

The Origin of the Earliest Edition of Deuteronomy

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SBL AM Boston, Nov 18, 2017, 4 PM

Grand Ballroom EF, Fourth Level – Marriott Copley Place

Abstract

Apart from some pre-exilic sources, Deuteronomy as a composition is post-monarchic in origin. The book was very successful in the templeless, stateless, and kingless times, because it was created in a context without these institutions, which also allowed entirely new ways of thinking. In this paper I will present the main arguments in favor of a post-monarchic Deuteronomy, main counterarguments against it, as well as main alternative theories and their weaknesses.

Introduction

In his 2013 commentary on Deuteronomy, Jack Lundbom writes “Modern research in Deuteronomy — indeed in the entire Pentateuch — builds on the thesis of ... de Wette ... that Deuteronomy was the lawbook found in the temple during the reign of King Josiah.” He continues, “A seventh-century date for Deuteronomy is now widely accepted.”¹ Accordingly, his commentary of more than 1000 pages does not mention alternative theories. Lundbom’s view is common, but not representative of the whole scholarly discussion. Several scholars have argued a post-monarchic provenance at least since the late 19th/early 20th century. In this paper I will focus on the most compelling arguments for late dating, and will question the commonly assumed monarchic provenance.

Although many criticize the quest for dating books as outdated, it is connected to other issues and our broader view on the book’s provenance. Ultimately at issue are the beginnings of many central ideas that gave rise to Judaism. The conventional provenance of Deuteronomy in the time of King Josiah has functioned as a pivotal chronological peg for the Pentateuch and the Historical books. Many other questions are also crystallized in the discussion about the provenance of Deuteronomy.

Instead of exact years, it is a central question whether the document is monarchic or not. This has significant impact on our understanding of its social context and intended

¹ Lundbom, *Deuteronomy*, 2013, 6–7.

message. Reducing the question to two alternatives—monarchic or post-monarchic—we have a better chance of looking at the concrete arguments for both theories.² The main arguments for both theories should be on the table, and neither theory should be the starting point that first needs to be proven incorrect before the alternative can be considered.

Deuteronomy has a very complicated redaction history. My focus is on the earliest edition as a book. Older concepts and sources (such as laws during the monarchy) were certainly used, but I generally agree with Timo Veijola, Reinhard Kratz and many others since early 20th century (e.g., Puukko) that cult centralization was the main issue in the earliest edition. Later redactions turn the focus to the observance of the laws, the other gods, and the covenant, but this is not my interest today.

Post-Monarchic Dating

The theory that Deuteronomy had an essentially post-monarchic (post 587 BCE) provenance had its heyday at the end of 19th and the beginning of the 20th century (e.g., Horst, Eichthal, Vernes, Cullen, Fries, Hölscher, Kennett, Berry). From the more recent scholarship one could mention Erik Aurelius, Reinhard Kratz, Gary Knoppers, and others.

The early scholarship was heavily dependent on inner-biblical reconstructions and connections, as well as dating of other books. Especially Jeremiah or Ezekiel were used to show that Deuteronomy's ideals were not yet known during the time of these prophets, which would imply that Deuteronomy did not exist during their time.³ These models depended on the scholars' reconstructions on the literary history of these books, and one was convinced only if one also adopted the scholar's complicated models of other parts of the Hebrew Bible. Although many arguments presented in early scholarship were sound, they did not gain wider acceptance.

² Any position on Deuteronomy that seeks to make sense of its message and original context needs to have a position. I may merely be implied, but I do not think any scholar with any historical interest in this book can avoid this question.

³ Hölscher, 1922, 233–251, discusses the relationship of Deuteronomy in view of other biblical books.

Approaching the question by more general considerations on the most appropriate setting and trying to avoid inner-biblical or redactional reconstructions, I summarized the most compelling arguments for post-monarchic dating in two papers published in ZAW in 2009 and 2011. Instead of repeating them here, I would like to discuss the most important ones and others that, I believe, question the conventional provenance and suggest a post-monarchic one.

