


1995

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Recommended Citation

Watts, James W. "Rhetorical Strategy in the Composition of the Pentateuch." *Journal for the Study of the Old Testament* 68 (1995): 3-22.

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Manuscripts and editorial correspondence should be addressed in the first instance to the Senior Academic Editor, Sheffield Academic Press, Mansion House, 19 Kingfield Road Sheffield S11 9AS, England. Production and business correspondence should be addressed to the General Manager at the same address.

SUBSCRIPTION

JSOT appears in Units of four issues per year, approximately 128 pages each. The price, postage included, for Unit 20 (Sept. 1995–Aug. 1996: Issues 67–70) is:

Individuals	£22.50	or	\$39.50
Institutions	£70.00	or	\$120.00

Students may subscribe at the above rates *less* 25%, submitting with their subscription the name and address of their institution.

Printed on acid-free paper in Great Britain by
The Charlesworth Group, Huddersfield

ISSN 0309-0892

[*JSOT* 68 (1995) 3-22]

RHETORICAL STRATEGY IN THE COMPOSITION OF THE PENTATEUCH

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The Hebrew Bible rarely depicts the reading of books or documents, but when it does, it usually portrays public readings of entire law codes. Whether by Moses, Joshua, Josiah or Ezra, law readings to public assemblies play prominent roles in various biblical books.¹ It is not my intention in this essay to discuss Israel's tradition of law readings in depth, but rather to explore its implications for the form of Israel's extant laws as found in the Pentateuch.² The tradition of public law readings points out the *rhetorical* function of law in ancient Israel. The accounts of readings depict these texts as influencing the audience's thoughts and persuading them to alter their behavior.

It is therefore legitimate to describe ancient Israelite law as 'rhetorical' in the narrow definition of the term; that is, as persuasive speech. One may reasonably expect that texts composed for such use would display a concern for oral delivery and aural reception in their structure and contents. To the extent that the Pentateuch preserves the form of ancient Israelite law, one may expect it to also display such concerns.

The word 'rhetoric' also describes the manner in which texts govern the reading process through the manipulation of cultural conventions and expectations which make up literary genre.³ Under this broad

1. Exod. 24.3-7; Deut. 31.9-11; Josh. 8.30-35; 2 Kgs 23.2-3 // 2 Chron. 34.30-31; Neh. 8-9.

2. For discussion of biblical depictions of public law readings, see my 'Public Readings and Pentateuchal Law', forthcoming in *Vetus Testamentum*.

3. So D. Patrick and A. Scult: 'In order to lead to a deeper penetration into the particularity and concreteness of the text, the "rhetoric" in rhetorical criticism must be broadened to its fullest range in the classical tradition, namely, *as the means by which a text establishes and manages its relationship to its audience in order to*

definition, every text is rhetorical in nature and Pentateuchal law is no exception.

However, between the narrow and broad definitions lies a middle ground, in which 'rhetoric' describes the features of texts which, though not themselves intended for oral delivery, are composed under the influence of conventions and genres shaped by persuasive speech. In this sense, rhetoric describes the way oral practices influence conventions of written genres. Although the Pentateuch and its various parts (like all texts) are rhetorical in the broad sense, my contention is more specific: Israel's tradition of reading law in public (narrow sense of rhetoric) gave shape to literary conventions and genres (intermediate sense of rhetoric) which governed the combination of law and narrative in the Pentateuch.

Rhetoric in Biblical Studies

The treatment of law and the narrow sense of rhetoric (meaning persuasive speech) in the Hebrew Bible has generally been the concern of form- and tradition-critical analysis of legal speeches, mostly in narrative and prophecy.⁴ Of the law codes, Deuteronomy has received the most attention for its overt rhetorical formulation as Moses' speech.⁵ The Holiness Code of Leviticus has also drawn attention because of its oral formulas and motive clauses.⁶

One particular phase of study drew on the similarities between Hittite suzerainty treaties and the Sinai covenant to emphasize the role of covenant renewal ceremonies.⁷ Instances of public readings of law were

achieve a particular effect' (*Rhetoric and Biblical Interpretation* [JSOTSup, 82; Sheffield: JSOT Press, 1990], p. 12; Patrick and Scult's emphasis).

4. E.g. H.J. Boecker, *Redeformen des Rechtslebens im Alten Testament* (WMANT, 14; Neukirchen-Vluyn: Neukirchener Verlag, 1964).

5. Most famous is G. von Rad's theory of Deuteronomy's origin in the preaching of northern Levites (*Studies in Deuteronomy* [trans. D. Stalker; SBT 9; London: SCM Press, 1953]). M. Weinfeld argued that the book reflects the didactic rhetoric of the sages and their wisdom literature (*Deuteronomy and the Deuteronomistic School* [Oxford: Oxford University Press, 1972], pp. 51-58, 171-78).

