

THE MOSAIC COVENANT AGAINST ITS ENVIRONMENT¹

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We are all aware from our own personal experience the truth of the words of John Donne found in his *Devotions* when he observed that "No man is an island, entire of itself." As no man can be completely alone, unaffected by others, so no nation is completely isolated. All are children of their environment, affected by the beliefs, morality and literature of their neighbours. Israel of the Bible is no different. Even in the matter of the special covenant relationship with God which separated her as a nation from among her neighbours, even here, in a situation which made her unique in her world, there was considerable influence from her contemporaries on the form and content of this relationship.

We will start this paper by looking at several of the similarities between the Israelite covenant documents and those of the peoples to her north, south, and east. This is an area of study which has become increasingly recognized and publicized in the last fifty years, and consequently many will be aware of it (see McCarthy 1978). Therefore, these similarities will not take all of our time. We will also attempt to explore at least one aspect of Israel's covenant which is different from those of the same period, an aspect which makes Israel truly unique.

Fifty five years ago, Victor Korosec published a seminal and far-reaching study of the Hittite treaties or covenants from the second millennium BCE (Korosec 1931). These were legal agreements reached between the Hittite rulers and other leaders of that period. Subsequent study has found that these were probably influenced by earlier Mesopotamian and Syrian prototypes, so that the common designation 'Hittite' as describing their ultimate origin is a misnomer, though I will use it here (McCarthy 1978:29-36).

Korosec found the treaties to fall into two categories. Parity treaties were effected between two parties on equal-footing relationship between two relative equals such as Hatti and Mitanni or Kizuwatna, or between two such powers as Hatti and the Egyptians under Ramses II. These treaties shared common elements, including the self-laudatory titles of each party, the history of the relationships between the two parties, an affirmation of brotherhood, a list of terms, which were the real reason for the treaty in the first place, and a list of divine witnesses, consisting of the chief deities of each side who would be responsible

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for bringing about the blessings or curses called down upon the party who kept or abrogated the covenant.

During the time of Moses, while the Israelites were wandering in the wilderness, they were not a great nation with a ruler who was on a par with anyone. Therefore, this type of treaty between equals is not of direct relevance to us here today.

The second type of treaty which Korosec recognized *is* relevant to our discussion. These treaties are called suzerainty or vassal treaties and are of a different order from the parity treaties. They bind an inferior party by oath to the terms set down by the superior, the Great King. The inferior is made a subordinate, a vassal, to his superior or suzerain, the Hittite king.

Several aspects of this type of treaty are worth noting. The mutual support established between the two parties is primarily to the benefit of the 'Great King.' He himself is usually not bound by oath to any terms, except in the matter of succession to the vassal's throne, which he might declare to be honored or guaranteed by the great king. In an Egyptian copy of treaty, we find, "Behold, the son of Hattusilis, the lord of Hatti land, shall be made king of the Hatti land in the place of Hattusilis, his father, after the many years of his father. If the noblemen of Hatti land commit sin against him — lo! ...the king of Egypt shall send foot soldiers and charioteers to take revenge upon them for the sake of the Hatti land. And after they have reestablished order in the country of the king of the Hatti land, they shall return to the country of Egypt" (Pritchard 1969:203).

The vast bulk of responsibility fell upon the vassal. Since he had no legal claim upon his superior, being only a vassal, his only course was to trust in the suzerain's goodwill, or lack of it.

Vassal treaties, much like parity treaties, share common elements, although these are by no means rigid in structure. Individual treaties could omit or rearrange the constituent parts. These elements include: 1) the titulary or preamble in which the suzerain is identified, 2) a history detailing the previous relations between the two parties, 3) the stipulations or obligations imposed upon and accepted by the vassal, 4) the document clause requiring the deposit of the written treaty in a temple and its periodic public reading, 5) the god list of divine witnesses who sanction the treaty, and 6) the blessing and curse formulae invoked upon those who keep or break the treaty (Korosec 1931:11-14).

