able to have through increased food prices by blocking humanitarian aid to Sudan.[37] These are all examples of sabotage at and effecting the proximate level of vulnerability. Obstructing food security, inducing famine, and strategic redress of food insecurity or famine under duress can comprise a major aspect of civil policy, as indicated in the text of Neh 5. Another way of seeing this is that any paradigm that defines famine or extreme food insecurity as simply a 'failure' in public policy, due to callousness, smugness or negligence is missing the point. Whether famine or extreme food insecurity is a failure in food supply, a breakdown in food allocation system, the outcome is the same - human enabled (or disabled) facets of food production or allocation causing famine or food insecurity, are enormously beneficial to the perpetrators. Human induced famine or a significant decrease in food security, presented in the text of Neh 5, is to be considered a success not a failure; it represents a normal 'effect,' not an aberration in allocation from the 'causal' socio-politico economic entity. Hence, the *contours* of Deuteronomic debt release in the text simply mirror economic customs and practices in Yehud-based processes of production and allocation that benefited nobles and persons in control of foodstuff and its allocation, providing them 'relief' from peasants or tenants through indebtedness, eviction or outright mortality. This study proposes that this allowed for consolidating former peasant and tenant landholdings, while at the same time creating a significant pool of landless labor able to work as unattached day labor subject to reduced and variable compensation,

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[37] Ibid., 2.

specifically in juxtaposition to peasant mounting debt to purchase available food and to provision self and family with basic needs, and meet tax obligations. The modeling of this proposal through a *performance* of Deuteronomic debt release using David Ricardo's paradigm of economic rent and diminishing return of productivity from land and labor is taken up next.

CHAPTER 4

DAVID RICARDO'S MODEL AND
DEUTERONOMIC DEBT RELEASE IN YEHUD

In chapter 3, Amartya Sen's model of entitlement and food security was

used as the lens through which to discern *contours* of Deuteronomic-associated

debt release within the political agency of food production and allocation systems

in Yehud as identified in the text of Nehemiah 5. The primary extra-economic

compulsion was propsed to be consolidation of peasant and tenant landholdings,

moving toward the creation of a pool of landless labor. In this chapter,

Deuteronomic debt release is treated as performative, where an adaptation of

David Ricardo's model of economic rent[1] and diminishing return is used as the lens

through which to see and interpret a *performance* of Deuteronomic debt release in

Yehud. It is argued that a performance of Deuteronomic debt release at the point

of debt labor exceeding the costs of 'free' labor would have enlarged the pool of

unencumbered 'free' labor in Yehud, thereby stabilizing Yehud's economy by

negating the primary cause of instability in Yehud's land tenure system – debt

labor.

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[1] Economic rent is the difference between the productivity gotten from a given piece of land and the poorest piece of land placed under production to produce the same agricultural good(s) under the same conditions of labor, assets, or technology. Economic rent is not to be confused with contract rent, which is the payment that a tenant makes for the use of another's property. As Ricardo explains, rent is "that portion of the produce of the earth which is paid to the landlord for the use of the original and indestructible powers of the soil. It is often, however, confounded with the interest and profit of capital and in popular language, the term is applied to whatever is annually paid by a farmer to his landlord." (Ricardo, *On the Principles of Political Economy*, 44-45).

Labor and Land in Yehud

Debt servitude (the sell of oneself or children into slavery in exchange to resolve issues of debt), was not pervasive by the time of the Achaemenids, except for in less developed areas of the empire, Yehud having been one of those areas (Neh 5:3-5).[2] The general practice by the time of the Achaemenids (550-331 B.C.E.) were antichresis contracts[3] in response to inability to meet debt obligations, thereby preserving a debtor's free status and land attachment, but extending the time frame of the encumbrance of debt. Debt labor tenancy as indicated for Yehud, however, was one step up from the conditions of slavery, indicates Dandamaev.[4] The presence of debt slavery is directly related to high land inequality,[5] and the persistence of a land-dependent, debt labor force is an economic convention maintained by a society for as long as there is economic superiority of debt labor or that of any other labor form. This poses a problem for productivity, where productivity is defined not only as the utility of labor and (capital) assets, but by the natural fertility of the land. The economic interchange between labor and land in a pre-industrial society practicing land-dependent, debt servitude such as that of Yehud, would require the achievement of agricultural productivity through the amassing the labor needed to work cultivable lands that

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[2] Muhammad A. Dandamaev. *The Culture and Social Institutions of Ancient Iran* (Cambridge: Cambridge University Press, 1989), 155-156.

[3] Cf. Chapter 2, Moving Beyond Constructs of Ancient Sacred/Temple Economy

[4] Dandamaev. *Culture and Social Institutions of Ancient Iran*, 155-156.

[5] Evsy Domar, "The Cause of Slavery or Serfdom: A Hypothesis," *Economic History Review* 30 (1970): 18-32.

were successively pressed into production as former lands were exhausted of fertility. To be viable Yehud's agricultural production would have had to stay beyond the point of diminishing return.[6] To comprehend this aspect of Yehud's agricultural production, the degree of cultivable land as it relates to labor must be addressed.

Adapting Diminishing Return and Differential Rent to Yehud Economy

Ricardo's model of diminishing return allows for investigating debt release as the economic measure used in Yehud to meet the challenges of an agrarian-based economy increasingly characterized by the need for greater land productivity on less cultivable land. The adaptation of Ricardo's model to such an agrarian economy would predict instability based on agricultural pursuits that

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[6] Using this supposition, the elasticity of output relative to labor input can be described in terms of a production function using dynamic modeling, where elasticity measures the responsiveness of an effect (dependent variable) to cause (independent variable).

A production process can be defined as one input transformed into an output, where 'Y' is the output level and 'N' the input level, where diminishing return is assumed:

$$Y = AN^{\alpha} \; ; \quad A > 0; \quad 0 < \alpha < 1 \qquad \text{(Equation I)}$$

This is a production function having three features of production process. The production process is:

    (1) if there is no input (N = 0), then there is no output (Y = 0);
    (2) if the input (N) level increases, then the output (Y) level increases;
    (3) the productivity of the input (N) diminishes when it is employed at higher levels.

So that in Equation I:

    (1) an increase in variable 'A' (e.g. technological level)
    (2) so that change in variable 'A' must represent a change in output *not* caused by labor input, but by another input (e.g., capital).

The model dictates that an input's productivity, (the levels of all other inputs being held constant) will decrease as greater amounts of the input are employed. *This is diminishing return.*

could be maintained *not* simply by intensive[7] growth but by extensive[8] growth –

in other words, by expanding onto new lands.[9] A mode of production most

compatible with this system would be maintained, debt labor. Lessors, being

unable adequately to alter forms of organization in the system that would

counteract the effect of soil exhaustion from intensive use of the land, would

extend production on to new cultivable land.

In Ricardo's model, the fertility of land also enters into production

processes. Land in Ricardo's paradigm is not only a finite resource, it varies in

terms of its natural fertility[10] to such an extent that an agrarian society's rate of

productivity from the land ultimately depends on the amount of labor necessary to

support laborers who work lands of the *least* cultivable quality. In other words,

Ricardo's model accounts for lesser quality land being pressed into production. As

noted by Ricardo, if land was of unlimited quantity, all being uniform in the same

properties, "no charge could be made for its use, unless where it possessed peculiar

advantages of situation."[11] Because land is not unlimited in quantity nor uniform

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[7] Stolper's comparison ratios indicated that farm land under the Murašû enterprise "produced yields per unit of seed comparable with the upper middle range of yields from earlier temple agriculture in both northern and southern Babylonia (*Entrepreneurs and Empire*, 140).

[8] The extension of production on to new cultivable land is based on the *inelasticity* of land tenure systems characterized by extensive/intensive operations. Stolper indicates that "sowing was more extensive, so yields per unit of area were in the lower middle range attested in Urak and Sippar texts. In short, by roughly contemporary standards, output was fair, but costs were somewhat high" (Ibid. , 140).

[9] Only under impinging dynamics, including increased population, ruralization (cf. Hoglund, "Achaemenid Context," 57-60), trade, and the effects of demands for tax and tribute, would agricultural intensification of arable land move toward lowered efficiency, where higher production would require proportionately higher labor demand and increase capital outlay.

[10] For a thorough discussion and analysis of the soil types by environmental niche that characterized the Yehud, see Carter, *Emergence of Yehud,* 100-113.

[11] Ricardo, *On the Principles of Political Economy*, 46-47.

in its properties or quality, and because of population increases subject to the land,

Ricardo explains, in an agrarian-based system, "land of an inferior quality, or less

advantageously situated, is called into cultivation, that rent is ever paid for the use

of it. When in the progress of [a] society, land of the second degree of fertility is

taken into cultivation, rent immediately commences on that of the first quality, and

the amount of that rent will depend on the difference in the quality of these two

portions of land."[12]   Hence the rent that Ricardo speaks of is the difference

between the productivity gotten from a given piece of land and the poorest piece of

land placed under production to produce the same agricultural good(s) under the

same conditions of labor, assets, or technology. Rent arises at both the intensive

and extensive margins of production. At the intensive margin, Ricardo states: "It

often, and indeed commonly happens, that before . . . the inferior lands are

cultivated, capital can be employed more productively on those lands which are

already in cultivation."[13] However, doubling the capital on those lands will not

double the product output, although it may increase yield. This is because the

average product also diminishes.[14]   At the extensive margin, capital and labor

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[12] Ibid., 47.

[13] Ricardo, *On the Principles of Political Economy,* 48.

[14] Another way of looking at this is through the average product of labor - that is, the quantity of output produced per unit of labor input. With reference back to Equation I, the average product of labor is:

$$\frac{Y}{N} = \frac{AN^{\alpha}}{N} = AN^{\alpha-1} = \frac{A}{N^{1-\alpha}} \qquad \text{(Equation II)}$$

The average product decreases as the labor (N) increases when $0 < \alpha < 1$, just as in the case of marginal product. When α is less than one, the average product of labor (labor productivity) will decrease as labor (levels) increase.

inputs per unit of land are held constant, and successive units of land are added.

As units of heterogeneous land of successively reduced fertility are put into

production, the per unit yield of land will fall. With each successive move in

Yehud's agrarian economy toward the cultivation of inferior quality lands, adapting

Ricardo's factor of diminishing return would be enacted through rises in rent as the

marginal return on the addition of labor and capital declined, thereby hastening

Yehud's pace to the margin at which cultivation would become unproductive.[15]

The interchanges among rent, land, diminishing return, and debt labor in the

adaptation of David Ricardo's paradigm of diminishing return and differential rent to

Yehud economy can be summarized as follows. The interchange between rent and land,

situates Yehud tenant farmers and peasants in a rent-embroiled differential land fertility

dynamic of food production where rent rates determined at the micro-level were *a*

proximate cause of economic vulnerability in Yehud. The interchange between

diminishing return and debt labor would predict diminishing returns for farmers and

peasants who bartered or borrowed to provision themselves with the means necessary to

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By way of further derivation, the coefficient α measures the extent of diminishing return, and is shown in the first part of Equation I ($Y = AN^\alpha$) where the marginal product of labor is obtained as a partial derivative of labor (N).

$$\frac{\partial Y}{\partial N} = \frac{\partial}{\partial N} [AN^\alpha] = \alpha AN^{\alpha-1} = \frac{\alpha A}{N^{1-\alpha}} \qquad \text{(Equation III)}$$

As long as the marginal product of labor decreases as labor (N) increases, when $0 < \alpha < 1$, there is diminishing return. In other words, when α is less than one, labor productivity (as measured by the marginal product of labor) will decrease quicker as labor level (N) increases.

[15] There are two ways of slowing this process, significant improvements in agricultural technology and/or increase in external trade for the import of agricultural goods. Import prices would have to be less than the cost of internal agricultural production of the same commodities.

work an ever increasing supply of *less* cultivable land over and against an ever *decreasing* supply of cultivable land. In other words, less agricultural product, and little or no agricultural surplus for increased labor expended, moved these agrarians toward debt servitude, then becoming *the* proximate cause of economic vulnerability at the micro-level.

Inferences

Debt labor is an economic convention maintained by a society for as long as there is economic superiority of debt labor over 'free' labor, where the meaning of 'free' is not one of emancipation but of waged labor. Certain assumptions underlie this deduction. The primary assumptions are: (1) the most fertile land, requiring the lowest cost for production, is placed under production first; (2) diminishing returns on existing cultivated lands forces into production additional lands of successively inferior fertility; and (3) initially, a relatively stable and low level of population.[16]

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[16] Carter's surveys indicated fewer settlements, and hence Yehud population, in Persian I (539-450 B.C.E.) than in Persian II (450-332 B.C.E.). Carter calculated Yehud 's Persian I population at approximately 13,350, and Persian II population at approximately 20,650. Carter's increase count in Persian II is attributable to the influx of returnees to Yehud brought on primarily by increase trade stimulated by and within the Persian imperial domain (Carter, *Emergence of Yehud*, 201-202,205, 226; cf. Kenneth Hoglund, *Achaemenid Imperial Administration in Syria-Palestine and the Missions of Ezra and Nehemiah* [SBLDS 125; Atlanta: Scholars Press, 1992], 224-225; idem, "Achaemenid Context," 57).

Lipschits counters Carter's methodical approach particularly his dividing the Persian period into two time frames for classifying archaeological data (Oded Lipschits, "Achaemenid Imperial Policy, Settlement Processes in Palestine, and the Status of Jerusalem in the Middle of the Fifth Century B.C.E.," in *Judah and the Judeans in the Persian Period* [eds. Oded Lipschits and Manfred Oeming; Winona Lake, IN: Eisenbraums, 2006], 37 n. 60), hence he rejects Carter's population estimates of Yehud as too low (Oded Lipschits, "Demographic Changes in Judah between the Seventh and the Fifth Centuries B.C.E.," in *Judah and the Judeans in the Neo-Babylonian Period* [eds. Oded Lipschits and Joseph Blenkinsopp; Winona Lake, IN; Eisenbraums, 2003], 359). Lipschits instead estimates the population of Yehud to have been "approximately 30,000" for the whole of the Persian period (ibid., 363). In regards to Jerusalem, Carter's and Lipschit's numbers are dramatically low. Carter indicates a Jerusalem population of about 1,500 in his Persian I period (*Emergence of Yehud*, 201) and between 130 and 140 dunams or 3,350 to 3,500 people in his Persian II period (ibid., 148), using his maximal coefficient of 25 persons per dunam (ibid., 198).

However, when the maximum density of land-dependent debt labor on the absolute

quantity of cultivable land is reached, the cost of maintaining land-dependent debt

labor exceeds the cost of 'free' labor. It is at this point that a *performance* of

Deuteronomic debt release would serve to enlarge the pool of 'free' labor available

for hire, thus negating the cost of maintaining debt labor when the cost of the latter

exceeded the cost of the former. Moreover, even though higher rents could be

dictated for better quality land, expansion to successively poorer land qualities

would necessitate ever-increasing labor input to maintain minimal output, thus

resulting in falling proceeds. This is because of diminishing return.

Ricardo's Model and the Performance of Deuteronomic Debt Release

In this chapter, the treatment of rent, land, diminishing return, debt labor in

Yehud provides an alternative optic for understanding a *performance* of

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Lipschits estimates the environs of Jerusalem to have had approximately 110 dunams or 2,750 people ("Demographic Changes," 356). Whether one sides with Carter or Lipschits, the population estimates of Yehud are dramatically low (cf. Bob Becking, "' We All Returned as One!'": Critical Notes on the Myth of the Mass Return," in *Judah and the Judeans in the Persian Period* [eds. Oded Lipschits and Manfred Oeming; Winona Lake: Eisenbrauns, 2006], 10), particularly in contrast to Lipschit 's similar methodology of 25 persons per dunam ("Demographic Changes," 326) to estimate the Kingdom of Judah 's population as approximately 110,000 at the time of it demise (ibid., 363).

Also not breaking the Persian era into time periods, Milevski, surveying the 'the land of Benjamin' in the northern part of Yehud, determined a 75% drop in the number of settlement sites relative to Iron II patterns. Therefore, Milevski dismisses the notion of an 'empty' land following the Babylonian destruction of Jerusalem and deportations from Judah, citing that 37% of the western slopes and central range settlements of Benjamin in the Achaemenid period were sites of continued existence stemming from the end of the Iron II age (Ianir Milevski, "Settlement Patterns in Northern Judah during the Achaemenid Period, According to the Hill Country of Benjamin and Jerusalem Surveys" *BAIAS* 15 1996-1997]: 20). Both Carter and Milevski's conclusions do not suggest the population of 'returnees' indicated in Neh 3, 7, 11, 127 or Ezra 2. Carter proposed 41 sites for the territory of Benjamin and a population of 5,375 in Persian I, and 59 cites in Persian II with a population of 7,625 (Carter, *Emergence of Yehud*, 204, 226). The territory of Judah, Carter indicates, had 45 sites, population 7,965, in Persian I; and 66 sites, population 13,025, in Persia II (ibid. 201-202, 205, 226).

Deuteronomic debt release in Yehud. When applied to Yehud's agrarian economy,

the adaptation of David Ricardo's model of economic rent and diminishing return

sees Ricardo's factor of diminishing return through rises in rent as the marginal

return on the addition of debt labor and capital declined as land of lesser fertility

was drawn in to the system of production. A performance of Deuteronomic debt

release is then seen at the point of debt labor exceeding the costs of 'free' labor to

enlarge the pool of unencumbered 'free' labor in Yehud. A performance of

Deuteronomic debt release at this point would have stabilized Yehud's economy by

negating what this study has proposed as the primary cause of instability in

Yehud's land tenure system – debt labor.

CHAPTER 5

SUMMARY

This study has argued that the *contours* and *performance* of Deuteronomic debt release be viewed through political economy. Important for this study was the use of Amartya Sen's model of entitlement and food security, and David Ricardo's model of economic rent and diminishing return of productivity from land and labor.

What was found in text of Nehemiah was a conflict among 'brethren,' in juxtaposition to *contours* of Deuteronomic-associated debt release functioning as an extra-economic compulsion in the struggle for assets and allocation of resources in Yehud. To exhibit this, Amartya Sen's model of entitlement and food security was used as the lens to make inquire into control and allocation of assets and resources in Yehud. This allowed for investigating pragmatic ulterior economic motives underlying Deuteronomic-associated debt release affecting economically driven processes at the micro-level, the level of Yehud. The investigation indicated circumscribed practices to redress economic vulnerability at the micro-level, preserving economic practices undergirding Yehud's land tenure system in the imperial economics of Persian domain. The primary ulterior

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motive was proposed to be consolidation of peasant and tenant landholdings, creating a pool of landless labor subject to reduced and variable compensation.

By adapting David Ricardo's model of economic rent and diminishing return, it was proposed that a *performance* of Deuteronomic debt release in Yehud be seen as a counter action against the primary cause of instability in Yehud's economy - debt labor. A performance of Deuteronomic debt release was envisioned and interpreted at the point of debt labor exceeding the costs of 'free' labor to enlarge the pool of unencumbered 'free' labor in Yehud, where also Ricardo's factor of diminishing return would be operative through rises in rent as the marginal return on the addition of debt labor and capital declined as land of lesser fertility was drawn into Yehud's agrarian economy.

