

# Background and Origin of Covenant Theology in the Hebrew Bible / Old Testament

SIEGFRIED KREUZER

## 1. Preliminary Remarks

Covenant and covenant theology / Bund and Bundestheologie are among the most interesting subjects in biblical exegesis and theology.<sup>1</sup> These concepts have left their traces throughout history, beginning from the designation of the Old and the New Testament as *παλαιά* and *καινή διαθήκη* or, in the Latin version, as *vetus* and *novum testamentum*.

In the modern era, with its historical thinking and historical differentiation, the idea of different covenants that succeed one another became a means of allowing for historical development within the Bible and beyond: There was the covenant with Noah, the covenant with the patriarchs, the Sinai covenant, the covenant with David, and finally also the new covenant. This sequence can be continued in the New Testament with its age of the apostles and the age of the church with different phases. This idea of successive covenants was especially developed in the reformed tradition and called “federal theology”, from Latin *foedus*, “covenant”.<sup>2</sup>

On the other hand, the idea of covenant has, at times, been seriously questioned. A covenant or a treaty designates a relation between two more or less equal parties, such as in marriage or in diplomatic relations between two states. Is it at all possible to apply this category to the relation between God and humans? Is God not so far above humans that it is impossible to speak about a covenant, especially if one considers the basic meaning of the word, which derives from Latin *convenire*, “to come together, to agree”; similarly, the German word “Bund” relates to “binden”, i.e. binding together, being bound together. Such criticism against the theological use of covenant was voiced already in the 17<sup>th</sup> and 18<sup>th</sup> cent. for dogmatic reasons and it came up repeatedly in different variations over time.<sup>3</sup>

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<sup>1</sup> For overview articles on this subject see MENDENHALL/HERION, “Covenant”; KUTSCH, “Bund”; BARRÉ, “Treaties”; KOCH, “Covenant”.

<sup>2</sup> ASSELT, *Federal Theology*; HORTON, *God of Promise*; HORTON, “Covenant Theology”.

<sup>3</sup> It is interesting to note that the large *Realenzyklopädie für protestantische Theologie und Kirche*, edited by Johann Jakob Herzog and later on by Albert Hauck does not contain,

In the 20<sup>th</sup> century, variations of this criticism were put forward by Joachim Begrich in 1944, by Alfred Jepsen in 1961, and by Ernst Kutsch around 1970. While Begrich and Jepsen basically argued exegetically,<sup>4</sup> Kutsch not only analyzed the biblical texts and their ancient Near Eastern (ANE) background, but he also criticized the rendering as “Bund” in Bible translations.<sup>5</sup> The rationale was that in the Hebrew Bible / Old Testament (HB / OT), God is never on the same level as humans or as the people of Israel. The word “Bund” (like its English equivalent “covenant”), therefore, is a mistranslation of Hebrew ברית (*b<sup>e</sup>rit*). It should rather be rendered as “Verfügung”, i.e. “regulation” or “decree”.<sup>6</sup>

In general, this suggestion was not followed. Most exegetes agreed to the observation (which was not entirely new) that the Hebrew term ברית has a wide semantic spectrum ranging from bilateral to unilateral relations.<sup>7</sup> However, the German word “Bund”, for example, also covers a broad semantic spectrum. In practice, this matter has had some consequence in our German translation of the Septuagint. For instance, it can be observed that the one-sidedness of God’s covenant is emphasized in the Greek translation (although in different degrees in the different books). Therefore, the Pentateuch group under the leadership of Martin Rösel decided to render Greek διαθήκη not as “Bund” but as “Verfügung”, i.e. “decree”.<sup>8</sup>

Besides exegetical research, the significance of the covenant theme also varied with sociological assumptions, with the discovery of extra biblical sources, and with the dating of the biblical texts. In his research on and interpretation of ancient Judaism, Max Weber considered the concept of covenant to be highly important for Israel from its very beginning. He observed that social life and order were more and more related to God and that the covenant idea was a driving force in this development. It is significant that the

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in any of its three editions, a separate article on “Bund”. However, its English version, the *New Schaff-Herzog Encyclopedia of Religious Knowledge* (13 volumes, 1908–1914), had an article on “Covenant” (Old and New Testament) by J.F. MCCURDY in vol. 3, 1909, 287–289.

<sup>4</sup> BEGRICH, “Berit”; JEPSEN, “Berith”. While Begrich emphasized the one-sidedness of the ברית-relation, Jepsen questioned that a ברית constituted a relation at all.

<sup>5</sup> KUTSCH, “Bund”; IDEM, *Verheißung und Gesetz*.

<sup>6</sup> KUTSCH, “Fehlübersetzung”.

<sup>7</sup> One of the most influential defenders of the rendering as “Bund” was HERRMANN, “Fehlübersetzung?” Originally it was an oral presentation given in the presence of Kutsch in 1974, but printed only later in 1986.

<sup>8</sup> See KRAUS/KARRER, *Septuaginta Deutsch* (Pentateuch). It is interesting that Martin Rösel maintains his insights and convictions, but that, especially in the sense of continuity of the word, today he would choose a combined term like, e.g., “Bundesverfügung” (covenantal decree); see also his contribution in this volume.

oldest law book carries the name “book of the covenant” (Exod 21–23, cf. 24:7).<sup>9</sup>

The translation of Weber’s *Das Antike Judentum* into English in 1952 became a great stimulus for the subject. It was especially taken up by George E. Mendenhall who, in his essay “Ancient Oriental and Biblical Law” (1954), explicitly referred to Weber. Contrary to exegetes like Julius Wellhausen who considered the Sinai covenant (and covenant theology) as a late projection into early times, Mendenhall states “on the contrary now we know that the covenant relationships were the very foundation of relations between originally separate groups ...”; this insight applies to the earliest Israel as well and includes the relation between God and people.<sup>10</sup> On the other hand, the translation of Mendenhall’s studies into German became an additional stimulus to covenant studies in Europe.

Engagement with covenant themes was also heavily encouraged by the discovery of the Hittite treaties published by Viktor Korošec in the 1930s. As these treaties belonged to the 14<sup>th</sup> and 13<sup>th</sup> cent. BCE, the comparison with them seemed to confirm the early existence and the high age of covenants in Israel and in the HB / OT. Klaus Baltzer’s book *Das Bundesformular* (1960) and Dennis J. McCarthy’s *Treaty and Covenant* (1963) may have been the peak of covenant studies.<sup>11</sup>

Only a few years later, this development was severely undermined by scholarship redating the origin of the covenant theme into the seventh century under Assyrian influence, such as that by Lothar Peritt in 1969.<sup>12</sup> Other authors soon took this trend even a step further. As a consequence, covenant and covenant theology were neglected for about two decades.

New interest arose from the side of Jewish-Christian dialogue. In this context, the abandoned<sup>13</sup> themes “covenant” and “covenant theology” gained new attention. Owing to the new perspective, the age of the covenant concept was less important, but instead its different aspects in the Bible and its influence on Jewish and Christian traditions.

Yet, also exegetical studies and the historical quest for the age and roots of covenant traditions gained new interest, especially by comparison with the Assyrian vassal treaties. However, after a period of exclusive concentration on Assyrian texts of the 7<sup>th</sup> cent. BCE, the perspectives were being broadened again, and not only the (Late-)Assyrian treaties and loyalty oaths were

<sup>9</sup> WEBER, *Judentum*, 81, speaks about an increasing “Theokratisierung der israelitischen Sozialordnung” through the covenant idea.