Although cult centralization is key to the earliest edition, it is not stated, where is the intended central location. If Deuteronomy was written in Judah before the destruction of Jerusalem, there would be no reason to be cryptic about the place. Jerusalem had been an important cult site for centuries. A 7th century agenda and document to centralize the cult to Jerusalem would be expected to begin from Jerusalemite temple traditions, such as a foundation myth. One would expect an attempt to demonstrate, why *exactly this site* is to be preferred over all others. There is no hint of such. The cryptic *maqom* opens a variety of possible interpretations as to which site was meant. The ambiguity would undermine the centralization from the outset, as anyone could interpret it to refer to their own site. Deut 27:4, which referred to Mount Gerizim but which is not original to Deuteronomy, is a case in point. Monarchic provenance would be expected to give an unmistakable legitimation to Jerusalem and its temple. The lack of any traditions or *Fortschreibung* building on Jerusalemite traditions concerning the temple imply that the idea of centralization is abstract, and not rising out of a particular cult site and its traditions. It implies a fundamental break with such a specific local tradition, which leads to a provenance postdating 587 BCE.

Nathan MacDonald and others have suggested that the Mosaic presentation could have prevented mentioning Jerusalem. Although it is not clear that Deuteronomy was originally dependent on the Mosaic presentation, for the sake of argument let's assume that it was: Also then, a variety of possibilities can be imagined to mention Jerusalem, for example, predict the selection of Jerusalem as the selected site or otherwise clearly indicate that Jerusalem was meant, *if* indeed it was unequivocally Jerusalem. Biblical authors found a variety of pragmatic ways to convey an important theological message. Genesis presents the etiology of various cult sites, and Deut 27:4, although not part of the early Deuteronomy, refers to Mount Gerizim "in advance." So, I wonder if Mosaic presentation would really be an impassable obstacle to jeopardize the main goal of

Deuteronomy to centralize the cult to Jerusalem. The Mosaic presentation is not the fundamental *reason* for something; it is more like a *consequence* of something. Deuteronomy was cryptic about the cult site, because it was *necessary* in the post 587 BCE context when Jerusalem and its temple lie in ruins. Since no other site was unequivocally the center either, the site was left unmentioned. The idea of centralization may have intended to keep Yahweh's people waiting for a new central cult site, whichever and wherever it would be. In this sense the Mosaic presentation imagines a similar context: there will be a central cult site.

The assumption of a 7th century Deuteronomy dependent on the Mosaic presentation leads to another problem. Why is Deuteronomy mediated by Moses, who is neither a king nor *clearly* a temple priest. He represents an alternative source of authority that potentially competes with the authorities of the existing order. In particular, Moses retains monarchic features without being a king.⁴ His conduct and character are reminiscent of a king; like kings, he is the mediator between Yahweh and Israel. He leads the people and performs mighty deeds. Since he is not a king, his kingly characteristics make him an anti-monarchic figure. In other words, if one argues with the Mosaic presentation of Deuteronomy, as many do, the probability of early Deuteronomy being post-monarchic is increased.

This is connected to a major problem with the monarchic dating of Deuteronomy—regardless of its original dependence on the Mosaic presentation: Its main institutions, the temple and the monarchy, are missing. This applies not only to specific references to these institutions, but also the implied structures of these institutions are missing. For example, priests are missing, although the document regulates the cult.

The *legitimacy* of monarchy and temple are also central issues. A ban of all other cult sites in Judah would evoke much local opposition. The idea would have to be imposed, and this would have necessitated that the temple and monarch in Jerusalem are legitimized by divine authority. With shifting borders and otherwise turbulent times of the late 7th century, the legitimation of these institutions for the whole population is far from self-evident. Even in stable times, a king needs to be constantly legitimized, let alone a newly

⁴ For example, Danny Mathews, *Royal Motifs in the Pentateuchal Portrayal of Moses* (LHBOTS 571; London/New York: T & T Clark, 2012).

introduced cultic order. A ban on local cults without a strong legitimation would hang in the air. Thus, the lack of any attempt to legitimize the main institutions of the monarchic times begs for an explanation.