Thus, Deuteronomic debt release in this study was *not* treated as sacred convention, requiring theological metaphorization. Instead, the *contours* and *performance* of Deuteronomic debt release were viewed from the realm of political economy with ramifications for understanding agrarian-based societies that enmesh labor in forms of chronic debt relating to land tenure, as in Yehud. The implications of the investigations carried out in this study are that the Deuteronomic debt release laws were representative of conditional economic practices, fitted, molded, and adapted, and thus reflective of socio-economic circumstances they affected.

APPENDIX A

INTERPRETATIONS OF THE *'AM HĀ'ĀRETS*

Weinberg indicates, persons outside the post-exilic agnatic family lineages of his *bêt 'ābôt* construct, traceable to pre-exilic family roots, were classified as *'am hā'ārets*, 'people of the land.'[1] Fried, however, understands the label *'am hā'ārets* in its post-exilic context to have been disparagingly applied to oppressive Persian officials in Yehud, the label being representative of the officials being stand-ins for the former pre-exilic *'am hā'ārets,* who were oppressors of the poor.[2] Countering Fried's understanding is Gunneweg, arguing that the label *'am hā'ārets* in its post-exilic context had changed meaning from its pre-exilic, designating a people supportive of state strategy (and who were later blamed for the denigration of the state) to being the disenfranchised of the *gôla* community.[3] Gunneweg uses Hag 2:4 and Zech 7:5 as part of the evidence to support his argument. In Bedford's discussion, however, the conflict with the

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[1] Weinberg, *Citizen-Temple*, 62-74. Weinberg's understanding of the *'am hā'ārets* in its pre-exilic context counters that of Crüsemann who understands the *'am hā'ārets* as landed persons who seized power during King Josiah's rule, and who are the subject of D's legal material (Crüsemann, *Torah*, 247-249, 269).

[2] Lisbeth S. Fried, "The 'am hā'āres in Ezra 4:4 and Persian Imperial Administration," in *Judah and the Judeans in the Persian Period* (ed. Oded Lipschitz and Manfred Oeming; Winona Lake: Eisenbrauns, 2006), 141. In this article Fried provides a concise summary of pre-exilic understandings of the "the people of the land" (Ibid., 125-128).

[3] Antonius H. J. Gunneweg, "עם הארץ - A Semantic Revolution," *ZAW* 95 (1983): 438.

'am hā'ārets is a retrojection read back into the time of the temple restoration, specifically into the texts of Haggai and Zechariah.[4] The *'am hā'ārets* then are not to be confused with the *gōyē hā'ārets* ('nations of the earth'), and would be distinct from Weinberg's *Bürger-Tempel- Gemeinde* in the post-exile. Williamson indicates that the designation *'am hā'ārets* reflected a later redacted insider/outsider dynamic in Yehud, where to be *'am hā'ārets* was to be a foreigner, an enemy (Ezra 4:1), with whom members of the *gôla* community were forbidden to marry.[5] A similar understanding of the *'am hā'ārets*, Judeans who had not gone into exile, but interpreted as foreigners, is seen in the work of Grabbe and Ahlström.[6]

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[4] Peter Bedford, *Temple Restoration in the Early Achaemenid Judah* (JSOTSup 65; Leiden: Brill, (2001), 12, 32.

[5] Williamson, *Studies in Persian Period History*, 28, 41.

[6] Lester Grabbe, *Ezra-Nehemiah: Old Testament Readings* (London: Routledge, 1998), 138; and Gosta W. Ahlström, *The History of Ancient Palestine* (Sheffield: Sheffield Academic Press, 1993), 822.

The *'am hā'ārets*, 'people of the land,' possibly a specific group at work in the pre-exilic context can be picked up in Second Kings.[7] In his father's stead, Jehoahaz (Shallum), the younger son of Josiah, was anointed king by the 'people of the land' of Judah (2 Kgs 23:30-33; 1 Chr 3:15; Jer 22:11). Malamat[8] and Seitz[9] note that enthronement of Jehoahaz by the 'people of the land' (2 Kgs 23:30; 2 Chr 36:1) represented a disruption in the normal lines of succession, particularly in cases where after the death of the father, a son of minor age was selected by the 'people of the land' to be king (2 Kgs 21:24; 2 Chr 33:25). Jehoahaz' selection and installation as king instead of his older brother at the death Josiah then is calculated as a political maneuver by a politically-motivated group. Indeed, Talmon understands the expression *'am hā'ārets* to be a "technical term that can be applied only to a specific entity in the Judean body

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[7] Pre-exilic understandings of the "the people of the land," include:

a. as a kind of representative body: Mayer Sulzberger, "The Polity of the Ancient Hebrews," *JQR* 3 (1912-1913): 1-81; idem., *The Am Ha-Aretz: the Ancient Hebrew Parliament: A Chapter in the Constitutional History of Ancient Israel*, (Philadelphia: Greenstone, 1910); Nahum Sousch, "Representative Government Among the Hebrews and Phoenicians," *JQR* 4 (1913-1914): 303-310; C. Umhau Wolf, "Traces of Primitive Democracy in Ancient Israel," *JNES* 6 (1947): 98-108.

b. a rural-based political and social entity in contrast to an urban center: Robert Gordis, "Sectional Rivalry in the Kingdom of Judah," *JQR* 25 (1934-1935): 237-259; Solomon Zeitlin, "The Am Haarez," *JQR* 23 (1932-1933): 45-61; Louis Finkelstein, *The Pharisees: The Sociological Background of Their Faith* (2nd ed.; Philadelphia: The Jewish Publication Society of America, 1946), 24-42.

c. a landholding elite class: Samuel Daiches, "The Meaning of am ha'arets in the Old Testament," *JTS* 30 (1929): 245-249; P. Lemarie, "Crises et effondrement de la monarchie davidique," *RB* 15 (1936): 161-183; Ernst Würthwein, "Der 'am ha'arez im Alten Testament," *BWANT* 69 (1936): 51-71.

d. a level of free persons or citizens endowed with civil rights: Roland deVaux, *Ancient Israel* (New York: McGraw-Hill, 1965), I, 70-72; Marvin H. Pope, " 'Am Ha'arez," *IDB* 1:106-107.

[8] Abraham Malamat, "The Last Kings of Judah and the Fall of Jerusalem: An Historical-Chronological Study," *IEJ* 18 (1968): 140.

[9] Christopher R. Seitz, *Theology in Conflict: Reactions to the Exile in the Book of Jeremiah* (Berlin: de Gruyter, 1989), 83, 88.

politic," specifically in Jerusalem.[10]   Talmon proposes that they were distinct from

members of the royal household, and palace and temple personnel, intervening in matters

related to Davidic succession, stabilizing the succession if understood to have been

destabilized or under threat. Hence, Talmon surmises that the *'am hā'ārets* are the "de

facto championing of the house of David."[11]   Ishida concurs with Talmon that the *'am*

hā'ārets participated in issues of Davidic succession from the assassination of Queen

Athaliah (2 Kgs 12) through the enthronement of Josiah (2 Kgs 21:24), acting on behalf

of all of the people of Judah, but are not to be made synonymous with expressions of

either *'am yᵉhûdāh* or *'anšê yᵉhûdāh*, 'the people of Judah.' Ishida, however, concludes

that the expression may have had "double meaning in Judah in the monarchical period:

either the people of Judah in general or the people who held power over determining

successors to the Davidic throne in cooperation with or in opposition to the inhabitants of

Jerusalem.[12]

Nicholson[13] sees no reason to interpret the description 'people of the land' as

having had any political or formal meaning, being possibly only a reference to the general

populace. Pope[14] disagrees, understanding the description of the 'people of the land' to be

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[10] Shemaryahu Talmon, "The Judaean 'am hā'āres' in Historical Perspective," *Proceedings of the Fourth World Congress of Jewish Studies 1* (Jerusalem: Magnus, 1967), 73.

[11] Talmon, "Judaeans," 75. For a thoroughgoing analysis of Talmon's position, see Seitz, *Theology in Conflict*, 37-100.

[12] Tomoo Ishida, *History and Historical Writing in Ancient Israel: Studies in Biblical Historiography* (Studies in the History and Culture of the Ancient Near East 16; Leiden: Brill, 1999), 95-96.

[13] Ernest W. Nicholson, "The Meaning of the Expression עם הארץ in the Old Testament," *JSS* 10 (1960): 66.

[14] Pope, "'Am Ha'arez," 106.

a specific referent to an exclusively male social class of property-owning citizens who had considerable influence on the political affairs of the country. Malamat[15] adds that these landed citizens were loyal to the royal house of David.[16] If credence is given to this position, then this group of citizenry would have been looking for a successor in the royal house who shared presumably Josiah's pro-Babylonian sentiments. Hence, the 'people of the land' could be construed as representing, at least in part, an anti-Egyptian faction that influenced the political scene in Judah at the time.

Such an inclination, however, is in conflict with Gordis'[17] understanding that the 'people of the land' were the "country dwellers" who opposed Josiah's reforms and created an insurgency possibly with the help of Egypt, forcing Josiah into battle with Necho II at Megiddo in order to crush a rebellion in his own country. It was Josiah's servants, anti-Egyptian in their sentiments, who carried the king's body to Jerusalem, but it was the 'people of the land,' pro-Egyptian in sentiments, who chose Jehoahaz, Gordis argues. Gordis' view does raise the prospects of a conflict between city dwellers and the people of the countryside. However, his view conflicts with the fact that as Egypt exerted its mastery in the region, it was the pro-Egyptian, anti-Babylonian, faction that began to influence the political affairs of Judah with the selection not of Jehoahaz whom Necho II deposed, but of Jehoiakim (Eliakim), who was initially passed over and was presumably pro-Egyptian. Malamat[18] indicates Eliakim's pro-Egyptian stance, contrary to

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[15] Malamat, "Last Kings," 140.

[16] Cf. Crüsemann, *Torah*, 213.

[17] Gordis, "Sectional Rivalry," 252-253.

[18] Malamat, "Last Kings," 140.

his father's position, did not incite the confidence of the pro-Babylonian fraction in the Judean royal court. This is the first evidence, notes Malamat, that "political orientation became an acute issue among the people of Judah, gradually intensifying the polarity between the pro-Egyptian and pro-Babylonian factions."[19] Seitz[20] concurs, when he observes that Eliakim could not have become king so quickly nor remained in power so long had not his selection been secured by Egypt and his reign supported by the pro-Egyptian faction in the court at Jerusalem.

The vacillation in political allegiances reportedly began with Nebuchadnezzar's defeat of Egyptian forces at Carchemish in 605 B.C.E. (Jer 46:2), at which time Jehoiakim switched his allegiance to Nebuchadnezzar and Judah became a vassal state of Babylon,[21] and eventually led to Zedekiah's ascent to the throne,[22] foregrounding again a political divide in Judah. Zedekiah (Mattaniah), the younger brother of Jehoahaz and Jehoiakim, was probably selected to be king because of his pro-Babylonian position.[23] Zedekiah's ascent, however, created a division in loyalty depending on who was thought to be the legitimate king of Judah. Was the legitimate king of Judah Jehoiachin exiled in

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[19] Abraham Malamat, "The Twilight of Judah in the Egyptian Babylonian Maelstrom," *VTSup* 28 (1975): 129.

[20] Seitz,*Theology in Conflict*, 81.

[21] John Bright, *A History of Israel* (Philadelphia: Westminster Press, 1981), 326-327; H. B. MacLean, "Jehoiakim," *IDB* 2: 813.

[22] The time leading up to Zedekiah's reign sees Jehoiakim's reign, resting upon Egyptian authority and the pro-Egyptian faction in Judah, presumably maintaining an anti-Babylonian policy that did not allow for submission to Babylonian suzerainty. An indecisive battle between Babylon and Egypt in 601 B.C.E, and Nebuchadnezzar's subsequent return to Babylonia to rearm his army, led Jehoiakim, possibly under the influence of the pro-Egyptian faction in the royal court, but against the prophet Jeremiah's counsel (Jer 27:9-11) and position (Jer 36:29), to renege on the payment of annual tribute in 599 B.C.E.

[23] MacLean, "Zedekiah," *IDB* 4: 948.

Babylon or Zedekiah whom Nebuchadnezzar placed on the throne?[24] Those supporting

Jehoiachin presumably favored Egypt and desired to be free of Babylonian rule Those

who upheld Zedekiah's rule presumably tended to submit to, if not support, Babylonian

rule over Judah. The pro-Egyptian nationalists fully expected the exiled Jehoiachin and

the vessels removed from the temple to be returned to Judah in a short time (Jer

27:19-22; Jer 28:1-4). With the political maneuvering continuing, Zedekiah finally

succumbed to the pro-Egyptian faction, and persuasion of Egyptian Pharaoh Hophra, to

brake allegiance to Babylon in 589 B.C.E. (2 Kgs 25:1).[25] The texts of Second Kings and

Jeremiah dutifully record the Babylonian siege of Jerusalem (2 Kgs 25:1-10; Jer 39:1-2;

52:4-5).[26] But it is only in the text of Jeremiah (Jer 34:7-9) that a reader confronts literary

strata indicating that at some point during the siege of Jerusalem, the people of the city

released their Hebrew slaves, both male and female, in response to a proclamation of

manumission, often associated with the debt release laws of Deut 15, but promulgated by

Zedekiah.

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[24] Bright, *History*, 328. In the wake of Jehoiakim's death, although his assassination cannot be ruled out (cf. Jer 22:18-19; 36:30) in the hope of appeasing the Babylonians (ibid., 327, 814), his son Jehoiachin (Jeconiah, Coniah) became king (2 Kgs 24:8). Zedekiah ascended to the throne, after his nephew Jehoiachin's deportation (2 Kgs 24:10-17) to Babylon (Jer 37:1).

[25] Ibid, 329.

[26] Cf. William L. Holladay, *Jeremiah: A Commentary on the Book of the Prophet Jeremiah Chapters 1-25* (Philadelphia: Fortress Press, 1986), 9.

APPENDIX B

KING ZEDEKIAH'S MANUMISSION EDICT

Historical Positioning of Zedekiah's Manumission Edit

Jer 34:7-9 indicates that at some point during Nebuchadnezzar's siege of

Jerusalem, the people of the city released their Hebrew slaves, both male and female, in

response to Zedekiah's proclamation of a manumission. The manumission, often

associated with the debt release laws of Deut 15, was initiated by the king, purported as

accepted without dissidence (Jer 34:10), and made effective through a covenant

ceremony contracted in the Temple (Jer 34:15, 18-19).[1] However, the text seems to

indicate that the slaveholders interpreted a lull in the siege of Jerusalem (Jer 34:21-22) as

a reprieve from Babylonian assault. The slaveholders changed their minds ('turned

around') and pressed back ('took back') into service once again the male and female

Hebrew slaves they had released under the proclamation (Jer 34:11, 16), thereby breaking

their covenant commitment (Jer 34:18). What comes after is a series of prophetic

rebukes (Jer 34:12-22).

The historical circumstances of these events are dated to Nebuchadnezzar's siege

of Jerusalem in the ninth year of the reign of Zedekiah (2 Kgs 25:1; Jer 39:1, 52:4; Ezek

24:1-2) or 588 B.C.E. Most of Judah would have already fallen by the time of the

proclamation, Lachish and Azekah being the only fortified cities holding out resistance

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[1] This covenant ceremony follows Zedekiah's proclamation of a manumission as does the *'ămānāh*
agreement (Neh 9:38; 10) follows Nehemiah's reform (Neh 5:1-12).

beyond Jerusalem itself to the onslaught of the Babylonians (Jer 34:6).[2] Sarna[3] deduces

that much of the year would have elapsed since the beginning of the siege and places the

actual manumission towards the end of 588 B.C.E, possibly in December, the siege

having begun in January.

The lull in the siege and the revoking of the manumission was occasioned by the

entry of Egypt into the field of battle against the Babylonians. Jer 37:5-11 indicates that

the Babylonians withdrew their siege of Jerusalem to readdress the Egyptian threat, but

forecasts that Egypt's intervention was a false hope for Judah (Jer 37:9; Ezek 29:6-7).

The Babylonians would return to their siege of Jerusalem after defeating the Egyptians.

Using Ezek 29:1, Sarna[4] dates the Egyptian intervention to January 587, the tenth month

of the 10th year of Jehoiachin's exile. Ezek 30: 20-21 indicates that approximately three

months later, the Egyptian contingent was defeated. It is during these three months that

Sarna[5] reckons that the revoking of the manumission occurred. Countering Sarna's

proposals on the historical positioning of the manumission are Schenker's[6] ideas that the

manumission should be dated prior to the period of Jerusalem's siege (588-587 B.C.E).

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[2] Nahum Sarna, "Zedekiah's Emancipation of Slaves and the Sabbatical Year," in *Orient and Occident: Essays to Cyrus H. Gordon on the Occasion of his Sixty-fifth Birthday* (ed. Harry A. Hoffner, Jr.; Neukirchen-Vluyn: Neukirchener Verlag, 1973), 144.

[3] Ibid.

[4] Ibid.

[5] Ibid., 145.

[6] Adrian Schenker, "La liberazione degli schiavi a Gerusalemme secondo Ger 34, 8-22," *RB* 41 (1993): 457-458.

By way of comparatives, Cardellini[7] places the manumission in 590-589 B.C.E., while

Holladay[8] postulates dating it to the Feast of Weeks in the late spring of 588 B.C.E.

Schenker's thoughts on dating the manumission are in line with Kaufman's idea that the

use of the word *dᵉrôr* referred to royal decrees proclaimed by Israel's monarchs in their

regnal year.[9]

Literary Similarities to Deuteronomic Tradition

The text of Jer 34 bears textual similarities to Deut 15. The phrase

characteristically used in Deut 15 for manumission is תְּשַׁלְּחֶנּוּ חׇפְשִׁי (Deut 15:12, 13, 18;

cf. Jer 34:9, 10, 14 and 16). Jer 34:14 - אֲשֶׁר־יִמָּכֵר לְךָ - bears a literary semblance to

Deut 15:12 - [כִּי־] יִמָּכֵר לְךָ for expressing the means into servitude, where as Exod 21:2

states כִּי תִקְנֶה for a male slave, Exod 21:27 וְכִי־יִמְכֹּר אִישׁ אֶת־בִּתּוֹ in reference to a female

slave. Exod 21:26 restricts this formulaic phrase to a form of compensation for slaves

who are physically injured by their masters, and shows a preference for יֵצֵא לַחׇפְשִׁי (Exod

21:2, 5 and 3, 4, 7, 11 without reference to חׇפְשָׁ. Deut 15:12, 17 makes operative both

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[7] Innocenzo Cardellini, *Die biblischen "Sklaven"-Gesetze im Lichte des keilschrifltichen Sklavenrechts: Ein Beitrag zur Tradition, Überlieferung und Redaktion der alttestamentlichen Rechtstexte* (Bonner Biblische Beiträge 55; Bonn: Peter Hanstein, 1981), 319-321.

[8] Holladay, *Jeremiah: A Commentary Prophet Jeremiah, Chapters 26-52* (Minneapolis: Fortress Press, 1989), 239.