The relevance of these treaties for biblical studies was first noted by George Mendenhall, presently of the University of Michigan, in a now famous article (Mendenhall 1954). His insights were originally applied mainly to passages describing the establishment of the covenant at Sinai (Exod. 19-24) and to others describing the covenant's renewal (e.g. Josh. 24). Later, the book of Deuteronomy was studied in this light, first in particular parts (e.g. McCarthy 1978:157-187) and subsequently

as a whole (e.g. Kitchen 1966:96-99; Kline 1975:113-153; cf. McCarthy 1978:188-205). We shall here study one of several proposed understandings of the Mosaic covenant as renewed in Transjordan immediately prior to Israel's entrance into the land, the book of Deuteronomy.

The first portion of a Hittite vassal treaty is the titulary which starts, "These are the words of the Sun Mursilis, the great king, the king of the Hatti land, the valiant, the favourite of the storm God" (Pritchard 1969:203). The speaker is identified by name and the vassal is put into his due place of humility by the grandeur and awesomeness of the royal epithets, which can be even more extended (McCarthy 1978:52-53). These serve the same effect as the beautiful but graphic reliefs carved on the walls of the ante-room in Assyrian and Babylonian palaces. An envoy to the king, after passing before a number of these scenes depicting the invincibility of the Assyrian king in battle, would thus be cowed into a state of mind suitable for one having an audience with such a great personage.

Consider Deut. 1:1 which reads, "These are the words." The form is the same as the start of the Hittite treaty, but since Deuteronomy is a treaty renewal rather than the original document, the words are those of Moses (v. 5) speaking on behalf of the sovereign king, the God of Israel. Note the words of King himself in 5:6, "I am the Lord your God." There is no need for awe-inspiring epithets here since God's ineffable name of power is sufficient in itself to remind the people of the grandeur and might of the One with whom they have to do.

The second element is the historical prologue: "Aziras was your grandfather, Duppi-teshub. He rebelled against my father, but submitted again to my father...300 (shekels of) refined and first-class gold, the tribute which my father imposed on your father, he brought year by year; he never refused it...When your father died, in accordance with your father's word, I did not drop you...I, the Sun, put you in the place of your father (giving you the throne)" (Pritchard 1969:203-204). Therefore, he says, based on the relationships in the past between our two houses, you have sufficient reason to enter into this treaty with me. Similar details of the past dealings of God with Israel are given in the renewal document in Deut. 1:6-3:29, recounting the wanderings in Sinai and God's providence there. Also they are found in the words of the Great King, in 5:6. For God, it was sufficient to remind his people that it was he "who brought you out of the land of Egypt, out of the house of slavery." This was enough of a historical basis upon which to erect a covenant.

Then follow the stipulations or obligations, often found in two sections: basic and detailed. A basic stipulation in the Hittite treaties was, "Do not turn your eyes to anyone else! Your fathers presented tribute to Egypt; you shall not do that!" (Pritchard 1969:204). Israel too was

strictly commanded, "You shall have no other Gods except me!" (Deut. 5:7). The fundamental character of this stipulation is marked by its location as the head of all others in the list. These general and comprehensive terms of the covenant are found in Deut. 5-11, while Deut. 12-26 adds more specific requirements regarding the whole gamut of life, from the protection of boundary stones to harvesting. These correspond to the Hittite's concern with, for example, extradition, dealings with foreigners, and the like.

The fourth element, the document clause, is much rarer in contemporary treaties, and is more often lacking than not. In two cases it calls for the deposit of the document in a sacred place, and in two others, for its public reading (McCarthy 1978:63). In Deut. 27:2-3, Moses commands the people to write the law on pillars before the altar, and in 31:9-10 we are told that "Moses committed the Law to writing and gave it to the priests, the sons of Levi, who carried the ark of the Lord's covenant, and to all the elders of Israel. And Moses gave then this command: 'At the end of every seven years, at the time fixed for the year of remission, at the feast of Tabernacles,...you must proclaim this Law in the hearing of all Israel.'" The signatories are to receive periodic reminders of the obligations they have committed themselves to.