<sup>10</sup> MENDENHALL, “Biblical Law”, 28, with reference to WEBER, *Judaism*, 75.

<sup>11</sup> BALTZER, *Bundesformular*; engl. translation: *The Covenant Formulary*; MCCARTHY, *Treaty and Covenant*.

<sup>12</sup> PERLITT, *Bundestheologie*.

<sup>13</sup> Cf. the title of ZENGER, “Bundestheologie – ein derzeit vernachlässigtes Thema der Bibelwissenschaft” (1993).

considered, but (once more) also the Hittite and the Aramaic treaties,<sup>14</sup> not to forget authors like Jean-Georges Heintz, who repeatedly referred to the Old Babylonian treaties from Mari in the 18<sup>th</sup> cent.<sup>15</sup>

This may suffice as introductory remarks about covenant and covenant theology. We now turn to exegetical questions, first in light of the history of research.

## 2. Biblical Texts and the History of Research

### 2.1 *The Most Important Texts and their Characteristics*

As already mentioned, there are several covenants in the HB / OT, beginning in Gen 9 with the covenant given to Noah and, indeed, to all of humanity in perpetuity. Its famous sign is the rainbow. God promises that a deluge will never come again to extinguish all life on earth. In that sense, the covenant in Gen 9 is God's one-sided promise. If one reads the whole text of Gen 9, this covenant is actually connected with certain stipulations, the so-called Noachide laws (Gen 9:1–6). But the covenant as such does not depend on these laws, it is indeed a gift from God. Therefore, it may be called a decree; however, this decree establishes and protects both vertical and horizontal relations, that is to say, between God and humanity and between the people on earth.

The next covenant is with Abra(ha)m; however, there are two covenant texts, Gen 15 and 17. It is widely accepted that Gen 17 belongs to the priestly source. God reveals himself to Abram as the אֱלֹהֵי שָׁדַי, usually rendered as the “Almighty God”. The covenant aims at God's promise of land to the descendants of Abram. This is again underscored by a sign: Abram's name is changed to Abraham, Sarai is changed to Sara, and circumcision is introduced. Once more, this is clearly God's one-sided action, a decree, which certainly initiates a relation, and also with some human reaction, namely circumcision.<sup>16</sup>

Gen 15 is different. It begins with Abraham's questions and doubts to which God answers by confirming his promises about the future. The first act in Gen

<sup>14</sup> See especially KOCH, *Vertrag*, and also KOCH, “Covenant”.

<sup>15</sup> HEINTZ, “Alliance humaine – Alliance divine”.

<sup>16</sup> Genesis 17 is treated in the commentaries on Genesis, like GUNKEL, *Genesis*, WESTERMANN, *Genesis*; WENHAM, *Genesis 16–50*. It is certainly correct that the so-called priestly covenant of Gen 17 is entirely God's unilateral activity and not dependant on the people and their keeping the law as in the Sinai covenant, cf. especially ZIMMERLI, “Sinai-bund und Abrahambund”. Yet, circumcision as the “sign” of this covenant is supposed to be performed throughout the generations (17:10). Insofar, KRAUSE, *Bedingungen des Bundes*, correctly highlights the – although very different – “conditions” of the different covenants. However, breaking this covenant by not practising circumcision would be an individual offense that could not invalidate God's covenant with all of Israel. For the discussion it may be helpful to differentiate between condition and obligation.

15:1–6 is that God makes Abram aware of the stars: Abram’s descendants will be as innumerable as the stars in the sky. The second act comes closer to a covenant and even to a specific covenant ceremony: Abram has to slaughter some animals and split them in half. The halves should be placed opposite to each other. Abram does so and – while Abram falls into a kind of sleep – God, in the form of a flaming oven that is reminiscent of the fiery column at Mount Sinai, passes between the divided halves of the animals. This scene is similar to scenes that are part of ANE treaties, especially the Sefire treaties.<sup>17</sup> But such a scene can also be found in the Bible; in Jer 34:18–20, the people of Jerusalem had made a covenant to free slaves as a measure to gain additional manpower for the defense of Jerusalem against the Babylonians. This covenant was enforced by a ceremony in which a calf was cut in half; then the “people” of Jerusalem, i.e. the representatives of Jerusalem’s upper class, passed between the parts of the animals with the solemn declaration that, if the treaty was not accomplished, they should be cut in pieces like the animal. This ceremony was done before the eyes of the Lord. It can be understood as the underscoring of an oath and as a self-obligation of the Jerusalem slave owners. After the danger had gone by, however, they failed to liberate the slaves. This caused a prophetic word of God that allows us to reconstruct what had happened:

<sup>18</sup> And I will give the men who have transgressed my covenant, who have not fulfilled the words of the covenant which they made before me, *when* they cut the calf in two and passed between its parts –

<sup>19</sup> the officials of Judah, and the officials of Jerusalem, the court officers, and the priests, and all the people of the land, who passed between the parts of the calf –

<sup>20</sup> and I will give them into the hand of their enemies and into the hand of those who seek their life. And their dead bodies shall be food for the birds of the sky and the beasts of the earth.

Certainly, this impressive ceremony was not invented for the occasion; it must have been known before. Indeed, the Sefire treaties from the 8<sup>th</sup> cent. BCE mention similar ceremonies.

In Gen 15, it is significant that the role of passing between the pieces of the animals is taken on by God to reassure his promise.<sup>18</sup> One can hardly imagine a stronger reassurance of God’s promise! It should also be noted that, while in Jer 34 God is witness and guardian over a treaty between humans, in Gen 15 God himself is a partner in the treaty.

Gen 15 has been dated to different centuries, from the 10<sup>th</sup> cent. down to the 6<sup>th</sup> or even the 5<sup>th</sup> cent. BCE. There are indeed good reasons for a later dating, i.e. to the 7<sup>th</sup> cent. as e.g. Lothar Peritt had maintained, or maybe even to the

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<sup>17</sup> On the Sefire treaties, see FITZMYER, *Sefire*, and below.

<sup>18</sup> Therefore in Jewish tradition, it is called “the covenant between the pieces”.

late 6<sup>th</sup> cent.<sup>19</sup> However, the dating must be done on literary grounds. Jer 34:18 is not a terminus a quo but only shows that such a rite was known in Jerusalem.

From Gen 15 we go on to the Sinai covenant in Exod 19–24. Exod 19 describes the arrival of the Israelites at Mount Sinai and the preparations for God’s appearance and the theophany itself. Ch. 20 contains the Decalogue and chs. 21–23 another collection of laws, usually called “book of the covenant” (German *Bundesbuch*) because Exod 24:7 refers to these laws by that name. Exod 24:3–8 describes the covenant ceremony with a blood rite in which the blood of animal offerings is applied to the people and unto the base of the altar, which represents God. This singular blood rite evidently establishes and expresses the relation between God and the people; this relation is explicitly called ברית, “covenant”. The next scene is up on the mountain (v. 9–11). There the elders of Israel enjoy a meal before God whose presence is indicated in a somewhat mysterious way:

<sup>10</sup> They saw the God of Israel; and under his feet there it appeared like of sapphire, as clear as the sky itself.<sup>20</sup>

<sup>11</sup> Yet He did not stretch out His hand against the nobles of the sons of Israel; and they beheld God, and they ate and drank.

The common meal is another element belonging to the covenant tradition. While Exod 24:1–2 and 9–11 now frame the ברית-ceremony that takes place at the foot of the mountain, it is also its counterpart. The meal of the 70 elders is combined with the other story. The emphasis is not on the sacrifice and the blood rite in v. 3–8, but on the meal in the presence of the Lord.<sup>21</sup> This also expresses the close relationship between the community, represented by the elders, and God. It rather seems to express and confirm the close relation between the community and the deity, not its establishment. There is, however, no specific term used for this relationship.