Although it is an argument from silence to appeal to the lack of a reference to the king, temple, Jerusalem, Judah, and the state, they should not go unnoticed and need an explanation. Mosaic presentation leads to a dead end and more questions. With “imaginative seriousness” (as phrased by MacDonald) one could find a variety of ways to clearly refer to and legitimize monarchic institutions. Unless the monarchy is the starting point that first needs to be proven incorrect, we are seeking for the most appropriate context for this document, and the main institutions—whether implied or explicitly mentioned—are a central element in this quest. Missing is also their criticism, which undermines the suggestion that Deuteronomy would emerge from an opposition group that was fighting against these institutions.

As for the social context of a monarchic Deuteronomy, the author(s) evidently had access and good understanding of laws, which are connected to the monarchy in the ancient Near East. Evident influences from vassal treaties in its later redactions also imply a transmission in circles familiar with state documents. Scribes of the royal house would thus be the most logical group. Since the king is not mentioned and is effectively replaced by Moses, and since the laws and state documents are given a new innovative religious context, this probably took place after the monarchy by royal scribes who had lost their jobs but who were still well acquainted with these documents. These scribes continued the traditions that they were trained in, but they transformed them to function without the king.

That the *factual* authority to interpret Yahweh’s message is essentially given to the scribes in the ensuing *Fortschreibung* implies that they took some of the king’s and temple’s roles as sources of authority. The scribes did not need to legitimize themselves, because they ingeniously were part of the divine message as its keepers and its interpreters. As an implicit institution they are hardly noticeable but they became the *de facto* authority when visible authorities disappeared. Deuteronomy does not necessarily imply a context where the scribes were in any political power, but it suggests a context where the monarchy and temple were not key structures of the existing order. In this respect Deuteronomy is

suspiciously suitable for the situation after 587 BCE, where one had to look for entirely new sources of authority.

That Deuteronomy was accepted by the Samaritan community is not insignificant for the provenance of Deuteronomy. It is incredibly non-Judahite in profile and thus well suited to serve two communities. As Gary Knoppers has pointed out, some kind of compromise or collaboration between the communities has to be assumed, for otherwise it is difficult to explain its non-sectarian character. A Josianic provenance, where the king sought to ban all cult sites that competed with Jerusalem, is not the best context for a compromise document. In comparison, a post-monarchic context *before* the Jewish identities of the two communities had developed in different directions would be a natural background for sharing the same authoritative book, as the basis for a shared new beginning.

The time postdating the destruction of Jerusalem is also a natural context for something entirely new. The destruction of the old order would have necessitated a reorientation of the religion and rethinking of how the society should be organized. During the monarchic times there was continuity of institutions, and in such times dangers to the institutions would have more likely increased conservative tendencies. A radical reorientation of the religion is unlikely in a situation of continuity but likely or necessary when the old order has collapsed.

Consequently, it is probable that the original context of Deuteronomy was a situation when the future of monarchy, temple, Judah, state, and Jerusalem was uncertain. That the institutions are neither implied nor explicitly excluded leads to a post-monarchic provenance. It is most likely a post-monarchic attempt to transform old documents and to find new ways to mediate divine will without the conventional institutions, but also without an overt attempt to reject them.