The following list of divine witnesses was an important part of the Hittite treaty. Each party called upon their national deities as those controlling their destinies. For example, the Hittite king called upon "The Sun God of Heaven...Sin, Lord of the Oath,...Ellil, Ninlil, the mountains, the rivers, the springs...the wind and the clouds — let these be witnesses to this treaty and this oath" (Pritchard 1969:205). This same need for witnesses was felt in Israel since it was part of the accepted covenant form. The problem was that God could not call upon other gods as witnesses, since not only was he alone God, but he was also one of the parties of the covenant. He does, however, call witnesses: Deut. 30:19—"I call on heaven and earth to witness to you today"; Deut. 31:19—"Now write down this song which you must use; teach it to the sons of Israel, put it into their mouths, that it may be a witness on my behalf against the sons of Israel." And, after the song of Moses recited in chapter 32, Moses reminds the people to "take this word to heart; I call them to witness against you today. You must order your children to keep and observe all the words of this law." Even the written law itself, deposited in the Ark of the Covenant, is to serve as a silent witness in 31:26

The Hittite deities were to effect the sanctions or benefits recorded in the last portion of the treaty, the blessings and the curses. An example of a blessing: "If...you...fulfill this treaty and oath, may the gods protect you...together with your wives, your children and your children's children, and together with your country. May...the...country...thrive and expand" (Pritchard 1969:206). This has some similarity to the early

verses in Deut. 28 which read, “you will be blessed in the town and blessed in the country. Blessed will be the fruit of your body, the produce of your soil, and the issue of your livestock” (vv.3-4a).

So too the curses are parallel, and all too graphic. Esarhaddon calls on those who break his treaty: “Just as lead does not resist fire, so may you not resist your enemies but take your sons and daughters by the hand and flee...May Shamash plow up your cities and districts with an iron plow” (Pritchard 1969:539). Israel is warned in Deut. 28:36: “Yahweh will send you and the king you set over you to a nation that neither you nor your fathers have known, and there you will serve other gods of wood and of stone.” In verses 63-64 of the same chapter: “And as the Lord took delight in doing you good and multiplying you, so the Lord will take delight in bringing ruin upon you and destroying you; and you shall be plucked off the land which you are entering to take possession of it. And the Lord will scatter you among all peoples, from one end of the earth to the other; and there you will serve other gods, of wood and stone, which neither you nor your fathers have known.”

Interestingly enough, the Hittite blessings and curses are often in much the same proportion as those found in Deut. 27-28. The drafters of the treaties were perceptive students of human nature, realizing that blessings for compliance were not as necessary as curses for disobedience. Therefore, the latter occurred in greater abundance, and are equally explicit and undesirable in Deuteronomy as elsewhere. The structure of covenant in both Asia Minor and Israel shows that it is not the carrot on a stick which is most effective in producing the desired response, but the use of the stick itself.

I hope to have shown from this brief overview that the literature of Israel is one with its time and place. It reflects real parallels with contemporary forms which have great implications for the dating and unity of the documents, whether Deuteronomy, Exodus 19-24 or other passages. This, however, is not the greatness of the Mosaic covenant, which is *not* a Hittite covenant but an Israelite covenant between Israel and her God. Its form is Hittite or follows Hittite models, but that doesn't make it a Hittite treaty. Even though all nights are the same, one night is special, because on it the Sabbath is welcomed. Another is even more set apart, for on it is asked, “Why is this night different from any other night?”