A common meal is also mentioned as the concluding element in the covenant between Jacob and Laban in Gen 31:43–54. This covenant comprises other interesting aspects: In the context of the Jacob story, it concerns the family story of the conflict between Jacob and Laban, his father in law, and their reconciliation (or maybe better: peace agreement). These aspects are connected

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<sup>19</sup> E.g. PERLITT, *Bundestheologie*, 55–77. For more recent discussions, see the commentaries on Genesis.

<sup>20</sup> The question is how the words “they saw God” may be understood. I would like to propose the interpretation that the narrator only lifts his eyes to what can be seen under God’s feet, and what, e.g., at the high place of sacrifice in Petra (Southern Jordan), can really be seen: the blue sky “below God”. This narrator’s perspective is shared with the readers and consciously also the one of the elders of Israel. The phrase “he did not stretch out his hand” in v. 11 is not a proof for seeing God’s hand but the traditional metaphoric expression for God’s power that occurs elsewhere, too.

<sup>21</sup> Although on a different level, it resembles the meal of elders at a holy place in 1 Sam 9:17–27.

with the relation between two tribes or local groups and their territory. A heap of stones is a witness and marks the border. It serves as a reminder of the covenant, which in this case is rather an agreement about the border between two social and territorial entities (v. 52). V. 44 (“And now, let us make a covenant, you and I”) features the term ברית “covenant” but there is a number of different ceremonies.

Beyond the texts already mentioned, there are other covenant texts, e.g. the repetition of the covenant in Exod 34, and the covenant(s) in Deuteronomy. In Exod 34 the emphasis is once more on law giving (the so-called Cultic Decalogue). This covenant is God’s initiative (34:10) and, interestingly, there is a brief remark about what he will do for his people, before the obligations are enumerated, but at the end, the emphasis is on the obligations, i.e. the commandments (“for in accordance with these words I have made a covenant with you and with Israel”, v. 27).

The covenant(s) in the book of Deuteronomy will be taken up in the following chapters. However, at this point it should be said that, while the texts mentioned so far relate to the future or the present Israel, there is also a covenant with individuals in Israel, especially the covenant with king David and his dynasty as expressed in Pss 89 and 132.

## 2.2 History of Research

As long as scholars considered the HB / OT texts to be somewhat close to the narrated events and no ANE texts were available, the events were thought to have happened more or less as they were described in the texts.<sup>22</sup> This changed in the middle of the 19<sup>th</sup> cent. when the Pentateuch sources, especially the Priestly Code, were redated by Abraham Kuenen, Julius Wellhausen, and others.<sup>23</sup> Now the Priestly Code, for example, was no longer close to the events at and on Mt. Sinai, but it was about 600 years younger; likewise the other sources would not have been written before 900 BCE. What then was the basis for these texts? Were they based on old reliable traditions or did their stories rather reflect their own time? For Wellhausen the answer was clear: The sources project their time back into the past, often in an idealized way. In other words, we know very little about the early history of Israel.<sup>24</sup>

The situation changed around the turn of the 19<sup>th</sup> to the 20<sup>th</sup> century. There were now ANE texts that showed Israel as part of an ancient culture that stretched back over the centuries, in some cases even millennia. The new perspectives of HB / OT scholarship were taken up also by Max Weber. He

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<sup>22</sup> In spite of the fact that certain aspects were questioned, such details can be left aside for the moment.

<sup>23</sup> For the important contribution by Abraham Kuenen see LOADER, “Exilic Period”, especially 12–17.

<sup>24</sup> WELLHAUSEN, *Prolegomena*.

integrated them into his sociological approach and his description of ancient Judaism. As briefly mentioned above, for Max Weber, covenant was the most important element of Israelite society and religion. Covenants shaped and stabilized the relationship between the different groups and tribes in Israel as well as the relationship between Israel and Yhwh, the God and Lord of Israel.

Max Weber's book *Das Antike Judentum* that originally appeared in two volumes in 1917 and 1919 was translated into English and published in the USA in 1952 under the title *Ancient Judaism*.<sup>25</sup> It was read by George Mendenhall who drew the conclusion that – in contrast to Wellhausen's late dating of the covenant – “we now know that the covenant relationships were the very foundation of relations between originally separate groups ...”<sup>26</sup> Similar developments occurred within HB / OT exegesis. Form criticism and tradition history gave rise to a more optimistic view of oral tradition and for a reconstruction of civic and cultic institutions and rituals. One may mention especially Hermann Gunkel, with his commentaries on Genesis and on the Psalms, or Hugo Gressmann and many others with their reliance on form-criticism and traditions history.<sup>27</sup>

The idea of an early covenant was taken up or maintained by many authors. Probably best known is the *Theologie des Alten Testaments* by Walter Eichrodt from 1933–35 (with expanded and updated editions until 1968), who centered his three parts around the basic relation of covenant: God and Israel, God and the World, God and the Individual. By the way, Eichrodt was the first to put the relation between God and Israel at first place, before “God and the world”, i.e. before the theme of creation, a priority that would, a few years later, be adopted by Gerhard von Rad.<sup>28</sup>

At this point it should be remembered that Wellhausen had not denied that the close relation between Yhwh and Israel was an old concept and at the center of Israelite religion from its very beginning. But this was, as he expressed, a natural religious relationship, while its conceptualization as a covenant developed only later on, in the times of crisis.<sup>29</sup> This distinction between the basic relationship and its later expression by the specific term ברית also means that Eichrodt's theology is less dependent on the ברית terminology than is often assumed.

In the 1930's, interesting new sources were published. In his *Hethitische Staatsverträge* (1931), Victor Korošec presented all the Hittite treaty or

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<sup>25</sup> WEBER, *Ancient Judaism*.

<sup>26</sup> MENDENHALL, “Ancient Oriental and Biblical Law”, 28, with explicit reference to Weber.

<sup>27</sup> On these developments see KRAUS, *Geschichte der historisch kritischen Erforschung*, a book which to my knowledge has not been translated into English. But see also: REVENTLOW, *History of Biblical Interpretation IV*.

<sup>28</sup> VON RAD, “Problem”.

<sup>29</sup> See WELLHAUSEN, *Prolegomena*.

covenant texts that were known at that time,<sup>30</sup> thus providing external comparative material for the biblical covenants. It demonstrated that treaties were well known in the ANE of the 2<sup>nd</sup> millennium BCE for creating and regulating relationships and that there was a specific formal tradition. Most of the treaties were between unequal partners, i.e. suzerainty or vassal treaties, some also between equal partners such as the treaty between the Hittite king Hattušili III and the Egyptian Pharaoh Ramses II.<sup>31</sup>

Besides some variations in detail, these treaties or covenants shared a specific form. Normally, they start with the identification of the king that made the treaty and a review of the historical relation between the partners, especially what the overlord had done so far for his vassal. Then stipulations followed, i.e. the obligations for the vassal and conditions for further relations. Then came provisions for storing the treaty in a location like a temple and for regular public reading. They closed with a list of deities from both covenantal partners and representing all areas of life. These deities would affirm the treaty and watch over it, which means they would especially punish the transgression of the covenant. Such punishments are expressed in the form of curses that enumerate various potential tragedies that may occur; occasionally, blessings for the keeping of the covenant are also mentioned.

