



Wright, David P.

Inventing God's Law: How the Covenant Code of the Bible Used and Revised the Laws of Hammurabi

Oxford: Oxford University Press, 2009. Pp. xiv + 589.
Hardcover. \$74.00. ISBN 0195304756.

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The present study by David Wright, well-known for his analysis of biblical ritual literature, in particular in comparison with Hittite cultic practice, restates and elaborates his innovative thesis that the Book of the Covenant (CC) is immediately and textually dependent on the second part of the Collection of Laws of Hammurabi (LH, §§ 115–272). This textual dependence stands out both in content and in order of items with the same theme. A few laws may derive from other cuneiform corpora, probably through mediation in Akkadian, such as the law collection of Eshnunna (LE), the Middle Assyrian Laws (MAL A), and the Hittite Laws (HitL). Laws in the participial style may reflect an Israelite formulation, similar to the Arur text of Deut 27:15–26. But the mainstay of CC reflects the inspiration by LH, attributable, in Wright's opinion, to the Neo-Assyrian period, in which the Codex Hammurabi was often copied and during which at least some Israelite scribes/scholars may be assumed to have had knowledge of Akkadian. These assumptions enable Wright to postulate an effort to counter Assyrian predominance with a codex that is represented as God's law. Thus Wright defends the unity of CC as a literary creation, preceding both Deuteronomy and the Holiness Code. In some details Wright points to connections between CC and the Exodus narrative, such as the use of "coming" in CC (Exod 20:24) and the Mount Sinai tale (19:9; 20:20), of "going out" (in CC: 21:2–11; in the narrative: 3:10–12, 21; in 3:15 Wright finds traces of the epilogue of

LH). This thesis is impressive and is presented in great detail. Wright has revised his previous formulations,¹ accepting some of the criticisms and countering other arguments.²

Wright's argument is based on two twin pillars. At first he examines the basic content and order of casuistic law in CC (Exod 21:2–22:16) in comparison with the correspondent laws of LH, while apodictic law, found both in the law of the altar preceding the main corpus (20:22–26) and in the closing commandments (23:17–33), is compared with the prologue and epilogue of the Code of Hammurabi. By means of this analysis, Wright seeks to establish the dependence of CC on LH. The second part of this study presents a microtextual scrutiny of the relationship between both corpuses. This extremely meticulous examination serves to indicate the way in which CC transforms the laws of LH and combines them with items from other cuneiform codices and with Israelite law. Comparison of the apodictic law with the prologue and epilogue enables Wright to point out a basic transformation, viewed as a reaction to dominant Assyrian-Babylonian culture, “a response to the experience of Assyrian imperialism in the late eighth or early seventh centuries BCE” (287), in competition with LH rather than following it as such. The authority of the Babylonian king is replaced by God's, represented as the source of the rules governing society.

Wright, then, has founded an impressive synthesis on a no less impressive array of basic data. Nevertheless, many of his arguments need critical reflection. As Wells already noted, the agreement of the items of CC with their counterparts in LH often is less than convincing. In particular, the basic categories of this analysis must be challenged.

The notion of “thematic correspondence” is questionable since the definition of the topic can indicate either the subject matter of the law at hand, such as debt servitude, or a generalization, such as “negligence.” In the latter case, the definition is exegetical and as such does not indicate any inherent connection between the laws coming under this heading. Moreover, in some cases Wright subsumes laws with different subject matter under one heading, such as “Negligence” and “An ox goring an ox.”

The notion of order is problematic, since the ordering of laws is a matter of associative or logical connection (e.g., principal rule followed by specific details) rather than of mere juxtaposition or numerical succession as in a catalogue. Thus, when the ordering of laws in different corpora is similar, one still has to consider the logical aspect.

1. David P. Wright, “The Laws of Hammurabi as a Source for the Covenant Collection: (Exodus 20:23–23:19),” *Maarav* 10 (2003): 11–87.

2. See Bruce Wells, “The Covenant Code and Near Eastern Legal Traditions,” *Maarav* 13 (2006): 85–118; David P. Wright, “The Laws of Hammurabi and the Covenant Code: A Response to Bruce Wells,” *Maarav* 13 (2006): 211–60.

