

SIMEON CHAVEL

Oracular Law and
Priestly Historiography
in the Torah

*Forschungen
zum Alten Testament 2. Reihe*

71

Mohr Siebeck

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Mohr Siebeck

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Swells of water could never quell love
 Rivers even could never overrun it
 For adamant as Death is love
 Persistent as the Pit is passion
 Its flares, flares aflame, are an Immortal blaze

מִיָּם רַבִּים לֹא יוּכְלוּ לְכַבּוֹת אֶת־הָאֵהָבָה
 וְנַהֲרוֹת לֹא יִשְׁטַפּוּהָ
 כִּי־עֲזָה כַּמָּוֶת אֵהָבָה
 קַשָּׁה כַּשְּׂאוֹל קִנְיָה
 רִשְׁפֵיהָ רִשְׁפֵי אֵשׁ שְׁלֵהֲבַתָּהּ

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Preface

Segments of this work have been presented elsewhere, some as part of the process of analyzing the texts and working out the ideas, others as crystalized versions after the fact.

With respect to Lev 24:10–23, the idea that each of the major works comprised by the Torah recounted a crucial failing of Israel at the pinnacle of revelation and the inference that in the Yahwistic history this failing consisted of the Israelites rioting to rush the mountain upon which Yahweh presented himself to them were presented in a lecture, “Revelation and Sin at Sinai According to the Pentateuchal Sources,” at *The Thirteenth World Congress of Jewish Studies, Jerusalem, 12–17 August, 2001*. A compressed version of the interpretation of the significance of cursing the deity and of the literary structure of the oracular novella appeared in the third volume of Jacob Milgrom’s commentary to Leviticus in the Anchor (Yale) Bible series (2001), as “Appendix D” to Leviticus 24 (pp. 2140–2145). The correlations between the story of Nadab and Abihu in Leviticus 10 and the oracular novella and their place within the overall structure of the texts that make up Leviticus were presented (in Hebrew) in a lecture, “Leviticus as a Book,” at the *Evening in Honor of Prof. Jacob Milgrom, The Van Leer Institute, Jerusalem, April 27, 2003*.

The historical side of the question of Num 9:1–14 – what circumstances stand behind the unusual idea of a secondary, make-up date for the Pesah – was published as “The Second Passover, Pilgrimage and the Centralized Cult,” in the *Harvard Theological Review* 102 (2009) 1–24.

A concentrated version of the chapter on Num 15:32–36 was presented as “Num 15:32–36 – A Microcosm of the Living Priesthood and Its Literary Production,” at the *European Association of Biblical Studies and the Society of Biblical Literature International Meeting, Vienna, 22–26 July 2007*, and published in S. Shectman and J. Baden, eds., *The Strata of the Priestly Writings: Contemporary Debate and Future Directions* (Abhandlungen zur Theologie des Alten und Neuen Testaments; Zürich: Theologischer Verlag, 2009) 45–55.

The argument that Num 27:1–11 plays an important role in the legal hermeneutics and synthesis that undergird the plot of the story of Ruth was developed further and presented as “Law and Narrative in Ruth and the Pentateuch,” at the *Society of Biblical Literature International Meeting, Amsterdam, 22–26 July 2012*.

A crystallized version of the entire dissertation was presented as “Oracular Novellae – Between Priestly Law and Priestly Narrative,” at a conference organized

by Klaus-Peter Adam, Friedrich Avemarie, and Nili Wazana, *Law and Narrative: On the Relationship Between Abstract Legal Sentences and Case Narratives*, *Phillipps-Universität, Marburg, September 7–9, 2009*, and published soon after in *Clio – A Journal of Literature, History and the Philosophy of History* 39 (2009) 1–27 under the title: “‘Oracular *Novellae*’ and Biblical Historiography: Through the Lens of Law and Narrative.”

The study in this work, as conceived and carried out, lent itself to pursuing a wide variety of legal texts, topics and aspects. Many points of interpretation and perspective, reframed, went into a chapter that provides an introductory overview of the legal literature in the Hebrew Bible, in *The Literature of the Hebrew Bible – Introductions and Studies*, edited by Zipora Talshir (2 vols. Jerusalem: Yad Ben-Zvi Press, 2011) 1.227–272 (in Hebrew).

It seems warranted to note that the chapter on Lev 24:10–23 was completed in 1998, only a few years after the English publication of Israel Knohl’s highly influential work, *The Sanctuary of Silence*. Since then much has been published regarding the Holiness Code, the Priestly texts related to it, the Priestly literature as a whole, and the hypothesis or form of hypothesizing best suited to the Torah. Only a few items or aspects have direct bearing on the analyses here, which are more narrowly delineated and focused. Several direct treatments of Lev 24:10–23 have appeared as well. So far as I can judge, none preempt the argument here or undermine it. I have attempted to update the chapter in appropriate measure.

Introduction: Four Oracular Novellas

Four passages in the Torah share a cluster of characteristics that recurs nowhere else in the Hebrew Bible. They make up a distinct group of texts and represent a unique type of narrative. The set of texts comprises Lev 24:10–23, about the name and person of the deity; Num 9:1–14, about performing the Pesah; Num 15:32–36, about observing the Sabbath; and Num 27:1–11, about land inheritance. These four passages – all prose narrative – have the same incidental character, essential plot, and structure; employ a specialized diction; portray in an unusually specific manner Moses’ precise role in the legislative and judicial process; straddle the fence between law and narrative; demonstrate a distinct method for generating law and establishing it thereafter; and give distinctive expression to certain elements that stand at the base of communal identity. Cast fully in this light, they may reflect back upon critical theory of the composition of the Torah and help illuminate some core features, and possibly origins, of one of its sources.

The four passages have barely earned recognition as a distinct group of texts or enjoyed corresponding analysis, from ancient times to modern scholarship. Where there has been awareness of the four as a group, it has usually expressed itself in a narrow focus on one or two of its aspects, not on the shared form as a whole. Philo, in his work *On the Life of Moses*, gathers together the four episodes on account of the special quality of Moses’ prophecy and of his legislative acts presented in them, and treats them as a distinct set (§§ 192–245).¹ One particular homily that recurs among the Palestinian Aramaic Targums brings the four episodes together as modeling the proper behavior of a judge.² Within Rabbinic literature, this homily stands alone.³ Other Rabbinic sources either treat the stories singly or in conjunction with additional biblical episodes, such as Phineas’ zealotry in Num 25:1–18 or the purity laws transmitted through Eleazar rather than Moses in Num 31:21–24.⁴ In any case, from a more

¹ Loeb, 2.545–573. On the significance and history of this section within the composition *On the Life of Moses*, see Daniel-Nataf, *Philo*, 203–212, esp. 206–209.

² See *Tg. Yer.* at Lev 24:12; *Tg. Ps-J.*, *ibid.*; *Tg. Neof.*, *ibid.*, Num 9:8; 15:34; 27:5; and the *Frg. Tg. P* at Lev 24:12 and V, *ibid.*, Num 9:8; 15:34; 27:5. For an initial literary analysis of the homily and musings on its original point of interpolation, see Levy, *Targum Neophyti 1*, 2.44–47, 73–74.

³ Shinan remarks on the point explicitly (“The Aggadah,” 213–214).

⁴ A midrash that appears in the later collection “Three and Four” speaks of six cases (Eisenstein, *Otsar Midrashim*, 2.539 §6; Wertheimer, *Batei Midrash*, 2.65 §50). In the opposite direction, a Talmudic statement illustrating a principle about the interrelationship between law and history mentions

comprehensive, detailed perspective, one that takes in all the various aspects that are found in the four passages and demarcate them as a group, the Rabbinic sources essentially concentrate only on a single point common to the four passages and develop it in a particular direction. They do not respond to the complete phenomenon as such.⁵

In modern research, scholars frequently mention a selection out of the four, in varying permutations. Representing a most extreme illustration of the general inconsistency, Martin Noth comments on Lev 24:10–23 and refers to Num 15:32–36; at Num 9:1–14 he mentions none of the other episodes; at Num 15:32–36 he refers to Lev 24:10–23 and Num 9:1–14; and in his comment on Num 27:1–11 he cites all three other cases.⁶ Jacob Weingreen undertook studies of three of the passages – Lev 24:10–23; Num 15:32–36; and 27:1–11 – entirely leaving out of all his discussions the Pesah of the second month in Num 9:1–14.⁷ In the other direction, some expand the canvas to include one or more additional passages, such as the Gileadite appeal regarding tribal allotments in Num 36:1–12, which merely follows up the case in 27:1–11, or the laws given by Eleazar in the war against the Midianites, in 31:21–24.⁸ Tikva Frymer-Kensky counts the four, the Gileadite follow-up, and also David’s division of the spoils of war in 1 Sam 31:22–25 – but excludes Moses’ version of David’s law in Num 31:25–28.⁹ Others draw up lists that altogether blur the lines that serve to define the four passages as a group, overlooking one and including others. Otto Eissfeldt, for example, passes over Lev 24:10–23 in silence and in its place mentions Num 31:21–24 and 36:1–12.¹⁰ What is more, introductions and broad overviews regarding prophecy, law, or the figure of Moses tend not to refer

together only the episodes of the wood-gatherer and of the daughters of Zelophad (*b. B. Bath.* 119a–b; *b. Sanh.* 8a). (The principle appears in several different formulations; the correct one seems to be “merit is added by the meritorious by working out through them episodes of merit appropriate to emerge through them, and demerit by the liable by working out through them episodes of demerit appropriate to emerge through them;” see *t. Yoma* 4:12; Lieberman, 2.253 ll. 54–56.)