Monarchic Dating

The conventional Josianic provenance of Deuteronomy has been supported by a large number of scholars since de Wette (e.g., Wellhausen, Bertholet, Driver, Budde, Steuernagel, Puukko, Tigay, Smend, Veijola, Nelson, Irwin, Levin, Levinson, Gertz,

Lundbom; also Otto and Steymans, see below). This theory is essentially based on the thematic affinity between Deuteronomy and 2 Kings 23 and, in part, on the assumption that the lawbook in chapter 22 was a version of Deuteronomy.⁵ The general reliability of Josiah's reform as a historical event are thus assumed.⁶

However, 2 Kings 22–23 is one of the most edited texts of the Hebrew Bible, and numerous attempts to identify a historical core have failed to reach any consensus. Christoph Levin argues that the earliest reference to the reform, which he finds in 23:8a, derives from the Deuteronomistic history writer (also 2 Kings 22:1–2; 23:25a, 28–30), everything else would be even younger, and nothing can be dated to Josiah's time.⁷ Reinhard Kratz finds the oldest core in v. 11–12. These minimalistic reconstructions, which undermine the Josianic provenance of Deuteronomy, have not found general support. Regardless of the exact redaction history of 2 Kings 22–23, the connection between Deuteronomy and 2 Kings 22–23 is found in very late additions, whereas it is uncertain in the earlier stages of these text.⁸ Kings and Deuteronomy both strive for a cult centralization, but the connection and the direction of influence is not clear. The election formula is missing in Kings, while the *Bamot* are missing in Deuteronomy. Levin has rightly noted that no historical theory should be based on such an uncertain and complex text. Without 2 Kings 22–23 the monarchic provenance, let alone Josianic dating, is much less certain.

Nonetheless, other arguments have been put forward for the Josianic or 7th century dating. To me, they mostly seem like attempts to find external support for a view that rises out of 2 Kings 22–23. Levin is an exception in this regard. According to him, Judah had been reduced to the surroundings of Jerusalem in Hezekiah's time by Sennacherib's conquest, which made Jerusalem's temple the unquestioned center; there would have been a *de facto* centralization in the 7th century, and as the political advantages of centralization were realized, this developed into a programmatic centralization in Josiah's time when

⁵ Some scholars reject 2 Kings 22–23 as a good source but still maintain a Josianic dating (thus Levin, 1984, 351). Other scholars, such as Braulik, assume that Deuteronomy is connected to Hezekiah's reform.

⁶ For example, Timo Veijola writes that Deut 12, 17 and 21 are connected to Josiah's reform as a historical event. Many other examples could be given.

⁷ Levin, 2003, 207.

⁸ Kratz, *Komposition*, 136.

the kingdom expanded again to include other sites.⁹ This is certainly an imaginable scenario. However, this theory fails to explain, why a *de facto* centralization needed a programmatic one. A programmatic centralization could also be contra productive for power political interest. The exclusion of local cult sites creates a potential antagonism between Jerusalem and other areas of the kingdom, and we also encounter the issue of legitimacy. Moreover, had a programmatic centralization in the form of Deuteronomy been invented in Josiah's time, one would expect it to have had some impact in the literature of the ensuing decades. In Levin's reconstruction there is no reference to the reform in Kings, and in his revised position, Kings is not necessarily dependent on Deuteronomy.

Other scholars have argued that there is *non*-biblical evidence for religious change in the seventh century BCE, which corresponds with Deuteronomy's dating to this time. Yahweh would have expanded his competences—for example, by adopting solar features—and developed into a monolatric direction. Iconographic seals were common in the 8th century, whereas in the course of the 7th century seals became less iconographic. It has been suggested that this could be linked with the advancing restrictions on religion as demanded in Deuteronomy.

