

Robert Vannoy, Deuteronomy, Lecture 6

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Historical Implications of Treaty Form, Sitz im Leben

II.D. The origin of the covenant in the Old Testament and its historical implications: the present state of affairs in Deuteronomy

1. Sitz im leben of the covenant form: historical implications of its presence

We're under Roman numeral II, capital D, "The origin of the covenant in the Old Testament and its historical implications: the present state of affairs in Deuteronomy." We began discussion of that in the last class hour with "1. Sitz im leben of the covenant form: historical implications of its presence." But the essence of that 1 is the nature of the covenant form and its origin that is to be considered as cultic or historical, as far as the origin of the form. That has come to be a rather debated matter in the present discussion around Deuteronomy in connection with the covenant form. Where does the form come from? What are the implications of the nature of the form on the origin of the form? What implications then does that have for the date of Deuteronomy? So that's where we are in our discussion of the nature of the form and its origin: is it cultic or historical?

a. Von Rad and His Cultic Origin Hypothesis

As we already noticed in our discussion, Gerard von Rad, in 1938 proposed the derivation of the form from the cult. At that point he knew nothing of the Hittite treaties. He knew nothing of the treaty form, but when he came to the book of Deuteronomy, he saw a certain structure in the book of Deuteronomy. We have discussed that earlier. It's contained in his Problem with the Hexateuch book. He says that structure of Deuteronomy is derived from the cult and some periodic, cultic celebration that followed that pattern. That cultic pattern then has become reflected in the book of Deuteronomy itself.

With more recent discussion of the Hittite treaty material, he's not changed his position. He continues to say there was a structure discernable, and it's cultic. In 1954, Mendenhall started with the treaty material, and in the last 15 to 20 years that discussion has increased tremendously. Von Rad, of course, is aware of the discussion. He recognizes the very close parallel between the Hittite treaty form and the form that he originally had found in Deuteronomy. I'll refer you to two places where he discusses that. The first in his *Old Testament Theology*, volume 1. His *Old Testament Theology* was published in 1962. So this is rather early on in this treaty covenant discussion, but he says on page 132, "Comparison of Ancient Near Eastern treaties, especially those made by the Hittites in 14th and 13th century BC with passages in the Old Testament, has revealed so many things in common between the two, particularly in the matter of form, that there must be some connection between these Suzerainty treaties and the exposition of the details of Yahweh's covenant with Israel given in certain passages in the Old Testament." There must be some connection; there's too much of a parallel there for that just to be just accidental. "As a result, with particular passages and groups of passages, we may speak of," what he calls, "a covenantal formulation in which the various formal elements found in the treaties re-occur feature for feature, though sometimes freely adapted to suit the conditions that obtained in Israel."

Then he discusses that schema. We've already seen that outline of the treaties, the outline of the covenant form. He mentions a number of places this is to be found in the Old Testament. He says, "Even if there are many questions of detail that could be answered, there's at least no doubt that the two kinds of material are related to one another. The relationship in respect of form can be traced down into the texts of post-conquest times. Here, of course, Israel took over, but when we remember the age of some of the relevant Old Testament material, we have to reckon that she became acquainted with this treaty schema very early on, perhaps as soon as the time of the judges." So there is a connection, he says; it looks like Israel was acquainted with this form early on in her history, which to him means the time of the judges. He's not getting

back to the Mosaic era, but back at least as far as the time of the judges. That's about the extent of his comment on the form in his book on Old Testament theology.

More recently he's come out with commentary on Deuteronomy that I've already mentioned. This appeared in German in 1964, and was translated into English in 1966. He discusses this at more length there but I don't want to get into all the details of it. On page 21 he says, "Finally, we must mention one type of composition used in Deuteronomy, which scholars have only recently recognized, namely the formulary used for covenants. The discussion of this has only just begun. It has been known for some time that potentates in the Ancient Near East, especially the Hittites, used to draw up their treaties with their vassals according to a definite pattern. But it was astonishing to realize that this treaty pattern can be traced in not a few parts of the Old Testament, and amongst others in Deuteronomy." So he sees that pattern there very clearly in Deuteronomy, and then he lists the pattern and all the elements in it. But then he says, "At the time of Deuteronomy this pattern had long been used freely for literary and homiletic purposes." He discusses that a bit, and then he says, "The question is still quite open how and when Israel came to understand its relationship to God in the form of these early Near Eastern treaties with vassals." So he leaves open the question of the origin of form and when Israel adopted the form.