⁵ Curiously, several scholars of Rabbinic literature and thought have used the four stories as an artificial rubric in which to discuss various midrashim that are unrelated to each other directly, but are linkable to each other indirectly through their connections to one or two of the four stories; none are related to all four. See, from a narrow point of view, Heschel, *Torah min ha-shamayim*, 2.220–223; from a broader perspective, Bamberger, “Revelations of Torah after Sinai,” 104–109; surveying comprehensively early sources relating to the four episodes: Shinan, “The Story of the Woodgatherer.”

⁶ *Leviticus*, 179; *Numbers*, 71, 117, 211.

⁷ In chronological order of publication: “The Case of the Woodgatherer;” “The Case of the Daughters of Zelophchad;” “The Case of the Blasphemer.” Likewise, Zakovitch, *Introduction*, 88–89; Van Dam, *Urim and Thummim*, 180 n. 9.

⁸ For a good example, see Levine, *Numbers*, 1.78–79; also Crüsemann, *The Torah*, 98–103. A recent work of traditional, pre-critical outlook and aim gathers together the four and the story of Kozbi, Zimri and Phineas in Numbers 25, and notes a mnemonic made of the five Hebrew letters with final form, מִקְוֶשׁ, each of which can stand for an identifying word of a different one of the stories: מִקְוֶשׁ, כּוֹזְבִי, שֵׁנִי, פְּסַח שֵׁנִי, צִלְפַּחֵד, גִּילְעָדִי, נִיט (Koperman, *Nit ‘almu mimmenu halakhah*, foreword).

⁹ HANEL, 979; she refers to them as “legal storyettes.” Westbrook discusses all these instances, including the Mosaic version of David’s law, and calls them “difficult cases” (“Law Codes,” 261–264).

¹⁰ *Introduction*, 32.

to the passages, despite the oracular nature of the laws generated in them; generally speaking, it appears that, as a distinct group, the four passages have “slipped between the cracks.”¹¹

Michael Fishbane represents an important exception. In his work on intertextual reuse and interpretation within the biblical corpus, he interrelates the four episodes as an organic, cohesive group, categorizes them formally and conceptually, and briefly analyzes them each in the light of the others.¹² Picking up on the themes of prophecy and of law noted by Philo and by the homily in the Targumim and considering them from the point of view of the textualizing, interpretive impulse that drives their mutual engagement, Fishbane analyzes all four of these narratives of legal decisions and legislation for the correspondence in them between the oracular jurisprudence portrayed in the text and the legal draftsmanship that, in a mode of inner-biblical exegesis, produced the text.

In a sense, this work picks up where Fishbane has left off.¹³ It elaborates the level of similarity between the four and develops further the significance of bringing prophecy and law together in the form of legal oracle. To the degree that it does so, it also raises awareness of the additional dimension of these texts – their narrative frame. Together with that, the study also considers them more directly in the context of their literary setting within the Torah. The result of viewing the four passages specifically as a type of narrative and of locating them within their immediate literary context leads the study to an alternate theoretical frame – the analysis of law and narrative from the perspective of literary genre and sociology – and draws several different kinds of conclusions about the light these four texts can shed upon their source within the Torah.

Most prominently and in definitional terms, all four passages are stories.¹⁴ The narrative in each case tells of the generation of law – whether new law, amendments,

¹¹ The bibliography is voluminous. Take the following as sufficiently representative: Pedersen, *Israel*, 1.406–410; 2.102–197, esp. 103–104, 157–164, 190–191; Eichrodt, *Theology*, 1.74–115; Johnson, *The Cultic Prophet*; Haran, *Temples and Temple-Service*; Boecker, *Law and the Administration of Justice*; Cryer, *Divination*, esp. 286–295; Jeffers, *Magic and Divination*, esp. 52–56, 58–65, 216–221.

¹² *Biblical Interpretation*, 98–104, 236–237.

¹³ Several years after Fishbane’s work appeared, Crüsemann added an historical dimension to the analysis of the passages. He discussed the four episodes together with the Gileadite one, dated them all to the Persian era, and claimed they reflect legal practice in the absence of kingship; however, he also then conceded both that the outline of the precise institution eludes him, since Moses rather than Aaron the priest resolves cases, and that one cannot rule out of hand that such an institution might in fact have had its origins in the period before the Babylonian exile (*The Torah*, 98–107). The literary form of a set of texts may indeed suggest a setting or institution within society, but it makes a weak basis for inferring one particular historical period or situation, since forms outlive the original circumstances that produce them. In addition, various unknowns make any such assumptions precarious at the practical level too, for instance, whether the biblical authors meant to mirror their own times or to portray what they saw as prehistoric or ancient, and whether various institutional configurations replaced each other in historical sequence or coexisted, dominated separate spheres of life, and ebbed and flowed in popularity and power as changing historical and social circumstances facilitated.

¹⁴ For useful definitions, descriptions and analyses, see Rimmon-Kenan, *Narrative Fiction*, 1–4; Simon-Shoshan, *Stories of the Law*, 1–22.

or specifications and clarifications. As appropriate to storytelling, the generation of law comes about as a consequence of specific circumstances – in these four instances, an event that has taken place or a situation that has arisen within the community. To formulate it from a different perspective, in these four stories an individual or community-wide problem finds its resolution in legislation. And to put it in starker generic terms, in all four texts a story achieves its climax with law. The plot progresses through a scheme of several stages: in a given setting, the community – either as a whole or through particular members – faces a problem not anticipated or covered by the laws revealed to this point; parties approach Moses; Moses turns to Yahweh; Yahweh provides instruction; Moses transmits it to the people; the people carry it out.

The four stories differentiate themselves into two subtypes. There are two “action” episodes, in which an individual behaves outrageously and a group of Israelites representing the community as a whole witnesses the act and brings the perpetrator to Moses (Lev 24:10–23; Num 15:32–36), and there are two “situation” episodes, in which a confluence of forces threatens the place of a group of Israelites within the community and the group approaches Moses with a claim (Num 9:1–14; 27:1–11). The diction employed to mark and shape the different stages of the plot also differs somewhat between the two subtypes and helps demarcate them.

The two action-episodes set themselves in the context of all Israel, which establishes the oppositional thrust that will fulfill itself in the legislation (Lev 24:10 ויצא . . . בתוך בני ישראל; Num 15:32 ויהיו בני ישראל במדבר וימצאו איש; בני ישראל; Num 15:32 ויביאו אתו אל משה; Num 15:33 ויקריבו אתו המצאים אתו . . . אל משה . . .). The criminal is put in holding (Lev 24:12 ויניחורו במשמר; Num 15:34 ויניחו אתו במשמר) for the purposes of divine instruction (Lev 24:12 לפריש להם על פי יהוה; Num 15:34 יעשה לו פריש מה). In appropriately authoritative speech forms – the imperative and the infinitive absolute – Yahweh hands down his verdict, and, corresponding to behavior deemed outrageous by the camp, he determines reciprocal behavior outside the camp that will express collective outrage – death by stoning (Lev 24:14 ורגמו אתו . . . וירגמו אתו למחנה; Num 15:35 מות יומת האיש רגום אתו באבנים כל העדה מחוץ למחנה; כל העדה). Closing the circle, the people do precisely as told, which the narrator reports in the very words of Yahweh’s decision (Lev 24:23 ויציאו אתו; Num 15:36 ויציאו אתו). The narrator then also follows up by emphasizing in his own words the key element of Israel’s fulfillment of Yahweh’s will (Lev 24:23 וכאשר צוה יהוה את משה; Num 15:36 וכאשר צוה יהוה את משה).