A possibly increased aniconic trend in the seals of the late 7th and early 6th century is certainly to be noted, and it could indicate a religious change in Judah. However, the connection with religion is not clear. It may also be related to the increased appreciation and advance of writing, for example. Moreover, cultic figurines were very popular in the 7th century Judah, and there is *no* decline.¹⁰ There seems to be a decline in figurines after the destruction of Jerusalem, but this is also unclear.¹¹¹² As noted by Erin Darby, “the

⁹ Originally, Levin 1984, 351–354, appealed to the apparent novelty of the idea in Kings (or Deuteronomistic history), which would imply that programmatic centralization had been invented recently. As Kings was written decades after 587 BCE, Deuteronomy should be a bit older. However, the dependence of Kings on Deuteronomy has proved unclear, and therefore Levin has slightly revised his view on this point. Levin has also suggested that only deuteronomic Deuteronomy is in agreement with monarchic religion, but this is a very controversial issue; p. 353: „Die Entstehung des Deuteronomiums in der Joschijazeit ist möglich, weil das Urdeuteronomium sich ohne größere Einschränkungen mit den Bedingungen der vorexilischen Religion vereinbaren läßt.“

¹⁰ See Erin Darby, 393.

¹¹ Izaak de Hulster, *Figurines in Achaemenid Period Yehud Jerusalem's History of Religion and Coroplastics in the Monotheism Debate* (Orientalische Religionen in der Antike 26. Tübingen: Mohr Siebeck, 2017), has argues that figurines continued to be part of the cultic repertoire of Judah in the Persian period.

¹² Darby, 405.

relative dates of the figurines and their stylistic changes do not suggest any correlation with reform movements ... They continue to be produced throughout the supposed Josianic reform and until the destruction of Jerusalem ... they appear to have been totally unaffected by reforms associated with Yahwistic orthodoxy, had such reforms taken place.”¹³ In other words, if one appeals to the decrease in iconography in seals, one also needs to account for the popularity of figurines. They don’t match.

Especially in earlier discussions, archaeological evidence from Arad and Beer-Sheba was brought up in this connection. Yohanan Aharoni argued for two cult reforms at Arad, thus corresponding to those by Hezekiah and Josiah. This evidence turned out to be problematic; the archaeological material was interpreted through biblical lenses, and several scholars question any connection with cult reforms (Knauf, Na’aman, Uehlinger, Fried). Some architectural changes took place in the Arad sanctuary in approximately Hezekiah’s time, but deliberate destruction cannot be substantiated. The altars seem to have been buried carefully and were not used in the 7th century.¹⁴ Careful burial is not necessarily what one would expect on account of 2 Kings 18:4 or 2 Kings 23. A careful burial of altars and cult items also seems to have taken place at Tel Moza, close to Jerusalem, but earlier.¹⁵ It is well possible that sacred objects were buried in order to protect them from a looming conquest, for example in the case of Arad, the one by Sennacherib. Some scholars, such as Ze’ev Herzog, still maintain that the evidence points to a cult reform in the time of Hezekiah, but the Josianic dating seems to be off the table as far as Arad is concerned. At Beer Sheba there is evidence for a reuse of an altar as building material, which indicates that the altar was not in sacral use anymore, but this is still far from evidence for a cult reform, let alone for early Deuteronomy. There are various possible reasons why a cultic space would cease to be used as such. Without 2 Kings 18 and 23 the available archaeological material would hardly lead to assume a cult reform or Deuteronomy.

¹³ Darby, 400.

¹⁴ See discussion in Uehlinger 2005, 287–92; Niehr, 1995, 35; Ussishkin, 1988.

¹⁵ Kislewitz, 2015, 156, writes “The end of this phase is marked by the intentional covering of the fragmented cult artefacts with a thick layer of earth and clusters of plaster. The cult artefacts—along with the altar, refuse pit and podium—were then sealed under later Iron II walls and floors attributed to ‘Building 500’”

[IF TIME: Besides 2 Kings 22–23, other biblical evidence for Josiah’s reform is occasionally mentioned. Rainer Albertz, for example, finds evidence for the reform in the poetical sections of Jeremiah (especially in Jer 5:4–6 and 8:7–8), but these undated texts are very ambiguous. Only with a strong disposition to find evidence for the reform can they be read as such. Some passages in Amos and Hosea have also been used as evidence for Deuteronomistic ideals in the monarchic times, but these texts are heavily edited and their difficulties as even greater than in 2 Kings 23. We are entangled with a web of various texts and their interpretations, but their reliability as evidence is questionably on account of their ambiguity and frequency.]