6. E.g. von Rad, *Studies in Deuteronomy*, pp. 25-36; H. Graf Reventlow, *Das Heiligkeitgesetz formgeschichtlich untersucht* (WMANT, 6; Neukirchen-Vluyn: Neukirchener Verlag, 1961).

7. G.E. Mendenhall, 'Covenant Forms in Israelite Tradition', in E.F. Campbell, Jr and D.N. Freedman (eds.), *Biblical Archeologist Reader*, III (Garden City: Doubleday, 1970), pp. 25-53.

taken as allusions to such ceremonies. Recent decades have brought challenges to the historicity of the covenant renewal ceremonies and the antiquity of the idea of covenant itself.⁸ This debate nevertheless shows that historical introductions to law codes and conclusions consisting of blessings and curses reflect the *rhetorical* nature of the compositions.⁹ Deuteronomy makes this explicit by placing the whole complex of historical recital, exhortation, law, blessings and curses into Moses' farewell speech on the plains of Moab. But any public reading of law needs some sort of rhetorical introduction and conclusion. In Israel that was likely to take the form of narrative, in fact of a particular narrative due to the consistent association of law with the revelation at Sinai. Whatever the influence of suzerainty treaties, then, Mendenhall was right to claim that 'what we now call "history" and "law" were bound into an organic unit'.¹⁰

Rhetorical study in the broad sense is for the most part indistinguishable from synchronic literary criticism.¹¹ Such methods have only occasionally been applied to the Hebrew Bible's legal texts, either as part of synchronic readings of the Pentateuch as a whole or through detailed

8. For a survey of research, see E.W. Nicholson, 'Covenant in a Century of Study since Wellhausen', *OTS* 24 (1986), pp. 54-69.

9. Other rhetorical models besides suzerainty treaties have been proposed for this combination. C.M. Carmichael pointed out Deuteronomy's affinities with the Wisdom genres of 'instruction' and the farewell speech, both of which take the rhetorical form of a father addressing his children. This model has a set structure: 'reflections on the past lead to predictions and directions for the future' (*The Laws of Deuteronomy* [Ithaca, NY: Cornell University Press, 1974], p. 25).

10. Mendenhall, 'Covenant Forms', p. 45. His concluding phrase, 'from the very beginnings of Israel itself', is more debatable since the antiquity of both narratives and laws is open to question.

11. J. Muilenburg advocated the application of rhetorical criticism to the historical and comparative study of the Hebrew Bible as a methodological complement to source and form studies ('Form Criticism and Beyond', *JBL* 88 [1969], pp. 1-18, repr. in P.R. House [ed.], *Beyond Form Criticism: Essays in Old Testament Literary Criticism* [Winona Lake, WI: Eisenbrauns, 1992], pp. 49-69). His successors have tended to limit the method to synchronic literary analysis (for surveys of developments, see M. Kessler, 'A Methodological Setting for Rhetorical Criticism', in D.J.A. Clines, D.M. Gunn and A.J. Hauser [eds.], *Art and Meaning: Rhetoric in Biblical Literature* [JSOTSup, 19; Sheffield: JSOT Press, 1982], pp. 1-19; T.B. Dozeman, 'OT Rhetorical Criticism', *ABD*, V, pp. 712-15). The present study addresses rhetoric not because of any prior methodological commitments but out of recognition of the intrinsically rhetorical nature of public law readings in ancient Israel.

literary study of particular collections of laws.¹² Synchronic studies argue that the laws are integrated components of the literary structure of the Pentateuch.

Form-critical studies have taken seriously the differences between the genres and rhetorical impact of law and of narrative, and as a result have treated them separately. Literary studies have taken seriously the common setting of laws and narratives in the same texts, and in the process have tended to blur the differences between them. Methods of analysis which recognize both the rhetorical distinctiveness of law and narrative and the rhetorical impact of their combination have been rare in biblical studies.

The Rhetoric of Story, List and Divine Sanction

Classical rhetorical theory has contributed a great deal to the study of the literatures of early Judaism and Christianity in the Hellenistic and Roman periods. Its application, however, to the pre-Hellenistic literatures of the Hebrew Bible and ancient Near East has been far more limited, probably due to the lack, in D. Patrick and A. Scult's words, of a 'manifestly rhetorical culture from which the Hebrews could have borrowed the idea of artfully casting their religious texts as persuasive discourse'.¹³

At this point, another definition of 'rhetoric' confuses the issue, namely, rhetoric as the *theory* of persuasive speech. There is no evidence of the existence of traditions of rhetorical theory prior to their development in Athens in the fifth and fourth century BCE. That observation, however, says nothing about the *practice* of rhetoric, either narrowly defined as persuasive speech or broadly defined as the literary forms of persuasion in the cultures and texts of the ancient Near East. In fact, the extant literature of pre-Hellenistic Near Eastern cultures shows pervasive signs of the practice of oral and written persuasion, such as the admonitions of wise sages, the propaganda of kings, and the warnings and