[9] Stephen A. Kaufman, "Reconstruction of the Social Welfare Systems in Ancient History," in *In the Shelter of Elyon: Essays on Ancient Palestinian Life and Literature in honor of G. W. Ahlstrom.* (ed. W. Boyd Barrick and John R; Sheffield: JSOT Press, 1984), 281; cf. Gregory C. Chirichigno, *Debt-Slavery in Israel and the Ancient Near East* (JSOTSup 141; Sheffield: JSOT Press, 1993), 317; Moshe Weinfeld, " 'Justice and Righteousness' in Ancient Israel Against the Background of 'Social Reforms' in the Ancient Near East," in *Mesopotamien und seine Nachbarn: politische und kulturelle Wechselbeziehungen im alten Vorderasien vom 4. bis 1. Jahrtausend v. Chr.* (ed. Hans Jörg Nissen and Johannes Renger; Berlin: Dietrich Reimer Verlag, 1982), 499.

sexes, male and female, among those who are to be freed, as does Jer 34:9, 10, 11, 16. Exod 21:3-4 sets stipulations for release circumscribed by notions of ownership and maintenance of estate (cf. Ez 46:17), being primarily that a male slave cannot leave service with a wife and the children she bore him if she was betrothed to a male slave by their master. Exod 21:7-11 delineates even further the details involved that can lead to the eventual release of a 'maidservant' without monetary compensation. Finally, Deut 15:12 attests that the Hebrew slave is a 'brother' (cf. Jer 34: 9,14, 17), a designation absent in Exod 21. These literary properties and their shared appearance in Jer 34 can support couching Jer 34 within the Deuteronomic tradition and thus places Zedekiah's proclamation in relationship to the legislative maneuvers of Deut 15.

Phillips sees the manumission of Jer 34 as having been interpreted by Deuteronomistic editors in the light of Deut 15 as evidenced by Jer 34:14, which conflates Deut 15:1 with Deut 15:12.[10] Phillips believes the LXX translator changed the reading (Jer [LXX] 41:14) to 'six years.'[11] In defense of the LXX, the motive clause of Deut 15:18 does suggest that the redactors understood that a release of a Hebrew slave was to occur whenever a full six years of service had been accomplished. Phillips notes that Exod 21:2-6 makes no reference to release at the termination of seven years of service; "it is this new fixed year of release, Phillips says, which the Deuteronomistic

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[10] Cf. Niels Peter Lemche, "The Manumission of Slaves - The Fallow Year - The Sabbatical Year - The Jobel Year," *VT* 26 (1976): 52.

[11] Anthony Phillips, "The Laws of Slavery: Exodus 21:2-11," JSOT 30 (1984): 65 no. 34.

editors now prescribe [that] shall conclude with a covenant renewal festival (Deut 31: 10f)"[12]

Sarna finds that Jer 34 and Deut 15 are seamless if viewed within the context of institutionalized debt slavery as indicated or alluded to in various text, including Lev 25: 35-39, 47-54; Exod 21:2; 2 Kg 4:1; Amos 2:6, 8:6; Is 50:1; and Neh 5:5.[13] Sarna makes several observations. The prophet uses an introductory *le'môr* accompanied by the use of the second person singular pronoun 'you' (Jer 34:14) to expound words identical in form to Deut 15:12 (לְךָ] וַעֲבָדְךָ שֵׁשׁ שָׁנִים), whereas the word order of Exod 21:2 (שֵׁשׁ שָׁנִים יַעֲבֹד) differs from Jer 34:14 in limiting a term of service to six years. There is also accord in wording between Jer 34: 9 (הָעִבְרִי וְהָעִבְרִיָּה) and Deut 15:12 (הָעִבְרִי אוֹ הָעִבְרִיָּה), while Exod 21:2 provides only for a עֶבֶד עִבְרִי, Jer 34:14 and Deut 15:1 indicate an exact usage of the phrase מִקֵּץ שֶׁבַע־שָׁנִים (cf. Deut 31:10).

Interpretations of Zedekiah's Manumission Edit

Use of *D^erôr* in Jer 34

Kessler's[14] understanding of Jer 34 as resting within the Deuteronomic tradition is evidenced where the prophet Jeremiah is portrayed as declaring that Zedekiah's proclamation is in accord with the Sinai covenant (Jer 34:13-14). Pertaining to Jer 34's

[12] Ibid., 58.

[13] Sarna, "Zedekiah's Emancipation," 146.

[14] Martin Kessler, "The Laws of Manumission in Jer 34," *BZ* 15 (1971): 105.

use of the Levitical דְּרוֹר *(dᵉrôr)* rather than Deuteronomy 15's שְׁמִטָּה *(šᵉmiṭṭâ)*, however,

Kessler[15] indicates that exact words are not a determiner of Deuteronomic influence, but

that the idea of *šᵉmiṭṭâ* ('remitting') is implied in Jer 34,[16] although the text designates its

manumission as *dᵉrôr* (Jer 34:8, 15, 17). Kessler finds credence in his understanding by

noting that the theological intention of Jer 34 and Deuteronomy 15 are in accord by virtue

of the use of the *berît* (Jer 34:8, 10, 13, 15, 18) and that the covenant was finalized in the

Temple before YHWH (Jer 34:15), where the *dᵉrôr* in Jer 34:13 and *šᵉmiṭṭâ* of Deut 15:

15 refer back to the Exodus typology of Israel's release from bondage. Kessler's

proposals accentuate the theological accord between Jer 34 and Duet 15, making the

manumission spoken of in Jeremiah go beyond appeasement of the deity, as suggested in

acts of *andurârum* in the law code of Lipit-Ishtar,[17] to be a ceremony of covenant renewal

between a people and their god, the offense of which (Jer 34:11) was a breach of a

solemn covenant between the people of Judah and YHWH (Jer 34:11). However, Jer 34

does not give indicators that the Temple-situated proclamation is to be definitively

understood as a permanent Deuteronomic remitting of exaction. If Pentateuchal

legislation is to be used as a comparative against which to make decisions about the

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[15] Ibid, 105.

[16] The idea of *šᵉmiṭṭâ* declared during a sabbatical year, Neufeld understands, was "partly absorbed by the Hebrews from current Semitic practice, probably from Mittanian Harran and partly sprung from the social and economic conditions of Israel. What, however, was absorbed was rearranged, reshaped and adjusted to fit into the pattern of Israel's conditions, its ethical conception and its general economic requirements [?]" (Edward Neufeld, "Socio-Economic Background of YŌBĒL and ŠᵉMIṬṬÂ," *RSO* 33 (1958): 57).

[17] Cf. Julius Lewy, "The Biblical Institution of Dᵉrôr in the Light of Akkadian Documents," in *Eretz-Israel: Archaeological, Historical and Geographical Studies* 5 (Jerusalem: Israel Exploration Society and the Hebrew University, 1958), 28.

proclamation of manumission in Jer 34, then the pragmatics of its rhetoric must be subject to scrutiny.

Lemche prefers understanding the word *derôr* as being borrowed from the Neo-Assyrian period, contemporaneous to Zedekiah (Jer 34:8) and other acts of release beyond this time frame, such as that recorded in Neh 5.[18] In line with the release set forth in Neh 5:1-13, Lemche understands Zedekiah's proclamation of manumission not as a reference to a Sabbatical or Yôbēl year, but corresponding to and dependent upon Neo-Assyrian edict practices of *durārum*.[19] Lemche's position creates tension between pre-exilic covenant-making, presumed to be Deuteronomic inspired, under Zedekiah (Jer 34:8) and Josiah (2 Kgs 23:3), and Otto's late pre-exilic Urdeuteronomium (cf. Appendix D) fashioned from Assyrian vassal treaties and molded into Judah's movement against Assyrian imperial dominion through a loyalty oath to YHWH (Deut 13:2-10) that curses all who violate covenanted loyalty (Deut.28:20-44).

Schenker[20] understands the use of the term *derôr* (Jer 34:8, 15) in the accompaniment of the *berît* to be a pointer to former events associated with the period of the Exodus from Egypt (Jer 34:13; Jer [LXX] 41:12), specifically: the allusion to a six-year limit for a Hebrew's term of debt servitude prescribed in Schenker's pre-exilic dating of Deut 15:12 (cf. Jer 34:14; Jer (LXX) 41:14); and Schenker's own view of Jer (LXX) 41:18 as indicative of the covenant breaking as recorded in the incident of the golden calf

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[18] Niels Peter Lemche, "Andurarum and Misarum: Comments on the Problem of Social Edicts and Their Application in the Ancient Near East," *JNES* 38 (1979): 22; cf. Weinfeld, "Justice and Righteousness," 499-504.

[19] Lemche, "Manumission of Slaves," 56.

[20] Schenker, "La liberazione," 454-458.

in Exod 32. These aspects, according to Schenker, suggest that Jer 34:8-22 envisaged

restoring a commandment for imposing a six-year limit on debt servitude. For Schenker,

it is unlikely that this restoration took place during the last years of Zedekiah's reign

while Jerusalem was under siege. Therefore, he suggests an alternative scenario

involving Judah's misfortunes as Nebuchadnezzar moves against Jerusalem as described

in 2 Kgs 24:10-17, dated to 598 B.C.E. Specifically, Schenker proposes that with

Jehoiachin's deportation and Zedekiah's accession to the throne, Zedekiah's proclamation

was meant to restore social order and to placate YHWH's wrath. Schenker's suppositions

are as follows. Because the practice of manumission had been neglected before the

proclamation, there would have been slaves whose liberation was long overdue, and

would have been released as the law of Deuteronomy came into force. Zedekiah's move,

however, was thwarted. Many holders of debt refused to comply, leading to a violation

of covenant equatable with the idolatry indicated in Exod 32 because, Schenker suggests,

large numbers of Hebrew debt slaves had not worked off their debts even after six years.

Such a breach of covenant, Schenker notes, is only to be expected if debt slavery had

become part of the social and economic fabric of that period. Schenker proposes that if

the underpinnings of the society had been built on debt slave labor, the enactment of Deut

15:12 would have directly impacted primary modes of production and consequently the

livelihood of slaveholders. Hence the enactment of a lapsed or long overdue legislated

release of debt slaves may not have effected desirable social change within the echelon of

the society whose welfare was directly derived from such labor.

Derôr as Limited Release

Schenker's[21] invocation of Deut 15:12 underlies his supposition of the use of the

term *dᵉrôr* as indicative of a periodical release. If *dᵉrôr* indicates a periodic release, its

expression could be understood as either a general or particular, limited, release.

Schenker's social analysis of Jer 34 indicates his propensity toward understanding

Zedekiah's proclamation as having been a general manumission, inclusive of all debt

slaves who had completed their six-year servitude and those who had not. However,

Schenker's economic analysis of the impact of a general manumission on the society's

modes of production lends itself to interpreting the slaveholders as having understood the

proclamation and the covenant they entered into as particular, limiting manumission only

to those who had completed their six-year term. Hence, Schenker deduces, slaveholders

were unwilling to release those slaves who had not completed their term of service.

Schenker's deduction concerning the particularism of Zedekiah's manumission may be

reasonably related to Exod 21:2, which does not regulate a collective form of

manumission, but individual cases. Lemche[22] understands the manumission of Deut

15:12-18 as also referencing individual manumission because he does not conclude that

the reference to a seventh-year release in Exod 21:2 is dependent on institutionalized

cycles of a Sabbatical year. Lemche's argument for individual-based manumission is by

logical extension made applicable to Zedekiah's manumission, when Lemche indicates

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[21] Ibid., 454.

[22] Niels Peter Lemche, "The Hebrew and the Seven Year Cycle," *BN* 25 (1984): 70.

that Exod 21:2 is the "original source of the law of Sabbath [release] in Deut 15 and of

the Deuteronomistic version of the edict of Zedekiah in Jer 34."[23]

Derôr as General Release

Schenker and Lemche's particularized understanding of Zedekiah's proclamation

of manumission counter what is otherwise understood in some scholarship as having

been a general release. David[24] points out that the law expressed in Jer 34:14 and the

expression of its infringement in Jer 34:17 – "you have not obeyed me by proclaiming

liberty, every one to his brother and to his neighbor" (RSV) – can only reference

Zedekiah's proclaimed manumission if it is not an individual release – that is, not limited

to the circumstances of each debt slave after his/her term of service of six years, but

occasioned by general and simultaneous manumission for all slaves. Sarna proposes

seeing the particularism of the Deuteronomic legislation, limiting debt servitude to a term

of six years, and a more or less general manumission of all Hebrew slaves. Because

insolvency would have represented the primary cause of debt slavery, Sarna does not

understand the connection to Deut 15 to be a secondary emendation, but a "natural and

logical nexus" that would have led to the manumission of a major portion of Judah's

slave population.[25] For Bright,[26] there is no ambiguity, a general manumission is to be

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[23] Ibid., 71.

[24] Martin David, "Manumission of Slaves under Zedekiah: A Contribution to the Laws About Hebrew Slaves," *Oudtestamentische Studiën* 5 (1948): 75.

[25] Sarna, "Zedekiah's Emancipation", 148.

[26] John Bright, *Jeremiah* (AB 21; Garden City: Doubleday, 1965), 223-224.

understood because of the sudden implementation of a long neglected law.[27] Bright, not

understanding inferences to the law of Deuteronomy to be secondary emendations to the

text, as Lemche[28] does, sees that many a Hebrew slave's release would have been long

overdue. Bright's assessment corresponds with that of Fried and Freedman,[29] indicating

the manumission to have been "universal" and arguing that the manumission should be

understood as having occurred in 588-587 B.C.E, a Jubilee year. Chavel[30] precludes any

relationship in use of the term *dᵉrôr* in Jer 34 as an allusion to the Jubilee law of Lev 25;

but Lundbom[31] understands Zedekiah's proclamation as a universal Jubilee year release,

in alignment with Freedman's assessment[32] that the manumission was meant to remedy a

lapse in regard to the Sabbatical release law of Deuteronomy.

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[27] As Neufeld observes, the *šᵉmiṭṭâ* and yōbēl as institutions "appear in the Bible not as nascent but rather as dying institutions. . . because of negligence or impediments, they had almost disappeared at a fairly early stage . . . The evidence which we do possess, however, points to attempts at reviving them and to the period when strong endeavours were made to reintroduce and to reestablish them." ("Socio-Economic Background," 58).

[28] Lemche, "Manumission of Slaves," 51-53.

[29] Lisbeth S. Fried and David Noel Freedman, "Was the Jubilee Year Observed in Preexilic Judah?," in *Leviticus 23-27* (ed. Jacob Milgrom; AB 3B; New York: Doubleday, 2001), 2257-2259.

[30] Simeon Chavel, " 'Let My People Go!' Emancipation, Revelation, and Scribal Activity in Jeremiah 34. 8-14." *JSOT* 76 (1997): 75 n. 12.

[31] Jack R. Lundbom, *Jeremiah 21-36* (AB 21b; New York: Doubleday, 2004), 561.

[32] David Noel Freedman, "Editing the Editors: Translation and Elucidation of the Text of the Bible," in *Palimpset: Editorial Theory in the Humanities* (ed. G. Bornstein and R. G. Williams. Ann Arbor: University of Michigan Press, 1993), 251-252.

D^{e}rôr as a Non-Pentateuchal *Andurârum*

Kennett[33] also notes that Jer 34:8, 15 and 17 do not employ the Deuteronomic term שְׁמִטָּה *(š^{e}miṭṭâ)* for referencing manumission (Deut 15:1, 2, 3, 9; 31:10), but uses the word דְּרוֹר *(d^{e}rôr)* indicated in the Holiness Code (Lev 25:10). However, Lev 25:10 implies 'liberty' within the context of sabbatical laws leading to the legislating of the year of Jubilee in the fiftieth year using a system of seven sabbatical years counting from the time that Israel entered Canaan (Lev 25:1). The year of Jubilee is understood within the context of a series of Sabbath 'rests' for the land, male and female slaves, hired servants, even for sojourners in Israel (Lev 25:6). At the Jubilee year, 'liberty' was to be proclaimed as a mandated 'rest' from working the land, including the cessation of working the land for those participating in a system of land leasing, hired labor, and debt bondage where leases and contracts would expire and labors/debtor returned to their families and their own or paternal property (Lev 25:10, 13, 28). For instance, Ezek 46:17 coheres with Lev 24:28, 39-41 by indicating that any gift of property made from the property of a debtor was able to be used by the debt holder only until the time of liberty, after which any gift of property must return to the estate of the debtor. These added dimensions are not expressly present in Jer 34. More profoundly, the liberty referenced in Lev 25:10 is directly associated with the concept of a fiftieth year Jubilee, emanating from a cycle of seven sabbatical years, each containing six-year terms of work with a septennial liberation of the distrained persons and their immovable property. Jer 34

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[33] R. H. Kennett, "The Date of Deuteronomy," *JTS* 7 (1906): 485.

contains no expressed reference to the Levitical Jubilee legislation. Hence, Lewy[34]

proposes that Zedekiah's proclamation of $d^e r \hat{o} r$ is better understood as a non-Pentateuchal

andurârum with no set or predictable timetable, and hence differing significantly from

the Jubilee legislation of Leviticus.[35] In line with Lewy's thinking, Lemche[36] notes that

although Zedekiah's proclamation of manumission can probably be attributed to military

needs for increasing the available manpower while Jerusalem was under siege, he is not

able to find parallels to this manumission in the Ancient Near East. Hence, Lemche

reasons that the Deuteronomists interpreted Zedekiah's proclamation of manumission as

unique, "which in their opinion, was motivated by the slave law" of Exod 21 and Deut

15. But in their adaptation of Jer 34:8-22, "the Deuteronomists were unable to refer to

any precedents, not to speak of a regular practice that might have resulted in the issue of

royal laws of this intention at regular intervals."[37]

     Exod 20:24-22:26, inclusive of the manumission legislation in Exod 21:1-6, was

redacted, Otto believes, into a unit of material by an editor of the Jerusalem priesthood

sometime during the late pre-exilic period and reflects the redactor's interest in vulnerable

members of the society.[38] Otto's thoughts on the Covenant Code are part of his broader

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[34] Lewy, "Biblical Institution," 29-30.

[35] Cf. Chavel, "Emancipation," 75; Robert P. Carroll, Robert P. *Jeremiah: A* Commentary (London: SCM Press, 1986), 644).

[36] Lemche, "Manumission of Slaves," 51 no. 37.

[37] Ibid., 53.

[38] Eckart Otto, *Wandel der Rechtsbegründungen in der Gesellschaftsgeschichte des antiken Israel. Eine Rechtsgeschichte des "Bundesbuches" Ex XX 22 – XXIII 13* (Studia Biblica 3; Leiden: E. J. Brill, 1988), 12-44.

understanding of Israel's earliest stages of legal workings being compartmentalized

jurisdictions, where a court of elders arbitrated social and familial conflicts. Growing in

influence, this court of elders, Otto discerns, began to supplement forms of restitution

with compensatory sanctions for the violation of social norms. Otto's contention is that

the Covenant Code was then later edited into the Sinai narrative of the Exodus tradition

by a Deuteronomistic redactor (Dtr) in the early post-exilic period. Hence, Otto is at

odds with scholars who understand the Covenant Code's version of treatment of a

Hebrew slave and debt release (Exod 21:2-11) being an exilic-derived qualification of D.

Otto's late pre-exilic Deuteronomy (Urdeuteronomium) with its loyalty oath to YHWH

(Deut 13:2-10; 28:20-44) is, in his view, a restructuring of the Covenant Code. Deut 5,

specifically, is framed in Mosaic discourse on Mount Horeb (Deut 5:9-10), being an

interpretation of the Sinai covenant, so that the covenant would remain valid. Otto's

understanding sustains his position that his Urdeuteronomium, particularly its social and

economic ethics, *Brüderethos*, was Judah's response to the Assyrian threat (see

Appendix D).

