Legal Revision and Religious Renewal in Ancient Israel

BERNARD M. LEVINSON
University of Minnesota, Minneapolis
The Reworking of the Principle of Transgenerational Punishment: Four Case Studies

The idea of using the formula for transgenerational punishment to account for the Babylonian exile may well have become commonplace right from the beginning of the exilic period. Fugitives who fled Jerusalem seem to have inscribed key elements of the formula on the walls of caves in which they took shelter. It is also reflected in a series of inscriptions from Khirbet Beit Lei (sixth century B.C.E.)

The biblical editor had little choice: how else to explain the gutting and burning of Jerusalem that followed so shortly after the reign of righteous King Josiah, who had been heralded for his perfect devotion to the law of Moses (2 Kgs 23:25)?

consequences for the sons for multiple generations). The verb, when combined with a personal reference as definite direct object, may indeed mean "to visit" in a neutral way: "Samson came to visit his wife," רָאָה עָלָיו וְאָבָא (Judg 15:1). However, when the same verb instead takes a noun with the semantic range of wrongdoing or sin as its direct object, the meaning is quite different: יָרְאֹה עָלָיו וְאָבָא, "He will remember their iniquity, / He will punish their sins" (Hos 9:9; NJPS). That is the semantic construction at issue in the Decalogue's formula for transgenerational punishment. Then there is the theological issue, which is perhaps the real point of departure. In Wénin's view, the God of the Decalogue never really gets angry. He lacks the wrath to punish anyone except those who are actually guilty of wrongdoing. Although this kind of polite restraint may result in a politically correct God, in my view such a deity is consistent neither with the God of ancient Israel nor with the text of Exod 20:5.

There were three generations from Manasseh's reign to the time that the Babylonians ended Egyptian control over Judah and made King Jehoiakim their vassal (2 Kgs 24:1-5): Amon, Josiah, and Josiah's two sons, Jehoahaz and Eliakim/Jehoiakim. The first deportation occurred in the next (fourth) generation with the deportation of King Jehoiachin (2 Kgs 24:8-17).
of exilic and postexilic biblical texts. These texts confirm, however, that this historiographical “solution” created as many theological difficulties as it sought to solve. Lamentations, for example, preserves a moving poetic dirge over the destruction of Jerusalem and the suffering of its population. Near the book’s close, the speaker seems to share the orientation of the historiographer of Kings as he, too, accounts for the destruction as divine punishment for the apostasy of previous generations. That rationalization is now, however, subjected to critical scrutiny.

_Our fathers_ (אבות) sinned and are no more;⁴ But as for us—the _punishment for their iniquities_ (נאותיהם) we must bear! (Lam 5:7)

The terminology of the lament, which pointedly refers both to “fathers” (אבות) and to “punishment for iniquities” (נאותיהם), alludes to the Decalogue’s doctrine of the transgenerational consequences of sin, in which God describes himself as “visiting the _punishment for the iniquity_ of the _fathers_ upon the sons,” פקרת בנים על בני אבות (Exod 20:5).³

The speaker has broken apart the original genitive phrase (“iniquity of the fathers”) of the Decalogue, making each of its two key terms into the subject of an independent statement. As a result, God’s threat of punishment is here invoked as accomplished fact—but now from the perspective of the progeny who proclaim their innocence by restricting culpability to the previous generation. By insinuating the innocence of his own generation, the speaker asserts the injustice of divine justice. Moreover, in the Hebrew of the lament, the words for “fathers” (אבות) and for “the punishment for iniquities” (נאותים) are strongly linked by both assonance and rhyme. But the pronominal suffixes that specify “our fathers” (אבותינו) and “the punishment for their iniquities” (נאותיהם) break the similarity of sound. The broken assonance highlights the fractured logic: the punishment that the speakers endure is not for their own but for their _fathers’_ apostasy. The indirect intertextual reference in fact amounts to the censure of a text whose infrangible authority is precisely the problem.

The injustice of the doctrine raises important practical difficulties as well. It inevitably creates an overwhelming sense of the futility of historical action altogether, inasmuch as the progeny cannot free themselves from the consequences of the past. In the grim circumstances of Israel after the catastrophe of destruction and exile, the future would have seemed radically foreclosed, the direct result not of one’s own but of a previous generation’s action. Yahweh himself anticipates the despair of the first group of deportees (those who had been deported with Jehoiachin in 597 B.C.E.), citing their complaint in advance: “How
then shall we survive?” (Ezek 33:10) Any step forward—whether toward personal renewal or national reconstruction—would appear pointless. For both theological and existential-historical reasons, therefore, we can expect biblical authors to struggle relentlessly against the injustice of the Decalogue’s doctrine.4

THE TRANSFORMATION OF DIVINE JUSTICE IN EZEKIEL

Precisely as Judah faced the prospect of national destruction, the prophet Ezekiel (active 593–573 b.c.e.) provided a profound meditation on the impact of temporality on human action. Ezekiel had been among the upper echelon of Judean society deported to Babylon in 597 (thus prior to the destruction of Jerusalem with its Temple, and the exile of the city’s population in 587). He here reported to his fellow deportees, who lived in a period of uncertainty, still hoping for their restoration to Jerusalem, about an oracle he had recently received:

The word of Yahweh came to me: “How dare you bandy about this proverb upon the soil of Israel, ‘Fathers eat sour grapes and their children’s teeth are set on edge?’ As I live—declares the Lord Yahweh—this proverb shall no longer be current among you in Israel. Consider:

The word of Yahweh came to me: “How dare you bandy about this proverb upon the soil of Israel, ‘Fathers (הConfigurationException) eat sour grapes and their children’s ( לעולם) teeth are set on edge?’ As I live—declares the Lord Yahweh—this proverb shall no longer be current among you in Israel. Consider:

5 This translation is indebted to Tanakh: The Holy Scriptures (Philadelphia: Jewish Publication Society, 1988); and Moshe Greenberg, Ezekiel 1–20 (AB 22; Garden City, N.Y.: Doubleday, 1983), 325.

case of Ezekiel is the new principle immediately to replace the rejected one.