This collection of the Hittite vassal treaties became most important in George Mendenhall's publications from 1954, especially in his *Covenant Forms in Israelite Tradition* and the expanded German version *Recht und Bund in Israel und im Alten Vorderen Orient* from 1960. Comparing the Hittite treaties with the covenants in the Bible, Mendenhall found many similarities with the Sinai pericope and especially the Decalogue: There was the self-presentation and the historical review: "I am Yhwh, your God who delivered you from Egypt, the house of slavery", and there were the rules for the future relationship: you may not have other gods, you shall not do this or that, you shall, etc. While the Decalogue lacks curses or blessings, other texts do feature them.<sup>32</sup> This proved to be a successful research trajectory; the Hittite vassal treaties became an important tool for an early dating of the biblical covenant texts, especially those of the Mt. Sinai tradition. However, the problem of contact and transmission remained unsolved. The Hittite empire ended around

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<sup>30</sup> KOROŠEC, *Hethitische Staatsverträge*, 1931. As a matter of fact, the treaties had also been published a few years earlier and at about the same time by FRIEDRICH, *Staatsverträge des Hatti-Reiches* (1926 and 1930). These texts and those discovered later can now be found in TUAT I/2, 1983, in TUAT.Erg (2001), and in TUAT.NF 2 (2005).

<sup>31</sup> EDEL, "Vertrag". It should be noted that this treaty in both versions has not only curses for transgression but also blessings for keeping it. This is an interesting detail, especially as it is missing in the treaties from neo-Assyrian times, but can be found in Deut 28:1–14. This does not mean that there is a direct relation, but it may indicate that treaties may have contained more than just stipulations and threats.

<sup>32</sup> See also MENDENHALL/HERION, "Covenant", 1179–1202.

1200 BCE, just before Israel came into existence. One had to assume some way of transmission, e.g. via Syria, i.e. via the Syro-Hittite states.

The comparison with Hittite treaties was also being proposed in Germany; one example was, as mentioned above, Klaus Baltzer's book *Das Bundesformular* published in 1960.<sup>33</sup> Baltzer subsumed many texts under the genre of covenant, not only the above-mentioned traditional texts but also, e.g., the structure of the whole book of Deuteronomy (historical prologue, chs. 1–11; stipulations of the covenant, i.e. the Deuteronomic laws, ch. 12–26; mutual declaration of the covenant, end of ch. 26; blessings and curses especially in ch. 28; provision for the safekeeping and the regular reading of the treaty, 31:10–14).<sup>34</sup> For several years, the covenant formula and the covenant genre became a general key to the exploration of the HB / OT with the corollary of an early dating of many texts, especially the Decalogue.<sup>35</sup> Certainly, not every text represented the whole genre, but this did not matter, because also in the Hittite treaties some elements were often missing; however it was clear that the individual texts drew on a general and widely used tradition. The same would be true for the biblical use of the covenant tradition.

The publication of three stelae from Sefire supported this development in scholarship. The first two stelae were discovered in 1930 some ten miles southeast of Aleppo and then published in the 1950s. They present – in Aramaic language – a treaty between two kings around 750 BCE. Beyond the usual features of a covenant text, they contained impressive curses much like the curses in Deut 28 and a ceremony close to Jer 34. As these treaty texts were later than the Hittite treaties, they confirmed that this kind of covenant tradition was known and practiced over centuries, not only in Hatti and in Assyria, but especially in Syria, which is much closer to Israel.<sup>36</sup> They presented the missing link between the Hittite treaties from before 1200 BCE and ancient Israel.

As often, when things become too one-sided, the pendulum swings back. In 1969, Lothar Perlitt published his study *Bundestheologie im Alten Testament*. Analyzing the central texts on covenant like Gen 15, Exod 19–24, and Josh 24, he came to the conclusion that they belong to the 7<sup>th</sup> century at the earliest, probably its second half. In other words: covenant theology is a product of the Deuteronomists and their time, probably having originated at its earlier phase.<sup>37</sup> This trend fit well with new perspectives on the Pentateuch; traditional theories

<sup>33</sup> English translation: *The covenant formulary*, 1971.

<sup>34</sup> This idea was not entirely new; in his commentary on Deuteronomy, Gerhard von Rad had likewise identified such a structure (VON RAD, *Deuteronomium*, 15).

<sup>35</sup> As the subtitle of Baltzer's book ("In Old Testament, Jewish, and early Christian writings") indicates, covenant and the covenant formulary had become a general key for the whole tradition.

<sup>36</sup> Among the many publications on the stele, see especially FITZMYER, *Sefire*.

<sup>37</sup> PERLITT, *Bundestheologie*.

about the Pentateuch sources, especially the time of their composition, were being scrutinized at the same time.

These developments and especially Perlitt's late dating caused a debate at first, yet within a few years, interest in the subject of covenant waned in literary and historical studies as well as regarding its theological relevance. It had an impact on the above-mentioned *Theology of the Old Testament* by Walter Eichrodt that had appeared in 1933–35 and was expanded and reprinted for several decades.<sup>38</sup> Its three parts referred to God's relation to Israel, to the world, and to the individuals under the – in his time undisputed – category of covenant (“Bund”). In the mid 1960's, it was not only superseded by the *Old Testament Theology* of Gerhard von Rad, but also heavily criticized for its very use of the idea of covenant.

For some decades, the topics of “covenant” or “covenant theology” became almost a no-go in HB / OT scholarship, at least in Germany. In 1993, Erich Zenger introduced his book *Der neue Bund im Alten* with an essay by the title “Die Bundestheologie – ein derzeit vernachlässigtes Thema der Bibelwissenschaft und ein wichtiges Thema für das Verhältnis Israel – Kirche” (“The covenant theology – a presently neglected subject of biblical scholarship and an important subject for the relationship between Israel and the Church”). As Zenger's title conveys, one reason for this new interest was that covenant had emerged as an important subject in the Jewish–Christian dialogue, which required a theological approach relevant for both. In addition, there was the growing influence of the so-called canonical approach in biblical studies; with all of that, the question of dating the “Bundestheologie” was now considered less important. The contributions to Zenger's volume show this trend as they deal with texts mainly belonging to the exilic or post-exilic period, like Jer 31, Ezek 16–17 or Ben Sira. Even Exod 19–34 is treated under the aspect of “new covenant”.<sup>39</sup> The same applies to another comprehensive volume on the subject from that period, edited by Christoph Dohmen and Christian Frevel.<sup>40</sup>

While these aspects led to some recovery of the theme of covenant and covenant theology in the HB / OT, they also led not only to new questions, but also to some theologically sensitive issues. For example, the number of covenants and their human parties were now being scrutinized; was the covenant with Noah and the creation, or was it exclusively with Israel? Was there also a covenant with David and the Levites, or is there just one covenant? Furthermore, the question of continuity of the covenant in Jeremiah 31 emerged: Could there possibly be a “new” or “renewed” covenant? These rather doctrinal

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<sup>38</sup> EICHRODT, *Theologie*; the last edition appeared in 1968.

<sup>39</sup> DOHMEN, “Sinaibund als Neuer Bund” (“Sinai Covenant as New Covenant in Exod 19–34”).

<sup>40</sup> DOHMEN/FREVEL, *Studien*.

questions could lead to new insights, but also to exegetical restrictions. These aspects cannot be treated here, but should at least be noted.