     Otto's thinking on the dating of the Covenant Code is challenged. Van Seters

challenges conventional understandings of the relationship between Pentateuchal law

codes and the manumission of Jer 34.[39] Van Seters argues that the Covenant Code (Exod

20:22-23:20-33) is not only later than, but borrows material from both the Deuteronomic

and Holiness Codes, and Mesopotamian legal traditions. Having had no existence before

its incorporation into the Pentateuch, Van Seters argues that the Covenant Code was

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[39] John Van Seters, "The Law of the Hebrew Slave," Z*AW* 108 (1996): 535, 544.

composed by a Yahwist ('J') author writing in the Exile. The Covenant Code, then, he maintains is an exilic document designed to address a Jewish community in Diaspora in Babylon. More importantly, Van Seters understands the manumission outlined in Exod 21:2-6 as not dealing with the purchase of a free Hebrew into debt servitude by a Hebrew, but by a foreigner.

Although Otto disagrees with Van Seters' understanding,[40] Levinson also understands the Covenant Code's slave law from Exod 21:3 onward as dealing with the purchase of foreign, not Hebrew slaves, where the male slave law of the Code governs non-Hebrew slaves, and permanent indenture (Exod 21:6) is applicable only to foreigners.[41] Phillips also sees Exod 21:2 as a male slave law, but extends his vision to Exod 21:3-6 as pertaining only to Hebrew male slaves, how else, Phillips exclaims, can one explain "the present position of the law of slavery (Exod 21: 2-11) at the head of the Book of the Covenant, and explains why this law . . . remained of interest to the Deuteronomists."[42] But, Lemche,[43] arguing that use of the word *'ibrî* is gentilic, not appellative, understands the Exod 21:2 legislation to be applicable to Hebrew slaves of a particular client status, with the text making no specific reference to economic plight as the reason for the legislated release.[44]

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[40] Eckart Otto, review of John Van Seters, *A Law Book for the Diaspora: Revision in the Study of the Covenant Code, RBL* (July 2004): 3.

[41] Bernard Levinson, "The Birth of the Lemma: the Restrictive Reinterpretation of the Covenant Code's Manumission Law by the Holiness Code (Leviticus 25:44-46)" *JBL* 124 (2005): 621-622).

[42] Phillips, "Laws of Slavery," 61.

[43] Lemche, "Seven Year Cycle," 72 no. 28 and 31.

[44] Ibid., 65 no. 5; Niels Peter Lemche, "The 'Hebrew Slave,' Comments on the Slave Law Ex. XXI 2-22," *VT* 25 (1975): 138.

Jackson, also of the persuasion that *'ibrî* is gentilic, counters Lemche to indicate

that the provisions set by Exod 21 are indeed a referent to debt-induced slavery. [45]

Jackson understands the editors of Jer 34 and Deut 15 to have picked up on this

economic-related referent, having similitude to Hammurabi's call for the release of wives,

sons and daughters after their fourth year of service who were sold into servitude to pay

off debts (LH 117). Indeed, Lemche implies that there is no doubt that the manumission

of Jer 34 must be a "Deuteronomistic adaption," where he understands the use of *'ibrî* in

Jer 34:9 to be a gloss, having been used because of its connection to the Deuteronomic

legislation. Coinciding with Lemche's assessment is that of Lipinski, arguing that *'ibrî*

be understood as gentilic as a result of its use in contexts when emphasizing a servile

status of the Israelites. Lipinski concludes that a Hebrew slave was an Israelite of low

social status who had become a slave, mediating between the position of persons who

could not be reduced to slavery (*'îš)* and foreigners who could be made subject to the

conditions of slavery for the duration of their lives.[46]

Chavel[47] has sought to mediate between the text and history, analyzing and

distinguishing what he believes to be scribal activity that interpolates, conflates and

realigns the text to conform to Pentateuchal legalistic formulations regarding debt

slavery. This scribal activity invokes a different authority than the king. It invokes

YHWH as revealer and author of the *derôr*. Additionally, the scribal activity that creates

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[45] Bernard S. Jackson, "Biblical Laws of Slavery: a Comparative Approach,"in *Slavery and Other Forms of Unfree Labour* (ed. Léonie Archer. London: Routledge, 1988), 92.

[46] Edouard Lipinski, "L' Esclave Hébreu," *VT* 26 (1976): 120-123.

[47] Chavel, "Emancipation," 85.

an efficacy with Deuteronomy 15 by re-ordering words and adjusting syntax not only

hybridizes the text of Jeremiah 34, but creates pressure on the Deuteronomic legislation

by imposing extra standards that conjure up ideas of social equality. By conflating the

terminology and syntax of Zedekiah's proclamation of a *dᵉrôr* with that of Deut 15:2,

scribal editing imposes an inherent understanding of equality in social status among all

Hebrew brethren.[48] But, Japhet[49] notes that while to speak of one's 'brother' (אָח) carries

an emotional appeal in Deut 15:12, its legal significance in Jer 34:14 supersedes the

text's indicator of Zedekiah's use of the terms 'slave' and 'maidservant' in Jer 34:9,10,16.

The foregoing observations are meant to suggest that the proclamation of

manumission in Jer 34 is not to be understood as having satisfied any set of Pentateuchal

requirements for manumission. Sarna's[50] observations of stylistic similarities between Jer

34 and Deut 15 can be explained, as Weinfeld indicates, as a stylistic development

characterizing the writings of the Deuteronomistic school in the book of Jeremiah.

Weinfeld observes[51] that the editors of Jer 34 interpreted Zedekiah's proclamation as

based on Deuteronomy's law with the Covenant Code as a contingency. Specifically, the

writer entwines Deut 15:12 (Exod 21:22), the Sabbatical release of the Hebrew slave,

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[48] Perhaps this is why Greenberg saw a kind of democratization in biblical law, what he termed a "tendency to equalize resources among citizenry"(cf. chapter 3), Greenberg, "Biblical Attitudes Toward Power," 109.

[49] Sara Japhet, "The Relationship Between the Legal Corpora in the Pentateuch in Light of manumission Laws," in *Studies in Bible* (Scripta Herosolymitana 31; Jerusalem: Magnes Press, the Hebrew University, 1986), 80-81.

[50] Sarna, "Zedekiah's Emancipation," 146.

[51] Moshe Weinfeld, "Sabbatical Year and the Jubilee in the Pentateuchal Laws and their Ancient Near Eastern Background," *in The Law in the Bible and in its Environment* (ed. Timo Veijola; Helsinki: The Finnish Exegetical Society/Göttingen: Vandenhoeck & Ruprecht, 1990), 41.

with remissions of debt in Deut 15:1-3.[52] Additionally, Otto[53] has reservations whether

the act of manumission in Jer 34 is an expression of the realization of the program in

Deut 15 or is indeed a tradition independent of it based on reception of Syrian

Mesopotamian practices of restitution. The starting point of his argument is that Deut

15:1, 12 quoted in Jer 34:14 is the "Kernaussage" - core statement - of the sermon in Jer

34:12-22; it is not the "Kernaussage" of the report of slave-release in Jer 34:8-11,

specifically v. 9. Indeed, the tension in Jer 34:14 between a six-year service and a release

after seven years, Otto proposes, is the result of an exegetical conflation of Deut 15:1

with Deut 15:12. The conflation creates a contextual connection of slave-release with

that of a debt mandate in a *šᵉmiṭṭâ* year, removing any ambiguity of interpretation of

Deut 15:12-18. This conflation signals scribal interest, so that Otto indicates, Jer 34:12-

22 is a late appendage to 34:8-11.

   According to Volz,[54] however, the literary relationship between Jer 34 and

Deuteronomy was brought on by the prophet Jeremiah's citation of Deut 15:12 because of

a remote similarity between the legislative and historical events of the prophet's time and

those of Exod 21 and Deut 15. But by referencing the legal provisions of Exodus and

Deuteronomy, the writer/editor of Jer 34 effectively removes a reader from the immediate

circumstances of a siege against the city as the primary *proprium* for Zedekiah's

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[52] Ibid.

[53] Eckart Otto, "Soziale Restitution und Vertragsrecht; 'misaru(m),' '(an)-duraru(m),' 'kirenzi,' 'para tarnumar,' 'semitta' und 'derôr' in Mesopotamien, Syrien, in der Hebräischen Bibel und die Frage des Rechtstransfers im Alten Orient," *RA* 92 (1998): 155.

[54] Paul Volz, *Der Prophet Jeremiah* (KAT 10; Repr. Leipzig: Deichertsche Verlagsbuchhandlung Scholl, 1928), 319 no. 1.

proclamation of manumission.[55] The proclamation of manumission resides within the

providence of Zedekiah's own authority as king of Judah.   The text does not portray

Zedekiah as making reference to YHWH or any Pentateuchal legislation indicative of

Exod 21, Lev 25 or Deut 15. Hence, such derived statements containing qualifiers

as אִישׁ בְּאָחִיהוּ בִיהוּדִי עֶבֶד־בָּם לְבִלְתִּי   . . .   אִישׁ (Jer 34:10) may indeed be secondarily

interpolated motivational clauses.[56] Without such interpolations, emphasis rests on the

specific historical circumstances as having motivated Zedekiah's proclamation rather than

any dependency upon Pentateuchal injunctions of cyclical release of personages or debts.

Hence, Chavel[57] indicates there is no need to seek to place Zedekiah's proclamation

within the confines of a $š^e$*miṭṭâ* year, as does Sarna.[58] As Holladay[59] notes, Zedekiah's

proclamation of manumission does not directly reflect "any single extant formulation of

law." Also, there is Weinfeld's understanding that the manumission should not be

associated with any particular biblical legislation, either Sabbatical or Jubilee-related, but

be thought of as movement toward the complete abolition of forms of slavery. This line

of thought, however, does not seem to be reflective of the text's authorial or redactional

intent.[60]

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[55] Cf. Weinfeld, "Sabbatical Year," 41.

[56] Cf. Chavel, "Emancipation," 74; Weinfeld, "Sabbatical Year," 42 no. 11.

[57] Chavel, "Emancipation," 75.

[58] Sarna, "Zedekiah's Emancipation," 146.

[59] Holladay, *Jeremiah, Chapters 26-52,* 238.

[60] Weinfeld, "Sabbatical Year, " 41-42 n. 10.

Zedekiah's *Dᵉrôr* as a *Mišarum A*ct

Strictly examining the manumission of Jer 34 within the confines Pentateuchal

legislation offsets exploring the practical implication of the manumission within its

implied historical circumstances. Thus, it may be more useful to view Zedekiah's

proclamation of manumission within the confines of Kraus' survey of the late Old

Babylonian Ammisaduqa Edict[61] as an act of *mišarum* ('justice') with particular attention

to the edict's relationship to the Crown in the economic sphere of private credit and loans

for implications that lend themselves to the economic ramifications of an act of

manumission within the implied historical circumstances of Jer 34. Lemche[62] indicates

that "*mišarum* apparently was not used of social edicts after the Old Babylonian period,

hence Lemche see that "we have no evidence of *mišarum* used in the special sense of

royal decree."[63]   But, as noted by Weinfeld, the manumission of Jer 34 occurs at the

express command of Zedekiah. The *dᵉrôr* (Jer 34:8, 15 , 17), however, is portrayed as

proclaimed during a time of siege rather than at the time of a king's ascension to the

throne as indicated in Babylonian sources. Nevertheless, Weinfeld[64] understands

Zedekiah's proclamation within the light of Babylonian kings' acts of *mišarum* at the time

of their ascension, seemingly to create a sense of solidarity among the people.

Specifically, he understands Zedekiah's proclamation as an act that increases the ranks of

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[61] Fritz Rudolf Kraus, *Ein Edikt des Königs Ammi-ṣaduqa von Babylon* (Studis et Documenta ad Iura Orientis antiqua pertinentia 5; Leiden: E. J. Brill, 1958).

[62] Lemche, "Manumission of Slaves," 41.

[63] Lemche, "Andurarum and Misarum,"14.

[64] Weinfeld, "Sabbatical Year," 39.

the army with persons liberated from debt servitude for the express purpose of mobilizing

the citizenry to meet the conditions of Jerusalem under siege[65]. Charpin[66] points to slaves

released in a time of national crisis or emergency documented in a Mari Letter (XXVI

363), dated to 1765/4, referencing a general manumission of merchants and slaves by

Hammurabi for the purpose of reinforcing his army.[67] Within the Mari text, however, the

reason for the release is directly related the king's mobilization for war. In Jer 34

Zedekiah is not portrayed as preparing an offense, but if anything is in a defensive mode

being already under siege. Given that the proclamation called for the release of women

who would not have directly served to reinforce the military's ranks, additional

motivation for Zedekiah's proclamation may be theorized.[68] Duhm[69] and Volz[70] attribute

a rather cynical motive to the slaveholders' release, and hence by inference to Zedekiah

proclamation, of their Hebrew debt slaves for lack of wanting to feed or provide care for

them during the siege. This study, however, argues that the nature and purpose of

Zedekiah's proclamation may be better understood in the light of Kraus' analysis of

sections of the Ammisaduqa Edict where a *mišarum* act is expressly ordained because the

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[65] Cf. David, "Manumission," 63; Moshé Anbar, "La libération des esclaves en temps de guerre: Jer 34 et ARM XXVI.363," *ZAW* 111 (1999): 255.

[66] Dominique Charpin, et al., *Archives épistolaires de Mari 1/2* (ARM 26; Paris: Éditions Recherche sur les Civilisations, 1988), 164-165.

[67] Cf. Anbar, "La libération," 253-255.

[68] Cf. Chavel, "Emancipation," 71.

[69] Bernhard Duhm, *Das Buch Jeremia* (Kurzer Hand-commentar zum Alten Testament 11; Tübingen and Leipzig: J.C.B. Mohr [P. Siebeck], 1901), 279.

[70] Volz, *Der Prophet,* 317.

king ordained it for the land.[71] That is the act of *mišarum* is limited to the perception of

an act of justice that presupposes the realm and function of the king. Kraus determined

that the particular provision of the *mišarum* clauses in the Ammisaduqa Edict were meant

to be in effect and to affect immediate circumstances at the time of their pronouncement

and that the force of the act of *mišarum* essentially lapsed after a specific period of time.

In a strict sense then, a *mišarum* declared by the king contained limited measures to be

enacted to restore stability in the economic sphere of the society by effecting types of

economic obligations, but ceased to have force after some period of time. Given this

understanding, royal proclamations of *mišarum* were not a lasting enactment of reforms

to correct systematic practices or performances of injustices in the economic working of

the society. When made applicable to Jer 34, this may demonstrate that the holders of

material and pledged debt obligations did not misinterpret the lull in the siege of

Jerusalem (34:21-22) as an opportunity to press back into service their former Hebrew

debt slaves, but indeed understood Zedekiah's proclamation of *deֽrôr* as being in effect

only for the period of the siege, and that the king's covenant (Jer 34:8) with the people

and their temporary compliance with that covenant (Jer 34:10, 11) was not a fulfillment

of any Pentateuchal requirements premised on divine injunction. Hence, contrary to

Weinfeld's[72] understanding of Jer 34:9, 10 as indicative of a complete abolition of debt

slavery, the original force of Zedekiah's proclamation was not towards a permanent and

irrevocable manumission,[73] but a contextually specific royal proclamation based upon a

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[71] Kraus, *Ein Edikt des Königs*, 183.

[72] Weinfeld, "Sabbatical Year," 41-42.

[73] Cf. Chavel, "Emancipation," 81.

situation of crisis, the crisis having been not the Babylonian invasion of Judah or siege of Jerusalem, but of Judah's centralized economy[74] undergoing accelerated collapse as a result of the Babylonian assaults.

When understood as a contextualized act of *mišarum*, Zedekiah's proclamation is a strategic move by the Crown to remit within a specified period of time under specific conditions of economic uncertainty certain obligations or indebtedness. Although Zedekiah's proclamation could have envisioned or eventually effect a permanent change in practices and the economic status of certain individuals, such an ambitious ideal can be understood as not having constituted the vital part of the proclamation.

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[74] Pre-exilic Judah's contrived land tenure system of centralized economics was primarily achieved through processes associated with latifundia into what Chaney calls a command economy (Marvin Chaney, "Systematic Study of the Israelite Monarchy" *Semeia* 37 (1986): 74; cf. idem, "Bitter Bounty The Dynamics of Political Economy Critiqued by the Eighth-Century Prophets," in *The Bible and Liberation Political and Social Hermeneutics* (eds. Norman K. Gottwald and Richard A. Horsley; Maryknoll: Orbis Books, 1993). The configuration of large estates enabled an urban elite to dictate market resources, complementing monarchial pursuits for income and sustenance of trade initiatives. Laborers were either forced to live at absolute minimal subsistence levels or were compelled to forfeit their land, family members or themselves in exchange for high interest loans needed to purchase goods and services (ibid., 258; cf. Chirichigno, *Debt-Slavery,* 140; Eric R. Wolf, *Peasants* (Foundations of Modern Anthropology; Englewood Cliffs: Prentice-Hall, 1966), 55.

ZEDEKIAH'S MANUMISSION EDICT AS A *GÔLÂ* LITERARY PROJECTION

Hoffman understands the polemic over King Zedekiah, particularly the manumission, with it Deuteronomic overtones, attributed to the king, to be a literary projection that should be read forward against the texts of Ezra-Nehemiah.[1] Redactions in the book of Jeremiah that create interpretative tensions around the portrayal of Zedekiah's manumission (*derôr*) are here discussed to illustrate and distinguish conflicting group dynamics achieved through scribal processes and redactional intentions. This study argued (see Appendix B) that these editorial maneuvers acted to couch what was determined to be a non-Pentateuchal-related, *mišarum*-act of manumission (*derôr*) within a conflation of Pentateuchal traditions. Here it is argued that the redactional activity surrounding Zedekiah's manumission was subject to the over reaching vision and activity of tradents in the Babylonian Diaspora, resulting in a Jeremanic text exhibiting a 'politic' of manumission embedded in ideological dimensions of group conflict. More importantly, it is proposed that this 'polemic' spilled over, fashioning and embedding Nehemiah's debt release in *contours* of Deuteronomic-associated debt release and conflict among 'brethren.'

The differences between the LXX and the MT's witness of Zedekiah's proclamation of manumission can serve as an illustration of scribal processes having

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[1] Yair Hoffman, "The Law as a Literary Shaping Device: The Law of Manumission and the Story in Jer 34:8-22," *Beit Mikra* 168 (2001): 2-10.

redactional projection. Jer (LXX) 41:5[2] foretells that Zedekiah would die in peace and receive a befitting burial for his position (cf. Jer 34:4-5),[3] whereas, Jer (LXX) 52:10-11 (cf. Jer 39:6-7) indicates the king's sons were slain before his eyes, the king's own eyes being put out before being exiled to Babylon where he remained in prison until his death. Thiel[4] proposes that redactors of the LXX needed to harmonize these texts to provide an explanation for the tragic end of Zedekiah. Wijesinghe[5] envisages redactors editing the texts to include a proclamation of *dᵉrôr*, a covenanted and royal act of *mišarum* that went wrong for Zedekiah, making Zedekiah in perpetuity responsible for a transgression of covenant. Contrary to what was foretold in Jer (LXX) 41:5, Zedekiah's hapless end is explained away as a consequence of a breach of covenant ratified before Yahweh. Hence, Wijesingh[6] understands the redactional motives of Jer (LXX) 41:8-22, 21-22 as

[2] Unlike Jer 34:4-5 (MT), the phrase 'you shall not die by the sword' does not appear in Jer (LXX). The presence of the phrase in the MT heightens the dissonance between Jer 34:20-21 and Jer 21:7, helping to preserve a polemic over Zedekiah's fate, while its absence in the LXX lessens this particular tension. The redacted presence of the phrase in the MT can be interpreted as belonging to the broader level of redaction that shapes the polemic over Zedekiah's fate and that of the remaining inhabitants of Judah.