Over on page 23 von Rad says, "If we now ask what *sitz im leben* demanded by the pattern in accordance with which Deuteronomy is arranged, it could have been taken only from cultic celebration, perhaps from a piece of renewal of the covenant. Thus the classic pattern of the regular covenant formulary appears in Deuteronomy in any case only in a mutilated form from its setting in the cult in which the form of Deuteronomy was originally rooted and has, in fact, been already abandoned in the book as we now have it. That is because its content now appears in the form of homiletic instruction of the laity." Of course, that's in association with his theory of Levitic preaching as being the origin of the book. It has been cast into the form of Moses' preaching, but the structural pattern, he feels, originally was rooted in the cult and derived from the cult. So that he hasn't really abandoned at all the basic approach to Deuteronomy which he

had in 1938 as far as the structure of the book and its origin are concerned. He recognizes, however, that the treaty pattern is so close to the structure of the book of Deuteronomy that there must be some connection. Although, he's not willing to abandon his earlier theories or to draw any conclusions that would drive it back to the Mosaic era for the origin of form.

#### b. Contra Cultic Origin Hypothesis

Now I would say, and others have said it, I'm not saying anything new in this regard, in fact I'll appeal to an article by J. Thompson. There's good reason to conclude that a cultic origin hypothesis does not provide an adequate or complete explanation for the nature of the question of form. Some sort of cultic origin hypothesis does not give an adequate or complete explanation for the origin of this form. In addition, it does not answer the fundamental question of the reason for and the time of the initial adoption of this form in ancient Israel. I think that is the key issue. Why did Israel adopt this form and when did she adopt it? When did it enter into use in Israel? Well, von Rad is not certain about that. He'll go back as far as Judges to say there must have been some acquaintance with it, but that's about all he says.

Student Question. Does he go back to the time of Judges because this was the form that was prevalent early in the Judges period?

Vannoy: Yes, I would think so, and I think in the biblical material, if you take the material as it represents itself to be, say Joshua 24 or the book of Deuteronomy, or Exodus 19, you get back earlier than Judges. What he would say is the material in Exodus, Deuteronomy, and Joshua was really codified later. It was written after the time the Bible represents it to be. Therefore, Israel became acquainted with form and material was put in that form at a later time but it's not original.

#### c. Thompson & the Historical Prologue as an Essential Element

J. A. Thompson, who was the author of that commentary that we will read the introduction to, wrote an article on "The Cultic Credo and the Sinai tradition." In the

Reformed Theological Review, volume 27, 1968, pages 52-64. Now that's a very interesting article. I'm not sure if the Reformed Theological Review is in our library or not. You might find it very interesting to read the article. In discussing von Rad's view, Thompson says, and I quote from him, "There seems little reason to doubt that the Historical Prologue in the secular treaties was a basic aspect of any treaty."

The Historical Prologue in the treaty structure is an essential element. Now, we're going to look into that, and there's even debate about that. Thompson says it's an essential element. "There is little reason to doubt the Historical Prologue in the secular treaty was the basic aspect of any treaty. Nor need we doubt that it represented, albeit perhaps in some enhanced form, a correct outline of the preceding historical events which were paraded as a strong argument for the acceptance of the treaty by the vassal." In other words, the historical material in that prologue is very important. It appears in all the treaties; it's an essential element.

Secondly, it represents real history in the sense of the events that are retold in that prologue providing the basis for the relationship that is going to be established. So it represented a correct outline of the preceding historical events that become a strong argument for acceptance of the treaty by the vassal. The great king says I've done this, I've done that, and I've done the other thing. That's a good reason for the vassal to accept the obligations that are going to be imposed on him. He's benefitted in the past from the king's benevolence.

#### d. Thompson's Criticism of Von Rad's Cultic Approach

Thompson goes on and says, "Von Rad does, of course, take note of the historical recital of the Sinai event when he discusses Deuteronomy and Exodus 19 to 24. But for him this historical narration is merely a cultic legend of very doubtful historicity." There you see there's an enormous difference. That historical summation for von Rad is a "cultic legend of doubtful historicity." It's just some story that's really the creation of Israel's faith if you remember Old Testament History from last year. It has nothing to do with events that actually happened. It's a cultic liturgical recital that is the expression of

Israel's faith. "So that Historical Prologue is of doubtful historicity but the question should be asked," Thompson says, "whether a cultic legend could serve the purpose demanded in this context. It ought not to be assumed that a cultic liturgy should be divorced from underlying historical events." In other words, when you go back to the treaty material, the great king says I've done this and this, and thus you should appreciate that. That is what should evoke a response of loyalty on the part of the vassal.