The two situation-episodes also take place in the context of all-Israel events (the Pesah in Num 9:4–5; the census in Num 26:2, 53). In the face of these all-Israel events, groups within Israel recognize that as principles currently stand and circumstances have befallen them they face certain exclusion from the community. In one case, the author has the narrator speak and set up the stage in detail (Num 9:6) prior to the direct speech of the characters (v. 7). In the other case, the author holds the narrator’s tongue and has the group itself speak and convey all relevant information (Num 27:1–4). In

both cases, no one conducts the group to the authorities; rather, the group approaches Moses on its own initiative and on the strength of its own conviction (Num 9:6 ויקרבו משה . . . לפני משה . . . ותעמדה לפני משה . . . ותקרבה . . . ותעמדה לפני משה . . . לפני משה . . . ויאמרו 9:7; Num 27:2; לאמר 27:2). The two different groups articulate the heart of the matter – isolation from the larger community of Israel – using the same terms, and both do so in the form of a rhetorical question (Num 9:7 ברוך בני ישראל . . . נגרע . . . למה נגרע . . . בתוך בני ישראל 9:7; Num 27:4 מתוך משפחתו . . . יגרע . . . למה יגרע . . .). Again, the narrative of the two stories differs in assigning speech to the narrator or to the characters, but in both cases the author has someone verbalize that divine instruction will ensue (Num 9:8 ויאמר משה עמדו ואשמעה 9:8; ויקרב משה את משפטן לפני יהוה 27:5; מה יצוה יהוה לכם), which corresponds to that stage in the action-episodes in which the criminals are put into holding until Yahweh hands down judgment.

The four stories show a certain variety between them regarding the specific segments of the plot structure. One story lacks a decision for the case at hand and moves directly to the positive formulation of the law; it also does not note the fulfillment of Yahweh's law (Num 9:1–14). Another story only legislates for the present case, without an abstract, statutory formulation for subsequent generations (Num 15:32–36). In a third, the narrative provides no set of background details specific to the story in order to set it up, but rather relies on the immediately preceding episode as having established the general context; furthermore, what the narrative does add to that assumed background, in order to pivot from the general situation to the specifics of the petition, it reveals only after the action has begun, putting those elements into the mouths of the characters (Num 27:1–11). The fourth story (Lev 24:10–23) has all the elements of the paradigm, but one element seems to appear out of order (v. 11b; compare Num 27:1).

Those structural plot-elements or stages in the story that do appear in more than one narrative can diverge relatively widely from each other in magnitude. For instance, the background section in one story covers five verses (Num 9:1–5), whereas in another it comprises one short sentence in a single half-verse (Num 15:32b). The formulas and terms that govern the movement within the narrative from stage to stage likewise show variation. In the two action-stories, people bring the criminal before the authorities that they may pronounce judgment and specify punishment. In one story the narrative employs the term ויביאו and the people bring the criminal to Moses alone (Lev 24:11), while in the other the narrative uses the term ויקריבו and the people bring the criminal before Moses, Aaron and the entire assembly (Num 15:33). The clause relaying that the criminal was placed in holding appears once with a suffixed accusative pronoun, ויניחהו במשמר (Lev 24:12), and a second time with the independent form, ויניחו אתו במשמר (Num 15:34).

Such forms and instances of divergence do not gainsay the uniform skeletal structure and terminology that give the shared plot its shape and its texture in all four cases. On the contrary, variability constitutes one of the normal characteristics of a repetitive or patterned compositional technique or template.¹⁵ Moreover, such shifts may very well

¹⁵ Note, for instance, the variability in the narrative of creation in Gen 1:1–2:4a.

Plot Element	Lev 24:10–23	Num 15:32–36
SETTING	ויצא איש בן אשה ישראלית והוא בן איש מצרי בתוך בני ישראל וינצו במחנה בן הישראלית ואיש הישראלי	ויהיו בני ישראל במדבר
PROBLEM	ויקב בן האשה הישראלית את השם ויקלל	וימצאו איש מקשש עצים ביום השבת
APPROACH	ויביאו אתו אל משה ושם אמו שלמית בת דברי למטה דן	ויקריבו אתו המצאים אתו מקשש עצים אל משה ואל אהרן ואל כל העדה
CLAIM		
ORACULAR INQUIRY	ויניחהו במשמר לפרש להם על פי יהוה, וידבר יהוה אל משה לאמר:	ויניחו אתו במשמר כי לא פרש מה יעשה לו, ויאמר יהוה אל משה:
CASE RULING	"הוצא את המקלל אל מחוץ למחנה וסמכו כל השמעיים את ידיהם על ראשו ורגמו אתו כל העדה	"מות יומת האיש, רגום אתו באבנים כל העדה מחוץ למחנה"
STATUTORY LAW	ואל בני ישראל תדבר לאמר: איש איש כי יקלל אלהיו ונשא חטאו ונקב שם יהוה מות יומת רגום וירגמו בו כל העדה כגר כאזרח בנקבו שם יומת, ואיש כי יכה כל נפש אדם מות יומת ומכה נפש בהמה ישלמנה נפש תחת נפש ואיש כי יתן מום בעמיתו כאשר עשה כן יעשה לו שבר תחת שבר עין תחת עין שן תחת שן, כאשר יתן מום באדם כן ינתן בו ומכה בהמה ישלמנה ומכה אדם יומת משפט אחד יהיה לכם כגר כאזרח יהיה כי אני יהוה אלהיכם"	
FULFILLMENT	וידבר משה אל בני ישראל, ויוציאו את המקלל אל מחוץ למחנה וירגמו אתו אבן ובני ישראל עשו כאשר צוה יהוה את משה	ויוציאו אתו כל העדה אל מחוץ למחנה וירגמו אתו באבנים וימת כאשר צוה יהוה את משה

Num 9:1–14	Num 27:1–11	Plot Element
<p>וידבר יהוה אל משה במדבר סיני בשנה השנית לצאתם מארץ מצרים בחדש הראשון לאמר: "ייעשו בני ישראל את הפסח במועדו בארבעה עשר יום בחדש הזה בין הערפיים תעשו אתו במעודו ככל חקתיו וככל משפטיו תעשו אתו", וידבר משה אל בני ישראל לעשות הפסח ויעשו את הפסח בראשון בארבעה עשר יום לחדש בין הערפיים במדבר סיני ככל אשר צוה יהוה את משה כן עשו בני ישראל</p>	<p>[chap. 26]</p>	<p>SETTING</p>
<p>ויהי אנשים אשר היו טמאים לנפש אדם ולא יכלו לעשות הפסח ביום ההוא</p>		<p>PROBLEM</p>
<p>ויקראו לפני משה ולפני אהרן ביום ההוא ויאמרו האנשים ההמה אליו:</p>	<p>ותקרבנה בנות צלפחד בן חפר בן גלעד בן מכיר בן מנשה למשפחת מנשה בן יוסף – ואלה שמות בנתיו: מחלה נעה וקגלה ומלכה ותרצה – ותעמדה לפני משה ולפני אלעזר הכהן ולפני הנשיאם וכל העדה פתח אהל מועד לאמר:</p>	<p>APPROACH</p>
<p>"אנחנו טמאים לנפש אדם, למה נגרע לבלתי הקריב את קרבן יהוה במעודו בתוך בני ישראל?"</p>	<p>"אבינו מת במדבר והוא לא היה בתוך העדה הנועדים על יהוה בעדת קרח כי בחטאו מת ובנים לא היו לו, למה יגרע שם אבינו מתוך משפחתו כי אין לו בנים? תנה לנו אקזה בתוך אחי אבינו"</p>	<p>CLAIM</p>
<p>ויאמר אלהים משה: "עמדו ואשמעה מה יצוה יהוה לכם", וידבר יהוה אל משה לאמר:</p>	<p>ויקרב משה את משפטן לפני יהוה ויאמר יהוה אל משה לאמר:</p>	<p>ORACULAR INQUIRY</p>
	<p>"כן בנות צלפחד דברת, נתן תתן להם אקזת נחלה בתוך אחי אביהם והעברת את נחלת אביהן להן</p>	<p>CASE RULING</p>
<p>"דבר אל בני ישראל לאמר: איש איש כי יהיה טמא לנפש או בדרך רחקה, לכם או לדרתיכם, ועשה פסח ליהוה בחדש השני בארבעה עשר יום בין הערפיים יעשו אתו על מצות ומררים יאכלהו לא ישאירו ממנו עד בקר ועצם לא ישברו בו ככל חקת הפסח יעשו אתו, והאיש אשר הוא טהור ובדרך לא היה וחדל לעשות הפסח ונכרתה הנפש ההוא מעמיה כי קרבן יהוה לא הקריב במעודו חטאו ישא האיש ההוא, וכי יגור אתכם גר ועשה פסח ליהוה כחקת הפסח וכמשפטו כן יעשה חקה אחת יהיה לכם ולגר ולאזרח הארץ"</p>	<p>ואל בני ישראל תדבר לאמר: איש כי ימות ובן אין לו והעברתם את נחלתו לבתו ואם אין לו בת ונתתם את נחלתו לאחיו ואם אין לו אחים ונתתם את נחלתו לאחי אביו ואם אין אחים לאביו ונתתם את נחלתו לשארו הקרב אליו ממשפחתו וירש אתה"</p>	<p>STATUTORY LAW</p>
	<p>והיתה לבני ישראל לחקת משפט כאשר צוה יהוה את משה</p>	<p>FULFILLMENT</p>