[3] Carroll, however, suggests that Jer 34:4-5 is not a prediction but a typical prophetic assurance of a virtuous death, the reverse of which can be found (Robert P. Carroll, *From Chaos to Covenant: Prophesy in the Book of Jeremiah* (New York: Crossroad, 1981), 145-146.; cf. Herbert G. May, "Towards an Objective Approach to the Book of Jeremiah: The Biographer," *JBL* 61 [1942]: 220 n. 13). Indeed, Jer 34:4-5 is similar to the oracle of Huldah the prophetess to Josiah in 2 Kings 22:18-20. Applegate prefers to understand Jer 34:5 as a qualified promise that Zedekiah would die in peace rather than being an ironic or even sarcastic use of *šâlôm* (John Applegate, "The Fate of Zedekiah: Redactional Debate in the Book of Jeremiah – Part I," *VT* 48 [1998]:152). Finally, see Koch's work (Klaus Koch, *The Growth of the Biblical Tradition: The Form-Critical Method*. [trans. S. M. Cupitt; 2nd ed.; New York: Scribner, 1969], 207-208) for his understanding of the chiasmus structure of the *Heilsorakel* (Jer 34:4-5).

[4] Winfried Thiel, *Die deuteronomistische Redaktion von Jeremia 26-45. Mit einer Gesamtbeurteilung der deuteronomistischen Redaktion des Buches Jeremia* (Wissenschaftliche Monographien zum Alten und Neuen Testament 52; Neukirchen-Vluyn: Neukirchener Verlag, 1981), 43.

[5] Shirley Lal Gregory Wijesinghe, "Tracing the Shorter Version Behind the Short Text (LXX): A New Approach to the Redaction of Jeremiah 34:8-22," *Le Muséon* 110 (1997): 327.

[6] Ibid., 328.

primarily reducing contradictions between Jer 41:1-7 (LXX) and Jer (LXX) 52:1-9 by

justifying the destiny of Zedekiah, and providing an explanation for the exile of the

inhabitants of Judah. He posits that the historical background of these narrated events in

his reconstruction of the LXX V*orlage* could be the Deuteronomic Josian reforms.

Wijesinghe[7] proposes seeing Jer (LXX *Vorlage*) 41:8-12, 21-22 as redacted, and

as such there being no firm reason for associating the events surrounding Zedekiah's

proclamation of manumission as narrated in the shorter text of the LXX as forming the

historical background to Zedekiah's reign or even the Babylonian offenses of 587 or

588/587. Wijesinghe, instead, invites seeing the Deuteronomic reforms attributed to

Josiah as the events envisioned behind a redacted portrayal of a renewed performance of

a neglected seven-year precept for debt servitude drawn from Deut 15:12. According to

Wijesinghe, a redacted Deuteronomic-related manumission in Jer (LXX) 41:14 is

plausible. Wijesinghe posits Josian reform as the historical background for a

reconstructed *Vorlage* where a semblance of Deuteronomic law cited in Jer (LXX

Vorlage) 41:14, and a Deuteronomic covenant made in the Temple (Jer LXX *Vorlage*

41:15), invite references to Josian reforms, envisioning an end to idolatry (cf. 2 Kgs 23:

1-20) and perhaps a manumission as indicated in Deut 15:12.[8]   Indeed, Wijesinghe's

proposal is not unrelated to de Wette's nineteenth-century argument[9] for pre-exilic dating

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[7] Ibid., 324.

[8] Cf. Stephen A. Kaufman, "Reconstruction of the Social Welfare Systems," 282.

[9] W. M. L. de Wette, *Dissertatio critico-exegetica, qua Deuteronomium a prioribus Pentateuchi libris diversum*, (Jena, 1805; repr. "Dissertatio critica, qua a prioribus Deuteronomium Pentateuchi libris diversum alius cuiusdam recentioris auctoris opus esse monstratur" in *Opuscula Theologica* [Berlin: Reimer, 1830]):149-168.

of Deuteronomy and connections with Josian reforms linked to dependency upon the report of reforms in 2 Kgs 22-23.

It can be reasoned that the implementation of provisions for the remitting of debt obligations would have had some real force in the social and economic life of the community contemporary with Josiah or Zedekiah, even if such provisions were temporary. Moreover, a pronouncement of *dᵉrôr* (Jer 34:8, 15, 17) or *šᵉmiṭṭâ* (Deut 15:1, 2, 9; 31:10) would possibly have enhanced the public image of a king and invoked divine authority. But if Jer (LXX) 41:8-12, 21-22 and Jer 34:8-11, 21-22 are redactional, references to the reign of Zedekiah and the Babylonian army need not be regarded as historically grounded even in retrojection to Josian reforms apart from imposed theological configurations on the texts.

Schenker's[10] study of Jer 34:8-22 (Jer [LXX] 41) treats the MT and the LXX text as separate redactions and is important because it points to a difference in redacted theological orientation. Schenker observes that Jer 34:8-10 presents the covenant sealing the manumission as a religious occasion, but Jer (LXX) 41:15-16 presents the same as a secular event. Schenker then turns to pay particular attention to the occurrence and introduction of the concept of obedience through the use of שׁמע in the MT (Jer 34:10). Schenker believes that by way of double inclusion of שׁמע in Jer 34:10 an explicit religious dimension of obedience was added to the Masoretic text, and possibility was introduced to harmonize an inconsistency between a religious/secular presentation of the

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[10] Adrian Schenker, "Was übersetzen wir? Fragen zur Textbasis, die sich aus der Textkritik ergeben" in *Die Übersetzung der Bibel, Aufgabe der Theologie: Stuttgarter Symposion 1984* (Texte und Arbeiten zur Bibel 2; ed. Joachim Gnilka and Hans Peter Rüger; Bielefeld: Luther-Verlag, 1985), 66-71.

covenant. The inclusion of this dimension of obedience in the MT does two things. One,

it associates the transgression of the covenant (Jer 34:11) made in ceremonial fashion in

Jer 34:18 with the covenant ceremony of Gen 15:17-18.[11]   Two, it emphasizes the

judgments against Zedekiah (Jer 34:21; cf. 39:5-7) and identifies the specific covenant

breakers (Jer 34:10) – the princes and all those who entered into the covenant – as

violators of the covenant agreement, transforming Zedekiah's proclamation of

manumission and the covenant of freedom the covenant makers denied their Hebrew

'brother' into YHWH's invitation for them to partake of a freedom leading toward their

own alienation and expulsion from the land (Jer 34:17, 21; cf. Gen 15:13).

These redactions, Schenker believes,[12] provide an occasion for Zedekiah's

misfortune, and supply a reason for the exile of the inhabitants of Judah. The punishment

imposed on Judah's populace included their becoming a διασπορον (Jer [LXX] 41:17), as

employed in the Greek; translated 'horror' (RSV) - *zeva`ah* formed by a transposition of

the letters from *za`avah* – ' removed ' (RSV) - (Jer 34:17; cf. Jer 24:9). The text of the

LXX, therefore was equipped by the redactor(s) to explain the tragedy of the Babylonian

invasion and eventual deportation. Jer (LXX) 41:17 acts as a catalyst, enabling the

description of the Babylonian army in vv. 21-22 as YHWH's agent into whose hands the

lives of Zedekiah and the inhabitants of Judah would be given, and justifying the

resulting exile as YHWH's befitting judgment of Judah for its breach of covenant.

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[11] Schenker, "Fragen zur Textbasis," 70-75.

[12] Ibid., 66-71.

Bogaert[13] takes Schenker's observations a step further. His study of secondary

redactions leads him to view the LXX's tendency toward Exod 32[14] as a natural fit

because of the Jeremianic tradition's reference to the Exodus from Egypt in both the MT

and LXX (Jer [LXX] 41:13; Jer [MT] 34:13), and because of the dimension of

disobedience in both versions.[15] The LXX subsumes the Zedekian covenant into the

Mosiac covenant. The MT, however, emphasizes the Zedekian covenant, and

distinctively marks the identified covenant breakers as all those who entered into the

covenant, inclusive of members of the royal house, as the subject of address in Jer 34:

15-16. The MT is explicit that the group who ratified the Zedekian covenant is the very

same group of covenant breakers, and does not transpose or re-envision this group as the

generation alluded to in Exod 32 as transgressors of the covenant ratified at Sinai.

Significant for Crüsemann's[16] supposition is a continued Deuteronomic

movement in "linguistic and content tradition, pointing in the same direction."[17] The

literary presentation of Zedekiah's covenant with "all" the people in Jerusalem (Jer 34:8),

including Jerusalem princes (34:10), to proclaim a manumission and the accompanying

covenant breaking by these people narrated in Jer 34 achieved a profound editorial

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[13] Pierre-Maurice Bogaert, "Le livre de Jérémie en perspective: les deux rédactions antiques selon les travaux en cours" *RB* 101 (1994): 391-392.

[14] Additionally, Schenker's analysis of Jer (LXX) 41:18 leads him to understand the breaking of covenant as having parallels to the incident of the golden calf in Exod 32, where violations of covenant are equated with idolatry. Stipp also observes this association in the Alexandrian tradition transmitted in Jer (LXX) 41: 18-20 (Hermann-Josef Stipp, "Zedekiah in the Book of Jeremiah: On the Formation of a Biblical Character," *CBQ* 58 [1996]: 641).

[15] Bogaert, "Le livre de Jérémie en perspective," 391-392.

[16] Crüsemann, *Torah,* 266-267.

[17] Ibid., 267.

maneuver. It confronts a reader with a text that couches a piece of royal legislation

designed to redress economic particularities emanating from a specific set of

circumstances into a conflicting group dynamic that gave rise to the expression of theo-

political polemics in the text using editorial strategies and borrowing that function in the

capacity of Pentateuchal associations. This is not far from Otto's[18] observation that Jer

34:12-22 is a late appendage to 34:8-11 that manifests a covenant-like theological

interpretation as a result of the mingling of legal traditions in Deut 12-25 during a

Deuteronomistic exilic redaction of Deuteronomy's suppositions, but not with an

authorial intent of continuing a traceable Deuteronomic movement to Josianic reforms.

In reverse order, Wijesinghe[19] understands Jer 34:8-11 to be secondary emendations

meant to introduce Jer 34:12-22. Jer 34 combines narrative (vv. 8-11) and oracular

preaching (vv. 12-22), bringing together various stereotypic phrases and presenting them

in a forceful, climactic way. Weippert[20] understood these verses to represent authentic

Jeremiah tradition not attributable to later Deuteronomic editing, although Sharp rejects

Weippert's notion that the prose may be authentically Jeremianic.[21] Jer 34's blending of

summary and climax, however, leads commentators such as Bright to postulate that

these verses are a resumption of scribal biographical prose attributable to Baruch and

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[18] Otto, "Soziale Restitution." 155.

[19] Wijesinghe, "Tracing the Shorter Version," 307, 324.

[20] Helga Weippert, *Die Prosareden des Jeremiabuches* (Beihefte zur Zeitschrift für die alttestamentliche Wissenschaft 132; Berlin: de Gruyter, 1973), 86-106.

[21] Carolyn J. Sharp, *Prophecy and Ideology in Jeremiah: Struggle for Authority in the Deutero-Jeremanic Prose* (London: T & T Clark, 2003), 26.

authentically report events from the end of Zedekiah's reign.[22] Duhm also believed the

verses had a historical core grounded in the activity of Baruch, but Duhm understood vv.

12-22 to be a late Deuteronomic midrash, indicating that the manumission and its

interpretation are a misrepresentation of history.[23]

Indeed, the interpretive design of the proclamation of manumission attributed to

Zedekiah in the Jeremianic tradition provides support for Pohlmann's[24] thesis of a *gôlâ*

redaction of the Jeremianic prose, and of motifs of divergent political claims massaged

into the text in and around a historically oriented report of manumission. According to

Pohlmann, the intertwined theo-political interpretative tensions in the Jeremianic text are

created by vestiges of competing political claims embedded in the text by *gôlâ*

redactors,[25] representative of the interests of the Diaspora community in Babylon, over

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[22] Bright, J*eremiah,* 67-68. For Bright's earlier exposition on the subject, see his "The Date of the Prose Sermons of Jeremiah," J*BL* 70 (1951): 15-35. Bright indicates that the prose tradition in the book of Jeremiah "grew up on the basis of his [Jeremiah's] words, partly no doubt preserving them exactly, partly giving the gist of them with verbal expansions . . . The origin of it [prose tradition of Jeremiah] must be sought among Jeremiah's intimates" (Ibid., 27).

[23] Duhm, *Das Buch Jeremia*, 279.

[24] Karl-Friedrich Pohlmann, *Studien zum Jeremiabuch: ein Beitrag zur Frage nach der Entstehung des Jeremiabuches* (Forschungen zur Religion und Literatur des Alten und Neuen Testaments 118; Gottingen: Vandenhoeck und Ruprecht, 197), 41-42.

[25] The Persians, as did the Assyrians and Babylons, deported ethnically identified populations to other areas of their empires. Hoglund reflects upon the Persian Yehud as having been an "ethnic collective" through the self-imposed designation of the community as the *qāhāl haggōlâ* (congregation [assembly] of the [captivity] exile), identifying itself as a "corporate identity not definable by territorial or political referent" (Ezra 10:8, Neh 8:17; Hoglund, "Achaemenid Context," 65-66). For additional discussion on this topic see Patrick D. Miller, *The Religion of Ancient Israel* [Louisville: Westminster John Knox Press, 2000], 95). Washington, following Weinberg's inclination that the census list in Neh 7 and Ezra 2 are names referring to paternal landed estates comprising a civic-temple community, understands the self-imposed corporate identity as a deliberate retrogression to pre-exilic familial structures and organization specifically connected to notions of land tenure (Harold Washington, *Wealth and Poverty in the Instruction of Amenemope and the Hebrew Proverbs* [Atlanta: Scholars Press, 1994], 164-165). The designation, however, was political, membership in the *qāhāl*, being contingent on one's identification as a member of the *gôla,* that is, distinct from the *non-gôla,* creating an in-group versus out-group culture (cf. Miller, *Ancient Israel*, 97).

and against *non-gôlâ* redactors,[26] successors to the pre-exilic *'am hā'ārets*,[27] representing

the claims of non-deportees who remained in Judah between and after the deportations of

597 and 587 B.C.E.[28] Pohlmann observed that *gôlâ* redactions to the book of Jeremiah

consciously order the tradition to reflect a theological polemic over the fate of Judah and

the continuity of a salvation history for YHWH's people.[29] Pohlmann's identification of

this theo-political orientation is not based upon resemblance to Deuteronomic linguistic

or content tradition, but on the basis of literary techniques and ideological inclinations,

thereby not subsuming the prose and identifiable redactional efforts under the

Deuteronomistic label. Pohlmann prefers to understand these efforts as only functioning

in the capacity of such. The story of Zedekiah's proclamation of manumission in Jer 34

contains *in nuce* the interpretive directions of this divergent theo-political perspective on

Judah and its people as hanging on the fate of Zedekiah, the last king of Judah. The *gôlâ*

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[26] A more appropriate name for the *non-gôlâ* redactors may be the *sh'erith* redactors, the Hebrew root *sh'erith* meaning basically to be "left over from a larger quantity after an elimination process" (E. W. Heaton, "The Root שאר and the Doctrines of the Remnant," *JTS* 3 [April, 1952]:28; G. Gary Cohen, "*sh'erith,*" *TWOT* 2:894). It is also the term used to designate the "bad figs," those who escaped being exiled to Babylon and were left in the land of Judah after the first and second deportations of 597 B.C.E. and 586 B.C.E. (Jer 6:9; 8:3; 15:9; 21:7; 24:8; 38:4, 22; 39:9, 10; 40:6, 11; 42:15, 19; 43:5; 44:7, 12, 14, 28; 52:15, 16). In the book of Jeremiah, the Babylonian exiles are not referred by the term *sh'erith*, but are described by the root *glh*, "to go into captivity," or the noun form *gôla*, "those who are exiled" (Jer 24:5; 28:4, 6; 29:4, 16, 20, 22; Heaton, "Root," 30; Donald E. Gowan, "The Beginning of Exile-Theology and the Root glh," *ZAW* 87 [1975]: 205; H. J. Zobel, "*glh,*" *TDOT* 2:478, 487-488). Neither is the action of *glh* for the Babylonian exiles coupled with the term *sh'erith* to designate those who escaped Yahweh's judgment of deportation and death. Additionally, each reference to the remnant of Judah by the term *sh'erith* is documented as an epithetic expansion to the prose tradition of Jeremiah in the MT, dating after 586 B.C.E. (Heaton, "Root," 36).   This study attributes each of the epithetic expansions to the editorial work of *non-gôlâ* redactors.

[27] See Appendix A for a discussion of the *'am hā'ārets*, 'people of the land,' in their pre- and post-exilic contexts.

[28] Sharp, *Prophecy and Ideology*, 157-158.

[29] Pohlmann, *Jeremiabuch,* 41-42.

redactors' reworking, ordering and editing of the Jeremanic tradition, including the total

rejection of Zedekiah and Jerusalem in Jer 21:1-10, Pohlmann proposes,[30] gives evidence

of redactors who were keenly aware of questions raised by the prophet Jeremiah's

judgments, particularly those judgments concerning Judah's kings, the remaining

inhabitants of Judah, and the Judeans who migrated to Egypt with Gedaliah and king

Zedekiah's daughters.

Indeed, Pohlmann understands the MT block of material spanning from chapters

25-44 to be modeled upon critical streams of theo-political-oriented ideology expressed

in Jer 24 – the vision of the two baskets of figs.[31]   Pohlmann understands the 'vision' to

be a heavily redacted secondary block of material composed of analogies to the visions in

Amos 7 and 8 and Jer 1:11-14, borrowing phrases from the Jeremianic tradition to

apportion salvation and hope to the Babylonian exiles, doom and demise to Zedekiah and

the remaining inhabitants of Jerusalem.[32] Additionally, the MT block of material

spanning from Jer 36-44 in Mowinckel's redactional source analysis was among the

material he classified as source B; historical prose that tends to be a third person

biographical account of the prophet Jeremiah's activities, and authored, Mowinckel

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[30] Pohlmann, *Jeremiabuch,* 46.

[31] Jer 21:1-10 may be redactionally linked to the cycle of oracles critical of the monarchy (Jer 21:11-33:8), while Jer 34:1-7 may be linked to a series of speeches that communicate reassurance and anticipate either a revival or continuity of the monarchy (cf. Jer 33:14-26). The redactional nature of these texts highlights the tensions between them and places them in a broader textual canvas of differing theological expectations for the Judean monarchy. Zedekiah came to be associated with both positive and negative expectations, suggesting that in the criteria developed in the Jeremiah tradition for assessing Judah's kings, Zedekiah became an ambivalent and ambiguous figure in the redactional settings of Jer 34:4-21 and 21:1-10 that was mitigated in the framework of Jer 24:1-10.