The correspondence between the rejected proverb and the doctrine of transgenerational punishment can hardly be accidental. The repudiated proverb and the Decalogue doctrine share not only the notion of retribution vicariously transmitted from one generation to the next but also common terminology: the resonant language of fathers (נהב) and children (תינק, lit., “sons”). At the same time, the overlap is only partial: sufficient for the proverb to resonate with the Decalogue doctrine, but insufficiently specific or extensive to point to an explicit citation or reuse of that text. Might Ezekiel’s indirection be intentional? The proverb almost certainly functions as a straw man. The problem confronted by Ezekiel consists not simply in the popular sensibility of his time trenchantly depicted in the proverb: the perception among the deportees that they suffer innocently and that divine justice is arbitrary (see Ezek 18:25, 29; 33:17). More seriously, this popular perception of divine injustice has a foundation in ancient Israel’s formative canon. The explicit rejection of transgenerational punishment would require Ezekiel to repudiate an authoritative teaching attributed to Yahweh. Nevertheless, failure to repudiate it validates the deportees’ perception that Yahweh is unjust and that their future is foreclosed.

Ezekiel therefore uses the proverb as a strategic foil for the far more theologically problematic act of effectively annuling a divine law. The prophet in effect “devoices” the doctrine’s original attribution to God and then “revoices” it as folk wisdom. By this means, the oracle obscures its subversion of the divine instruction found in the Decalogue. The antithetical nature of these two texts was already recognized in the Talmud. It is a much simpler matter to repudiate a folk saying than to reject the Decalogue’s concept of transgenerational punishment as morally repugnant. Figure 1 shows how the formulation of the new conception of divine justice echoes the existing rule requiring individual liability in matters of civil and criminal law. In the latter sphere, biblical law prohibits vicarious punishment and specifies that only the perpetrator should be held accountable:

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7 Joel S. Kaminsky regards the principle of individual responsibility advanced by Ezek 18 in ad hoc terms, as a situation-specific response, rather than as a concerted rejection of transgenerational punishment altogether, let alone as a rejection of a particular text or specific tradition (*Corporate Responsibility in the Hebrew Bible* [JSOTSup 196: Sheffield: Sheffield Academic Press, 1995], 189). While Kaminsky concedes the influence of the formula for secular justice (Deut 24:16), he denies it in the case of the formula for divine justice. His approach seeks to redress the tendency of past scholarship to impose an external agenda on the chapter by regarding it as pivotal in the development of a theology of individual salvation within ancient Israel. The hesitation to assign the weight of formal doctrinal change to the chapter is therefore understandable. Yet going to the opposite extreme of denying both the diachronic development of theological ideas and the possibility of a prophetic challenge to an existing doctrine of divine justice raises an equal concern. Eliminating both possibilities denies the prophet his agency and creativity. Further, the technique used to isolate each text from the other so as to deny textual allusion or doctrinal contradiction corresponds precisely to the method of classical harmonistic legal exegesis. That approach qualifies the achievements of the otherwise nuanced theological reading.

8 “R. Jose ben Ilanina said: ‘Our master Moses decreed four sentences against Israel, but four prophets came and annulled them (נשלות). . . . Moses said, “visiting the iniquity of the fathers upon the children” [Exod 20:5 = 34:7b]. But Ezekiel came and annulled it (נשלות): “The person who sins, only he shall die!”’” (*b. Mak.* 24a).
Fathers (יהו יאיר) shall not be put to death on account of sons (יהו יאיר), nor sons (יהו יאיר) be put to death on account of fathers (יהו יאיר); each shall (only) be put to death for his own offense. (Deut 24:16)

This judicial expectation of individual retribution in the sphere of civil and criminal law almost certainly provided a means for Ezekiel to revise the standard of punishment in the sphere of theological wrongdoing. Ezekiel's formulation chiastically cites the principle of secular justice, reapplying it so that it also governs offenses against the deity:

The person who sins, (only) he shall die: a son (יהו יאיר) shall not bear the iniquity of the father (יהו יairo), nor shall a father (יהו יairo) bear the iniquity of the son (יהו יairo). (Ezek 18:20)

Figure 1. Ezekiel's Reapplication of the Principle of Punishment in Criminal Law

The formula for individual liability in civil and criminal law thus almost certainly served as a legal and literary precedent for the prophet. It enabled him or the later composer of this section to bring theological justice into conformity with secular justice by means of analogical legal reasoning.11