prove to contribute to the poetics of the specific narrative within which they appear and to hold relevance for its meaning, without necessarily having intended to influence the understanding of the other stories or of the shared form that underlies them all.¹⁶ Additionally, differences could reflect literary or textual changes that occurred in any or all of the narratives, at any of the stages in their development. In any case, the frame they share remains uniform and stable.

The chart above lays out the structure of the four stories stage by stage, to afford a direct impression of the overwhelming degree of consistency between the four texts, which the variations between them do not have the strength to deny and which no other texts share.¹⁷ The chart does not present the narratives in the order in which they appear in the Torah, but rather in pairs according to their subtypes, the two action-episodes – cursing the deity in Lev 24:10–23 and gathering wood on the Sabbath in Num 15:32–36 – and the two the situation-episodes – deferring the Pesah in Num 9:1–14 and the inheritance of daughters in Num 27:1–11.

Among all the episodes and passages that scholars have thrown in with these four stories or with a selection of them, that of the Gileadites in Num 36:1–12 makes a certain amount of sense. It continues the case of the daughters of Zelophad in Num 27:1–11, and accordingly the Gileadites speak in similar terms as the women. Other speakers, including the narrator, likewise continue the speech patterns and concepts of the case. Nevertheless, the Gileadites do not come forward so much to inquire about a new topic or situation as to mount a counter-petition against a preceding ruling. The counter-petition does not constitute a fifth independent incident, but rather directly continues an existing case, even though in the biblical text many passages separate the two passages from the each other. Indeed, the author of one of the scrolls found in the caves of Qumran by the Dead Sea elected to place the two episodes side by side so that the one follow immediately on the heels of the other – (4Q365 frag. 36); indications suggest that other authors did likewise (4QNum^b).¹⁸ Moreover, the structure, sequence, and linkages of the narrative in Num 36:1–12 – the “stuff” of the passage – really do not conform to the scheme and realization of the narratives of the inheriting women and the other three topics, but rather diverge. Accordingly, it suffices to consider the passage an extension of the case of the daughters of Zelophad and analyze it in that context.

Categorically speaking, the four stories might fall under the general category of etiological narrative and be considered alongside those stories said to describe the rise

¹⁶ See Alter’s discussion of “type-scenes” in *The Art of Biblical Narrative*, 55–78.

¹⁷ The difficulties posed by the genealogical note in Lev 24:11b in the approach segment (artificially put there on the model of Num 27:1) and by the sequence of clauses in Num 27:11b in the fulfillment segment are treated below in the full analyses of each of the texts.

¹⁸ For 4Q365, see *DJD* 13.310. The state of the preservation of the fragment prevents one from knowing whether the author pulled the counter-petition back to Num 27:1–11, deferred the original petition to the beginning of Numbers 36, or even moved them both somewhere else within the sequence of the book of Numbers. For 4QNum^b, see *DJD* 12.262–264; the fragment with Numbers 36 has room after v. 2 for ten lines and after v. 4 for another twelve, which in a reasonable exercise, the editor, Nathan Jastram, filled in on the basis of Num 27:2–11.

of a normative practice. Such a view, though, does not do justice to the uniqueness of the four stories as a group. Three characteristics limit the sharpness and utility of such a categorization.

First of all, as a general rule, in the broader set of instances, the combination of the narrative with the law, custom or norm has an artificial, forced character. Literarily speaking, the two elements do not depend on each other. Rather, they have been conjoined mechanically such that one can still separate them from each other without affecting the coherence of the narrative. The statements that Israelites do not eat the sinew of the thigh as a result of the “low blow” dealt Jacob by his divine wrestling opponent, in Gen 32:25–33; that it became the custom to mourn Jeptah’s daughter in commemoration of the personal tragedy that befell Jeptah’s family in the aftermath of his victory over the Ammonites, in Judg 10:17–11:40; or that it became law to share the spoils of war after David’s recovery of the wives and property that had been taken captive by the Amalekites, in 1 Sam 30:1–25 – when removed, such comments in the narrator’s voice leave no gaps in the remaining story, either in the immediate flow, or in the larger plot beforehand or afterward. In whatever way these normative elements in the stories add dimensions of meaning to the stories by the very fact of their presence, and to whatever degree together as a whole they create a set of audience identity-markers in general, the stories absorbed them in limited fashion and do not have them integrated productively into the larger narrative flow. In some cases, the etiology may have even entered the text secondarily.¹⁹ Moreover, more often than not, the narrative in these instances does not in fact explain the norm or practice as the text describes it, in all its particulars, but only establishes an historical anchor, as it were. What kind of thought-process, for example, leads from a visibly limping Jacob, a human being whose entire leg suffers dislocation, to a culinary prohibition against an invisible, internal component of an animal’s leg?

Secondly, in such etiological moments, Yahweh does not legislate, make demands, or signal his assent to the norm. Indeed, most such stories do not even state that the character involved instituted the norm or practice, only that Israelites behave in a certain way on account of what befell that character.

Thirdly, in many of these cases, the norm serves a commemorative function. Moreover, the text does not speak as if creating the norm, but rather presupposes its existence and creates its commemorative aspect by linking it to the incident narrated.

In sharp contrast to these sorts of etiological statements within narrative materials, in the four stories of the generation of law – Lev 24:10–23; Num 9:1–14; 15:32–36; and 27:1–11 – the law functions as the climax of the story. Remove it and rob the story of its resolution, the logic of its parts and flow, its very reason for being. The heart of the plot in each case consists specifically of consulting Yahweh for immediate instruction, to gain his divine decisions and legislation, which will serve as law forever after.

¹⁹ On etiologies and their secondary place in the scheme of the history of stories, see Bright, *Early Israel*, 91–100; Seeligmann, *Studies in Biblical Literature*, 11–45 (= *Gesammelte Studien*, 77–118). On the interpolated status of the etiologies mentioned above, see Dillmann, *Genesis*, 359; Zakovitch, *Introduction*, 89.

In this spirit, there is more to note about these stories, with respect to the character of the narrative, the quality of the storytelling. Several scholars have articulated well the unusual combination of minimalist telling and restraint, on the one hand, and maximizing significance and implication, on the other – the economy – that characterizes biblical narrative and the dynamic, engaging reading process it engenders.²⁰ This trait, it still needs be said, does not apply to all biblical narrative, or to all of it equally. Suffice it here to call attention to the fuller form of story-telling – providing richer detail, internal perspective, and colorful narrator commentary – in the story of Amnon and Tamar in 2 Samuel 13, in the very heart of what most consider the jewel and quintessence of biblical historiographical narrative. In the opposite direction, the four stories of the generation of new law push the tendency towards narrative economy to its spartan extreme. The narrative dimension is so minimal as to provide almost no information, from the points of view of the setting, the characters, their motives and deeds, the amount and quality of detail, the plot, and the narrator’s own self-restraint. Rather, the narrative hews that much more perceptibly to the scheme that underlies all of them and gives them their shape. The narrative of the man who curses the deity, for instance, jumps directly into the fistfight and cuts immediately to the curse. The entire description takes up a mere verse and a half (Lev 24:10–11). Just how does there come to be in Israel of the exodus generation a man of Egyptian parentage? The author leaves it entirely to the imagination of the audience – for whom the story, of course, would be telling of far-distant times. So too the parallel story, in which a single verse simply states that Israelites caught a man gathering wood on the Sabbath (Num 15:32). The story of the make-up Pesah in the second month relates its core information in a half-verse: people with death-impurity could not perform the Pesah (Num 9:6). The daughters of Zelophad have little to say about their father, other than that he died without having had sons and that he did not participate in the group challenging Moses and Aaron (which second comment may itself not have been original to the story), with no information whatsoever about themselves (Num 27:3). The statements about having carried out Yahweh’s instructions are similarly abrupt.