When you come to biblical material, if you were going to say that that historical prologue is not really history and that the previous relationship between the partners in fact didn't exist--it is just legendary--what then is the real basis for the response? So I think a cultic derivation view is deficient. The relationship between Yahweh and his people, in which establishment, or renewal, is narrated in connection with the apparent covenant form in the Old Testament, is connected in a very real sense with the antecedent and historical relationship of the covenant partner. "I am the one that brought you up out of Egypt," the Lord says, therefore the Ten Commandments. The reality of that preceding historical relationship is integrally connected with the establishment of the covenant. So that while such a relationship may be renewed or celebrated in the cult, and Israel did do that, I think that it presupposes a specific historical occasion on which it was originally and formally established. That very relationship, which, of course, then would point you to Sinai.

On what occasion would that have taken place in Israel's history? It would be our contention that the Sinai event described in Exodus 19 to 24 provides the most likely setting for the entrance of the covenant form and points to the experience of ancient Israel in which the historical prologue is functioning as it does in the treaties. It speaks of real historical events. It provides the antecedent for the relationship that is to be established. So there's enormous significance to be attached to the coming to Sinai and entering into covenant there and to the preceding history that went before, which is that the Lord delivered his people out of Egypt.

e. Historical Sitz im Leben and look to Sinai in Exod 19-24

So to come back to the question: what sitz im leben of the Old Testament covenant form provides the historical foundation of its presence. The nature of the form and its origin, is it cultic or historical? I think that on the analogy of the treaty form, you have to conclude that you have strong evidence pointing towards a historical origin for the covenant form, particularly as it's connected with the nature of the historical prologue. The historical prologue is that which recites real history, not some sort of legendary materials that then would not provide an adequate basis for the relationship that is put into this particular form.

Student Question: Did the first entrance of the covenant treaty relationship form come at Sinai when the Lord gave Moses the law? Is that when it first entered Israel's history?

Vannoy: Yes, because what you have there is the Lord himself, by his own choice, establishing a relationship with his people that seems to follow this legal form which was known at the time. It was patterned, in a certain sense, in a similar way. Now, I don't think we could argue for any direct derivation, but I do think that it's more the matter that God chose to structure the relationship with his people in a pattern from the political realm that was familiar with the people from the political realm. You then have the Lord coming to his people and saying, "I am the Lord your God," identifying himself as the one who brought them up out of the land of Egypt. "So that's what I've done for you. Now, therefore, you have certain obligations to me, and depending on your obedience or disobedience, the blessings and curses are attached." There was a ceremony for ratification of that. You find all that in Exodus 19 to 24. Now you don't find any detailed sort of correspondence that you could sit down and say somebody was copying the covenant from a Hittite treaty that he may have had before him. I don't think it is that kind of a connection. But it is a relationship that is structured generally with the same elements involved.

2. The evolution of the treaty form and its implications for the date of Deuteronomy

Number 2 on your sheet, “The evolution of the treaty form and its implications for the date of Deuteronomy.” I mentioned this earlier. Kline argues in *The Treaty of the Great King* page 28, that Deuteronomy is a covenant renewal document that in its total structure exhibits the classic legal form of Suzerainty treaties of the Mosaic age. Now, why the emphasis on the classic legal form? Because Kline’s case is made in part by noting what he calls “a discernable evolution in the documentary form of the Suzerainty treaty.” His point is that with that movement in form and evolution in form, the book of Deuteronomy corresponds with the classic form of the Hittite treaty that starts being used in the Mosaic era. In other words, that classic pattern progressed through time with modification away from that original pattern. Deuteronomy doesn’t correspond with the later treaty form, namely the Assyrian treaties or treaties from Sefire. Deuteronomy fits the classic form from the Hittite era. So with this discernable evolution he says, “Deuteronomy agrees with the classic stage in the evolution of treaty form,” which places it in the Mosaic time-frame.

Now that raises another point of present discussion, and there’s a lot of discussion about this. Do the Hittite treaties of the 14th and 13th centuries exhibit a classic form that does not survive in treaties of a later time? As, for example, does the form match the 8th century Aramaic treaties from Sefire in north Syria or the 7th century treaties of Esarhaddon of Assyria? That becomes a matter of importance in Kline’s argument and, therefore, something I think we ought to look at. If you have later treaties, and if the later treaties being the Assyrian treaties of the 7th century are identical in form to the Hittite treaties, well why wasn’t Deuteronomy built off the Assyrian treaties then of the 7th century confirming the 621 B.C. date that Wellhausen was arguing for? So that becomes a matter of some significance.

a. The vassal treaties of Esarhaddon and Sefire compared with the Hittites Suzerainty treaty and implications for the date of Deuteronomy

So small a, “The vassal treaties of Esarhaddon and Sefire compared with the Hittites Suzerainty treaty and implications for the date of Deuteronomy.” If you look at

the vassal treaties of Esarhaddon, I think you will find that there are certain elements that are much the same as the earlier Hittite treaties. But in spite of some similarities that you would expect in any treaty, there are important differences.

