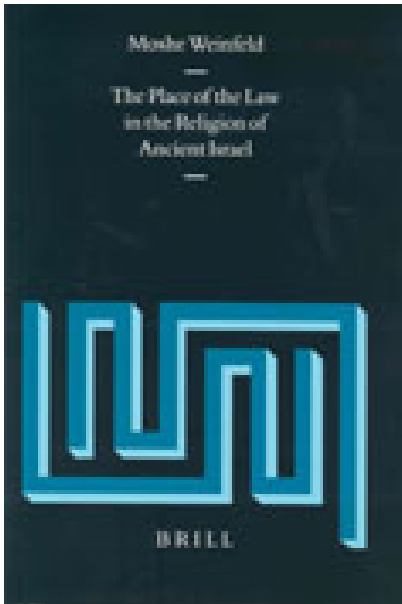


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Weinfeld, Moshe

The Place of the Law in the Religion of Ancient Israel

Supplements to Vetus Testamentum 100

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Eckart Otto
Ludwig-Maximilians-Universität München
Munich, Germany D-80799

This book is a revival of Moshe Weinfeld's critical discussions of the Graf-Wellhausen hypothesis of dating the Priestly code post-Deuteronomy, so that what is called law in the title of the book means the cultic regulations of P. The author concentrates his discussion exclusively on Wellhausen's *Prolegomena* but is "fading out" not only Wellhausen's *Composition* but one hundred years of research work and discussions of P, because, and this is the aim of the book, he intends to show that "Julius Wellhausen's heroic attempt to depict the 'Law of Judaism' manifested in the priestly stratum of the Pentateuch, as originating in the Second-Temple Theocracy and the antithesis to classical prophecy, is ultimately a failure." Weinfeld concludes from this statement that "particularly non-Jewish scholars in the West" have to present new findings—linguistic, legal, or others—in support of their claims that all or part of P dates from after the exile," or "they must renounce the view that the priestly law and literature are a crossroads in Israelite history, and must begin to regard them as an intrinsic and authentic element of Israel's religious from her very inception" (74). There is no doubt that the dating of P is an open question in Pentateuch research, so that a book that is leading us back to the roots of arguments for a late dating of P into the postexilic period can be helpful. But going back to these roots a review should consider how we can find paths to overcome the blockade of more than

one hundred years of discussions between Jewish scholars on the one side and non-Jewish scholars on the other side, *if P was pre- or post-Deuteronomic*.

So the report of Weinfeld's arguments can be short (for a more detailed review see E. Otto, "Die Stellung des Gesetzes in der Religionsgeschichte der Hebräischen Bibel," *ZABR* 10 [forthcoming]), because most of the arguments were part of the discussion since David Hoffmann's *Die wichtigsten Instanzen gegen die Graf-Wellhausensche Hypothese* (2 vols.; Berlin: Poppelauer, 1904, 1916). In his *Prolegomena* Wellhausen used five longitudinal sections through the cultic laws of the Hebrew Bible as a framework for the reconstruction of the development of Israelite literature and religion. Weinfeld follows these five sections, one after the other, after he tries to show that Wellhausen was guided by a latent anti-Judaism writing his *Prolegomena* (see also Ulrich Kusche, *Die unterlegene Religion: Das Judentum im Urteil deutscher Alttestamentler* [Berlin: Institut Kirche und Judentum, 1991], 30–74). Wellhausen tried to show (1) that P presupposed the centralization law in Deut 12 so that the traditions of tabernacle and camp in P should be post-D. For Weinfeld, tabernacle and camp were rooted in the very early premonarchic history of Israel, so Lev 17 antedates Deut 12. Texts such as Josh 22:9–34 function as proof for the tent as an exclusive religious center of the tribal federation of Israel. During the monarchic period of Israelite history the camp gradually disappeared from the scene and the city became more prominent. Whereas Wellhausen was of the opinion (2) that the sin and guilt offerings were an innovation of the exile, for Weinfeld the *ḥt't*, which should be interpreted as a purgatory offering (Jacob Milgrom), was already known in the monarchy (2 Kgs 12:17; Hos 4:8). (3) The feasts, New Year, and the Day of Atonement were not, as Wellhausen thought, innovations in P. That they are not mentioned in the early sources and D Weinfeld explains by the thesis that these sources were rooted in circles different from that of P. (4) The high priest in P could not be, as Wellhausen tried to show, an innovation of the postexilic time because at that time the Urim had already lost its function. (5) The tithe was not, as Wellhausen thought, initially eaten by the owner and became later on an endowment of the priests, but had started as "holy to YHWH" (Lev 27:30) in the early history of Israel and was later transferred to the priests (Num 18:21). As a result, Weinfeld concludes, "The five pillars of Wellhausen's construction do not stand on solid ground and can no longer be maintained. The sacral character of P is no literary image of the priestly rule of the Second Temple days as Wellhausen believed" (33).