[32] Pohlmann, *Jeremiabuch*, 29, 46.

understood, by Jeremiah's scribe, Baruch. Nicholson[33] critiques Mowinckel's schema as

exhibiting a preoccupation with historical and biographical material, and a lack of

concern for finding the theological agenda or purposes in the material. In Nicholson's

analysis, Jer 36-44 exudes a theological agendum that is distinctly Deuteronomistic,

thereby countering Pohlmann's tendency to pull away from such labeling. Nicholson

notes that the block of material depicts the theological purposes of the authors

responsible for the present form of the narrative, and expresses the interests of the

audience to whom the material was addressed.[34] Indeed, Nicholson understands the prose

narrative in source B and the prose discourses in Mowinckel's source C to be of the same

origin and authorship - a circle of tradition derived from the Deuteronomist.[35] He

supports his conclusion by what he discerns to be "theological affinities" and "literary

parallels" between the Jeremianic prose and Deuteronomistic literature.[36]

The issue, however, may be whether anything can be said about the theological

purposes that permeate the Jeremianic prose while maintaining the integrity of the

narrative, and without referencing the Deuteronomistic literature. Seitz[37] does this very

thing, attempting to ascertain the purposes behind the secondary expansions and

interpolative material throughout Jer. 40:7-44 by persons he identified as *gôlâ* redactors.

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[33] Ernest W. Nicholson, *Preaching to the Exiles* (New York: Schocken Books, 1970), 35.

[34] Ibid., 35-36.

[35] Ibid., 36.

[36] Ibid., 37.

[37] Christopher R. Seitz, "The Crisis of Interpretation Over the Meaning and Purpose of the Exile," *VT* (1985): 79, 92-95.

Seitz[38]and Stulman[39] found that the focus of the *gôlâ* redactors' editorial changes was in reorienting the prose to presume the superior status of the Babylonian exiles over and against the remaining inhabitants in the land of Judah, and particularly the Judeans who fled to Egypt. The *gôlâ* redactors' editorial activity reorients the prose discourse to establish YHWH's will for the future restoration of Judah with the Babylonian exiles by accentuating the remnant of Judah's decision to enter Egypt as rebellion against Yahweh's will to submit to Babylonian authority.[40] Additionally, the *gôlâ* redactors sought to reinforce their objective by completely writing off the remnant of Judah. They did this by portraying the exit to Egypt by the remnant of Judah, all those who had allied themselves with Gedaliah, as having left the land of Judah totally uninhabited (cf. Jer 39:9-10, 43:4-7; 2 Kgs 25:25:26; 2 Chr 36:20-21).[41] The remnant of Judah, therefore, is made void and is cleared from the scene, leaving only the Babylonian exiles to appear as the only 'remnant' obedient to YHWH's will and destined to reoccupy and to rebuild the land of Judah. Spurred on by a theological agendum that required discrediting of the remnant of Judah and eliminating its role in YHWH's future plan for Judah, the *gôlâ* redactors accomplished their polemical intentions by skillfully supplementing the original prose while attempting to maintain the integrity and authority of the prophetic material[42]

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[38] Ibid., 92-94.

[39] Louis Stulman, "Some Theological and Lexical Differences Between the Old Greek and the MT of the Jeremiah Prose," *HS,* 25 (1984):20-22.

[40] Seitz, "Crisis," 81, 92-93; Stulman, "Theological and Lexical Differences", 21-22; Carroll, *Jeremiah*, 1986: 720; cf. Jer 42:13, 21.

[41] Seitz, "Crisis," 92; Carroll, *Jeremiah*, 723; Nicholson, *Preaching,* 128.

[42] Peter R. Ackroyd, *Exile and Restoration* (Philadelphia: Westminster Press, 1968), 52.

When modern readers of the Jeremanic tradition understand Zedekiah's manumission edict as a vehicle used by *gôlâ* redactors for additional tightening of issues related to group identity conflict defined in associations to Pentateuchal codes and covenantal language, the politics of manumission takes on ideological dimensions. If when reading a biblical text that tells of an act of manumission such as that reported in Jeremiah 34, a reader asks in whose interest would such a report benefit, a reader takes a step towards relativizing the authority of the text. Such a question is quite distinct from asking how the concept or even enactment of an act of manumission developed from Pentateuchal legal traditions, and asks instead about an act of manumission, either constructed or real, as effectively embedded in an ideological matrix.

Carroll[43] goes further, indicating that the manumission in Jer 34:8-11 to be Persian period-derived midrash on slave-related judgments specifically set into the Jeremiah tradition. Chavel's[44] thinking shares facets with Carroll's[45] thoughts that the mixing of Pentateuchal social and legal traditions on manumission and the manumission attributed to Zedekiah in Jer 34:8-12 represent an interpretive conflation of Pentateuchal laws on manumission resulting from editorial work in the Persian period and adjoins scholarly efforts that have centered on whether the Holiness Code, the Covenant Code or the Deuteronomic legal tradition is the referent point for the manumission in Jer 34. Carroll and Chavel are a part of contemporary criticism that attributes the oracular pose

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[43] Carroll, *Jeremiah,* 647-648, 649.

[44] Chavel, "Emancipation,". 76.

[45] Carroll, *Jeremiah,* 644, 647-648, 649.

of Jer 34:12-22 to the late efforts of Deuteronomic redactors, and places the divergent

political claims evidenced in the Jeremianic tradition within the complex polemics of

Ezra-Nehemiah. It is the contention of this study that with no textual witness of the

prophet after the recording of his disappearance among the contingent of Judeans who

migrated to Egypt after 587, tradents in the Babylonian Diaspora moved into an

undisputed position of authority as interpreters of the Jeremianic tradition. The MT is

markedly *gôlâ*-oriented and accentuates this viewpoint.

Thiel places the Deuteronomistic redaction of Jer 1-45 in sixth-century Judah.[46]

While Pohlmann[47] dates the provenience of the *gôlâ* redactions to the post-exilic period,

specifically during the fourth century in Judah, Seitz[48] argues for a dating to the Exile.

Nicholson[49] identifies the provenance of the *gôlâ* redactors' activity as in Babylon during

the exile. Although Carroll[50] questions Nicholson's decision of placing the tradition in

Babylon as opposed to Judah, Nicholson supports his decision by noting that the

polemics spelled out against those remaining in Judah and who later fled to Egypt is an

attempt by representatives of the exilic community in Babylon to completely write off the

remnant of Judah, whether it be in Judah or Egypt. Hyatt[51] also places what he calls

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[46] Thiel, *Die deuteronomistische Redaktion,* 107-112; cf. Carroll, *Jeremiah*, 41.

[47] Pohlmann, *Jeremiabuch*, 190.

[48] Seitz, "Crisis," 79.

[49] Nicholson, *Preaching*, 122-123, 131-133.

[50] Carroll, *Jeremiah*, 46.

[51] J. Philip Hyatt. *The Deuteronomic Edition of Jeremiah. A Prophet to the Nations: Essays in Jeremiah Studies* (ed. Leo Perdue and Brian Kovacs; Winona Lake: Eisenbrauns, 1951), 264.

Deuteronomic editing in Babylon around 550 B.C.E. Applegate[52] thinks that the overt

tensions related to the fate of the Judean community linked to that of Zedekiah took on its

final form after the separation of the Hebrew textual traditions that culminated in the MT

and LXX, giving a late date to blocks of materials such as that of Jer 34, although he does

envision an early date for the pre-Septuagint and pre-Masoretic traditions. Nevertheless,

Chavel[53] attributes the final form of Jer 34:8-22 to the efforts of redactors attempting to

establish a legal precedent for Nehemiah's proclamations related to debt release indicated

in Neh 5. What is witnessed in the text of Nehemiah is a conflict among 'brethren' that

effectively embeds proclamations attributed to Nehemiah within the *contours* of

Deuteronomic-related debt release that when performed would function as an extra-

economic compulsion within the socio-economic struggle for control and allocation of

resources among 'brethren' (cf. Chapter 3).

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[52] Applegate, "Fate of Zedekiah," 304.

[53] Chavel, "Emancipation," 93-94.

APPENDIX D

CONCEPTUAL FRAMEWORKS AND DEUTERONOMIC LITERARY STRATA

This appendix details the methodological 'movement' of the interpretation of

Deuteronomic debt release as a literary composition from pre-exilic Judah to the post-

exilic Persian Yehud. The 'movement' is methodologically achieved by: (1) using

Crüsemann's broad conceptual framework of Deuteronomic debt release having pre-exilic

origins, but post-exilic enactment, and (2) employing Otto's formulations on the

progression of Deuteronomic literary strata from his late pre-exilic Urdeuteronomium to

his post-exilic DtrL. Interpretive issues directly related to the literary composition and

convention of Deuteronomic debt release in its pre-exilic and post-exilic context are

highlighted through the use of Crüsemann's and Otto's conceptual frameworks at the

same time that the frameworks are placed within Albertz's time frame for the

development of the Deuteronomistic history and specifically the book of Deuteronomy.

Crüsemann's Conceptual Framework

A controlling conceptual framework for Deuteronomic debt release is

Crüsemann's premise that the origin of the Deuteronomic debt release laws (Deut 15:1-

11) is connected to pre-exilic historical developments, but that the laws found their final

enactment, interpretation and form in the Persian period. Crüsemann contextualizes the

pre-exilic origin of Deuteronomic debt release during the early years of Josiah within

what he proposes as specific historical circumstances, the seizure of power by the Judean

'am hā'ārets - 'people of the land' - whom Crüsemann suggests were landed farmers,

inclusive of free citizens who held deeds to debt slaves . He understands much of the

legislation of Deuteronomy to be the promulgation of these agrarian landowners'

interests, and particularly the ideology underlying Deuteronomy's debt release laws,

having been designed to avoid foreclosure on land used to secure debt.[1] When Judah's

King Josiah came of age (2 Kgs 22:3), Crüsemann surmises, power reverted to a literate

Judean aristocracy who were responsible for the book of Deuteronomy that was then

subject to later emendations at a stage when it was incorporated into the Torah in the

Persian period. The book's "constitutional principles," as Crüsemann expresses it, were

preserved and regulated its late revision, inclusive of legislation for debt release.[2]

Crüsemann's conceptual framework allows readers to view the Deuteronomic debt

release laws as a continuation of a polemic having had pre-exilic origin in the 'people of

the land,' but were later emended under Persian dominion, signifying interests of Yehud's

tradents. Crüsemann's framework also enables him to steer clear of attributing the final

form of Deuteronomy as based within cultic reforms attributable to King Josiah

(2 Kgs 22-23), as suggested by De Wette in his 1805 thesis.[3]

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[1] Crüsemann, *Torah,* 247, 269.

[2] Ibid., 249.

[3] De Wette, "*Dissertatio critica, qua Deuteronomium*," 151-168. De Wette understood the earliest form of Deuteronomy - that is, the narrative portions that do not presuppose cultic centralization as pre-dating King Josiah's reforms - to have been the book 'found ' in the Temple during the reign of King Josiah; and conversely, those portions indicative of centralization as post-dating Josiah's reforms. Early Church fathers, including, Jerome, Chrysostom, and Athanasius also identified Deuteronomy as the book 'found' in the Temple (cf. Eberhard Nestle, "Das Deuteronomium und II Könige xxii," *ZAW* 22 (1902): 170-171; 312-313). Additional references to De Wette's theory are found in John A. Thompson, *Deuteronomy: An Introduction and Commentary* (TOTC; Leicester, England: Inter-Varsity, 1974), 57; and Samuel R. Driver,

Scholars such as McConville[4] attempt to distance the origin of Deuteronomy with any connection to Josiah's reforms by understanding the rhetoric of Deuteronomy as being a reflection of a historical position where a single author legislated to and before Israel's entrance into Canaan.[5] Welch[6] similarly argues against a Josianic dating of Deuteronomy's legal corpus, understanding it to be an early text originating from the northern kingdom of Israel. Levinson[7] observes that the conflict between Deuteronomy's rejection of royal ideology in association with Josian reforms simply flies into the face of reason: "how could Josiah have been responsible for a text that so limited his own power?" Hence, Levinson suggests an alternative optic, one that envisions Deuteronomy deriving from court scribes under Manasseh who were committed to the ideal's of Hezekiah's reforms and centralization. These scribes' legal innovations, including that of debt release, took on a kind of utopian idealism, according to Levinson, because these innovations were meant to usher in "cultural renewal."[8] The laws, Levinson proposes, drew upon the model of Neo-Assyrian treaties, substituting Yahweh as suzerain, to

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A Critical and Exegetical Commentary on Deuteronomy (Edinburgh: T. & T. Clark, 1902), xxxiv-lxii. Scholars who question De Wette's identification of Deuteronomy include: Otto Eissfeldt, *The Old Testament: An Introduction* (trans. P. R. Ackroyd; New York: Harper & Row, 1965), 171-176; and Ernest W. Nicholson, *Deuteronomy and Tradition* (Oxford: Basil Blackwell, 1967), 14-15, 18-36.

[4] J. Gordon McConville, *Law and Theology in Deuteronomy* (Journal for the Study of the Old Testament Supplement 33: Sheffield: JSOT, 1984), 155.

[5] Ibid., 51, 61, 87, 110, 155.

[6] Adam C. Welch, *The Code of Deuteronomy: A New Theory of Its Origin* (London: J. Clarke & Co., 1924), 48.

[7] Bernard M. Levinson, "The Reconceptualization of Kinship in Deuteronomy and the Deuteronomistic History's Transformation of Torah," *VT* 51 (2001): 527.

[8] Ibid.

whom any oath or covenant of obedience would be made.[9]   Hölscher,[10] however, argues

that the laws of Deuteronomy being impractical because of their idealistic, utopia-like,

outlook, must be theological attempts to conform priestly law with centralization, dated

to circumstances of the exilic/postexilic period. Finally, Berry understands that 'the book

of the law' found in the Temple (2 Kgs 22:8), and that supposedly became the basis of

King Josiah's reforms was not a portion of the book of Deuteronomy, but a portion of the

Holiness Code, Leviticus 17-26, because Deuteronomy, Berry understands, is post-exilic

in origin.[11]

It is neither the intent of this study to lend support to De Wette's notion of a larger

part of Deuteronomy as a seventh-century derived composition before the 18th year of

King Josiah's reign, nor to argue toward the historicity of the story sold in 2 Kgs 22-23.

It is the intent of this study, however, to indicate that the 'story' of King Josiah's reforms

is to be understood as having had the prescriptive blessings and curses of the covenant as

cited in Deuteronomy 28-29 (Deut 28:1-13; 28:15-68) in the purview of the story, telling

of the finding of the 'book' of the law (Deut 28:58; 29:21, 27, 29).[12] This study proposes

that the prescriptive blessings and curses of Deut 28 and 29, and at the very least the text

from Jeremiah 11:1-17 were the content of '*the* book of the law' found by Hilkiah the

high priest (2 Kgs 22:4), and '*a* book' presented to and read by Shaphan the scribe to King

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[9] Ibid.

[10] Gustav Hölscher, "Komposition und Ursprung des Deuteronomiums," *ZAW* 40 (1922): 227-228.

[11] George R. Berry, "The Code Found in the Temple," *JBL* 39 (1920): 44-51.

[12] Cf. Nicholson, *Deuteronomy and Tradition*, 15; Mark A. O'Brien, "The Book of Deuteronomy," *CurBS* 3 (1995): 98-99.

Josiah (2 Kgs 22:10). It was Huldah the prophetess (2 Kgs 22:14), however, not Jeremiah the prophet, through whom inquiry of Yahweh (2 Kgs 22:13) was made as to the degree and certainty of the curses (2 Kgs 22:13). From the prophetess Huldah, the degree (2 Kgs 22:16 - 'all the words [curses] of the book; cf. Jer 11:8 - 'I will bring upon them all the words of this covenant') of Yahweh's wrath and the certainty (2 Kgs 22:17; 19b - ' my [Yahweh's] wrath shall be kindled . . . not quenched . . . ; 2 Kgs 22:19b - 'inhabitants [of Judah] . . . become a desolation and a curse'; cf. Jer 11:16) was made known to Josiah. King Josiah, in turn, enacted certain royal decrees (2 Kgs 23) directly effecting the cult of Judah. After, he himself made the cultic pledge (2 Kgs 23: 3a), and the people of Judah acquiesced (2 Kgs 23:3b) to the king's pledge to perform accordingly toward the words of what becomes in the story, the 'book of the covenant' (2 Kgs 23:2; cf. Jer 11:2-3, 8, 10). The Passover is then enacted to confirm the King's and the people's pledge toward covenant performance (2 Kgs 23:21). When the story of the finding of the 'book,' the content of the 'book,' and King Josiah's response to the 'book' are understood within the confines Deut 28-29 and Jer 11:1-17, rather than the whole or greater part of Deuteronomy, it sets the stage for covenant pledging and acts of covenant confirmation as being a part of a repertoire of behaviors performed in the face of adversity (cf. Jer 34:8-10 [see Appendix B] ; Ezra 10:3, 5; Neh 5:12-13 [see Chapter 3]). It also alleviates the dissidence between the story and King Josiah's involvement and authority in the cult (2 Kgs 23:2-23 *contra* Deut 17:14-20; 18:6-8,[13] where Josiah is understood as

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[13] Cf. Levinson, "Reconceptualization of Kingship," 523-26.

overturning previous monarchs' actions (2 Kgs 23:5, 11-13, 15) in order to perform the

people's pledge to covenant that would mollify Yahweh's impending wrath against Judah.

The question that confronts a reader, however, is how methodologically to move

from the origin of Deuteronomic debt release derived from scholarly visions of pre-exilic

circumstances, particularly those envisioned by Crüsemann, to the Persian Yehud. Using

Albertz's[14] recommendation of a timetable for the development of the Deuteronomistic

history and the book of Deuteronomy, a method can be employed. Following

Jehoiachin's release (~562 B.C.E.; 2 Kgs 25:27-30), Albertz suggests that the

Deuteronomistic history was forged some 15 years (~547 B.C.E.) latter, and the book of

Deuteronomy, a part of that history, was mostly finished by 540 B.C.E. Into Albertz's

timetable, place Otto's construction of a redaction history for the formulation of

Deuteronomic strata spanning from his pre-exilic Urdeuteronomium, to exilic DtrD, to

his post-exilic DtrL.

Otto's Conceptual Framework

It was the pre-exilic authors, Otto proposes, who founded Deuteronomy's

particular style of transparency, allowing for its audible reading to be understood by it

hearers as applicable to the time of its recital - that is, time of narration (time of its

authors), not its "fictional auditorium of the narrated time" (time of created actions and

actors in the narrative).[15] What Otto is saying is that the distinction between 'time of

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[14] Rainer Albertz, "Why a Reform Like Josiah's Must Have Happened" in *Good Kings and Bad Kings: The Kingdom of Judah in the Seventh Century BCE* (European Seminar in Historical Methodology 5; ed. Lester L. Grabbe; London: T & T Clark, 2005), 40.