#### 1. The absence of a historical prologue

The most important differences, I think, are numerated here under a, b, and c. First is, "The absence of a historical prologue." I'd say the most striking and important contrast between the Assyrian and Hittite treaties is that the second section of the schema of the Hittite treaty is the historical prologue that is not found in the Assyrian treaties. I think that is enormously important for several reasons. First of all, the historical prologue sets the tone for the Hittite treaty. It's on the basis of his prior beneficent acts that the great king justifies the demand for observance of the stipulations. That's the way the treaty flows. "I've done this for you," justifies then the obligation that the vassal has to the great king.

That historical prologue follows immediately after the preamble in every presently available Hittite treaty. In other words, it's not something that's a random thing; it's in some treaties; it's not in others. It's something that is present in all the presently available Hittite treaties. Now maybe someone will dig one up someday that doesn't have it. I ought to add a note at that point. I say it's available in all the treaties, but that is a point that is contested. I could refer you to several German works that discuss it, but that probably won't help you much. But Dennis J. McCarthy in his book, *Treaty and Covenant*--its listed in your bibliography--in several places in his book, he contests that assertion that it's in all of the presently available Hittite treaties and argues that several of the Hittite treaties do not have a historical prologue and, consequently, the historical prologue was not an essential element of the treaty form. I don't want to go into all the details of that. I think that McCarthy is mistaken. It turns on texts that have things left out, and it turns on interpretation of certain texts. It becomes a very complicated question. If you're interested in pursuing it, Herbert Huffman objects to that statement of McCarthy. Huffman supports the analysis that I gave that they all have

the historical prologue. Now if we had more time, we could perhaps look at a question like that.

The historical prologue sets a tone of the treaties it's in all the treaties that we presently are acquainted with, and it introduces in the structure the loyalty obligation of the vassal to the great king. That's the next element. It introduces the pronouncement of the loyalty obligation of the vassal to the great king. So that the absence of a historical prologue in the Esarhaddon treaties contributes to the cold harsh tone that you find in Esarhaddon treaties. The wording of those treaties is typical of the ruthless Assyrian imposition of its power on surrounding nations. There's no hint of any merciful Assyrian actions on behalf of the vassal that would merit loyalty and thanksgiving, or anything like that. There's that blunt declaration of their obligation that is secured by threats and curses if they are not followed. That is quite a different spirit.

These Assyrian treaties are fewer in number than the Hittite treaties. I mean, we aren't dealing with enormous body of literature here. I think that ought to be kept in mind in arguments of this sort. Further discoveries may throw quite different lights and angles on a lot of these questions that we have at present. So you want to keep that in mind in any kind of theory that you've adopted. Archaeological evidence is fragmentary at best. Drawing conclusions from fragmentary evidence has certain evident problems.

There certainly is resistance to the use of the Hittite material for the Mosaic time of origin of Deuteronomy. So I'd say in conclusion that the historical prologue is not only an important difference in form, but it also indicates from the outset a vast difference in spirit between the Hittite and Assyrian treaties. So you get a difference in form and a difference in spirit connected with that form. So there's quite a different quality of relationship you might say between the suzerain and the vassal in the Hittite treaty compared to that in the Assyrian treaty.

2. Absence of a basic obligation, that loyalty obligation, that immediately follows the historical prologue

Second point: there is an absence of a basic obligation, that loyalty obligation, that immediately follows the historical prologue. Of course, the Assyrian treaties not having a historical prologue, it doesn't issue into that, but that also is an extremely significant element in the Hittite treaties because that more than anything else expresses the spirit of the relationship between the treaty partners. Because of the gracious acts performed in the past by the great king, the vassal expresses his thanks by declaring his oath of allegiance in loyalty. In lieu of that element in the Hittite treaties, the Assyrian treaties contain an oath of allegiance that is in quite a different place in the structure. It's after the first section of curses. An oath of allegiance is taken so that the context becomes one of fear rather than trust and loyalty. The quality of the relationship is substantially different.