In German and continental European scholarship, covenant texts were now considered to be younger and covenant theology was being associated with exilic or postexilic times. Likewise, texts like Jer 31 were now seen as secondary to the book of Jeremiah.<sup>41</sup> However, there was also a counter movement. One of its representatives is Eckart Otto who studied legal and ethical traditions in the ANE and in the Bible.<sup>42</sup> Otto also addressed the problem of dating and influence of covenant traditions, for which he drew on the Assyrian treaties, especially the vassal treaty of Esarhaddon.<sup>43</sup> This treaty was established in 672 BCE by Esarhaddon in order to secure the irregular succession of his son Assurbanipal (while his older son Šamaš-šumu-ukin would become king of Babylon only). All the vassal kings should agree to this “treaty”, i.e. swear a loyalty oath to the king and especially to the designated successor. There were good reasons to assume that all the vassal kings had come to the capital in order to take the oath before the king, most probably also king Manasseh from Jerusalem. And it seems highly probable that a copy of the treaty was not only brought to Media but also the other capitals of the vassal kings, including Jerusalem.<sup>44</sup> It is only an assumption that the Esarhaddon treaty was known in Jerusalem, but it is supported by the discovery of fragments of the treaty in Tell Tayinat in the north-west of traditional Syria/in the south-east of Turkey.<sup>45</sup>

With the discovery of the Esarhaddon Treaty, other treaties from neo-Assyria and the neo-Assyrian times came in view. With Dennis J. McCarty’s *Treaty and Covenant* from 1963, the focus of the covenant discussion moved from Hittite to neo-Assyrian treaties.

The Esarhaddon treaty is interesting because of a number of close similarities, especially with the curses in Deut 28. As mentioned before, there are also commonalities between the curses and some rites in the Sefire stelas and in the HB / OT, yet those with the Esarhaddon treaty are even closer. As the similarities between some passages in Deut 28 and the VTE pertain not only to their topics but also to their structural arrangement, it is warranted to

<sup>41</sup> See e.g., LEVIN, *Verheißung des neuen Bundes*.

<sup>42</sup> See e.g., the title of the journal *Zeitschrift für Altorientalische und Biblische Rechtsgeschichte*, founded by Eckart Otto.

<sup>43</sup> A version of this text was found in Nimrud in 1955 and had been published by Donald J. Wiseman in 1958; cf. WISEMAN, “Vassal Treaties of Esarhaddon”.

<sup>44</sup> Already Wiseman knew about nine copies in Nimrud. Besides them, there are three fragmentary copies of the Assur version. Instead of speaking about the vassal treaty of Esarhaddon (VTE), some authors prefer to speak about the oath(s), e.g., now WATANABE, “Esarhaddon’s Succession Oath Documents” (ESOD), thereby more correctly taking up the Assyrian term *adē*.

<sup>45</sup> LAUINGER, “Esarhaddon’s Succession Treaty at Tell Tayinat”.

assume a literary dependence. Furthermore, there are parallels between the stipulations against prophets that would instigate an insurgency against the great king and the rules against false prophets in Deut 13.<sup>46</sup> However, these rules are also the subject of other treaties.

The similarities between Deut 13 and 28 and the vassal treaty of Esarhaddon became most important for the recent discussion. The basic assumption is that the Esarhaddon treaty was available in Jerusalem, at least for the time of the Assyrian domination, i.e. until about 650 or 640 BCE; therefore, it would have triggered the composition of the book of Deuteronomy or was at least a very important factor for it. Deuteronomy would have been the counter concept: as the Assyrian treaty text claimed loyalty to the Assyrian king, so the book of Deuteronomy would claim loyalty to the true king, i.e. to Yhwh, the God of Israel. With this idea, a new anchor was found, not only for the origin of the book of Deuteronomy but also for the origin of covenant theology in the sense that now the idea of covenant was applied to the relation to God.

With this anchor in history, it was confirmed that covenant theology was not old but rather belongs to the end of the First Temple period. However, the majority of the biblical texts were dated only to the exilic period or thereafter. Hence, the combination of Deut 13 and 28 with the Esarhaddon treaty also became an anchor for dating at least the beginnings of Deuteronomy and of covenant theology before the (Babylonian) exile.

The similarities between the Esarhaddon treaty and Deuteronomy were discussed in detail by a number of scholars, e.g., Ulrich Steymans.<sup>47</sup> In his writings and in his large commentary, Eckart Otto likewise emphasized the close relationship of this treaty not only to Deut 28 but also to Deut 13 with its law against false prophets.<sup>48</sup> For him, it was a strong argument for a pre-exilic date not only for some parts of Deuteronomy, but also for the covenant with Yhwh.

While basically keeping with the late, i.e. Deuteronomistic, dating of the covenant theology that featured the term ברית, Udo Rüterswörden pointed to the existence of a “covenant theology without ברית”, i.e. that the relation between God and his people (before and after the use of ברית) could also be articulated in different ways, for instance through kinship terminology.<sup>49</sup> Before going on, we briefly return to the ANE treaty or covenant texts.

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<sup>46</sup> The similarities were especially studied by STEYMANS, *Deuteronomium 28*.

<sup>47</sup> STEYMANS, *Deuteronomium 28*.

<sup>48</sup> On this subject see especially OTTO, “Ursprünge der Bundestheologie”, and his commentary: OTTO, *Deuteronomium*, 12–34.

<sup>49</sup> RÜTERSWÖRDEN, “Bundestheologie”.

### 2.3 Ancient Near Eastern Treaties and Covenant Texts

It is interesting that, in contrast to the vast amount of treaty texts from other regions of the ANE, there are no treaty texts from Egypt.<sup>50</sup> Pharaoh was probably considered so much above all others that he did not need to bother about making treaties with human beings, at least within his dominion. Yet in the other parts of the ANE, treaties and loyalty oaths were widespread.<sup>51</sup> According to the Ebla texts from northern Syria, this tradition was already used in the course of the 3<sup>rd</sup> millennium BCE. There is also an Akkadian treaty by Naram Sin from the 23<sup>rd</sup> cent. From Hatti, i.e. the Hittite empire, some 50 treaty texts are known for the time between 1450 and 1200 BCE. Most famous is the above-mentioned parity treaty with Ramses II, while most of the other treaties are rather unilateral vassal treaties. They oblige the king to provide protection and military assistance and the vassal king to exclusive loyalty; the latter typically implies no relations with foreign kings, respecting the borders of the other vassal kings, and the extradition of political refugees.

We already mentioned the typical treaty elements like the identification of the partners, a historical prologue, the stipulations or the treaty conditions, invocation of the divine witnesses and blessings and curses, connected with an oath ceremony. While the curses are generally quite daunting, it may be observed that they were less so if the vassal king was a relative of the emperor. The relation could be called “peace” or “brotherhood”, the partners could be called father and son although these words have the same meaning as overlord and vassal.

From Syria, two treaties from the 15<sup>th</sup> century are known, both between vassal kings of the Mitanni empire. Then, there are also the above-mentioned Sefire treaties from around 750 BCE. They feature extensive curses and interesting ritual elements like the cutting in half of a calf as in Jer 34:18 and the incineration of wax figures, which conveys a graphic threat and is alluded to in Psalm 68:3 (68:2 ET). There were likewise treaties in the Middle Assyrian empire, i.e. from the second half of the 2<sup>nd</sup> millennium. For the treaties of the 1<sup>st</sup> millennium it is interesting that the traditional Akkadian terms *riksu* and *rikiltu* were being replaced by the term *adê*, which goes back to Aramaic *‘dy* (*‘adiya*).<sup>52</sup> While the term *riksu* refers to “binding” and “being bound”, which is surprisingly close to the German word “Bund” – and most probably also to

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<sup>50</sup> The exception is the treaty between the Hittite king Hattušili III and the Egyptian Pharaoh Ramses II. However, there are no intern treaties like loyalty oaths.