In a second step Weinfeld shows that already in the second millennium an ordered, prescribed, institutionalized cult was well known in the cultural centers of the ancient Near East. Weinfeld especially deals with the Hittite purification rituals in order to refute Wellhausen's conviction that the ritualization of the Israelite religion was an innovation of the exilic and postexilic periods. But such comparisons are of limited value because,

on the one hand, today, one hundred years after Wellhausen, nearly no one who defends an exilic P would not admit that P incorporated older material (see Rolf Rendtorff, “Two Kinds of P? Some Reflections on the Occasion of the Publishing of Jacob Milgrom’s Commentary on Leviticus 1–16,” *JSOT* 60 [1993]: 75–81). Old Testament scholarship has since learned from Gunkel, Greßmann, Alt, and others of the *Religionsgeschichtliche Schule*. On the other hand, the Hittite, Hurrian, and Ugaritic material is of limited value for dating texts of the Hebrew Bible as long as we do not consider the ways of their reception in Palestine in the first millennium. So it is amazing that Weinfeld does not include any material that came to light in the last twenty years and does not reflect on the Luwian reception of Hittite texts in Syria.

In a next chapter Weinfeld goes back to the late nineteenth century, summarizing the arguments of August Dillmann and Samuel R. Driver as representatives of a positivistic historicism unlike Julius Wellhausen’s and Bernhard Duhm’s theological prejudice of a “Totalanschauung” of the Israelite and Jewish religion. In order to advance biblical scholarship, so Weinfeld, we should base ourselves on philology, history, literary criticism, and textual analysis, but not as Wellhausen and Duhm on worldviews and ideology.

In a second part of the book Weinfeld intends to explain the differences between D and P by the differences of priestly (P) and secular wisdom-oriented schools (D): “In my view the divergences between the two schools of P and D stem from a difference in their sociological background and a variance in their historical–chronological setting” (80). So P was concerned with codifying sacral legislation and D with civil-secular laws. For the reviewer this seems to be the most important aspect in this book. Indeed, the Pentateuch was formed out of D and P as the basic pillars of the literary history of the Pentateuch, which got its shape by postexilic scribe-sages mediating between D and P (see Eckart Otto, “The Pentateuch in Synchronical and Diachronical Perspective: Protorabbinic Scribal Erudition Mediating between Deuteronomy and the Priestly Code,” in *Das Deuteronomium zwischen Pentateuch und Deuteronomistischem Geschichtswerk* [ed. Eckart Otto and Reinhard Achenbach; FRLANT 206, Göttingen: Vandenhoeck & Ruprecht, 2004], 14–35). It is true that it is not enough to posit D and P in a historical chronological setting. But at the end Weinfeld does exactly this, turning Wellhausen just upside down. Wellhausen reckoned with a development of sacralization of the Jewish religion dating P later than D; Weinfeld, on the other side, reconstructs a tendency of secularization of P by D. “With regard to the Sabbath, Wellhausen was caught up by the concept of evolution and sought to place the secular before the sacred. However, it is known today that the development took place in the opposite direction from the sacred to the secular as confirmed by our ever-increasing knowledge about the Ancient Near East” (121). Such theories of a logic of evolution that contradict Weinfeld’s claim to represent

historical positivism instead of an ideological “Totalanschauung” should be given up in this century for a sociological perspective that deals with interests and institutions. Such a reconstruction of the literary history of the Pentateuch shows that P and D have their origins in the preexilic period and reacted to each other during the exilic period representing different schools of priests.

Weinfeld does not use the most decisive argument for an early date of P. All those who follow Wellhausen, dating P late, must answer the question: Why is there, in contrast to the Tetratauch, no P in D? As long as scholars were of the opinion that D was the latest layer in the Pentateuch, there was no problem with this phenomenon. But dating P post-D, it would not be a convincing solution to separate just three or four verses in D for P (Deut [1:3]; 34:[1aα], 7–9). The problem becomes even more precarious if we realize that there is no P in D at all (see Lothar Perlitt, “Priesterschrift im Deuteronomium?” *ZAW* 100 Supplement [1988]: 65–88). As long as adherents of the Graf-Wellhausen hypothesis do not present a convincing solution to this fact, those who date P pre-D have a strong argument on their side (see Eckart Otto, *Das Deuteronomium im Pentateuch und Hexateuch* [FAT 30; Tübingen: Mohr Siebeck, 2000]).