This minimal style has caused commentators some consternation. Traditional and critical scholars alike have sought to flesh out the stories by uncovering, as it were, deeply buried details. They scour the text for any hint or irregularity by which to insert into the story additional details and thereby thicken it. In this manner they turn the skeletal stories of a deliberately minimalist storytelling quality into pregnant and allusive ones, in which characters have rich backgrounds and motives, and events participate in a web of connections across the larger sequence of stories within the Torah.²¹ Such

²⁰ Gunkel, *Genesis*, xxiii–xlvi; Auerbach, *Mimesis*, 1–20; Alter, *The Art of Biblical Narrative*, 143–162; Sternberg, *The Poetics of Biblical Narrative*, 321–364.

²¹ The story about cursing the deity in Lev 24:10–23 serves as an example of this kind of filling-in. On the matter that led to the fight, compare Kalisch, *Leviticus*, 525, 527; Bertholet, *Leviticus*, 85; Ehrlich, *Randglossen*, 2.87; Elliger, *Leviticus*, 333; Seeligmann, “*Ger*,” 546–547. On the parents of the curser, see Gerstenberger, *Leviticus*, 361; Milgrom, *Leviticus*, 3.2107, 2110. For even fuller reconstruction, see Mittwoch, “The Story of the Blasphemer,” 387–388.

attempts to fill in what the stories omit reflect an assumption about the definition of narrative, about its shape and purpose. According to this assumption, regardless of any internal defining features or indications of a role within a larger, delimited literary context, biblical narratives – their shape and ways of creating and conveying meaning – should conform to a predetermined notion of fullness. However, in the case of the four stories, the skeletal style and self-contained orientation do not require restoration of a fuller set of details and allusions. Nor, for that matter, do they bespeak an author lacking in imagination, talent, time, or writing materials. They reveal the author's purpose. The minimalist style of the four stories works deliberately and single-mindedly to lay the groundwork for the laws that constitute the climax. The author of the story about cursing the deity, for instance, cared only to establish the law in paradigmatic terms, the incident that led to its origin, its legislation, and its application.²² The author had no interest in developing the narrative beyond that scheme. He employed a minimalist style sufficient – better: well-suited – to tie together in a direct fashion the law and the incident that gave rise to it.

Given this approach to understanding the focused and selective character of the four stories, one should pay close attention to the specific details that the author chose to provide as deliberately chosen and intended to signify. Perhaps the most notable features are (1) the legal climax in each narrative and (2) the sets of terms that construct the stages in the plot and orient them towards the legislation. For instance, the expressions "קרב" (קר"ב), "עמ"ד, "פר"ש, "פי יהוה, "שמ"ע recur in mild variation as keywords or as a core of basic terms, and establish the law specifically in an oracular context, namely, a context of consulting the deity for instruction. Such a context does not in and of itself stand out in biblical literature. Formal inquiry and instruction, whether to resolve dispute or otherwise gain knowledge, occur in a range of texts, in different genres, and regarding different situations. Examples include: to learn about an ominously turbulent pregnancy, in narrative (Gen 25:21–23); to resolve a local dispute, in law (Deut 17:8–13);²³ and to ascertain the fate of the nation, in prophecy (Ezek 14:4–11).²⁴ However, in the four stories in Lev 24:10–23 and Num 9:1–14; 15:32–36; 27:1–11, this oracular element – the consultation framed and construed as law and specifically

²² Bertholet, *Leviticus*, 84.

²³ In its present form, the passage seems unable to decide before whom the disputing parties bring their case, a judge (שפוט) who announces (נגיד) a decision (משפט) or a priest (פנה) who issues (יר"ה) instruction (תורה). A similar problem occurs in the law of the unaccounted-for corpse, which has elders and priests (Deut 21:1–9). Indications suggest that in the case of the unaccounted-for corpse the priests were added secondarily and that in the law of the difficult case the priests constitute the original element.

²⁴ See Pedersen, *Israel*, 1.406–410; 2.102–197. For a convenient survey of the relevant passages and their categorization, see Budd, "Priestly Instruction." Similar is the use made by Saul and David of mantic equipment in the book of Samuel, for example, 1 Sam 14:18–19. But in all these instances, consultation of the priest occurs not for the benefit of the private individual, but in the context of and with immediate implications for the entire nation as such, namely, for national and political purposes. See Van Dam, *Urim and Thummim*, 173–193. In the four stories under discussion, the state of the nation of Israel, its fundamental structure and fortunes, are not under threat, and they do not change as a result of the divine legislation, which stays concentrated at a very narrow level.

as divine law – defines the shape, trajectory, and style of the four stories to their very core. In this light, then, I call the group of four stories “oracular novellas” – “novellas,” on account of both their short-story form and the legal innovation in them,²⁵ and “oracular,” on account of the means that achieves the new law and that also gives the story-form as a whole its particular diction and shape.²⁶

The oracular aspect of these four novellas points to another element that binds them as a group and sets them off to some degree from other texts – the role played by Moses and the image given him. Moses stands in a pivotal position in all these stories, as the channel of communication between the people and Yahweh, the one who transmits divine law. The narrative never fails to highlight this position of Moses and it does so at the key transitional points. Indeed, Moses does not serve as a judge in these stories, or, for that matter, as a kind of wonder-worker, but specifically as an oracular intermediary.

The Hebrew Bible contains additional texts that portray Moses in this way. In Exod 33:7–11, the narrator describes a tent that Moses kept outside the camp for oracular consultations. People seeking divine guidance or audience (כל מבקש יהוה) would go out there, Moses would follow, and Yahweh under cover of cloud would join Moses and express his will or impart his knowledge.²⁷ In Exod 18:13–26, Moses tells

²⁵ On the history of the term novella in literature and the definition of the genre, see *OED Online*, s. v. “novel,” etymology and § 4a (accessed October 18, 2012); Cudden, *Dictionary of Literary Terms*, 641–642; *EBOAE*, s. v. “novel,” <http://search.eb.com/eb/article-50989> (accessed December 13, 2009); and Schellinger, *Encyclopedia of the Novel*, s. v. “novella.” For the history of the term in law, see Shumaker and Longsdorf, *The Cyclopedic Law Dictionary*, 770; *OED Online*, s. v. “novel,” § 5 (accessed October 18, 2012); *EBOAE*, s. v. “Roman law: The law of Justinian” (accessed December 13, 2009).

²⁶ Fishbane refers to the stories as “oracular *responsa*” (*Biblical Interpretation*, 102 ff.). The difference is not great, but a *responsum* need not innovate in the law and the term *responsum* does not convey the narrative (and historiographical) cast of the text that gives the law its context and shape. Licht uses the term novella alone, in the sense of supplementary law (*Numbers*, 3.66), which does not suffice to convey the oracular dimension. The term “precedent” (Patrick, *Old Testament Law*, 179–180) is entirely too broad and, again, does not express the oracular element; moreover, the stories do not merely contain an incident and the ruling on it, but also abstract formulations of law. See *OED Online*, s. v. “precedent,” § 1c (accessed October 18, 2012); *EBOAE*, s. v. “precedent” (accessed December 13, 2009); in legal literature, see Walker, *The Oxford Companion to Law*, 977–980, esp. 980; in British law, see Curzon, *Dictionary of Law*, 324; and in American law, see Garner, *Black’s Law Dictionary*, 1214–1215. For the argument that private oracular inquiry had an impact on forms of narrative, see Long, “2 Kings III and Genres of Prophetic Narrative;” *idem*, “Divination as Model for Literary Form;” also Cryer, *Divination*, 306–323.