<sup>51</sup> For the following overview see MENDENHALL/HERION, “Covenant”, 1179–1202; BARRÉ, “Treaties”; KOCH, “Covenant”; MCCARTHY, *Treaty and Covenant*. The covenant texts are presented in *TUAT I/2* and *TUAT.NF 2* and to some extent in HALLO/YOUNGER, *Context of Scripture*, II, 93–106, 211–216, 327–332.

<sup>52</sup> For a possible Akkadian etymology see Tushingham, p. 43f. in this volume. In any case, the word developed its specific meaning in the neo-Assyrian period.

the original meaning of ברית –,<sup>53</sup> the new term *adê* relates to curses and oath ceremonies. This indicates a semantic change, yet one has to remember that by metonymy, the different terms refer to the full procedure.

According to Simo Parpola's 1987 study, 20 neo-Assyrian treaties were known at that time and about 50 further references to such treaties.<sup>54</sup> Parpola goes even further: As only four of these treaties can be identified among the extant texts, he extrapolates that "the total number of Assyrian treaties concluded between 745 and 620 B.C. would rise to 160."<sup>55</sup> Impressive as this number is, the State-Archives-of-Assyria collection shows that only eight of these texts have survived and are known to modern scholars.<sup>56</sup>

Most of these treaties were on internal political affairs, and only some are considered diplomatic treaties. However, one may question this differentiation because for the Assyrians, a treaty with a vassal king in Media or in Tell Tayinat or with the king of Jerusalem was likely to be considered an internal matter of the empire. Yet there were certainly different levels of status and importance. Maybe the treaty with King Baal from Tyre in Phoenicia can be considered an external treaty as it deals with economic obligations, yet this is unknown to modern scholars because the concluding curses are lost.

Unfortunately, most extant treaties are indeed fragmentary. In light of this situation, it is all the more important that the different fragments of the Esarhaddon Treaty text allow its reconstruction in its entirety. It contains 670 lines of which 230 lines, i.e. about one third, comprise the curses.

Beyond the treaty texts themselves, it is of interest that the treaties or some of their phrases are also mentioned in letters of state officials. Thus, the treaties were not only kept in temples, but copies were also in use, and specific regulations of a treaty or the treaty tradition as such were known and referred to in the administration.<sup>57</sup> They were probably known even beyond these administrative ranks. In a petition to the king, for example, a merchant referred to the adjured loyalty of the king using words that are characteristic of an *adê*. It shows that the loyalty oath contained not only obligations for the subjects but for the king as well. This is also manifest in the case of king Padi from Ekron, who was dethroned by his people but re-instated by the Assyrian king. All of these documents demonstrate that the loyalty oath, while being a unilateral covenant, was important for both sides.

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<sup>53</sup> The etymology of ברית is still debated (cf. WEINFELD, "ברית"), but a term in the sense of relation and binding is most probable.

<sup>54</sup> PARPOLA, "Treaties".

<sup>55</sup> PARPOLA, "Treaties", 162, fn. 7.

<sup>56</sup> PARPOLA/WATANABE, *Neo-Assyrian Treaties*.

<sup>57</sup> See KOCH, *Vertrag*, 43–45. Regulations and also references to the curses can be found in letters of different state officials. This shows that treaties and loyalty oath were known and adopted at different occasions, especially by court officials.

It should be mentioned that the treaty genre was just as well used for loyalty obligations of the inner circle of the royal family and the administration. There is, for instance, an oath by which Zakutu, the mother of Esarhaddon, had the royal family elite of the state affirm its loyalty toward her son.<sup>58</sup> Such an inner-state loyalty pact is already known for the 9<sup>th</sup> century BCE. But loyalty oaths did not end with the neo-Assyrian empire. According to Watanabe's collection, there are either texts documents, or references to such texts dating from the times of the Babylonian kings Nebukadnezar, Neriglissar, and Nabonid, and of the Persian Kings from Kyros to Artaxerxes.<sup>59</sup>

To sum up, covenants and loyalty oaths existed and were in use in Hatti, in Syria, and in Assyria in the 2<sup>nd</sup> and in the 1<sup>st</sup> millennium. They were important means to establish, to regulate, and to protect the relations between political entities, but they were also used to ensure loyalty within the political entities. Most texts were preserved in cuneiform writings, probably because the writing material for alphabetic writings was organic and therefore did not survive the climate. As the neo-Assyrian designation *adê* was taken over from Aramaic, one may assume that the oath and covenant tradition was also employed in Syria, although we only have the Sefire treaty texts that were written on stone.<sup>60</sup>

There is one limitation that is important for comparison with the biblical covenant tradition. In spite of the importance of the deities as witnesses and guardians of the treaties and covenants, all of these treaties are between humans, be it between kings or with their officials. Deities are invoked at the moment of establishing the covenant and function as guardians and witnesses of the treaty or the covenant.

With these observations we turn back to the HB / OT tradition.

### 3. The Present Debate on Covenant in the Hebrew Bible / Old Testament

As shown above, the attention in HB / OT research regarding the covenant tradition has shifted from the Hittite to the neo-Assyrian treaties; its corollary was a substantial re-dating of the covenant tradition and pertinent reference texts. While in older research, the focus was on the Sinai covenant and that of Joshua 24, recent research has focused almost exclusively on Deuteronomy and on the stipulations and curses in Deut 13 and 28. At the same time, the entire picture of the literary development of the HB / OT has changed drastically. Recent scholarship classifies almost all of the texts as exilic or post-exilic. This also concerns the book of Deuteronomy and its different layers.

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<sup>58</sup> PARPOLA/WATANABE, *Neo-Assyrian Treaties*; cf. KOCH, *Vertrag*, 41.

<sup>59</sup> WATANABE, *Adê-Vereidigung*.

<sup>60</sup> Cf. BARRÉ, "Treaties"; KOCH, "Covenant", 897–899.

By relating Deut 28 and later ch. 13 to the Vassal Treaty of Esarhaddon, one may say that Steymans and especially Otto found a new Archimedean point for the origin of Deuteronomy and also of covenant theology.<sup>61</sup> The basic idea is that the loyalty required by the Assyrian king was contrasted by a counter loyalty, namely to Yhwh, the Lord of Israel. This loyalty was connected with specific regulations and combined the loyalty to God with social relations among the people.

However, Deut 13 with its stipulations concerning false prophets are different from other laws of the book of Deuteronomy, in particular those laws that adopt the book of covenant in Exod 21–23. It is also important to note that the concluding expression of the close and exclusive relation between God and Israel at the end of the Deuteronomical law in Deut 26:17–18 does not use the term ברית.

In spite of the similarities of the subject and the expressions in Deut 13 and 28, it is hard to imagine that the stipulations of the loyalty oaths were the base texts for Deuteronomy and that all the legal matters were filled in. Also, Deut 13 in itself has different literary layers, which makes it difficult to simply consider it as the oldest part of Deuteronomy and as an analogy to the Esarhaddon treaty. Especially, it could not have been the starting point for the development of the book of Deuteronomy. In view of the relations of Deuteronomy to the older juridical material, it seems more likely that Deut 13 and 28 were added to an already existing (reform-)law book so as to emphasize the exclusive relationship between God and Israel.