Shemaryahu Talmon of the Hebrew University has presented this problem in a characteristically lucid article on the comparative method (Talmon 1978). While care must be taken to understand Israel, or any other culture, in its environment and interrelatedness to its neighbours, he points approvingly to the example set by several leading Assyriologists. “Coming from scholars whose expertise is the study of ancient Near Eastern cultures — archaeologically, historically, sociologically, linguistically and phenomenologically — the insistence

on the *particularity* of Hebrew culture and its *dissimilarity* from neighboring cultures should serve students of the Old Testament as a guideline in their comparative studies” (Talmon 1978:328, emphasis mine). The question which would still need to be asked, according to Talmon, is, “How is this covenant different from any other covenant?” This question is the one which will now be addressed.

An international treaty was a matter of some import. It was established with the expectations that it would be honoured. This was the express reason for the divine witnesses, and for the curses which they would bring down upon the miscreant. In historical actuality, the deities were aided to some extent by the king himself, and more particularly by his army. They would step in and make sure that the treaty would not be broken again, often by doing away with the offenders. Israel and Judah learned this first-hand after repeated violations of their agreements with the other parties involved. The Assyrians and Babylonians took the final step of sanction in 722 and 586 BCE when they destroyed Samaria and Jerusalem respectively. In the ancient world, if the covenant was broken, so was the guilty party — and that was that. This was harsh, but it was the customary and accepted way of life, and death. This direct response was not customarily the first step to redress a grievance. It was non-profitable to kill the goose as long as it still might produce more golden eggs, so preliminary steps were taken first. Warnings were given, sometimes with a vigorous display of military power, for example Sennacherib’s campaign against Heaekiah in 701. Finally, after numerous reminders of the sovereign’s awareness of continued and flagrant breach of covenant, the final steps are taken. This was done reluctantly. Just as a bank is in the business of increasing its capital through mortgage interest and not in being a real estate agency handling properties of clients who have defaulted, so a king would rather increase his stores by tribute rather than deplete them through waging war.

Gordon Wenham has argued for one further section of the covenant in the Bible which is particular to it, namely a recapitulation of the main covenant demand, which is found in Deut. 29-30 (Wenham 1970). He argues that these two chapters do not need to be understood as later editorial additions, as some have proposed. They are rather an integral part of the covenant document itself. They are also integral to the Israelite understanding of God and of their continued existence as a people. In them, especially in chapter 30, is what I would consider to be the uniqueness of the Mosaic covenant.

God, like the other great kings, is not slack in bringing punishment upon covenant breakers, but he goes one step further, as is seen in Deut. 30:1-5.

“And when all of these words come true for your, the blessing and the curse I have set before you, if you meditate on them in your heart wherever among the nations the Lord your God drives you, if you return to the Lord your God, if you obey his voice with all your heart and soul

in everything I enjoy on you today, you and your children, then the Lord your God will bring back your captives, he will have pity on you and gather you once again out of all the peoples where the Lord your God has scattered you. Had you wandered to the ends of the heavens, the Lord your God would gather you even from there, would come there to reclaim you and bring you back to the land your fathers possessed, so that you in your own turn might make it your own, prospering there and increasing even more than your fathers.”

God is a God of law and justice, so the curses have to be carried out. The people are driven out of the land to live, and die among the nations, just as the curse in Deut. 28:63-64 said would happen. But, unlike the harsh, or perhaps simply just, kings of the Hittites, Israel's God is also a king of grace and mercy, or better, of *hesed*. In the very covenant document itself he included a clause providing restoration of broken relationship.

As just mentioned, Assyrian kings usually withheld final action for a period in order to try to restore the desired relationship. This could not be expected, however, and was certainly not built into the fabric of the covenant document itself, as it is in Israel's document.