Hence, heavily dependent on 2 Kings 22–23, we have a theory that Josiah’s time provide the background for a religious reform that potentially challenged the entire religious order [by introducing a radical new idea to prohibit all local cult sites and possibly also some religious practices]. This theory needs to explain, where did these revolutionary ideas come from. As an alternative, we know for certain that the entire religious and political order collapsed some 30 years later, when a radical reorientation was forced by the destruction of the temple in 587 BCE. I doubt that a model, which assumes reforms and a programmatic document to demand them merely 30 years before the catastrophe—as if anticipating the catastrophe and preparing for a templeless and kingless time—is more probable than a model which assumes that the fundamental changes are the result of the catastrophe.

[IF TIME: Eckart Otto and Hans Ulrich Steymans introduced a new aspect to the discussion by pointing out connections between Deuteronomy and Esarhaddon’s vassal treaty. They argued that the connections prove a 7th century dating of Deuteronomy. Since this was the topic of a session last year in this same program unit, I will merely repeat the main point of my criticism. The connection with Esarhaddon’s treaty is not as evident as suggested; another treaty may have been the source; the treaty influence on Deuteronomy is more extensive and implies general familiarity with treaty ideology; and finally, any connections with treaties only show a *terminus post quem*.]

[IF TIME: Deuteronomy’s northern provenance was also discussed in San Antonio, but perhaps a few remarks are in order. A Northern provenance could explain the lack of reference to the temple and monarchy: After Yahweh’s followers—perhaps royal

scribes—from Samaria had lost their main temple in Samaria and their king in 722 BCE, they would have been in a similar position as the Judeans after 587 BCE. However, this theory runs into the following difficulties: There would have been a temple in Jerusalem, and readers would remain puzzled, is it a for or against Jerusalem? An additional problem is, how was it adopted in Judah and when? One would have to assume that some northerners brought Deuteronomy to the south, where it was adopted as their tradition, perhaps sometime in the 7th century. This theory thus leads to the same problems over the conventional Josianic provenance. It offers no advantage over the traditional provenance, and only introduces a complicating factor. Moreover, it is questionable whether the religious elite in Jerusalem would have accepted a program from outside to introduce a religious program which would have replaced Jerusalemite cult traditions. I find this unlikely]

Summary

It is clear that none of the theories is bullet-proof or certain. One has to choose between different models with variable probabilities and arguments. However, the conventional dating cannot be the starting point that first needs to be proven incorrect, before an alternative is considered. In human sciences one can seldom *conclusively* refute any theory, and a failure to acknowledge this favors theories based on the biblical text and disfavor challenges of the biblical conceptions. Instead, we need to evaluate between probabilities. The monarchic dating of Deuteronomy ultimately stands or falls on the historical value of 2 Kings 22–23, but the connection between this text and Deuteronomy is more probably a post-monarchic construction. Apart from this text, the cumulative effect of considerations for post-monarchic dating is rather strong, or at least they should be concretely addressed if the conventional position is maintained. A nihilistic skepticism is a position, but then it should apply to the alternative as well.

Whoever was responsible for the oldest edition of Deuteronomy, the silence over conventional institutions would be a logical when they did not exist and their future was uncertain. By being ambiguous, the scribes had the power of interpretation for a variety of future developments. It also proved to be a very successful formula in uncertain times. On the other hand, it is no wonder that Priestly texts and Chronicles thrived after the

temple was reestablished. Deuteronomy was well equipped for the templeless time, but offered a vacuum in a time when the temple was present again.

Post-monarchic dating also explains how a nearly identical book came to be accepted by two distinct communities. In the time of Deuteronomy's adoption, both were stripped of a strong tradition based on a cult center. This leads to a time after 587 BCE and before the establishment of the temples at Gerizim or Jerusalem in the late 5th century.