[15] Eckart Otto, "The Pentateuch in Synchronical and Diachronical Perspectives: Protorabbinic Scribal

narration' and the 'narrated time' was used by ancient authors of the Pentateuch as a literary device, although their primary concern was the 'narrated time.' However, within the 'narrated time,' Otto understands, ancient authors wove strands of 'time of narration.' These strands, according to Otto, can be thought of as cues in the text. Otto's proposals do not place him at odds with Crüsemann's suggestion that the Deuteronomic corpus was subject to emendations at the stage when it was incorporated into the Torah in the Persian period. Using Albertz's timetable, this would be sometime between 547 and 540 B.C.E. Although Otto does not understand the Persian period as the final determinative of Deuteronomy's socio-political dimensions, Otto's proposals do offer a method for locating in each layer or stratum of Deuteronomic editing, he has proposed, ideological contests and geopolitics of its time. Otto's proposals can also assist with connecting the origin of Deuteronomic debt release derived from the pre-exilic circumstances envisioned by Crüsemann to the Persian Yehud. The task, however, is to model, not reconstruct, a 'time of narration' (time of the authors) that can function as a plausible socio-political horizon against which ancient authors/editors of Deuteronomy undertook their endeavors in the post exile so as to garner additional understanding of ideological leanings of tradents who processed Deuteronomy's legal tradition, particularly as it pertains to debt remission, in the Persian period. Such modelling is witnessed in Otto's modeling of 'time

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Erudition Mediating Between Deuteronomy and the Priestly Code" in *Das Deuteronomium zwischen Pentateuch und deuteronomistischem Geschichtswerk* (ed. Eckart Otto and Reinhard Achenbach; Göttingen: Vandenhoeck & Ruprecht, 2004), 20.

of narration' - that is, the plausible socio-political horizon against which he proposes ancient authors/editors of Deuteronomy undertook their endeavors in the late pre-exilic period.

Frameworks and Deuteronomic Literary Strata

Historical Contingencies

Otto's thoughts on the origin of Deuteronomy distinguish between his late pre-exilic Deuteronomy (Urdeuteronomium), a transformation from a national history to a form of Judean dissent, embodied primarily in the form of an anti-Assyrian loyalty oath to YHWH (Deut 13:1-10; 28:20-44) framed in Moses's discourse on Mount Horeb (Deut 5:9-10), and an exilic Deuteronomistic Deuteronomy (DtrD), derived to be read aloud as a history for the second generation of Judean exiles in Babylon. Otto's[16] exilic Deuteronomistic edition of Deuteronomy (DtrD), redacted from his Urdeuteronomium, a late pre-exilic Deuteronomy (Deut 12:13-28:44), the product, Otto suggests, of a small intellectual group of Jerusalem-based priests, is similar to Crüsemann's idea of the ascendancy of a literate Judean aristocracy as responsible for the book of Deuteronomy during the reign of Josiah. It is Otto's exilic Deuteronomistic Deuteronomy (DtrD), however, that employs Crüsemann's Mosaic archetype that shifts Mosaic speech to a distant past,[17] in what Otto indicates to be a 'Moses-fiction'[18] that archaizes a pre-exilic

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[16] Otto, "Pentateuch ," 20.

[17] Ibid.

[18] Ibid., n. 29.

Deuteronomy (Urdeuteronomium) mostly unknown to a broader audience, having been mostly the purview of its authors, "a small group of priestly intellectuals in Jerusalem." In this way, Otto sidesteps and complements De Wette's understanding of the 'book of the law' found in the Temple (2 Kgs 22:8) to be a non-Mosaic-derived text, and accounts for Deuteronomy's traditions and law (12-26) put forth as discourses of Moses before his death as exerting an intense and hortatory tone for galvanizing a people in a commitment to covenant ideals. Additionally, if one understands the proto-Deuteronomy, Urdeuteronomium, to have been the text 'found' in the Temple (2 Kgs 22:8) and made the basis of King Josiah's reforms, then the text was derived from the hands of a small intellectual group of Jerusalem-based priests, as Otto explains.[19] Weinfeld, however, understands 'the book of the law' to have derived from the scribal family of Shaphan, the book being, Weinfeld deduces, a product of a secular 'wisdom' school of scribes.[20]

The high priest Hilkiah and the scribe Shaphan are mentioned in 2 Kgs 22:8 as having played a part in relaying 'the book of the law' that became the basis of King Josiah's reforms. Crüsemann suggests seeing Hilkiah and Shaphan and their family network as politically powerful "exponents" of Judah's *'am hā'ārets*.[21] Albertz believes that the "broad coalition that had supported the Deuteronomic reforms split into two parties" at the death of Josiah.[22] One party, under the sway of Hilkiah, Albertz proposes,

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[19] The association of the Urdeuteronomium with the book 'found' and given to King Josiah is supported by Nicholson, *Deuteronomy*, 1-7 and Moshe Weinfeld (*Deuteronomy 1-11: A New Translation with Introduction and Commentary* [AB 5; New York: Doubleday, 1991], 16-19, 65-84).

[20] Moshe Weinfeld, *Deuteronomy and the Deuteronomistic School*, (Oxford: Clarendon Press, 1972), 139.

[21] Crüsemann, *Torah,* 266.

[22] Rainer Albertz, *Israel in Exile: The History and Literature of the Sixth Century B.C.E.* (trans; David Green; Atlanta: Society of Biblical Literature, 2003), 280 no. 413; cf. Rainer Albertz, *A History of Israelite*

supported nationalism and the other party, under Shaphan's influence, reform. This study

proposes that party division may have indeed occurred, however there is room to envision

cooperation between the two party's orientations as indicated by Albertz in compiling

and/or editing the text that eventually reached the hands of Josiah. Hence, this study

would not place the emphasis of division between nationalism and reform, nor division

of party orientations between coalitions traced between Hilkiah and Shaphan. Party

division should continue to divide between pro/anti-Babylonian and pro/anti-Egyptian

factions even after the death of Josiah (see Appendix A). This is accomplished by

envisioning the division as between the scribe Shaphan, the grandson of the Temple

scribe, Meshullam (2 Kgs 22:3), as progenitor of a pro-Babylonian scribal-based

coalition, and Elishamah (Jer 36:12), an primogenitor of a pro-Egyptian, scribal-based

coalition.

Shaphan was the father of Ahikam (2 Kgs 22:12) and Gemariah (Jer 36:10, 11,

12), and the grandfather of Gedaliah (Jer 39:14; 40:5, 9, 11). Jeremiah 26 tells of events

dated in narrative to the beginning of Jehoiakim's reign (~608 B.C.E.), approximately 14

years after the 'book of the law' was 'found.' Michaiah's son, Achbor, mentioned in

2 Kgs 22:12, is in Jer 36:12 indicated as the father of Elnathan, who was commissioned

by Jehoiakim to fetch the prophet Uriah, who had prophesied against Jerusalem, from

Egypt back to Jerusalem where he was summarily executed (Jer 26:20-23). Jeremiah,

having also prophesied of Jerusalem's demise (Jer 26:12), but having been under the

protection of Ahikam, Shaphan's son (Jer 26:24), did not meet a fate (Jer 26:8) as that of

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Uriah. The family of Shaphan, championing Jeremiah, is also indicated in Jer 29. Jeremiah's letter to the exiles to settle themselves with their plight in Babylon (Jer 29:4-9) was delivered through Elasah, also a son of Shaphan, and Gemariah, a son of Hilkiah (Jer 29:3).

In Jeremiah 36, dated in narrative to Jehoiakim's fourth year (~605 B.C.E.), Baruch reads from a scroll dictated by the prophet Jeremiah. Baruch reads the scroll while in a Temple room belonging to Gemariah, a son of Shaphan (Jer 36:10). The text names Michaiah, Shaphan's grandson by his son Gemariah as the one who carried the news to officials of Baruch's reading. The officials included Michaiah's father, Gemariah, Shaphan's son; Michaiah's son, Achbor; Achnor's son, Elnathan; and Elishamah, the scribe.

In Jer 30, dated in narrative to King Zedekiah's ninth year (~587 B.C.E.), Gedaliah, whom the Babylonians made governor over the remaining cities of Judah (Jer 40:5), is the grandson of Shaphan by his son Ahikam, the prophet Jeremiah's former protector. Jeremiah is recorded as given over into the custody of Gedaliah (Jer 39:13-14; 40:6). Gedaliah is later murdered by Elishamah's grandson, Ishmael (Jer 41:2-4, 18). This presumably is the same Elishamah in whose Temple room the scroll that Baruch read was placed after its second reading before Elishamah and others (Jer 12-15; 19-21) some eighteen years earlier. After the reading of the scroll to the King by Jehudi, Achbor's son Elanathan, and Shapan's son, Gemariah, the narrative indicates, attempted unsuccessfully to convince King Jehoiakim not to destroy the scroll. Elishamah's name is conspicuously absent among those listed who sought to intercede with the King against

destroying the scroll (Jer 36:25). Hence, the book of Jeremiah explicates what 2 Kings references. The texts indicate powerful scribal family factions with conflicting interests from the reign of King Josiah to that of King Zedekiah operating within the royal entourage. The family of Shaphan, supportive of Jeremiah, may be inferred to have favored the prophet's policy of submission to Babylon. The family of Elishamah, through textual omission (Jer 36:25), and overt display of Elishamah's grandson's assassination of Shaphan's grandson, indicates a different orientation than that of Shaphan's family and Jeremiah. The omission of Elishamah's name in Jer 36:25 puts him on the side of King Jehoiakim's, presumably pro-Egyptian,[23] and through his grandson's murder of Shaphan's grandson, Gedaliah, Elishamah's family is textually placed in opposition to Shaphan.

Pre-Exilic Urdeuteronomium and Deuteronomic Debt Release

Otto's late pre-exilic Deuteronomy (Urdeuteronomium) is fashioned from vassal treaties with Esarhaddon and modeled as Judah's heretical move against the Assyrian imperial domain of power with a loyalty oath to YHWH (Deut 13:2-10) that curses all those who violate the covenanted loyalty (Deut 28:20-44). In Otto's modeling, events start and end as political. His Urdeuteronomium is understood as a Judean political maneuver to resist allegiance to the Assyrian king in the context of seventh-century Assyrian domination of Judah. This, for Otto, means that Deuteronomy's legal material (DL) of Josiah's reign (2 Kgs 22-23) must be read in comparison to Assyria's legal texts

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[23] Cf. Abraham Malamat, "Last Kings of Judah," 140.

of the period, which he does against tablet A of the Middle Assyrian laws (MAL), ca. fourteenth century. Otto's Urdeuteronomium and DL became Judah's response and revolt to the power of Assyria during Josiah's reign primarily, he proposes, through its qualification and updating of the Covenant Code (CC), Exodus 20:24-23:12. Otto's pre-exilic circumstances encompassed cult centralization (Deut 12:14-16), figured works of administrative justice, refitted festivals (Deut 16:1-17); and incorporated earlier YHWH loyalty statements (Deut 13:2-10;17:2-7). It is under these circumstances that Otto proposes his understanding of a humanistic, even primitive democratic, *Brüderethos* reflected in the debt release of Deut 15:1-18, which Otto derives from and links to social and economic predicaments caused in Judah by Assyrian domination.

The debt release of Deut 15:1-18 is a part of Otto's strata of Deut 12 - 26 that are, he contends, a fusion of secular laws and a theological agendum setting YHWH as sovereign over people and land, and in solidarity with the oppressed, the weak, and vulnerable. The *Brüderethos* of his late pre-exilic Deuteronomy, as reflected in Deut 15:7-9, Otto proposes, is an elevation and extension of former household regulations to the level of state law, making every Hebrew a brother to another Hebrew, and responsible for one another, as YHWH's people. Into this *Brüderethos* was brought also foreigners, the landless, widows and orphans.[24] Not so, however, counters Crüsemann.[25] The 'you' either in the singular or plural, to whom the late monarchic Deuteronomic legal material (DL) is addressed needs to be carefully deciphered, argues Crüsemann. Making a list of

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[24] Otto, *Theologische Ethik*, 192.

[25] Crüsemann, *Torah*, 220.

the people against whom D's 'you' is contrasted, Crüsemann proposes that slaves, widows, orphans, foreigners and the like were excluded, not included as thought by Otto. Crüsemann notes that sons, daughters (12:12; 16:11, 14), Levitic priests (14:27; 18:1), even the king and his officials (17:14; 16:18) were all excluded. Who, then, is the 'you' addressed in DL? Crüsemann responds, "the landowning, free, adult, . . . males are the people" DL address as "you."[26] DL's 'you,' then, is exclusive, not inclusive, according to Crüsemann. Whereas Deut 12-26 is part of Otto's stratum that sets YHWH in solidarity with the oppressed, the weak, and vulnerable, Crüsemann senses that the 'Israel' cited in this stratum is a community for whom DL's 'you' is to act on behalf of DL's 'Israel.' Therefore DL's 'you' and 'Israel' are not identical in personage or action. The *Brüder* released after six years of service in Deut 15, be they men or women (15:12) are founded on the 'you' in DL as having also been slaves in Egypt (15:15), however during the *Brüder's* time of service, both males and females are not part of DL's 'you.' The *Brüder* in Deut 15 are an object of D's legalities, so also day laborers (24:15), not being able to act on their own behalf. Crüsemann's orientation is based primarily on his sensitivity to the presuppositions embodied in DL: exodus (freedom from slavery) and land as YHWH's gifts. The correlation between exodus and land defines, legally and theologically, the group to whom DL is addressed and to whom DL applies.[27] The group is the subject, not object, of D's legal material. This is the group, liberated through the

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[26] Ibid.

[27] Ibid., 221.

Exodus, that D's Moses addresses, giving the group laws for the time when it would possess and have ownership in the land given to it by YHWH. The group is Crüsemann's *'am hā'ārets*.

Crüsemann's proposal problematizes his own supposition that the narrated covenant of 2 Kg 23:3, a symbol of Judah's commitment to the newly found DL, offsets covenant loyalty to what at the time was decaying Assyrian dominion.[28] His supposition puts him in a similar frame as that of Otto's Urdeuteronomium, where DL became Judah's response and revolt to the power of Assyria during Josiah's reign. But, following through on Crüsemann's discernment would make DL and any DL-related covenant not a response to Assyria, but to rising Egyptian militaristic and political maneuvering during and after Josiah, which raises issues with Otto's choice of an Assyrian legal corpus as a comparative ancient Near Eastern source for creating and controlling a socio-political and historical context from which to depict DL,[29] specifically DL's debt release laws, within a pre-exilic Deuteronomy, as being taken up as an internal response to external Assyrian pressures. This study argues that DL and DL-related covenants as a response to Egypt facilitates envisioning and contextualizing DL within the historical circumstances proposed by Crüsemann himself, specifically the influence of the *'am hā'ārets* within the

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[28] Ibid., 212, 248.

[29] Craigie proposes that Egyptian vassal treatises would be a better basis of comparative form for the Hebrew covenant treaty (Peter C. Craigie, *The Book of Deuteronomy* [New international Commentary on the Old Testament; Grand Rapids, Michigan: Wm. B. Eerdmans, 1976], 81-83.

affairs of the Judean state (see Appendix A), and precisely to the only specific narrative display of Deuteronomic-related debt-release in a pre-exilic sitting (Jer 34; see Appendix B).

Crüsemann theorizes that DL took its form under circumstances involving the seizure of state power in Judah by free, property-owning, 'people of the land,' from the time they retaliated against the servants who killed King Amon, to their placing the boy-king, Josiah, on the throne of Judah (2 Kg 21:23-24), through to their substitution of Jehoahaz to the throne (2 Kg 23:30), until their subjection to heavy taxation under the imposition of tribute to Egypt set in motion by Pharaoh Neco II's removal of Jehoahaz and selection of Eliakim (Jehoiakim) (2 Kg 23:31-36).[30] Deuteronomic law is, Crüsemann argues, only comprehensible having a pre-exilic source, DL having "not worked through the legal-historical problems that came with the exile."[31] Crüsemann observes that Deut 12:1, an exilic redacted preface to Deut 12-26, directly links the keeping of the body of law that follows to placement in and possession of the land.[32] The law's specific origin, however, Crüsemann contends, is indeed tied to the narrative of a law book discovered in the temple during the reign of Josiah (2 Ks 22:8-11). Hence, it is not a matter of whether the law book was the Deuteronomy of the contemporary Hebrew Bible, but to "what degree the Deuteronomy known to us coincides with this event."[33]

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[30] Crüsemann, *Torah*, 212-214.

[31] Ibid., 211.

[32] Ibid., cf. Bernard M. Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation* (New York: Oxford University Press, 1997), 25.

[33] Crüsemann, *Torah*, 211.

This 'reverse order' in thinking about the narrative of the law's discovery does not enable

dating the body of law or making any statement on its originators, historical or legal

provenance. Importantly, Crüsemann proposes, the narrative of its discovery allows for

correlating the law's "Mosaic origin" with a "Josian reality."[34] This correlation is critical

for Crüsemann to connect what ever degree of law book found with Josiah's reforms

(2 Kg 23:4-25), and with Judah's covenant to its God, YHWH, through its king, Josiah, in

a covenant of allegiance over and against covenanted relationship to an Assyrian

overlord.[35]

Crüsemann and Otto have pointed to the significance of the finding of a book of

law as recorded in 2 Kings 22 in their schema for DL. Also relevant to their schema is

the wealth of data infused throughout the narrative of 2 Kings 22 indicative of internal

politics of an aristocratic state. Carney[36] remarks that those who are successful in their

search for power in an aristocratic state form coalitions and circles of loyalty - blocks of

bureaucratic power in the inner court that surrounds a king, and clientèle in landed elite

that benefit from and cater to their cause. The narrative of 2 King 22 displays a

unanimity among certain persons of social standing who may have represented a

sympathetic faction toward their reforming king in working toward the narrative climax -

a Josianic mediated DL-related covenant. This unanimity is reflected across the social

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[34] Ibid.

[35] Ibid., 212.

[36] Thomas F. Carney, *The Shape of the Past: Models and Antiquity* (Lawrence, KS: Coronado Press, 1975), 64; cf. John Kautsky, *The Politics of Aristocratic Empires* (Chapel Hill: University of North Carolina, 1982; repr., New Brunswick, NJ: Transaction Publishers, 1997), 238.

positions of the high priest (Hilkiah) and scribe (Shaphan), associated with finding the law book (2 Kg 22:8-10); and the king's delegates (high priest, scribe, scribe's son, Ahikam, king's servant) sent to the prophetess (Huldah), whose husband was the keeper of the king's wardrobe (2 Kg 22:14). Those appointed to carry out the king's reforms included high temple priests, the high priest, second order priests, and the temple doorkeeper (2 Kg 23:4). In the book of Jeremiah, the supporters of the prophet are descendants of those associated with the former Deuteronomic reforms of Josiah, including Ahikam, the son of Shaphan (Jer 26:24), Gamariah, a son of Shaphan (Jer 36:10), and Gamariah's son, Micaiah (Jer 36:11). The faction around King Zedekiah resisting acquiescence to Babylonian authority is opposed to Jeremiah. Zedekiah's inner circle of servants and the 'people of the land' (Jer 37:2) are, therefore, reflected as those contrary to the words of YHWH as spoken by the prophet Jeremiah. These factions, made up of certain figures and their relations, in their respective time periods, are what Crüsemann understands to be "political exponents" of the powerful Judean *'am hā'ārets*, with the faction supporting Jeremiah, being linked back to Josiah, and representatives of the continuance of a Deuteronomic movement in pre-exilic Judah. Another way of stating Crüsemann proposal to yield a socio-political context for discerning Deuteronomic debt release in a pre-exilic context is: the 'people of the land' were representative of an anti-Egyptian, pro-Babylonian faction that influenced the political scene in Judah at the time.

Exilic DtrD and Derivation of Divine Law

The Babylonian army is thought to have laid siege to Jerusalem in January of 588 B.C.E. (Jer 39:1-2; 52:3-5; 2 Kgs 25:1-2).[37] According to Albertz's[38] timetable, some 41 years transpired before the Deuteronomistic history was forged (~ 547 B.C.E.), and some 48 years before most of the book of Deuteronomy was finished. In Otto's flow of redaction history, the movement was toward his exilic Deuteronomistic Deuteronomy, DtrD.