Likewise, if the correspondence pertains to the topic of the laws under scrutiny, one still has to consider the specifics of content and structural organization.

Wright (*Inventing God's Law*, 9) compares the following CC laws with LH (+ LE; MAL A; HitL):³

- (1) debt slavery of males—Exod 21:2, 3–6//LH 117; 21:3–6//LH 175, 282
- (2) debt slavery of a daughter—21:7,8–11//LH 117, 148–49, 154–56, 178; MAL A 55–56
- (3) death from striking, intent—21:12–14//LH 207 (but note participial formulation, suggesting a “native source”)
- (4) child rebellion—21:15,17//LH 192–93, 195, LH 14 (but note participial formulation);
- (5) men fighting, injury, cure—21:18–19//LH 206 (for LH 207 see no. 3)
- (6) killing one of lower class—21:20–21//LH 208 (cf LH 116; for slaves cf. 196–205; 209–223)
- (7) causing miscarriage—21:22–23//LH 209–14; MAL A 50, 52
- (8) talion laws, injury to slave—21:23–27//LH 196–201
- (9) ox goring a human—21:28–32//LH 250–52
- (10) negligence—21:33–34//LH 229–30 (idiomatically comparable to “opening a branch of a channel” or releasing “water,” LH 55–56)
ox goring an ox—21:35–36//LE 53 (not in LH)
- (11) animal theft—21:37; 22:2b–3//LH 253–65, specifically 253–54, 265; LH 21 (comparable with LE 13)
- (12) deposit—22:6–8//LH 265–66 (idiomatically related to LH 120, 124–25)
- (13) injury and death of animals—22:9–12//LH 266–67 (also LH 244, 249)
- (14) animal rental—22:13–14//LH 268–71 (rates of hire), LH 244–49

The end of CC includes a number of laws that are not matched by corresponding laws in LH, the law on seduction (22:15–16//MAL A 55–56 and a number of miscellaneous participial laws are noted (22:17–19), not matched by LH, but cautiously attributed to a “native source,” like 21:12–17.

The present reviewer’s criticism of this construction relates to all three parameters indicated above. The idea of correspondence of ordering in itself seems problematic.⁴ Number 3 of CC (homicide) is paired with LH 207, which rather relates to number 5. The connection between numbers 5–6 (injury, homicide, miscarriage, and talion) relates to

3. Notably, in some details this listing differs from the proposals in Wright 2003 and 2006.

4. Wright (*Inventing God's Law*, 9) admits himself seven nonsequential correspondences with LH and six correspondences with other cuneiform laws.

inner logic and thus does not indicate influence. By the same token, in CC the connection of these laws and the laws concerning the goring ox (nos. 7, 10) is organic, whereas in LH the relevant laws (LH 250–52 and LH 209–10) are separated one from another by long series of laws. In LH number 11 (LH 253ff.) seems to follow logically after number 9 (LH 250–52; but see below), whereas in CC the juxtaposition of numbers 10–11 (21:35–36; 21:37) is no less logical. Here, then, the logic of the CC ordering is internal rather than derived from LH. So is the ordering of 21:37ff. (no. 11) and 22:4–5 in CC, although the latter two laws have no equivalent in this part of LH (but note LH 57–58). Both in CC and in LH the connection of numbers 12–14 is subject related and thus a matter of internal logic. Thus the evidence of order is less impressive than it seems at first sight.

The indication of thematic connection often is questionable. The CC homicide law (“Death from striking, intent,” 21:12–14; no. 3) is only partially comparable to LH 207, which imposes a fine of 30 sheqels for slaying a *mār awilim* in a brawl, and belongs to a complex of laws dealing with injury (intentional and unintentional, LH 196–214) rather than with homicide as such. In CC the law mentioned under “negligence” (21:33–34, no. 10) concerns a pit into which an ox or a donkey may fall and the compensation for the damaged animal. As such, this law is related to the theme of the goring ox and the reparations involved (21:28–32, 35–36) and is hardly comparable with the liability of the contractor of LH 229–30, which is only one of the instances of professional and technical liability, including also physician, veterinarian, barber, and boatman (LH 215–27, 231–40).