Besides such literary problems, there is the additional question about the basic transfer. Is it really plausible that the loyalty oath tradition was used to claim loyalty to Yhwh? Certainly, Deuteronomy is strong on the exclusive veneration and obedience towards Yhwh. But is it plausible that this alternative loyalty would be adopted from a foreign political entity that was not appreciated in Jerusalem and accepted nevertheless? If one dates such an event closely to the end of Assyrian dominance and control or shortly thereafter, would the words and especially the drastic curses of the Assyrian loyalty oath be acceptable or even attractive for expressing the relation to Yhwh, the God of Israel? This hypothesis has been proposed in a new book by Richard Jude Thompson, *Terror of Radiance: Aššur Covenant to YHWH Covenant* (2013). Thompson discusses all the ANE treaties and finally focusses on the neo-Assyrian treaties and their role as an instrument of domination by the “terror of the radiance” of the Assyrian rulers and their gods. He then proposes: “The Assyrian emperors employed a consistent theme of a radiant and brilliant light (*melammû*) that brings terror and fear of an overwhelming army led by an

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<sup>61</sup> STEYMANS, *Deuteronomium 28 und die Adê zur Thronfolgeregelung Asarhaddons*. From his several contributions to the subject see esp. OTTO, “Die Ursprünge der Bundes-theologie” and Deuteronomy: OTTO, *Deuteronomium*.

omnipotent god ...”<sup>62</sup> Thompson then parallels the image of Yhwh in the Deuteronomistic History (DH) to the image of the Assyrian kings. Yhwh rules in a similar way over his enemies and over his own people. “The authors of the DH portray Yhwh in a similar imagery of terror and fear accompanied by overwhelming light, radiance, flame, and lightning”.<sup>63</sup> For this, Thompson refers to the terror and fear that befalls the inhabitants of Canaan (Deut 2:25; Josh 2:9). However, these passages do not refer to Yhwh but to the Israelites, while the passages he mentions about the flames (2 Sam 22:13–14) belong to the theophany tradition; and the light of the morning and the rising sun (2 Sam 23:3–4) is rather a positive image.

For Thompson the rule of this dreadful terror is administered by the scribes who know the rules, who inform the king, and who control the vassals. The scribes relate to the god Nabu, therefore they are called *nabu*, or in Hebrew *nabi*, “prophet”. This would also explain the crucial role of prophets in the Deuteronomistic History, which is rightly called the “Former Prophets”: “The *nēbî’îm* knew the mind of YHWH in the same way that the *ardū* or *ardātu Nabû/î* knew, by means of their vast intelligence system, the detailed facts of the empire. They would have appeared god-like in their ability to advise the king in the name of the god”.<sup>64</sup>

This scholarly hypothesis may be somewhat exaggerated beyond what Deut 13 and 28 indicate, yet it illustrates that it is questionable if the threats and the curses would be the channel for the idea of covenant to become the model for the relation between Yhwh and his people. While Deuteronomy certainly demands exclusive loyalty to Yhwh, the historical situation with the Assyrians and especially all the threats and curses would not have made such a counter model particularly attractive.

I am not the only one who doubts that covenant theology in ancient Israel arose from this background. Manfred Oeming has suggested a different origin, namely from covenant as a metaphor for marriage that would have been transferred to the relation of Yhwh and Israel. Oeming looks for a positive approach to inform the idea of covenant. He mentions Ezek 16 and considers the “psychology” of love as the factual core of covenant theology in the HB / OT.<sup>65</sup> He traces the idea of God’s love for his people in the bridal and marriage metaphor back to Hosea, especially the famous chapters Hos 1–3, and assumes its reception in Deuteronomy, Jeremiah, Ezekiel, and Malachi. He concludes that “the dynamics of the emotional relation is the factual core of the covenant theology. ברירה is not *law*-centered but *love*-centered. By God’s love, and only by love can it be explained why God does *not* implement his threats and curses.

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<sup>62</sup> THOMPSON, *Terror*, 226.

<sup>63</sup> THOMPSON, *Terror*, 228.

<sup>64</sup> THOMPSON, *Terror*, 232.

<sup>65</sup> OEMING, “Deine Zeit”, 151–160.

The legal categories (oath, vow, treaty) are on the surface, only below this rugged surface one enters the depths of covenant thinking, which is a ‘sphere’ of ‘illegally’ pardoning and loving personal relation.”<sup>66</sup>

I agree with Oeming on his basic idea, and in spite of the tendency to date practically everything of theological relevance to exilic and post exilic times, at least the core traditions of the book of Hosea go back to the pre-exilic period. Also in the book of Deuteronomy, there is more than just the spirit of loyalty oaths and curses, and to love God in Deuteronomy is more than a “friendly” and euphemistic circumscription of the stipulated loyalty to the overlord.<sup>67</sup> There is also the message of the prophets, for instance Hosea’s message of God’s – although disappointed – love to his people, which ultimately limits his wrath and destruction, be it in the picture of marriage (Hos 1–3) or in the relation of a father (or as parents) to his (their) son (Hos 11, especially v. 8–9). Also, the bridal and marriage metaphors in Jeremiah and Ezekiel do not come out of the blue, although later they underwent a process of reflection and were challenged and changed in different ways. At their core, there is a natural and immediate relation of a deity and humans, which is not substantially different from, for example, that between Kamosh and the Moabites.<sup>68</sup>

However, even if one agrees to this, it may be asked how the category of covenant was being applied to the basic theological concept.

#### 4. A New Suggestion for the Origin of Covenant Theology

Covenant relations and covenant traditions within the human realm were certainly known in Israel for a longer time. A typical example is the covenant between Jacob and Laban in Gen 31, which serves two purposes; on the one hand, it defines the individual relationship between the two parties, and on the other hand, it regulates further matters, like their mutual areas and border protection. Another example is Hos 12:2 where Ephraim is criticized for its

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<sup>66</sup> OEMING, “Deine Zeit”, 159: “Als sachliche Mitte der Bundestheologie erweist sich die ‘emotionale’ Beziehungsdynamik. ברית ist nicht *ius*-zentriert, sondern *amor*-zentriert. Aus der Liebe Gottes, und allein aus der Liebe, erklärt sich, warum Gott seine Fluch- und Strafandrohungen *nicht* umsetzt. Der Rechtstitel (Eid, Schwur, Vertrag) liegt an der Oberfläche; erst unter dieser rauen Schale kommt man in die Tiefe des Bundesdenkens hinein, nämlich in eine Sphäre ‘illegal’ *verzeihender und liebender personaler* Relation.”

<sup>67</sup> See, e.g., KREUZER, “Sache”.

<sup>68</sup> For this quasi natural relation between a deity and humans and, specifically, between Yhwh and Israel, see already WELLHAUSEN, *Prolegomena*, 415: “Das Verhältnis Jahves zu Israel war von Haus aus ein natürliches; kein zum Nachdenken geeignetes Zwischen trennte ihn von seinem Volke.” (“The relation of Yhwh to Israel was originally a natural one; no in-between that was the object of reflection separated him from his people.”)

treaty with Assyria while engaging in a relationship with Egypt. Hosea criticizes Ephraim not for making the covenant but for its disloyalty.