9 This analysis follows Greenberg, Ezekiel 1-20, 333; and Fishbane, Biblical Interpretation, 337–41. On inverted citation as marking reuse (as noted by Greenberg), see the analysis of Deut 7:9–10 below. The likelihood of the reuse of Deut 24:16 is increased with the recognition that Ezek 18 contains a sequence of reworking of prior legal texts (Ezek 18:7–8, 13, 16, 18 reuse Deut 23:20–21; 24:6, 10–15, 17; so Fishbane, loc. cit.). Maintaining the reverse direction of textual dependence are Levin, Die Verhaftung des neuen Bundes, 40–43 (for whom Deut 24:16 depends on Jer 31:29) and Georg Braulik. The latter regards Deut 19–25 as a very late addition to the legal corpus that draws upon both Ezekiel and the Holiness Code (Lev 17–26). As such, he maintains that Deut 24:16 depends upon Ezek 18; see Georg Braulik, "Ezechiel und Deuteronomium: Die 'Sippenhaftung' in Ezechiel 18,20 und Deuteronomium 24,16 unter Berücksichtigung von Jeremias 31,29–30 und 2 Kön 14,6," in idem, Studien zum Deuteronomium und seiner Nachgeschichte (SBAB 33; Stuttgart: Katholisches Bibelwerk, 2001), 171–201. Braulik scrupulously cites challenges to his redactional analysis (2001:122), which I find convincing. See further Eckart Otto, Das Deuteronomium: Politische Theologie und Rechtsreform in Juda und Assyrien (BZAW 284; Berlin: De Gruyter, 1999), 296–98.

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11 The formulation “or the later composer of this section” is admittedly inelegant. In speaking of Ezekiel, I mean to designate the literary persona represented in chapter 18 and do not mean to imply that the entire chapter represents a unified literary composition that derives from the historical prophet. The compositional history of the book of Ezekiel is too complex to be addressed properly here. Two main alternatives can be mentioned. Moshe Greenberg takes a “holistic” approach that sees the book as representing a single authorial intentionality which he associates with the historical prophet (Ezekiel 1–20, 12–27). Most scholars, however, regard the book as having a much longer compositional history and identify literary tensions representing separate redactional layers. This approach would see the prophet as playing a much narrower role in the formation of the book. Karl-Friedrich Pohlmann maintains that Ezek 18:1–13 belongs to the oldest textual layer of the book; over the next century, verses 14–32 were added to address new historical and theological realities (Ezechielstudien. Zur Redaktionsgeschichte des Buches und zur Frage nach den ältesten Texten [BZAW 202; Berlin: Walter de Gruyter, 1992], 219–44 and idem, Das Buch des Propheten Hesekiel [Ezechiel]. Kapitel 1–19 [ATD 22.1; Göttingen: Vandenhoeck & Ruprecht, 1996], 257–76).

Some of Pohlmann’s diachronic analysis seems arbitrary. He identifies a literary tension within verses 1–20 because the proverb of verse 2 mentions just two generations (“fathers” and “sons”), although three generations are discussed in the continuation: the situation of the father (vv. 5–9), the son (vv. 10–13), and the grandson (vv. 14–20). As a result of this perceived literary tension, he assigns the unit concerned with the third generation to a later literary layer. Pohlmann’s analysis assumes, however, that the prophetic corpus evolves without any literary interaction with the literature of
In the rest of the chapter, Ezekiel exploits the proverb in an intricately crafted series of acute reflections upon morality to deprive the proverb of any moral validity whatsoever: neither righteousness nor sin, neither reward nor punishment, may be communicated between generations (18:10–20). Earlier scholars saw Ezekiel as here championing a religion of the individual in contrast to a collective religious identity and thereby transformed him into a proto-Protestant reformer. That approach, of course, is inconsistent with the priorities of the text. The doctrine of repentance cannot be viewed as operating only in the context of the individual: its application is simultaneously individual and national.

The prophet finally rejects the generational logic of the proverb altogether and transforms it into a metaphor for the freedom of an individual to transform and renew his life, at every moment in his life, whatever the burden of his past (18:21–29). Even if one has committed unremitting evil, Ezekiel contends, should one repent, one will not suffer the consequences of that evil (18:21–23, 27–29). The individual is held accountable exclusively for the moral decisions he makes in the present. Ezekiel's theology of freedom works to counter notions among his contemporaries of the futility of action. The prophet argues that the future is not hermetically closed but hermeneutically open. Ezekiel begins with inexorable fate but ends with freedom, moral action, and repentance as the sole forces that govern human action. Remarkably, that shift occurs without any explicit rejection of divine law.

Although widely heralded in standard Old Testament theologies for its focus upon the individual, Ezekiel’s formulation of freedom represents a largely unrecognized landmark in the history of thought. Despite its religious terminology, it is essentially modern in its conceptual structure. With its powerful critical engagement with existing assumptions, it amounts to a theory of human action that rejects determinism, affirms individual responsibility for one’s standing in the present, and mandates the importance of moral choice. Within the history of philosophy, the comparable groundbreaking conceptualization of moral freedom as independence from the burden of the past is associated with the early-modern philosopher Immanuel Kant (1724–1804). Much as Ezekiel did, Kant mounts a penetrating critique of the idea that the past determines one’s actions in the present. He challenges
any position that would reduce a person to his or her past and preclude the exercise of free will or the possibility of change. He maintains that persons are free at every moment to make new moral choices. His conception of freedom is dialectical: although within nature there is no freedom from causality (from an immediately preceding cause), freedom of choice exists for humans from the vantage point of ethics and religion. Kant intricately probes the issues involved in holding someone morally accountable who is a habitual liar:

Reason is present in all the actions of men at all times and under all circumstances; and is always the same; but it is not itself in time, and does not fall into any new state in which it was not before. . . . When we say that in spite of his whole previous course of life the agent could have refrained from lying, this only means that the act is under the immediate power of reason, and that reason in its causality is not subject to any conditions of appearance or of time.13


Sie, die Vernunft, ist allen Handlungen des Menschen in allen Zeitumständen gegenwärtig und einerlei, selbst aber ist sie nicht in der Zeit, und gerät etwa in einen neuen Zustand, darin sie vorher nicht war. . . . Wann wir sagen, daß unerachtet seines ganzen, bis dahin geführten, Lebenswandels, der Täter die Lüge doch hätte unterlassen können, so bedeutet dieses nur, daß sie unmittelbar unter der Macht der Vernunft stehe, und die Vernunft in ihrer Kausalität keinen Bedingungen der Erscheinung und des Zeitlaufs unterworfen ist. . . . (B584)

Kant here seeks to push back against contemporary philosophical doctrines of determinism: both the psychological determinism associated with Thomas Hobbes (1588–1679) and the metaphysical determinism associated with the later reception of Spinoza’s thought (“Spinozism”),14 and especially with Gottfried Leibniz (1646–1716). In contrast to such positions, he works to develop a theory of human action that justifies freedom of choice and provides human responsibility with a sound philosophical foundation. He frees the individual, at the moment of choice, in much the same way that Ezekiel did: by conceptualizing each moment in time as independent of the one that preceded it, as if it were a new beginning. He argues that the voice of reason—the possibility to make a free and moral decision—is always present to the person. Kant rejects determinism with this argument that the moral

14 There is an intentional distinction made here between Baruch de Spinoza (1632–1677), the thinker, and Spinozism as the set of doctrines that later came to be associated with his name, including both pantheism and determinism. Examining one such current, see Yitzhak Y. Melamed, “Solomon Maimon and the Rise of Spinozism in German Idealism,” Journal of the History of Philosophy 42 (2004): 67–96. Much more to the point is to recognize that Spinoza has widely been misread within the history of philosophy as well as within academic Jewish studies. For an invaluable corrective, integrating both the Tractatus Theologico-Politicus (1670) and the Ethics (1677), see Brayton Polka, Between Philosophy and Religion: Spinoza, the Bible, and Modernity, vol. 1: Hermeneutics and Ontology, and vol. 2: Politics and Ethics (Lanham, Md.: Lexington, 2006–2007). See also Nancy K. Levene, Spinoza’s Revelation: Religion, Democracy, and Reason (Cambridge: Cambridge University Press, 2004). On the fragmentation of his thought within biblical scholarship, see my study, “‘The Right Chorale’: From the Poetics of Biblical Narrative to the Hermeneutics of the Hebrew Bible,” in idem, “The Right Chorale” Studies in Biblical Law and Interpretation (FAT 54; Tübingen: Mohr Siebeck, 2008), 7–39 (at 11–14).
agent is always, at each moment of choice, independent of the weight of his or her past. As Ezekiel sought to provide his community with a concept of agency, so Kant intensifies and strengthens the individual’s responsibility for his or her own actions in the present.

Elsewhere Kant struggles with the implications of his position as he attempts to bring his own radical conception of moral freedom into conjunction with his philosophy of religion. If a criminal or a wrongdoer repents or “converts,” does that mean he is entirely absolved of the consequences of his actions and that they simply disappear? Kant is not quite as willing as Ezekiel is to wipe the slate clean and offer absolution. Yet Kant’s own answer, while rhetorically always strong, seems to me to fudge on this point. He seeks to have it both ways: both freedom and the moral law, both the possibility of making a new beginning and retaining moral accountability. He recycles Pauline platitudes (the individual “dies to his old self”) because he scrupulously sees the problem but is unable to provide a cogent solution. The concept of conversion or repentance is indeed a philosophical conundrum. But then again, it is not so clear that Ezekiel ever intended his position to represent a general amnesty for civil and criminal wrongdoing, as opposed to theological sin. The complexity of the issues is already there in the biblical text, even if not articulated in propositional language.

The question in all this, of course, is: Why does Ezekiel remain invisible to the history of philosophy? Or to put the question more pointedly, how is it that, on no less of an issue than the history of the idea of human freedom, philosophy seems to have a blind spot about its own intellectual history, about the extent to which Athens may be tied more closely to Jerusalem than anticipated, about the difficulty of drawing too easy a separation between sacred and secular, between reason and revelation? Both Ezekiel and Kant saw the complexity of the problem of moral freedom, and sought to create new possibilities of human action by rethinking, challenging, and reworking existing doctrines. Although it would be difficult to claim that Kant was directly influenced by Ezekiel, Kant knew the Bible well and regularly drew upon it in his work. Unfortunately, the division of the academic disciplines, whereby the material of the Hebrew Bible is rarely taken into account by contemporary philosophers—in contrast to the much richer situation that obtained earlier, as with Hobbes and Kant himself—makes Ezekiel’s accomplishment largely inaccessible, as if it were only “theological” and not also intellectual. Once that binary opposition is overcome, it becomes clear that inner-biblical exegesis is important, not only as charting the reception and reinterpretation of the biblical text but as offering new possibilities for understanding the history of the idea of moral freedom.