²⁷ The presence of this passage in its current context, interrupting the sequence and formulated as habitual, has long posed a problem. Baden argues that the words מַרְרָה הָרִב at the end of v. 6 actually belong to this passage as its beginning (“On Exodus 33,1–11”), and Stackert argues that originally it came before the story within Numbers 11 about authorizing the seventy elders to share his burden and substitute for oracular inquiry (“The Tent of Meeting;” “Moses and the Politics of Future Prophecy”). The narrative includes the element that the people would stand and watch the proceedings (Exod 33:8, 11), which follows up Yahweh perceptibly responding to Moses before the people (19:9, 19) to establish Moses’ authority ahead of the lawgiving and covenant ceremony (Exodus 20–24). In a similar passage, Moses’ encounter with Yahweh on Mount Sinai gave his face a permanent glow, which he would show the Israelites whenever he had new instructions to transmit to them (Exod 34:29–35); see Haran, “The Shining of Moses’ Face;” also Aster, *The Unbeatable Light*, 340–341.

Jethro (vv. 15 – 16) that the people come to him seeking divine help (לדרש אלהים), and he solves their suits and disputes (ושפטתי בין איש ובין רעהו) by notifying them of the deity's rulings and instructions (והודעתני את חקי האלהים ואת תורתיו). Jethro's suggestion (vv. 17 – 23) to establish a multitiered judicial institution for case resolution does not aim to eliminate the oracular inquiry through Moses entirely. Jethro only means to restrict such inquiry to those cases that defy human ability to achieve effective resolution²⁸ and in this manner to gain control over the overwhelming number of cases solved through the person of Moses.²⁹

The Hebrew Bible also has additional figures who function in this capacity, not as judges applying their own knowledge and experience, but as mediums who bring about resolution and guidance by enlisting divine assistance or channeling divine insight and guidance – Deborah and Samuel. The author of the story of Deborah describes her with the expression אשה נביאה (“a prophetess”), and depicts her sitting under or at the foot of a palm tree, to which Israelites “ascend” seeking decisions and pronouncements: למשפט ויעלו אליה . . . (Judg 4:4 – 6). Samuel is famous throughout Israel for his reliability as a נביא (“prophet”) of Yahweh (1 Sam 3:20); he makes a circuit through Benjamin for the purposes of resolving situations and pronouncing decisions (1 Sam 7:15 – 17), and not unlike Jethro's advice to Moses, he aims to effect a transition to his sons, whom he sets up as judges (8:1 – 2). Priests – people who regularly and recognizably serve at acknowledged sites of enduring divine significance – also function in this capacity, according to a variety of texts: the law of dispute resolution in Deut 17:3 – 8; the law of the suspicious husband in Num 5:11 – 31; the prophecy about the integrity of future priesthood in Ezek 44:23 – 24; implicitly, the law of contested ownership and theft in Exod 22:6 – 8;³⁰ and perhaps Moses' “blessing” of the tribe of Levi, whose members show no favoritism when engaged in dispute resolution, in Deut 33:8 – 11.³¹ A series of prophecies demonstrates how long the ideal endures that people persistently seek out divine insight, knowledge, and instruction (e. g. Hos 10:12; Isa 58:2). The figure of the king offers an illuminating contrast. Narrators, characters, and prophetic figures alike say he enjoys penetrating insight and powers of discernment of divine caliber

²⁸ Compare Deut 17:8. Other cases of insufficient evidence include Exod 22:6–8; Num 5:11–31, esp. vv. 13–14.

²⁹ On the oracular aspect shared by the four stories and the passage about Jethro's advice, see Baentsch, *Exodus-Leviticus-Numeri*, 421; Fishbane, *Biblical Interpretation*, 98, 236–237. See also Seebass, *Numeri*, 154; Van Dam, *Urim and Thummim*, 180 n. 9.

³⁰ See Westbrook, “Deposit Law,” 391–393, 397.

³¹ In this direction, see *Tg. Onq.* at v. 9: דעל אבוהי ועל אמיא לא רחמי כד חבו מן דינא ואפי אחוהי ובנוהי לא: נסיב. Scholarship since, both traditional and critical, has predominantly understood the verse as an historical reference. Note the Targums that have both: *Tg. Yer.* and *Frg. Tg. P.* לאבוי ולאמיא לא נסב אפין: *Tg. V.* לאבוי: בדינא וית אחוי לא חכם בעובדא דעיגלא ועל בנוי לא קנא רחמין בעבדא דוימרי. See the discussion in Dillmann, *Numeri, Deuteronomium und Josua*, 422–423. Note, though, that his argument, that if the verse refers only to family members then it must not have a judicial theme (since it would then imply that one can pervert justice for people outside the family), does not consider the possibility that the verse speaks of the most extreme case: Levites do not favor anyone, *even* their own closest family members (compare Deut 13:7–12).

and can resolve dilemmas, assess situations, and provide guidance directly (2 Sam 14:17; 19:28; 1 Kgs 3:3–28; Isa 11:1–5).³²

In the four oracular novellas, Moses does not employ mantic equipment or other means, like the אַרְיִים וְתַמִּיִם (*ʾûrîm* and *tummîm*) consulted by Joshua before Eleazar the priest (Num 27:15–23), the priestly cocktail given the woman suspected of adultery (5:11–31), or the bunch of almond branches laid inside Yahweh's tabernacle (17:16–26). Similar to Deborah, to Samuel, to Moses in the texts that describe his consultation-tent outside the camp (Exod 33:7–11; Num 12:5–9; Deut 31:14–15, 23), as well as to the string of many texts that has Moses talking with Yahweh at Yahweh's palatial tent in the center of the camp (Exod 25:22; 29:42; 30:6; 34:29–35; Lev 1:1; esp. Num 7:89) – Moses in the oracular novellas simply hears Yahweh's voice.³³

Against the picture drawn on this broader canvas, the four oracular novellas stand out in an additional respect. The other texts either refer to resolving conflict and dispute by having recourse to divine insight and knowledge, namely, they do not concern law and legislation proper, or else, where they do concern law and legislation, the initiative generally comes from Yahweh and not in response to particular circumstances. In the oracular novellas, by contrast, the people approach Moses in order to receive divine laws on new topics (Lev 24:10–23), to amend existing laws (Num 9:1–14), and even to change existing norms and assumptions (Num 27:1–11). Accordingly, in contrast to the extended series of laws, rules, and regulations revealed by Yahweh to Moses that characterize the bulk of the Torah, in these stories Yahweh does not initiate these meetings or the topics of conversation – Moses does, as the circumstances indeed warrant.³⁴

Long ago Philo and more recently Fishbane delineated the four passages as a distinct group of texts on account of the portrayal in them of Mosaic prophecy and legislation. Philo emphasized the prophetic dimension and perceived the legal aspect as a subset, a particular kind of realization of the prophetic mode. Fishbane gave priority to the legal dimension and perceived the prophetic, oracular aspect as a subset, a manner of legal generation and a mode of legal discourse. This study subsumes both elements under yet another dimension of the text, that which constitutes it and determines – at

³² As in 2 Samuel 14, this bit of royal self-promotion is put to manipulative use by a character aiming to sway the king, which puts the king at an ironic disadvantage vis-à-vis the audience, in 2 Samuel 7. On the explicit motif comparing the king's penetrating insight and ability to discern to that of a divine agent, see Ackerman, "Knowing Good and Evil."

³³ See also Van Dam, *Urim and Thummim*, 180 n. 9; Milgrom, *Leviticus*, 3.2112. Careful comparison of Num 7:89 with Exod 34:29–35, esp. v. 34, indicates a debate as to whether Moses would enter Yahweh's own chamber and talk with him face to face (as in Exod 33:11; Deut 34:10; also Num 12:8), or stand outside it and hear his instructions through the curtain (following implications of Exod 40:34–35; Lev 9:23–10:3; 16:1–34).

³⁴ Between the two poles stand descriptions like 2 Kgs 22:12–20, when inquiry of Huldah regarding the scroll found in the temple holds meaning for the nation as such, but takes place without oracular equipment, only through the speaking prophetess. Ezekiel appears in a similar light (14:1–3; 20:1). The oracle in MT 2 Sam 21:1 אֵל שְׂאוֹל וְאֵל בֵּית הַדְּמִים, which is short, rhythmically balanced, and somewhat opaque, might represent a response achieved through mantic equipment. (The continuation, עַל אֲשֶׁר הִמִּית אֶת הַגְּבֻעֹנִים, would belong to the narrator, who explains to the narratee the significance of the oracular reply David received; see Chavel, "Compositry and Creativity," 26 n. 10.)

least as far as a literary feature can do so – its primary mode of self-presentation as an articulating and affecting entity: its genre. Viewing the four texts primarily as narrative and contemplating their contents in that framework lends additional clarity to the roles and relationships between law and prophecy both within the stories, namely, within the “oracular novella” type of story, and consequently with respect to each other. These stories – historiographical narrative – about law legislated in a particular prophetic mode bring together the most essential elements of biblical thought and configure them in a unique or uniquely crystallized construction.