Although Otto places the earliest literary strata of Deuteronomy in his late pre-exilic period as Judah's reaction to Neo-Assyrian domination, he regards his exilic Deuteronomistic editor (Dtr) as primary in transforming the late pre-exilic Deuteronomic reform program in the Josianic period (2 Kgs 22-23) into a Mosaic speech in a Moab-based fiction (Deut 5:9-10). Deuteronomy 5:9-10 and 12-26 are the texts Otto identifies as testimony of this exilic Deuteronomistic editor's work. It is Otto's DtrD that incorporates a 'Moses-fiction'[39] that archaizes pre-exilic Deuteronomy. The archaizing presents a theo-political response 'narrated in time' to the socio-political and historical shift in circumstances of the 'time,' requiring a continuing history of Judah formulated upon a Deuteronomic construction of a Moab-based covenant promising return from exile. Otto's DtrD effectively changes the time of narration (time of the authors) in a fictionalized theater of narrated time (time of the actions and actors in the narrative).

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[37] Holladay, *Jeremiah,Chapters 26-52*, 9.

[38] Rainer Albertz, "Why a Reform," 40.

[39] Otto, "Pentateuch", 20 no. 29.

For Otto, DtrD is a "mosaic interpretation of the Sinai-torah"[40] offered "in the land of Moab" (Deut 31:9), where a Moab-based covenant based on Deuteronomy and a reinterpretation of the Decalogue, not a Horeb-based covenant based singularly on the Decalogue, became YHWH's covenant with the second generation of exiles.[41] Otto's argument basically starts at Num 13-14 and Deut 1:19-46, where the Exodus generation, who received the Sinai covenant, perished because of their lack of faith in YHWH (cf. Num 14:11-23). None from this generation, Otto indicates, knew Deuteronomy because it was read before the second generation in Moab. Otto then employs the literary devices of narration in time and narrated time to indicate that DtrD and its audience, the second generation of exiles, would have differentiated between these devices to ascertain that the narratives about the Exodus generation who perished under the Sinai covenant were relative to their circumstances. Otto's proposal, then, is as follows. Just as the first generation of the Exodus, who violated the Horeb covenant based only on the Decalogue,

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[40] Because the Holiness Code (Lev 17-26) is a part of what Otto calls the "Sinai-Torah," HC cannot be an exegetical interpretation or reinterpretation of DtrD or DtrL legislation (Otto, "Pentateuch," 15). Otto's position puts him at odds with Levinson's understanding of the relationship between Deuteronomic legislation (D) and Holiness Code legislation. Specifically, Levinson deduces that the debt-slave release called for in Lev 25:39-46 is a later exegetical parallel to that in Deut 15:12-18; (Bernard M. Levinson, "The Manumission of Hermeneutics: The Slave Laws of the Pentateuch as Challenge to Contemporary Pentateuchal Theory," in *Congress Volume 2004* [ed. André Lemaire; VTSup 109: Leiden: Brill, 2006], 316-324). Jeffrey Stackert finds it implausible that HC qualifies, precedes or is a source for D. Reversing the relationship between D and HC, Stackert notes, "H[C]'s slavery and manumission laws are best explained as a reaction to and attempted modification of a more literal view of slavery . . . to reverse the relationship between Deut 15:12-18 and Lev 25:39-55 . . . . it must be claimed that the Deuteronomic author eliminated such fundamental concepts as foreign slavery, release in the Jubilee, and pre-release redemption. D must also be charged with (re)instituting permanent Israelite slavery and relativizing - but not completely eliminating - the rhetoric of hired labor vis-à-vis his source." Based on his analysis, Stackert concludes that HC draws heavily from "lexica, themes, sequence, and syntactic structure of Deut 15:12-18 . . ." (Jeffrey Stackert, *Rewriting the Torah: Literary Revision in Deuteronomy and the Holiness Legislation* [Tübingen :Mohr Siebeck, 2007], 163). Finally, Van Seter's understands the Covenant Code's version of treatment of a Hebrew slave and debt release (Ex 21:2-11) as being an exilic-derived qualification of both D and HC (Van Seters, "Hebrew Slave, 545).

[41] Otto, "Pentateuch," 20, 21 no. 31

had to perish, the first generation of exiles had to die in exile, before the second generation could receive a Moab-based covenant promising them a new history in their forefathers' land.[42]

Countering Otto's DtrD and division between Horeb and Moab-based covenant is Crüsemann's tendency to simply do away with such divisions. The basis of Crüsemann's tendency is his understanding that there are only three allusions to written pre-exilic law, *torot*, as he labels them. They are: (1) Hos 8:11-12 that alludes to, Crüsemann surmises, cultic legislation written down in the northern kingdom of Israel some time in the eighth-century B.C.E.[43]; (2) Is 10:1-2, alluding to written secular law used by Judah's elites to deprive the kingdom's vulnerable, inclusive of widows and the poor, of legal recourse to redress their plight, presumably caused by the elite Judean class;[44] and (3) Jer 8:8-9, along with the finding of a law book as told in 2 Kgs 22.[45] Crüsemann understands Jeremiah 8:8-9, along with the narrative report of finding 'the book of the law' in 2 Kgs 22, to be indicative of the existence of late pre-exilic written law, a Jerusalem-based written Torah, subject to Jerusalem scribes, who sought within it guarantees of wisdom and impunity.[46] These *torot*, Crüsemann argues, make no mention of Moses or Sinai. Hence, Crüsemann proposes, these *torot* were not the recitation of ancient Torah from

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[42] Ibid., 19-20.

[43] Crüsemann, *Torah*, 17-20; 55.

[44] Ibid., 20-23.

[45] Ibid., 23-26.

[46] Ibid., 26.

Israel's past, but were *torot* directly connected to issues of each prophet's time, place, and circumstances.[47]

Sinai as a judicial place, Crüsemann argues, begins at Ex 32-34; divine cultic commandments, written on stone tablets (Ex 32:15-16, 19) were placed in opposition to the northern kingdom of Israel's official calf cult (cf. Ex 32:20) as an explanation for Samaria's demise under Assyrian force in 722 B.C.E.[48] Late Deuteronomic editing as a reaction to and correction of Ex 32-34 is seen by Crüsemann in Deut 5 and 9:7-10:11. He especially notes that this editing lacks mention of the book of covenant (Ex 20:22-23:33), which follows the Decalogue in the Sinai narrative of Ex 20:1-17, and lacks the covenant ratification of Ex 24. Crüsemann's conclusion: the older strata of Deuteronomy had no prior knowledge of a Sinai/Horeb tradition.[49]

The 'journey' to Sinai/Horeb, and its law, mediated through the archtype Moses, started, Crüsemann proposes, with a Deuteronomic movement, initially founded in the historical provocation of Samaria's demise, but it continued in the historical challenges brought on by exile imposed on the southern kingdom of Judah by Babylonian dominion, and found its fruition under Persian authority over a post-exilic Yehud. Crüsemann's perception of late Deuteronomic strata edited into an older Deuteronomy is on a par with Otto's Dtr when dated to the exilic period.[50] The correspondence in dating, however,

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[47] Ibid., 27.

[48] Ibid., 53-56.

[49] Ibid., 44.

[50] Ibid., 45.

does not, explain where or why Crüsemann's scenario of Deuteronomic editors obtained and inserted a Sinai/Horeb tradition into an older Deuteronomy, which he claims had no knowledge of such a tradition. Crüsemann's explanation is manifold as to where and why.[51] Significant for this study are two of his explanations. First, Sinai/Horeb as a judicial space, outside the temporal and physical world, was achieved by associating it with divinely authorized law as a counter pose to ancient Near Eastern law, derived from inside the physical and temporal authority of the state.[52] Second, the shift to law from cultic ordinances is to be understood as a development of the Persian period. The post-exilic period required cult and temple to be subject to and responsive to divinely-derived commandments over and against temple cults inaugurated by kings, thereby sustaining the political and legal autonomy of Yehud under the weight of Persian dominion.[53] Of extension, the promulgation of socio-political legislation from Yehud's cultic center would be logically connected to this divine position.

Post Exilic DtrL and Performance of Deuteronomic Debt Release

Otto's post-exilic DtrL (Deut 1-3; 29-30), where the 'L' stands for land acquisition (*Landnahme*), connects to his exilic DtrD (Deut 5; 9-10; 12-26). It is in this layer that

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[51] Crüsemann's explanations includes that there should not be the expectation of a pre-deuteronomistic Sinai narrative of YHWH abiding on a holy mount or the report of the giving of divine law in older strata of Deuteronomy such as is found in Ex 24:9-11. The derivation of any such narrative, resembling linguistically or substantially Ex 24:0-11can only be found, according to Crüsemann, in the exilic prophetic text of Ezekiel, specifically, Ezk 1:26; 8:2, and 10:1 (ibid., 45-46). Additionally, Crüsemann contends, the connection between a mountain of YHWH, Sinai/Horeb, and the giving of divine law cannot be assumed to be a Deuteronomistic theology (ibid., 46-47); and Deuteronomistic shaping of Sinai periscopes should in most instances be interpreted as a reaction to prior priestly influences (ibid., 47-48).

[52] Ibid., 57.

[53] Ibid., 49.

Otto discerns redactors whose concern he connects with land acquisition (Deut 1-2; 29-30), hence Otto surmises that DtrL connects with the book of Joshua (1-11;23), and exonerates the returned exiles from meeting a fate similar to their forefathers, a new exile from the land. According to Otto, DtrL's theo-political response provided needed assurance to a post-exilic Judah, answering why they, unlike their forefathers, would not endure exile from the land, providing they obey Deut 12-26. DtrL's redaction of narration in time puts the migration into the land as beyond the river Jordan. DtrL's answer, then, according to Otto, is that post-exilic Judah's forefathers went into exile from the land because they did not know Deuteronomy. Consequently, through Otto's progressive D strata, the generation that the Moses fiction addresses is narrated in time to the second generation of exiles, being distanced from the generation of their forefathers by DtrL's redaction of migration into the land as beyond the river Jordan. This was achieved, Otto proposes, by framing Deut 5: 9-10 and 12-26 with Deut 1-3 and 29-30.[54]

Otto's schema of a progressive D grounds each strata of D he has identified in its own geo-political setting, making each strata a particular theo-political response to the geo-political circumstances and challenges of each successive empire that dominated Judah. Otto's schema allows for not placing all editorial workings in D into the Persian period, but seeing them as a progressive responses over time to Assyrian, Babylonian and Persian claims on Judah. Each stratum of Otto's D accommodates itself to its geo-political circumstances. Crüsemann's conceptual framework, however, does not seek to

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[54] Eckart Otto, *Das Deuteronomium im Pentateuch und Hexateuch* (Tubingen: Mohr Siebeck, 2000), 102-110, 244.

find correspondence in the text to successive geo-political circumstances, the Persian empire being, for Crüsemann, the dominant domain under which editing occurred. Crüsemann contends that rather than the text being made to correspond to geo-political circumstance, various layers of texts were laid juxtaposed to one another because the Persian domain understood texts as unalterable. Hence, according to Crüsemann, the tradition of D finished at Deut 34, Persian authority having been intolerant of a tradition inclusive of a subordinated people's conquest of land under Persian dominion.[55]

Crüsemann's proposal provides a basis for speaking about an emerged energy of editorial activity in the Persian Yehud. Most importantly for the purpose of this study, Crüsemann posits that Deuteronomic law as mediated through the historic archetype, and legal progenitor, in the character of Moses, provided an organizing model and the vehicle for rendering authority to propound new, divinely authorized law used for home rule in Yehud under Persian domain. Specifically, Deuteronomy's debt release laws are embedded in a narrative presenting Moses as reminding Israel of its servitude in Egypt, giving form and reason for debt release (Deut 15:15) as directly related to land tenure. In the adaptation of the Deuteronomic debt release laws, Crüsemann proposes that the conflation of earlier biblical sources occurred in response to conflicts exacerbated by economic crisis in the Persian Yehud, including that between indebted small farmers and their prosperous creditors. Crüsemann understands these mediating and adaptive processes as initiated and completed late in the Persian period in response to the legal

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[55] Crüsemann, *Torah*, 333, 337, 339, 348.

context of relative Jewish autonomy in the Persian empire, where Persian overlords had a policy of recognizing the customary laws of their subjects.[56]

Importantly, Crüsemann's understanding is *not* suggestive of Deuteronomic debt release as being simply a reaction against oppressive social or economic practices, but of economically driven processes originating in Yehud, which is the premise of this study. Crüsemann sees a progression toward legal norms being replaced by the procedure of their performance fitted to specific socio-political circumstances. This vision is quite distinct from Otto's vision of a progression of literary strata to meet geo-political circumstances. Methodologically then, Crüsemann's vision and proposals allows for viewing the Deuteronomic debt release laws as a continuation of a polemic having had pre-exilic origin, but post-exilic *performance*. Important for this study is Crüsemann's vision that makes room for the economic modeling of Deuteronomic debt release in the Persian Yehud, thereby raising the issue that any understanding of the making of sacred laws requires attention to such laws' pragmatic dimensions or ulterior motives, re-enforced in their *performance* (cf. Chapter 4).

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[56] Ibid., 337.

APPENDIX E

RHETORIC OF DEUTERONOMY 15: 1-11

The rhetoric of Deuteronomy's debt release laws (Deut 15:1-11) is couched in

motive clauses, which is then framed and fitted into a commonplace theology, in order to

provide the incentives necessary to persuade its audience toward compliance. These

motive clauses, themselves, are rhetorical constraints devised to constrain the thought and

actions of its audience, debt holders, lessors, and the like.[1] Some of these rhetorical

constraints include:

1. appealing to each individual in the audience, and to the audience as a

   community, by the use of direct forms of address - singular/plural "you";

2. accentuating responsibility and duty by downplaying legalistic violation of

   the laws;

The direct forms of address personalized the message and created a sense of

urgency (e.g. Deut 15:1, 3, 4, 5, 6, 7, 8,13, 14, 15, 16, 17, 18). Casting the code in a

casuistic legal format emphasized hearers' primary responsibilities and duties toward their

compatriots as mandated by the laws. The laws are distinct from remedial forms of

casuistic law, having neither violation of a norm or law stated in a protasis ('if' clause),

nor stipulating types of punishment for violations of the law in an apodosis ('then' clause).

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[1] Gemser defines a motive clause as "grammatically subordinate sentences in which the motivation for the commandment is given" (Berend Gemser. "The Importance of the Motive Clause in Old Testament Law." *VTSup* 1 [1953]: 50). Sonsino defines a motive clause as a "dependent clause or phrase which expresses the motive behind the legal prescription or an incentive for obeying it." Sonsino identified four categories of motive clauses: (1) those that express divine authority; (2) those that reference historical experiences held in common by a people; (3) those that produce fear of punishment for lack of compliance; and (4) those that promise well-being for compliance to that legislated. (Rifat Sonsino, *Motive Clauses in Hebrew Law: Biblical Forms and Near Eastern Parallels* [SBLDS 45; Chico, CA: Scholars Press, 1980], 65, 109).

In Deut 15:12-15, the rhetors are aware of the statute for the release of
Hebrew debtors after six years but are interested in dealing with issues beyond the
limits of the statute, mainly a creditor's duties toward debtors who are about to be
released. In order to enable the debtors' transition into 'free' life, the rhetors exhort
creditors to provide debtors with temporary means to support (v. 14, 17b)
themselves. This exhortation is then reinforced with a motive clause to incite
creditors to do their duty in order to be the continued recipients of YHWH's
blessing (v. 14), and to encourage creditors to perform such duties because such
actions are in keeping with Israel's history (v. 15).

    3.   associating YHWH's blessing with those things in the audience's history
           that it values, mainly:

        (a)   to rule over others, as oppose to being ruled over by others
               (cf. Egyptian bondage, Deut 15:6);

        (b)   to possess land as an inheritance, acquire abundance from the land
               (Deut 15:4);

The rhetors presupposed their audience's value for the land of their
forefathers and it productivity as YHWH's blessing. Hence, any threat or curse
involving exile from the land, the loss of land, or its productivity would act as a
powerful and concrete motivational factor to persuade members of the audience
into compliance with the law.

    4.   encouraging the audience's obedience based on mutually accepted values
           and truths;

The rhetors presupposed that notions of blessings and rewards for obedience, and
curses and punishments for disobedience, were normative events for their audience, and

accepted truths about YHWH (Deut 15:5-6, 9, 10, 18). Hence, there was no burden of

proof on the part of the rhetors.

5.   urging the audience to 'remember' what YHWH has done for Israel, and for

the audience not to forget its past.

By encouraging the audience to remember YHWH's intervention in Israel's

history, the rhetors conveyed to each member of the audience a sense of belonging to a

specific group that had been aided by YHWH, and a perception of needing to obey in

order to maintain the continuity of the group (Deut 15:14-15). The interplay among

moral-, historical-, and economical- motive clauses within a theological framework is

most clearly perceived from the broader rhetorical situation in which Deut 15 is

embedded. The broader rhetorical devices are synchronous with the devices in Deut 15,

portraying Moses as appealing for Israel's obedience, premised on one of the primary

events in Israel's history, the making of the covenant at Horeb.

This elaborate weave of motive clauses may have been the rhetors' awareness that

the change they were proposing would meet intense resistance, particularly from persons

benefiting from an existing system. Indeed, Albertz[2] indicates that the parenetic character

of Deut15:7-11 "presupposes the first disappointing experiences with the reform law."

For example, the call for the remission of a debtor's outstanding obligations owed to

creditors on a customary time framework, or every seventh year, could have led creditors

to renege on offering terms of credit immediately prior to the year of remission (Deut

15:9). Hence, the rhetors enjoined creditors and persons of economic means through a

series of theologically-oriented motives clauses to caution against being remiss in the

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[2] Albertz, *A History of Israelite Religion, From the Beginnings to the End of the Monarchy,* 359.

release of debts owed in the seventh year, or limiting credit prior to the year of remission (Deut 15:7-11).

These motive clauses, however, were also an appeal for "solidarity," or what this study chooses to call limited and controlled socio-economic consolidation between what Albertz[3] terms "the upper class and their poor 'brother'" (cf. Deut 15:9, 11). Within the confines of Deut 15, this was rhetorically achieved by offsetting the potential of being the object of YHWH's blessings for obedience against the potential of being the recipient of YHWH's curses and punishments (Deut 15:9, 10). The supposition that riches were a result of and a sign of YHWH's blessing is evidenced in Deut 28:3-5; 33:13-17 9 (cf. Gen 26:12, 27:28, 33:11). Under the prevailing land-tenure system drawn in this study, such a supposition of blessing may have taken on a new application, particularly among Yehud's hierarchy, as evidenced by Deut 15:14, which draws persons attention to the abundance of wealth they had received on the account of divine blessing. Additionally, resistance to the call for consolidation from what Albertz[4] labels the "autonomies of economic life" were minimized by not "formulating penal regulation[s]" for disobedience.

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[3] Ibid., 218.

[4] Ibid., 359.

This exposition of the rhetorical construction of Deuteronomy's debt release laws is broadly reflective of aspects of Roland Boer's construct of theo-economics in a scared economy, where the deity is the focal point and causal agent of a society's productive abilities and allocation of divinely determined elements. However, when laws entwined with theo-economics are acted upon or are enacted they become an extra-economic compulsion. They become a legal paradigm poised as socio-economic organization in the struggle for resources outside the realm of sacred rhetoric.

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