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THE HOMILY ON DIVINE JUSTICE
IN DEUTERONOMY

An even more remarkable transformation of the Decalogue doctrine can be found within the legal corpus of the Pentateuch itself. Deuteronomy presents itself as a Mosaic address to the nation of Israel, forty years after Sinai, on the eve of the nation’s entry into the promised land (Deut 1:1–3). According to the editorial superscription, Moses here explicates the laws that God had earlier proclaimed (Deut 1:5) and exhorts the nation to obedience. In this new literary setting, Moses, while reviewing the past, ostensibly quotes the Decalogue (Deut 5) and then preaches to the nation concerning it. Moses thus expounds upon divine justice:

Know, therefore, that only Yahweh your God is God, the steadfast God who keeps his gracious covenant to the thousandth generation of those who love him and keep his commandments, but who requites (למשתא) those who reject him (למשפטתא), by destroying them. He does not delay with anyone who rejects him—to his face (למשפטתא) he requites him. (Deut 7:9–10)

The vocabulary of this passage makes it clear that the speaker alludes specifically to the Decalogue, which he has previously quoted (Deut 5). This reuse of the Decalogue is marked by the ancient scribal technique of inverted citation (technically, “Seidel’s law”). Often in the Bible and postbiblical literature, an author will quote a source in inverted order, such that a text sequence A B would recur elsewhere as B’ A’. Thus, in the present case, the first person sequence of the Decalogue referencing (A) “those who reject me” (למשפטתא) and (B) “those who love me and keep my commandments” (לאותי וה찬תם [מאתinitWithא] Deut 5:9–10 [Qere]) is inverted. It is recast in the third person: (B’) “those who love him and keep his commandments” (לאותי וה찬תם [מאתinitWithא]) and (A’) “those who reject him” (למשפטתא Deut 7:9–10 [Qere]). The Mosaic speaker purports

16 Deut 5:31, the divine speaker directs Moses to “teach” (using the verb ללמד) the people in the commandments, although they had initially requested that he merely “tell” (לשמוע) them what God says to him on the mountain (Deut 5:27). The narrative thereby assigns a divine mandate to the creative work of Moses in explicating the Torah. See Jean-Pierre Sonnet, *The Book within the Book: Writing in Deuteronomy* (Biblical Interpretation Series 14; Leiden: E. J. Brill, 1997), 29–32 and 37–38. In his analysis, the scribes project their own authorial activity onto the literary figure of Moses, whose activity here also receives a divine sanction. (Note that in some Hebrew printings and in NJPS, Deut 5:27, 31 appear as Deut 5:24, 28. The Hebrew tradition simply has two alternative systems of verse numbering for both Exod 20 and Deut 5.)

17 For the most recent analysis, see Timo Veijola, *Das fünfte Buch Mose, Deuteronomium: Kapitel 1,1–16,17* (ATD 8.1; Gottingen: Vandenhoeck & Ruprecht, 2004), 206–8.

to provide a homiletic paraphrase of the formula for divine justice in the Decalogue. In fact, the homily fundamentally transforms the original as to revoke it. The speaker strategically deletes references to the transgenerational consequences of sin and instead asserts that God now punishes the sinner “to his face.” By implication divine punishment for sin is restricted to the sinner alone. In contrast to the Decalogue, the progeny, here strikingly unmentioned, are not explicitly visited with divine punishment.


André Weinlein accepts both that Deut 7:9–10 represents a chiastic citation of the Decalogue formula and that it is antithetical in its intent, yet denies that it revises the Decalogue statement, believing the two to be mutually consistent in meaning. He maintains instead that Deut 7:9–10 corrects a possible false understanding of the Decalogue, lest someone should ever possibly imagine that God in the Decalogue could espouse transgenerational punishment. It is not clear that the Decalogue was ever understood as he advocates. For this “theologically correct” analysis, see idem (and the discussion in note 56 of chap. 3), “‘Dieu qui visite la faute des pères sur les fils’ (Ex 20:5): En marge d’un livre récent de B. M. Levinson,” RTIK 18 (2007): 67–77.

The doctrine of individual retribution is not presented as a departure from the status quo, as in the case of Ezekiel. Instead, the new teaching is presented as consistent with the very doctrine that it rejects: as an authoritatively taught re-citation of the original theologoumenon. Figure 2 shows how the revisionist speaker of Deuteronomy marshals the lemmas of the formula for transgenerational punishment against itself. Its key terms are adroitly redeployed so as to abrogate transgenerational punishment and mandate individual retribution.

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21 The singular pronominal suffix is employed here in the Hebrew rather than the expected plural form; see Samuel R. Driver, A Critical and Exegetical Commentary on Deuteronomy (3 ed.: ICC: Edinburgh; T. & T. Clark, 1902), 102.
idiom occurs elsewhere: "Haran died during the lifetime of (תָּנָק הָעִבְדָּל) Terah, his father" (Gen 11:28a, literally, "upon the face of"). Similarly, "Eleazar and Ithamar served as priests in the lifetime of (תָּנָק הָעִבְדָּל) their father Aaron" (Num 3:4).

As the medieval commentator Rashi (1040–1105 C.E.) accurately saw, the phrase means "in his lifetime" (יִתְנָב). 

22 Contra Hermann Spieckermann, who reverses the direction of literary dependence; see "Barmherzig und gnadig ist der Herr," ZAW 102 (1990): 1–18 (at 6–8); reprinted in idem, Gottes Liebe zu Israel: Studien zur Theologie des Alten Testaments (FAT 33: Tübingen: Mohr Siebeck, 2001), 3–19 (at 7–9). That reversal was also recognized by Veijola, Das fünfte Buch Mose, 207f.909. In this case, Spieckermann's summary of Deut 7:9—"die Gnade hat jetzt die Form des Gesetzes" (grace now has the form of law) (518)—is hardly immanent in the text and comes closer to Pauline antinomianism. The close ties between the formula for transgenerational punishment and the Neo-Assyrian state treaties (overlooked in Spi eckermann's analysis) call the validity of such an approach into question.