Covenants of different kinds, along with their pertinent terminology and rituals, have been known in Israel for a long time (see the above-mentioned examples of the covenant ritual involving cutting animals in half, which is referenced in Jer 34). Not only Deut 13 and 28 are reminiscent of covenant formulations, but also other texts, especially the curses and threats in Hos 4:1–4 or 5:10–13, and some announcements in Amos 1 and 2. Christoph Koch aptly summarizes the situation:

Before and alongside the use of *bērit* as a religious metaphor describing the relationship between God and his people, the HB / OT testifies to a use of the concept that is profane in the broadest sense, a use which belongs to the realm of ANE treaty law. Even though not a single treaty has been preserved, a number of references to treaties and treaty conclusions reveal the existence of Israelite or Judean treaty practice. In the HB / OT, private, state, and international states of affairs are described with *bērit*, the form of which, in each case, is a question of power relations. On the international level, there are, alongside treaties between more or less equally-ranked treaty partners (1 Kgs 5:26b; 1 Kgs 20:34; cf. Gen 31:44), those that indicate a clear power differential (1 Kgs 15:19; Hos 12:2; Ezek 17:13–14). For domestic treaty practice as well, there are examples (cf. 2 Kgs 11; Jer 34) that have, however, been reworked according to covenant-theology (cf. only Jer 34:13). As in the rest of the ANE, treaty conclusions were frequently accompanied by symbolic actions (a handshake [Ezek 17:18], an exchange of gifts [Gen 21:30], a shared meal [Gen 26:30], stepping between the halves of divided animals [Jer 34:18]). According to a pan-ANE viewpoint, the gods were not only witnesses and guarantors of the treaties but also treaty partners (in correspondence to their earthly representatives, the kings). The breach of a political treaty was thus also regarded as a betrayal of YHWH (cf. Ezek 17:19; Hos 6:7).<sup>69</sup>

However, in spite of the close involvement of the gods/god, their role is still limited to that of witnesses and guardians over the covenant, not yet as a treaty party. Therefore, conceptualizing God as one of the treaty partners is a new step. How did it come about? To answer this question, we take up the observation that the relation between Yhwh and Israel had once been natural and immediate.<sup>70</sup> This relation was practiced at sacred sites, in feasts and celebrations, and in visits of individuals and groups. Over time, this natural relation became more and more reflected, mainly in periods of challenge, be it by contrast with other religions or reflections about the course of special events in history.

Different means informed this process of reflection. One important tool was the justifications of events through prophetic judgement oracles. The prophets not only criticized specific social and cultic problems, but they questioned the relation between Yhwh and the people as such. Isaiah, for example, compared

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<sup>69</sup> KOCH, “Covenant”, 901.

<sup>70</sup> See above, fn. 29.

it to basic relations in everyday life: to the relation of parents and child, or the relation of animals to their owners:

<sup>2</sup> Listen, O heavens, and hear, O earth; For the LORD speaks, "Sons I have reared and brought up, but they have revolted against me.

<sup>3</sup> An ox knows its owner, and a donkey its master's manger, but Israel does not know, my people do not understand" (Isa 1:2-3).

Isaiah may even use the example of a piece of land that was carefully tended and should bring its fruit, like in the song about the vineyard:

My well-beloved had a vineyard on a fertile hill.

<sup>2</sup> He dug it all around, removed its stones, and planted it with the choicest vine. He built a tower in the middle of it, and hewed out a wine vat in it; then he expected it to produce good grapes, but it only produced worthless ones.

<sup>3</sup> And now, O inhabitants of Jerusalem and men of Judah, judge between me and my vineyard (Isa 5:1-3).

Hosea also used the relation of father and son:

When Israel *was* a youth, I loved him, and out of Egypt I called my son.

<sup>2</sup> The more they called them, the more they went from them.

They kept sacrificing to the Baals and burning incense to idols.

<sup>3</sup> Yet it is I who taught Ephraim to walk (Hos 11:1-3).

Hosea referred to mutual obligations in a marriage to criticize Israel's unfaithfulness; the consequences are presented in the form of a lawsuit (Hos 1-3).

All of these images and comparisons are meant to express that the basic relation between Yhwh and his people was disturbed and that calamity and disaster was either pending or had already struck. This happened in the time of the expansion of the Assyrian Empire, first as an impending threat and later as a past experience of devastation and deportation.<sup>71</sup> Of course, other catastrophes (like the earthquake in Amos) may have been in view as well.<sup>72</sup>

Most of these accusations and the debates are stylized as a lawsuit. Evidently, this was the appropriate means to express and justify God's decision to punish his people. While the pictures mentioned above served to explain and to justify God's actions, they belong to the individual realm; by contrast, the prophetic announcements and explanations concern the community. Is there also a category that might directly apply to larger social groups and to the community as a whole? A category that expresses a positive relation and, at the same time, includes the explanation of impending doom or catastrophes that had already arrived? The covenant relation is such a relation. Covenants were

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<sup>71</sup> In the debate about catastrophic historical experiences that were a challenge to theological reflections about God's acting, the fall of the northern kingdom and the Assyrian exile should not be forgotten.

<sup>72</sup> Cf. the catastrophes mentioned in Isa 9:7-20.

familiar as conveying both relations and agreements that would assist a community and protect it, but they were, on the reverse side, also about obligations that came with threats in case the covenant was broken.

The covenantal relation was one with a whole people, and it gradually became a more fitting conceptual category as the prophets increasingly addressed their message to the entire nation. At the same time, the treaty and covenant terminology with its threats and curses also offered the possibility of expressing the woes that would be brought about by God and to explain what had already happened. Hence, covenant terminology became an important means for explaining and justifying God's dealing with his people in history. It was a step in the development of the prophecy of doom and in understanding and interpreting it. It may have originated in circles that transmitted and interpreted the prophetic message. The category of covenant transcended the emotional message of the comparisons with family relations (like husband and wife or father and son) or ownership (of animals and vineyard). It also allowed for the inclusion of the social and religious categories that had been addressed in the prophetic criticism. In this way, the dark side of covenantal punishment opened up the doorway for envisioning the positive side: God not only punished according to covenant-rules; to the contrary, the very punishment implied that originally there was a positive relation to Israel.

It seems probable that this development took place in the 7<sup>th</sup> century BCE in circles that not only passed on the message of the prophets of the 8<sup>th</sup> century, but reflected on it and wanted to draw consequences for the future life in Israel. Most probably, this happened in scribal circles in Jerusalem who preserved the prophetic message, who knew the categories and the language of treaties, and covenant and who were interested in social and religious reforms.<sup>73</sup>

It is no surprise that covenant theology surfaced in the book of Deuteronomy. One may say that Deuteronomy tries – by its means of law and education – to (re)create and to establish what the prophets had missed: a society that would love and honor Yhwh exclusively and that would consequently practice social justice. One of the means and expressions towards this goal was covenant theology.

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<sup>73</sup> KOCH, *Vertrag*, 43, mentions that Assyrian officials used covenant terminology also in letters, and he concludes that these persons were well acquainted with covenant texts and, therefore, used the vocabulary in other contexts as well. He assumes a similar situation in Jerusalem so that scribes and administrative personnel were the *Trägergruppe* for the ideas and the terminology of covenant; cf. the title of his ch. V. 3.2 “Die judäische Funktionselite als Trägerschicht der Bundestheologie”, 310–312. However, as he develops the idea that all of this is possible in exilic times only, he tries to argue that a number of persons of this group had been spared from deportation. While this is certainly possible (also the Babylonian administration relied on locals), there were more such specialists while the Jerusalem court was functioning on its own, and they were likewise thinking about the past and the future, as is manifest in the Shafan-family (mentioned by KOCH, *Vertrag*, 307).

This basic idea was being developed in different directions and into different concepts. Covenant theology became the means of expressing the basic relationship between God and Israel, based on an emotional relation like the one between husband and wife or parents and children. It provided the terminological and conceptual background for articulating a relation based on obedience and threats. Ultimately it developed into the novel idea of a unilateral covenant guaranteed by God alone. But this is beyond the question of the background and origin of covenant theology and will be taken up in other contributions.

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