### 3. Absence of blessings

Third, absence of blessings also is in keeping with that tone of the Assyrian treaty and is another structural difference. No blessings are enumerated whatever for keeping the treaty stipulations. In Hittite treaties that is a prominent element. In Assyrian treaties, there are no blessings.

### Conclusion:

The conclusion then, I think on the basis of these observations--and we could do this in a more detailed way--but I think these are the important things, it seems to me, that Kline does have an adequate foundation for the assertion that the Assyrian treaties are essentially different from those of the earlier Hittites.

### 1. Others who Concur with Kline's Position

Now, Kline's not alone in his positions; this is not something that is uniquely Kline's idea, nor is it confined to evangelical authors who discuss these matters. Mendenhall himself agrees, Albright agrees, John Bright in his History of Israel agrees that there's a difference between the Assyrian treaties and the Hittite treaties. Mendenhall in his

original article, “Law and Covenant in Israel and the Ancient Near East,” 1954, said, “This covenant type is even more important as a starting point for the study of Israelite tradition because of the fact that it cannot be proven to have survived the downfall of the great empires of the late second millennium BC. When empires again arose, notably Assyria, the structure of the covenant by which they bound vassals is entirely different.” That’s Mendenhall. “Assyrian treaties are different.” He notes further, “In all the materials we have this historical prologue is missing and only the Assyrian deities are listed as witnesses; the entire pattern is also erratically different.” So for Albright, in his book *Stone Age to Christianity*, and agrees with Mendenhall when he says, “The structure of a half dozen Assyrian and Aramean nation treaties which we know from the 8th century BC and later is quite different.” John Bright says the same thing in his *History of Israel*. So that on that point Kline has good support. Those men don’t all draw the same conclusions that Kline does, but they recognize the difference. So even though certain elements are similar as to be expected in treaties between a greater and lesser power, the similarities are not sufficient to warrant the statement of D. J. Wiseman who says, “that the form of the treaties was already standardized by the Hittite empire and that the vassal treaties of Esarhaddon show that it remained basically unchanged through neo-Assyrian times.” So you get a division of opinion, but it seems the weight of evidence is with Kline, Mendenhall, Albright, and Bright that there’s this difference. There is a discernable evolution. There is quite a different structure, quite a different kind of relationship, between the two groups of treaties.

## 2. The Sefire Aramaic Treaties

Alright, let’s go onto 2., “The Sefire treaties.” We have talked about the difference between the Assyrian treaties and the Hittite treaties, but now the Sefire ones. These treaties are about a century earlier than the Assyrian from the 8th century B.C. They are closer in time to the Assyrian ones than to the Hittite so they are in between. Sefire is from the 8th century, the Assyrian was from the 7th century.

a. Similarities to the Esarhaddon Treaty or the Assyrian Treaty

Small a. “Similarities to the Esarhaddon Treaty or the Assyrian Treaty.” What we’re going to notice next will be Sefire similarities to the Hittite treaties; they have certain similarities to both sets of treaties.

Similarities, first of all, to the Assyrian treaties: With the presently available Aramaic treaties from Sefire, one finds no historical prologue. Some of the treaties are fragmented at the beginning, so some argue maybe there was one there that we can’t see now. But with what is currently extant, there is no historical prologue. There is not any statement of that basic obligation, either. So in those respects you could say that the treaties from Sefire are closer to the Esarhaddon treaties than they are to the Hittite treaties. Sefire was a small city-state in Syria with relationship to other, lesser powers. It was not a major empire. It gives the names of the kings of that city. In addition, it might be said that the stipulations are decidedly one-sided. They regulate the conduct of the vassals towards the more powerful partner, but are not reciprocal. There’s very little of obligation of the greater power towards the vassal. In the Hittite treaties, just by way of contrast on this point, there is a solidarity of the two treaty partners. So that the head partner promises protection for the vassal. That is a strong element in the Hittite treaties: the head partner promises protection to the vassal. He promises that the enemies of the vassal will be defeated when the vassal remains loyal to his suzerain. Of course, the parallel there with the Mosaic material is very interesting, too. But both the treaties of Sefire and the Assyrian treaties lack any such protection clause to the vassals. There are no protection clauses in either the Assyrian or the Sefire treaties.

There’s some other points, but we’ll leave it with that and turn to the similarities of the Sefire treaties with the Assyrian treaties. Similarities of the Sefire treaties to the Hittite treaties, for certain features of the Aramaic treaty seem closer to the Hittite treaty. In the selection of gods called upon, as witnesses to the treaty, the Aramaic treaties cite that gods of both places of the suzerain and vassal are witnesses to the covenant.

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