23 The ostensible syntactical redundancy of "to their face/to his face" (italics in Figure 2) quickly resolves itself once the larger intentional and literary coherence of this unit are recognized. The insertions into the text are the entire point of the text: they function to transform transgenerational punishment into individual responsibility. For that reason, it makes little sense to dismiss them as secondary expansions. Contra Reinhard Adenhaupt, Israelzwischen Verheißung und Gebot: Liturgikritische Untersuchungen zu Deuteronomium 5–11 (Europäische Hochschulschriften 422; Frankfurt: Peter Lang, 1991), 227; and, following him, Veijola, Das fünfte Buch Mose, 206 and 208.

24 Contrary to some modern translations, the phrase cannot mean "immediately" or "instantly." There is no evidence in the Bible for instantaneous divine retribution for wrongdoing. Thus missing the point are the translations offered by Theophile Meek (immediately); see "Deuteronomy," in The Complete Bible: An American Translation (ed. J.M. Powis Smith et al.; Chicago: University of Chicago Press, 1939), 198–91 (at 166); and by the new Jewish Publication Society Version ("instantly"); see Tanakh: The Holy Scriptures (Philadelphia: Jewish Publication Society, 1988), 286. The Tanakh translation must derive from Arnold B. Ehrlich, Mikra ki-Pheschato (3 vols.; Berlin: M. Poppelauer, 1899–1901): 1:323. The same error also shows up as sofort in the German Einheitsübersetzung and in the commentary based upon that version: "Seine Strafe tritt nun sofort ein" (Georg Braulik, Deuteronomium1–16, 17 [NEchtB 15; Würzburg: Echter, 1986], 65). In light of an earlier version of this analysis (Levinson, "'Du sollst nichts hinzuflügen und nichts wegnemen' [Dt 13,1]: Rechtsreform und Hermeneutik in der Hebräischen Bibel," ZTK 103 [2006], 157–83 [at 176]), Prof. Braulik has graciously accepted this suggestion. He has formally recommended that the Einheitsübersetzung be corrected so as to conform to the proposal here (personal e-mail, March 6, 2007).

25 Rashi frequently embeds classical rabbinic exegesis, particularly midrash halakah, in his commentary on the Pentateuch. In this case, his annotation directly reflects the Aramaic Targum Onqelos. The latter does not strictly translate the lemma of Deut 7:10 but rather amplifies it midrashically, to argue that God "requires the good deeds of those who reject him in their lifetime ([יִתְנָב]), so as to cause them to perish." Ironically, the correct insight into the literal meaning of the specific phrase in the lemma—the recognition that "to his face" means "in his life"—actually comes in the service of a midrashic transformation of the verse. The verse is interpreted to forestall the inevitable question of theodicy raised by the verse in its literal meaning. How is it that, if God truly rewards the righteous and punishes the guilty, does the experience of life suggest the contrary: that the wicked seem to prosper in the world while the righteous suffer? The midrashic solution to the problem is to extend the analysis into the afterlife. The wicked receive reward for their good deeds only in this life, whereas they are required for their iniquity by being denied a share in the world to come. The righteous, conversely, suffer only in this life for any iniquities they may have committed, whereas they are rewarded for their good deeds with the assurance of a place in the world to come. That extension of the time span of the verse into a putative afterlife, however, completely contradicts the radical claim for divine justice within history made by Deut 7:10. These
annotations redefine divine punishment and restrict it so that it no longer extends across generations. Instead, it applies only to the guilty, “in their own person” (so, correctly, NRSV). 26 The paraphrase of the source thus abrogates the source, which now propounds the doctrine of individual responsibility.

In formal terms, the new dispensation represents a studied series of annotations to the original doctrine, cited almost as a scriptural lemma that requires a gloss. In substantive terms, however, far from simply elucidating the lemma, the author of the gloss subverts it. Moreover, there is no formal demarcation between the lemma and its annotation: in effect, the gloss on the lemma is not distinguished from the lemma itself. The revisionist voice of the glossator directly continues, and is equal in authority with, the divine voice of the source.

Such learned reworking of authoritative texts to make them sanction the needs of later generations, or to sanction a later interpretation of religious law as having “scriptural” warrant, is more conventionally associated with a much later stage in the history of Judaism (ca. 200 B.C.E. through 150 C.E.). It is evident in the reuse of the Bible in the Dead Sea Scrolls, the book of Jubilees, and in the exegetical midrashim of the rabbinic period, for example. 27 Classical

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26 A member of the Spanish school of medieval rabbinic exegesis, Abraham ibn Ezra (1089–1164 C.E.), rejected Rashi’s midrashic approach. Ibn Ezra recognized that the issue in Deut 7:10 is not an opposition between this world and the afterlife but between individual responsibility and vicarious punishment. He correctly, if quietly, saw that the verse contradicts the Decalogue doctrine by restricting judgment to the agent “himself” (“ḥolam”). See Abraham ibn Ezra, Commentary on the Torah (ed. A. Weiser; 3 vols.; Jerusalem: Raw Kook Institute, 1972): 323b (Hebrew). For the similar insight that the punishment here applies only to the sinner himself, see August Dillmann, Die Bücher Numeri, Deuteronomium, und Josua (2 ed.; Kurzgefasstes exegetisches Handbuch zum Alten Testament 13; Leipzig: Hirzel, 1886), 274. Ironically, Ibn Ezra’s rendering is almost identical to that of the modern NRSV. Making allowance for the NRSV’s commitment to gender-neutral language, its correct translation (“in their own person”) precisely corresponds to that earlier proposed by Ibn Ezra.

antiquity also attests a genre of scholastic commentary, formally structured as lemma and gloss. Deuteronomy’s transformation of the doctrine for transgenerational punishment into one that propounds individual responsibility confirms the sophisticated use of such strategies in ancient Israel.