In a last chapter Weinfeld seeks to confirm his early dating of P by a comparison of the Priestly creation theology with that of Deutero-Isaiah, with the result that Isa 40–55 reacted critically to the more mythic creation theology of P.

If we want to evaluate Weinfeld’s arguments we must differentiate. The most problematic arguments are those dating a biblical text by another biblical text, because this kind of argument is always in danger of becoming a vicious circle. Many scholars are of the opinion that Josh 22 is a very late text within the Hexateuch, obviously even post-P, so it cannot be used to prove the existence of the tent as a religious center within early Israel. Also, the comparison of the creation theology of P and Deutero-Isaiah is of this type, because it does not take into account that Isa 40–55 itself had a long literary history also in postexilic times, so that the comparison does not say anything about a preexilic dating of P. The same is valid for linguistic studies that compare the language of P with that of the book of Ezekiel, because this book was rewritten after the exile too.

Of a different quality are those arguments that are built on the comparison of texts in order to find the direction of direct reception. Weinfeld’s thesis that Deut 12 was built on Lev 17 is of this kind. No doubt, at first view there is a strong argument for it because Lev 17 does not differentiate between sacral and profane slaughter, which was an innovation of D. But a closer look at Lev 17 shows that there are also good arguments for the thesis that Lev 17:11, 14 presupposed D (Deut 12:23) and P (Gen 9:3–4), and Lev 17:15 D (Deut 14:21) and the Covenant Code (Exod 22:30). All this favors a late dating

of Lev 17 within the literary development of the Pentateuch. This is underlined by the fact that only the reference to Deut 12 explains the sequence of the sections Lev 17:3–9 and 17:10–14. Proposing that Deut 12 was a source for Lev 17 needs an explanation: Why did the Holiness Code correct Deut 12 and refuse the differentiation between sacrificial and profane slaughter? The answer is that the sacrificial regulations in Lev 17 are connected to the traditions of the camp and the tent that function as a narratological frame (Lev 17:34). And here we arrive at the most decisive point of the controversy between Wellhausen and his followers on the one side and those who contest the Graf-Wellhausen hypothesis, such as Weinfeld. Wellhausen tried to show that in P sacrificial institutions and their regulation were projected into the early period of Israel's wandering in the desert, and he failed, as Weinfeld shows. There was no camp and tent, no Urim and Thummim in the postexilic cultic reality of Israel. However, of the same kind of false conclusion as Wellhausen's projection theory is Weinfeld's attempt to prove camp and tent as historical realities of early Israel as arguments for an early date of P.

Rather, the authors of the Pentateuch gave many hints for the readers to differentiate between a time of narration (i.e., the time of the authors) and narrated time (i.e., the time of the actors in the narratives of the Pentateuch). The tensions and contradictions within the text of the Pentateuch are not a sign of a literary inability of its authors but intended hints for the reader to differentiate between these time levels. So the authors left no doubt that the narrators were living in Cisjordan, although the narratives located the actors in Transjordan and elsewhere. Neither a literary-critical dissolution of the text nor its synchronical harmonization delivers the right answer, but we are to understand that the Pentateuch includes a theory of its own literary origin (see Eckart Otto, "Wie 'synchron' wurde der Pentateuch in der Antike gelesen?" in *Das Manna fällt auch heute noch: Beiträge zum Ersten, Alten Testament. Festschrift Erich Zenger* [ed. Frank-Lothar Hößfeld and Ludger Schwienhorst-Schönberger; HBS 44; Freiburg–Breisgau: Herder, 2004], 470–85). Also, the authors of the Pentateuch and their readers knew that a camp of more than three million Israelites (according to Num 1:46; 3:39) wandering in the desert between Egypt and Palestine was an impossibility on the level of the narrated time. So the readers could realize that the authors were also dealing with their time as the time of the narration.

In Hebrew Bible scholarship we must learn to take the ideas of the Pentateuch of its own origin more seriously instead of our own modern hypotheses of a literary history of the Pentateuch. This does not mean that we have to give them up but rather to adjust them to the Pentateuch's own ideas. This way I hope we can overcome this controversy of one hundred years between Jewish and non-Jewish scholars of projection versus historicity in P and their consequences for dating P pre- or post-D.