This chapter thirty of Deuteronomy is extremely important not only in understanding Israel's covenant with her God, but also in understanding God himself. It is a linch-pin in the whole of biblical theology and the background of Israel's covenantal view of history. Israel, like the vassals of the Hittites, had the opportunity to live in peace with the great king and receive whatever benefits might arise through their relationship, while at the same time fulfilling her obligations to her suzerain. When the Hittite vassals disobeyed, however, wrath would fall. Wrath was also experienced by Israel, but this chapter in Deuteronomy allows the unique opportunity of having a second chance, or, as in the continued history of the biblical Israel, a third, fourth or fifth chance.

Deuteronomy 30 in no way abrogates the curses of the preceding chapters; deportation and decimation could and did take place. Restoration could also take place if the proper spirit of the covenant was entered into again, if the commandments, the stipulations of the covenant, which were known to Israel, and to which they had agreed, if these commandments were obeyed again.

I mentioned that this view of history is the backbone of the Bible. This can be clearly seen in the Judges, for example. Israel, in doing what was right in her own eyes, repeatedly worshipped foreign gods. By doing this she was breaking the first and fundamental covenant stipulation of Deut. 5:7 and Exod. 20:3: “You shall have no other gods.” The covenant was thereby broken and the curses were brought about by God, who allowed oppression by a foreign power. This was not the end, however, for when the people returned to God and to their covenant obligations, they were forgiven and restored, with their enemies dispersed (Judges 2:10-19). This is the flow of biblical history and also

the call of the prophets. They proclaimed judgment and destruction for the willful violation of the covenant. This infidelity was something which irrevocably and undeniably happened, but still the message of doom was tempered with the exhortation for repentance and the possibility of restoration — “Come back! Obey God! Choose life!”

This offer of forgiveness and restoration being an integral part of the Israelite covenant document has implications in other areas of Old Testament study. Critics have suggested that there needs to be a temporal distinction in the prophets between passages relating to judgement and those offering hope. The former one is considered to be pre-exile, a necessary counter to the syncretism and false worship and practice of this period which ultimately led to the exile, as God’s just response to the repeated ignoring of his laws. The hope passages would then only be addressed to a people in exile, who would need to be reminded of God’s love and care for his people. On the basis of this hypothetical reconstruction of temporal development of those concepts, objective, canonical texts are divided and viewed as containing secondary additions. Examples are too numerous to list exhaustively, but two well-known examples are Amos 9:11-15 and Isa. 40 ff.

This argument, which has enough difficulties on other grounds, is further weakened in light of the established position of Deuteronomy 30 within the covenant document which, even by critical dating, is pre-exile. Grace is integral to God’s message to his people on both sides of the exile. In light of this, and in reference to both aspects of blessing and curse in the covenant, it is not surprising that both aspects appear even in pre-exile prophets.

This aspect of forgiveness as an integral part of God’s covenant with his people has obvious application to the New Testament as well, and serves to join the two Testaments into one Bible. It could have been this aspect of the covenant, among others, which Jesus had in mind when he said that the cup was a new covenant in his blood, the blood which cleanses and effects forgiveness. The forgiveness of the new covenant extends beyond the sons of Abraham, the signatories of the Sinai agreement, to include all who appropriate the healing blood to themselves. Going beyond the immediate meaning of Moses’ words in Deut. 24:14-15, “I am making this covenant, with its oaths, not only with you who are standing with us today in the presence of Yahweh our God but also with those who are not here today.”

This concept of God as just but also merciful and forgiving, being spelled out in Israel’s covenant with her Great King, is a uniting feature of the Bible. It is also what separates it, makes it unique in its world. The Hittite or Assyrian vassals would receive benefits from their superior at the latter’s discretion. Since he was human, however, these were not necessarily to be relied upon, and often were not forthcoming. Israel, on the other hand, had a relationship which was founded on something

else. Justice was there, but it was tempered and mediated by something that was not subject to vagaries of mood or whim. Their covenant was based upon, and continually realised in, a fundamental and unchanging aspect of the God with whom they were allied. Theirs was a covenant of hope, because theirs was a God of *hesed*, a God of kinship and covenant love.



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