The authors of Deuteronomy employ two techniques to present their reformulation covertly. The first is lemmatic citation and reformulation, as what purports to be mere paraphrase in fact constitutes a radical subversion of the textual authority of the Decalogue. The new doctrine of individual retribution cites the very doctrine that it replaces, yet it does so atomistically, selectively redeploying individual words as markers of tradition while breaking down their original semantic reference. Reduced to a cluster of individual lemmas and then reassembled in a new context, the older doctrine becomes infused with new content. Citation here seems to function less as an acknowledgment of the authority of a source than as a means to transform that source: to reinscribe that source in a new context that, in effect, restricts and contracts its original authority. The second device is pseudepigraphy, the attribution of a text to a prestigious speaker from the past. The authors of Deuteronomy do not write directly in their own voices. Instead, they harness the voice of Moses to literally and metaphorically, authorize their reformulation of the Decalogue. The risk of discontinuity with tradition is thus paradoxically avoided by attributing the revision of the Decalogue doctrine to the same Mosaic speaker credited with propounding it in the first place. Equally profound transformations of ancient Israel’s formative canon take place elsewhere in Deuteronomy, especially in its legal corpus (Deut 12–26).

29 Contra Joachim Schaper, who reduces to a logical absurdity the premise that the tendentious “exegetical” reworking of a prestigious or authoritative text might either derogate that text or curtail its authority (“Schriftauslegung und Schriftdurchgewendung im alten Israel: Eine vergleichende Exegese von Ex 20.24–26 und Dtn 12.13–19,” in ZABB 5 [1999]: 111–32). The history of interpretation requires a more dialectical model of hermeneutics. In this example, where transgenerational punishment is replaced by individual retribution, the latter doctrine finally controls the way that the former one is understood and taught, as the Targumic tradition confirms (see the next section, “The Interpretation of Divine Justice in the Targum”).

30 For the same phenomenon in the legal corpus of Deuteronomy, see Levinson, Deuteronomy, 46–48.
32 For an analysis of these changes in the areas of sacrifice, the calendar, and the public administration, see Eckart Otto, “Von der Gerichts­ordnung zum Verfassungsentwurf: Deuteronomische Gestaltung
This radically revisionist Mosaic speaker of Deuteronomy, despite appearances, voices the concerns of Israelite authors who were close contemporaries with Ezekiel (593–573 B.C.E.). Deuteronomy is set in the distant past, prior to Israel's entry into Canaan (thus, ca. 1200 B.C.E.). Nonetheless, most scholars date the composition of its literary core to the late seventh century, since Deuteronomy's demand for cultic centralization is viewed as the trigger of Josiah's religious reform (622 B.C.E.; 2 Kings 22–23; compare 2 Chronicles 34–35). Material was certainly added to Deuteronomy during the exile and subsequently also in the Persian period; the instruction concerning divine justice in Deuteronomy 7 likely derives from that later activity. As Deuteronomy's authors confronted the successive threats of Neo-Assyrian and then Babylonian hegemony, they fashioned a radically new vision of religion and society to enable the nation to survive. To sanction that vision, they tied it to the very traditions that were actually displaced. Moses, prophetic intermediary and textual speaker, here mediates the innovative voice of Deuteronomy's authors.

This phenomenon is not restricted to Deuteronomy. Once read closely, the Pentateuch everywhere makes it clear that it has a vital legal and intellectual history in which later authors and editors respond to, challenge, reinterpret, reconcile, expand, and harmonize the earlier layers of the legal tradition. The latest layers of the Pentateuch are replete with examples where editors actively seek to create a uniform Scripture and a coherent tradition out of such divergence. As a result, hermeneutics does not belong

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33 Weinfeld, Deuteronomy, 158–70, 244–319.

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to the reception history of Scripture alone, as is generally assumed. Instead, hermeneutics played a decisive role in the very creation of Scripture.