In sociological terms this literary construction is expressive. As many have put it, community identity regularly experiences and manages the tension between its sense of consistency over time, its longevity, and its need to adapt its constitutive elements to changing circumstances whether within the community or outside it, in short, to refresh itself.³⁵ Such tension and its management find relatively distinct expression in the oracular novellas, according to their two subtypes, the action-episodes and the situation-episodes. In the stories of the man who curses the deity in Lev 24:10–23 and the man caught violating the Sabbath in Num 15:32–36 – the two action-episodes – the community faces a direct, active threat to its integrity. Though normative sensibilities react to the action as an illegitimate one severe enough to warrant exclusion from the community, legislation had not covered the action, either at all or sufficiently. To preserve its sense of coherence and continuity, the community must formally redraw its boundaries or impress them more forcefully and expel the violator. The initiative to tackle the situation – impelled, it seems fair to say, by a sense of outrage laced perhaps with fear – comes from the community at large, represented by those in immediate proximity to the violation, whether they heard the curse (Lev 24:11, 12, 14) or witnessed the violation of the Sabbath (Num 15:32–34). Both action-episodes conclude with divine instruction and legislation that gives new, explicit expression to the limits of community membership and highlights the point by requiring death for the violators – outside the camp (Lev 24:14, 23; Num 15:35–36).

The two situation-episodes – in one of which impure people cannot participate in Israel’s first, commemorative Pesah in the wilderness (Num 9:1–14), while in the other a man who dies without having produced sons will not merit defining a distinct family plot in Canaan (Num 27:1–11) – feature a different configuration. Specific members of the community face exclusion from the community due to an unhappy confluence of norms and developing conditions that adversely affect them by implication and in response to no actions of their own. In these two stories, affected members themselves mount an appeal for changing the laws in one way or another so as to allow them to remain in the community.³⁶ The respective petitions affect future generations by providing for them in advance. They need never revisit the issue, only act in accordance

³⁵ See Moore, “Epilogue;” Smith, “Sacred Persistence;” Levinson, “The Human Voice in Divine Revelation.”

³⁶ Note the fitting use of ע"ג in both texts (Num 9:7; 27:4); see Fishbane, *Biblical Interpretation*, 98–99.

with the stipulations. The petitioners' continued membership never comes under question. Animated by a mood of sympathy and protection rather than outrage, these two stories drive towards the legislation that will redraw the limits of community participation more broadly so as to retain its members. The divine quality of the legislation in all four oracular novellas functions to sustain the sense of identity in the face of potential perception of discontinuity, of rupture.

This sociological perspective on legal innovation makes it easier to appreciate more fully one of the distinctive features of the oracular novellas, the deity's responsiveness to developments on the ground even within the highly detailed system he himself devised.³⁷ This aspect is particularly perceptible in the two situation-episodes – cases of petition by those impure at the time of the Pesah (Num 9:1 – 14) and by the daughters of Zelophad (Num 27:1 – 11). In the first case, the impure only go so far as to describe the predicament and its disproportionate result, in a rhetorical question that leaves resolution hanging in the air: אנהנו טמאים לנפש אדם – למה נגרע בלבתי הקרב את קרבן: יהיה במעדו בתוך בני ישראל! (Num 9:6 – 7). In the second case, the women similarly pose a rhetorical question, but then take the extra step of proposing, even demanding, a specific form of resolution: אבינו מת במדבר . . . ובנים לא היו לו – למה יגרע שם אבינו מתוך: משפחתו כי אין לו בן! (27:3 – 4), and this additional element seems to elicit a direct response from Yahweh, who first evaluates it as correct then repeats their very words as his own directive: כן בנות צלפחד דברת – נתן תתן להם אחות נחלה: בתוך אחי אביהם (vv. 6 – 7). In the two action-episodes too, Israelites bring the criminal to Moses – as the narrator explains in his own words – to ascertain by divine means what to do with him or to him (Lev 24:12; Num 15:34). Describing divine responsiveness in these terms does not mean to emphasize the level of personification for the deity as an amiable fellow, but to shed light on the way the author or authors imagining the deity in this manner create space for developments in the human sphere generally and in their society in particular. In this respect, the text is not so much about the past as it is the present, and awareness of this dimension of literary composition plays a crucial role in attempting a fuller comprehension of how it works, of its poetics.

Within modern theories about the composition of the Torah, the sociological expressiveness of the oracular novellas takes on additional significance. A modern, critical reading of the Torah understands it as an incomplete, inconsistent, and even incoherent narrative, best explained as a composite work produced by the partial combination of different pieces of Israelian (i. e., northern) and Judean (i. e. southern) literature.³⁸ According to the so-called “documentary hypothesis” – which to my mind remains the best overall hypothesis for explaining the problems of narrative posed by the Torah – one can resolve the Torah mainly into three separate works of historiography and one

³⁷ In this direction, see Watts, “The Legal Characterization of God,” 12.

³⁸ One's ability to abstract a coherent story – a plot, set of characters, climax and all the rest – has no bearing on the integrity of the narrative, because, of necessity, by definition, abstraction involves prioritizing, selecting, and ignoring. For the crucial difference between story – an abstraction organized chronologically, an object – and narrative – the telling of a story, the story *as told*, a process or event – see Rimmon-Kenan, *Narrative Fiction*, 1–28, esp. 3–4, also 86–105.

collection of materials distinctively related to each other: the Yahwistic, Elohist, and Priestly histories and the Deuteronomic corpus (conventionally referred to by the letters J, E, P, and D, respectively).³⁹ Scholars have unanimously and consistently identified the four oracular novellas as a part of the Priestly history. In the combined Torah, the oracular novellas always come in the midst of stretches of Priestly text; they speak in the Priestly idiom; they employ and develop Priestly concepts; and presume and advance the story told in the Priestly history.⁴⁰

At its heart, the Priestly history tells the story of Yahweh's tent that Yahweh has Israel set up for him in its midst and in which he dwells.⁴¹ A mass of instruction and legislation attends its construction, and, once set up, it will serve as the locus of all instruction and legislation ever after. The narrative of the history highlights repeatedly, at several critical junctures, the centrality to the character of the tent not of sacrifice and not of purgation, but of the oracular transmission of divine will in the guise of law (Exod 25:21–22; 29:42–46; 30:6, 34–37; 34:29–35; Num 7:89; 17:16–19). Hence its distinctive cluster of terms around the notion of meeting and speaking, of counsel: the action *יע"ד*; the place *אהל מועד*; the object deposited there, the *עדות*; and the body of people around it, the *עדה*.⁴² Hence the choice to have Yahweh invoke the fact that

³⁹ For recent work advancing the documentary hypothesis, see Schwartz, "The Torah;" Baden, *J, E, and the Redaction*; *idem*, *The Composition of the Pentateuch*. For an overview of the legal material by document, see Chavel, "Biblical Law." My notion of history, or of a work of history, draws on and combines Huizinga's definition of history, "the intellectual form in which a civilization renders account to itself of its past," which recognizes: (a) the distance between the time and circumstances of the historian and the time described in the work, (b) the implicit identification of the historian and his audience with the subjects of the historical work, and (c) the constructive nature of the endeavor ("A Definition of the Concept of History"), together with White's categorization of the "history proper" or the "fully realized history" as having the form – the drama, completeness, and coherence – of fictional narrative ("The Value of Narrativity"). For the Deuteronomic corpus as a sixth-century BCE collection of seventh-century BCE texts closely related to each other, a delineation of the separate texts and their contents, and a description of the process by which they came to look as they now do, see Haran, *The Biblical Collection*, 2.40–93. This view of the Torah as the product of the interweaving of four works does not exclude the possibility that any of those works will have undergone processes of expansion or that the combined Torah also underwent supplementation. Those of us who think the documentary hypothesis best accounts for the narrative of the Torah must still contend with the problem of identifying the continuation and conclusion of each of the three histories.

⁴⁰ Consult any of the introductions or commentaries, e. g., Driver, *Introduction*, 159. Vroom appears to have misunderstood the claims in Chavel, "Oracular Novellae and Biblical Historiography," 16–17, in this regard ("Recasting *Miṣpāṭim*," 28 n. 4).