In many cases the specific details are problematic. The structure and particular details of the laws of debt servitude differ significantly from the corresponding items in LH (nos. 1–2).⁵ The laws concerning deposit (Exod 22:6, no. 12) match the laws on the same topic in the first part of LH (LH 120–26) rather than sections 265–66, which specifically concern the liability of the shepherd.

In conclusion, in the realm of casuistic law the specific details of the comparison are of different strength. Hence the strong claim of textual dependence seems to lack evidential support. What is needed is proof of a strong connection in a large number of cases, such as the connection between the Eshnunna Law (LE 53) and the law of the goring ox (Exod 21:35) or the correspondence between the Hittite laws (HitL 105–7) and biblical laws (Exod 22:4–5) concerning grazing and fire (see Wright, 240–41). Evidence of this kind is lacking. Nor do we find specific evidence for the translator’s interference. The linguistic

5. Bruce Wells point out the similarity between slave deed from Emar (Emar 16) and Exod 21:3–4; Bruce Wells, “What Is Biblical Law? A Look at Pentateuchal Rules and Near Eastern Practice,” *CBQ* 70 (2008): 223–43, esp. 233–34.

correspondences quoted are of a general nature, and nowhere do we find indications of explicit translational *calques*. Another desideratum relates to legal terminology. In CC one notes the distinction between *kî* and *'im* in the protasis of main conditions and secondary circumstances, respectively. This well-known distinction corresponds with the use of the preterite (*iprus*) and the perfect (*iptaras*) for the same purposes in the first part of LH. It is true that we do not have evidence for Canaanite law, but *k* and *hm* are used to introduce the protasis in Ugaritic omen texts,⁶ a genre with a structure similar to that of legal texts.

In the field of apodictic law, the connections between CC and LH are even weaker. The correspondence between the altar law (Exod 20:2–26) and the prologue to LH is limited to the general theme of temple worship, whereas the similarities between the epilogue and Exod 22:20–23:19 pertain to mere generalities.

Consequently, the present reviewer is unable to discern the same strong textual connection between CC and LH that Wright attempts to prove. In this connection, one has to take into account that Wright admits that a number of laws reflect “a native source,” namely, the laws in participial formulation in Exod 21:12, 15–17; 22:17–19. In addition, Wright postulates the dependence on an additional cuneiform source, matching the Laws of Eshnunna (LE 53), Middle Assyrian Laws, and the Hittite Laws. These items carry all the more weight, since the correspondence between them and CC is even stronger than the connection with LH. The most significant example is the law of the ox-goring ox (Exod 21:35–36//LE53). But we should also consider the case of “Grazing and fire in the field” (Exod 22:4–5). In the Hebrew text, the connection between these laws is formed by the two homonymous roots $\sqrt{b'r}$, indicating grazing in verse 4 and fire in verse 5. Hence the present text is a construct of the Hebrew law par excellence. If one turns to sources, one finds LH 57–58 for grazing and the Hittite Law 105–6 for fire, two laws with no connection whatsoever (for grazing, one notes HitL 107). Thus the input of the Israelite legal author is far beyond what is suggested by the thesis of decisive textual dependence on LH.

On the other hand, we are not to throw out the baby with the bathwater. Wright’s analysis indicates, more than his predecessors, a strong textual dependence on cuneiform law in general. The question is, however, whether this dependence can be described as immediate dependence on one or more Akkadian corpus. Maybe it would be preferable to think of Canaanite mediation, in view of the Syro-Phoenician continuum, which did not come to an end in the first millennium.

6. See, for example RS 24.302, Dennis Pardee, *Ritual and Cult at Ugarit* (SBLWAW 10; Atlanta: Society of Biblical Literature, 2002), 141 (lines 1', 3'); RIH 78/14, *ibid.*, 143 (line 2).

However, these reflections in no way detract from the overall contribution of Wright's admirable *opus magnum*. In its extremely detailed discussions of single issues and in the wide sociopolitical and perspective, this work points the way to new vistas in the study of biblical law.