## The Interpretation of Divine Justice in the Targum

With the close of the scriptural canon, texts such as Ezekiel 18 and Deuteronomy 7, whose authors had earlier struggled obliquely with the authority of the Decalogue, have now themselves won authoritative status coextensive with it. Indeed, in a striking reversal of literary history, these passages now eclipse the Decalogue’s doctrine of transgenerational punishment because they mediate its reception and interpretation for later communities of readers. A text from this postbiblical period offers a final strategy for the reformulation of revelation. It is included here because, in the way it presents a revision of the original version as a faithful, authoritative translation, it builds upon the literary strategies already described and also responds to the kinds of transformations that have taken place in the interpretation of the Decalogue doctrine. As Hebrew ceased being spoken by Jews under Persian and then Hellenistic rule, it was gradually replaced by either Aramaic or Greek as the lingua franca. Consequently, translations of the Bible into these new vernacular languages became necessary to serve the liturgical needs of the community.37

The Aramaic translation that eventually became dominant in Babylonia during the talmudic period (ca. 200–640 C.E.) is called Targum Onqelos. In the main, it is simple and nonexpansive, and commonly regarded as a literal translation of the Hebrew. In translating the Decalogue, however, Onqelos makes several telling additions to the formula for the transgenerational consequences of sin:

> ... visiting the guilt of the fathers upon the rebellious (רָדָּא) children, upon the third and the fourth generation of those who reject me, when the children continue to sin (לֹא יִתְּנָה יִשְׂרָאֵל) as their fathers (בֵּית אֲבֹתֵיהֶם).38

Like the “Moses” of Deuteronomy 7, the Aramaic Targum presents itself not as a reinterpretation of an older doctrine but as the original significance of the Hebrew source text. Nonetheless, by means of their additions, the postbiblical interpreters responsible for Onqelos have God restrict the punishment so that only the guilty, never the innocent, are punished. Only when sinful action is transgenerational—“when the children continue to sin as their fathers”—is the punishment fittingly transgenerational as well. As such, only “rebellious” children are punished, never the innocent progeny of sinful fathers. The Palestinian Targums to the Pentateuch (the Fragment Targum, Neophyti 1, and Pseudo-Jonathan) attest similar revisions of the source

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text. In fact they attest an additional expansion designed to ensure the consistency of divine justice: "... visiting the guilt of the sinful fathers ..." 39

This radical reformulation of the original doctrine amounts to a postbiblical theodicy: the Targum's authors expunge the slightest chance of God's espousing a doctrine of injustice. What the text means, the Targum affirms, is that divine justice requires a notion of individual responsibility. There exists no adequate doctrine of divine justice except as the voice of Yahweh in the Decalogue is heard through and understood to be consistent with its ostensibly Mosaic rearticulation in Deuteronomy 7, as well as with Ezekiel's prophetic reformulation in his teaching on repentance. In making these texts consistent with one another, the authors of the Targum present their exegetical accommodation of the Decalogue to its various reformulations as the literal meaning and original significance of the Decalogue itself. "The Rabbis' skillful dealing with Scripture makes it evident that they were not slaves but masters of the letter." 40 The human voice of exegesis in the Targum thereby creates the divine voice of the Decalogue anew in its own image.


In solving one problem, however, the Targum's revision creates others. If God punishes only those who commit wrongdoing in each generation, then the doctrine of the transgenerational consequences of sin has been entirely vitiated. Although the corrected version saves God from committing iniquity, it also makes the original text redundant. What is the logic for even mentioning the generations if it is only individual retribution that operates, no longer transgenerational punishment? Although there may be a hortatory function for the retention of the phrase—"the apple does not fall far from the tree"—the actual goal seems to be less to offer an admonition than to rewrite the text in such a way as to eliminate, ex post facto, any notion that the Decalogue might espouse a patently unjust doctrine. The drive to erase the contradiction between transgenerational punishment (Exod 20:5 = Deut 5:9) and individual retribution (Ezek 18; Jer 31:29-30; Deut 7:10), while at the same time preserving the integrity of the scriptural canon, means that the problematic doctrine is formally retained even as it is substantively repudiated by means of the strategic interpolation. The original doctrine has now been reduced to a lexical shell, devoid of its original content.

In effect the Targum has created a tertium quid: transgenerational punishment in the Decalogue is suddenly contingent upon whether each generation involved fails to make the repentance that would abrogate the retribution. With the new formulation, another paradox emerges. The attempt to eliminate the contradiction between the Decalogue and Ezekiel 18 has introduced a new version of the Decalogue consistent neither with the original Decalogue (in substance, since it now asserts individual retribution) nor with Ezekiel 18 (in form, since the prophetic teaching is
now revoiced as divine, while Ezekiel’s doctrine of repentance passes unmentioned). Nonetheless, that revisionist transformation of the Decalogue as propounding the doctrine of individual retribution became widely accepted in rabbinic theology, both in talmudic and medieval exegesis.41 Ironically, the very drive to maintain the hermeneutical coherence of the canon has abrogated, both by addition and by subtraction, the primary requirement of that canon not to innovate, whether by addition or by subtraction.

41 See b. Ber. 7a; b. Sanh. 27b; b. Šebu. 39a; as noted by Fishbane, Biblical Interpretation, 345072.

Legal Revision and Religious Renewal

The Canon as Sponsor of Innovation

Textual authority was widely challenged and actively debated in ancient Israel. Yet that debate took place in textual terms. The ingenuity that, for Jonathan Z. Smith, warrants the centrality of exegesis to the study of religion thus emerges as a form of creativity that has been insufficiently recognized by the discipline of academic Religious Studies. The evidence presented here makes it possible, moreover, to enrich Smith’s theoretical model by complicating its assumption of a simple priority of foundational canon to subsequent exegesis. Already evident in the wide range of texts that much later came to be selected, anthologized, and incorporated into the canon is a technical facility with texts and with interpretation. The ineluctable connection between religious renewal and textual reworking brings into clear focus the role of the technically trained scribe as the agent of cultural change. The skilled scribe is both thinker and religious visionary; spirit becomes manifest in the scribe’s revision of a text. From the perspective of ancient Israel, therefore, revelation is not prior to or external to the text; revelation is in the text and of the text.