⁴¹ For an insightful discussion of important aspects of the Priestly history, see Nihan, *From Priestly Torah to Pentateuch*, 59–65. In Nihan's view, the Priestly history originally concluded with the laws of Leviticus 16 and never told of Israel and Yahweh's tent continuing on to Canaan (*ibid.*, 66–68, 379–382, also 20–58).

⁴² On the *עדה* see Schwartz, "The Priestly Account," 114–130, esp. 126–127. On *מועד* (with a different angle on the productive roots in the Priestly history), see *idem*, "*Miqra' Qodesh*," 13–15. In notable contrast to the Priestly history, the Elohist history and the Deuteronomic corpus have Yahweh revealing all Israel's laws to Moses once and for all on a mountain in the wilderness (Exod 20–23; Deut 4:10–14; 5:1–27). In the Elohist history, Moses does regularly pitch a tent, but only after the lawgiving concludes rather than to facilitate it; he pitches it outside the camp rather than in its center; his attendant Joshua mans it, remaining inside it day and night, rather than Aaron and his sons and

he speaks to Moses at the tabernacle, just as he mentions the daily offering that otherwise would represent the hallmark of stable divine presence (Exod 29:38–42). Hence Yahweh's definition of the cherubic cover of the chest with the עֲדוּת inside it as the space at which he will be manifest to Moses (וְנוֹעֲדוּ לִי שָׁם) and from which he will speak to him (25:21–22). And hence the permanent reminder on Moses' face of communicable divine will ever at the ready within the camp (34:29–35).

In the terms of the analysis developed here, one can go so far as to say that the four oracular novellas represent the template and features that make up the Priestly history stripped down to their essentials and crystallized in miniature form: narrative organized around a legal climax; community organized around divine rules; and a deity who issues rulings in response to newly emergent facts and circumstances. It is at this fractal-like point that the Priestly history may disclose the most intimate, most cherished self-perception of its author or authors not as a class of people set apart to live in the presence of the deity and wait on him, but as those who on account of their proximity and service communicate his vital, animate will – that is, his vitalizing, animating will – to the society around.⁴³

Even in this respect, within the Priestly history, the four oracular novellas establish a pole along a spectrum. Not all the legal sections that come in the wake of an event in the Priestly history correlate quite so tightly with the narrative. For instance, the Pesah laws in Exod 12:1–24 serve both to effect the exodus and to commemorate it, but nothing in the Priestly exodus story foreshadows them, anticipates them, or requires them as such.⁴⁴ In Leviticus 10, after Yahweh incinerates Nadab and Abihu for having

their highly regimented access to the tabernacle; it only serves private oracular consultation and other camp-management purposes, rather than law-giving proper let alone sacrifice; and Yahweh does not dwell in it, but descends to it from above for the purpose and duration of any such consultation (Exod 33:7–11; Num 11:11–12, 14–17, 24–30; 12:1–15; Deut 31:14–15, 23). On the two different tents, see Haran, *Temples and Temple-Service*, 260–275; also Knohl, “Two Aspects of the ‘Tent of Meeting.’” In the Deuteronomic corpus, all change is categorically ruled out of bounds (5:32; 28:14) and impossible (18:9–22); like the Elohist history, the Deuteronomic corpus only entertains case resolution (17:8–13).

⁴³ The Priestly history presents Moses as a provisional, transitional founder, whose legacy persists through his brother's line. Moses sees images of the tabernacle, receives instructions about it, oversees its construction, and inaugurates it by preparing and sanctifying Aaron and his sons to serve there – and to take control of all functions for good (note esp. Num 3:1–4). This presentation extends to Moses' service as the oracular medium, but he persists in the role (see Exod 34:29–34; Num 7:89), presumably because it only requires a single person, whereas the administration of the tabernacle requires a full complement of people, which necessitates Aaron and his sons taking over responsibilities immediately. The roundabout formulation of Num 31:21 וַיֹּאמֶר אֱלֹהִים אֶל־אַנְשֵׁי הַצִּבָּעָה הַבָּאִים לְמַלְחָמָה זֹאת חֲקֵת וַיִּהְיֶה אֵת מִשָּׁה might indicate that the idea of Moses' persistence in the role as oracular transmitter of new law until his death did not take hold completely or uniformly throughout the Priestly history: the author here either initially forgot it or debated it, but it was then (rein)stated clearly through the last two or five words. For a full argument about the conception and portrayal of Moses in the Priestly history, see Stackert, *A Prophet Like Moses*, 168–190.

⁴⁴ Indeed, indications can lead to the conclusion that only an editing hand has connected the earliest layer of the laws to the exodus story. On their all belonging to the Priestly work and representing different layers of activity in the production of the work – pre-existing, compositional, and editorial – see Gesundheit, *Three Times a Year*, 44–67, 95. The one text that does bear striking correspondences

approached the newly inaugurated tabernacle with unacceptable materials, אִשׁוּר זָרָה אֲשֶׁר, לא צוה אתם (vv. 1–7),⁴⁵ he issues a prohibition to Aaron against drinking alcoholic beverages before entering the tabernacle or engaging in other significant activities (vv. 8–11).⁴⁶ This seeming non sequitur has generated a range of interpretive responses, from the inebriation of Nadab and Abihu at the time of their offense⁴⁷ to a disordered text or even a secondary insertion tacked on in the wrong place.⁴⁸ Moreover, immediately after that, Moses and Aaron debate and resolve together several questions regarding the offerings, questions in which the unforeseen situation of death at the tabernacle itself seems to play a role (vv. 12–20), and even these legal clarifications simply do not stand as the climax or purpose of the story, only its second-order aftermath. Likewise, in Numbers 16–18, a bloc of laws about Levite control of and accountability for popular access to the tabernacle, which serve to ensure a baseline level of tabernacle-compound purity,⁴⁹ follows the very different story in which Korah leads a rebellion against the exclusive Aaronide priesthood. In between, serving as the bridge that leads from one to the other, the Israelites complain that they cannot survive in Yahweh's presence (17:27–28). The result implies that Yahweh accepts his people's appeal and in response to it establishes laws that will cushion their proximity to him by transferring accountability for their trespass to the Levites. But as the narrative stands, from a topical point of view, the segment as a whole still appears relatively tangential to the Korah episode.⁵⁰ The story of the manna in Exodus 16 (vv. 1–3, 6–25, 31–36), in which Yahweh details the subordination of food preparation to the Sabbath, probably constitutes one of the most integrated of Priestly episodes in terms of law and narrative. In a kind of commentary format, after every Israelite speech or other action comes a reaction by Moses that comments, issues instructions, or otherwise registers normative implications. However, the story does not in fact explain the rise of the Sabbath or any of its specific laws; it only depicts how, given the institution of the Sabbath, the

to the Pesah and as the Torah stands now appears to prefigure it, namely, the ghastly tale of Yahweh's attack on Moses in Exod 4:21–26 (Greenberg, *Understanding Exodus*, 107–122), bears an even more comprehensive set of correspondences to that of the divine attack on Jacob in Gen 32:4–33:16; neither of these texts belongs to the Priestly history and both seem to belong to the Yahwistic history.

⁴⁵ Milgrom, *Leviticus*, 1.595–600.

⁴⁶ Though none appear to have read it this manner, the text indicates that the narrator cites Yahweh in vv. 8–9 then in his own words expands upon Yahweh's speech with his own viewpoint in vv. 10–11: not only when engaging in divine service must priests not have drunk wine but also in pronouncing pure or impure and in giving Israel divine instruction. As such, it represents one of the most robust character-moments of the narrator in the Priestly history, in which the narrator mainly comes to the front to emphasize a point of significance for the narratee of his history (e. g. Exod 12:41–42; Lev 7:37–38).

⁴⁷ Knobel, *Exodus und Leviticus*, 430; Levine, *Leviticus*, 61. See already the midrash cited by Rashi, ad loc.

⁴⁸ Kuenen, *Hexateuch*, 82, 85 n. 21; Dillmann, *Exodus und Leviticus*, 516; Carpenter and Harford-Battersby, *Hexateuch*, 2.154; Milgrom, *Leviticus*, 1.611, 614, 615.

⁴⁹ Milgrom, *Studies*, 5–33.

⁵⁰ See Knobel, *Numeri, Deuteronomium und Josua*, 91; Carpenter and Harford-Battersby, *Hexateuch*, 2.216; compare Dillmann, *Numeri, Deuteronomium und Josua*, 99; also Licht, *Numbers*, 2.120–121.