12. See T.W. Mann, *The Book of the Torah: The Narrative Integrity of the Pentateuch* (Atlanta: John Knox, 1988); J.H. Sailhamer, *The Pentateuch as Narrative: A Biblical-Theological Commentary* (Grand Rapids: Zondervan, 1992); H.D. Bracker, *Das Gesetz Israels* (Hamburg: Rauhen Hauses, 1962); J.M. Sprinkle, *'The Book of the Covenant': A Literary Approach* (JSOTSup, 174; Sheffield: JSOT Press, 1994).

13. Patrick and Scult, *Rhetoric*, p. 30.

threats of priests and prophets.¹⁴ To the extent that rhetorical theory speaks of general and universal characteristics of oral and literary persuasion, it applies to ancient Near Eastern texts as much as to the texts of later cultures.

Does rhetorical theory provide insight into the general issue of how narrative and law interact for purposes of persuasion? As it happens, classical and modern rhetorical theory has been quite concerned with the combination and relative merits of both narrative and non-narrative modes of persuasion.

Theories of List and Story

Theorists of rhetoric have argued since classical times over the use of narrative as a persuasive strategy, with *story* usually being subordinated to more analytical modes of argumentation. J. O'Banion blamed Aristotle for the de-emphasis on narration in Western thought in general and in rhetorical theory in particular:

Since to him the essence of an argument was 'to state a case and to prove it', Aristotle accordingly considered narratio and all 'introductory' matters to be 'superfluous' or for 'weak' audiences (*Rhetoric* 3.13-14)... Such concerns were unfortunate tasks preliminary to proceeding with what, at least to him, really mattered—the reasons and the evidence.¹⁵

The importance of narrative was re-established by the Roman orators, Cicero and Quintilian, who argued that the narrative of events was essential to establishing one's case.¹⁶ O'Banion supposed that narration required more discussion by the Romans because, in the increasingly literate culture, storytelling capacity could no longer be taken for granted.¹⁷

The Romans...developed 'the method of *mythos*' as a counterpoint to 'the method of *logos*'. They made explicit the dialectic that was, in Greek rhetoric, used but not explicitly recognized. To be more precise, Cicero

14. For discussions of classical theory as descriptive of universal rhetorical phenomena, see G.A. Kennedy, *New Testament Interpretation through Rhetorical Criticism* (Chapel Hill, NC: University of North Carolina Press, 1984), pp. 10-12; Patrick and Scult, *Rhetoric*, pp. 29-32.

15. J.D. O'Banion, *Reorienting Rhetoric: The Dialectic of List and Story* (University Park, PA: Pennsylvania State University Press, 1992), p. 52.

16. *Reorienting Rhetoric*, p. 54.

17. *Reorienting Rhetoric*, p. 59.

developed the method of mythos giving new significance to narratio, and Quintilian recognized that the arts of mythos and logos constitute a dialectic.¹⁸

O'Banion demonstrated, however, that the influence of Aristotle persisted in Western culture, with the result that the narrative methods of argumentation were disassociated from the analytical methods of reason and proof, and usually isolated within the separate discipline of literary theory.¹⁹

Drawing heavily on the works of Kenneth Burke, O'Banion argued that logic is but one manifestation of the *list*, which 'underlies all modes of systematic expression'.²⁰

Rendered as tallies, recordings of the movements of the stars, word lists, dictionaries, or codified laws, the list is a powerful tool for arranging and disseminating isolated pieces of information. It also comes to arrange and, to a considerable degree, dictate the nature of the lives of those who are affected by lists.²¹

But the list is not self-explanatory. It requires justification and explanation from narrative. 'With the additional perspective of narration, one is able to comprehend not only any items listed but also possible reasons for and implications of a list's very existence'.²² Persuasion depends on the combination of list and story.

O'Banion's argument was prescriptive in nature, wishing to correct the disjunction in Western culture between oral thought, as exemplified by narrative, and literate thought, exemplified by lists.²³ From the perspective of the study of ancient literature, it seems doubtful that narratives are intrinsically any more 'oral' in origin than are lists.²⁴ The

18. *Reorienting Rhetoric*, p. 96.

19. Because biblical criticism is more akin to literary theory than to philosophical logic, the valuation of list over story which O'Banion deplors has been reversed in Pentateuchal studies; the stories have received more attention and interest than the lists. This tendency is naturally most obvious when literary critics discuss the Pentateuch: 'Exodus, Leviticus, Numbers, and Deuteronomy... are by far the least inspiring and the least interesting books in the whole Bible' (J.C. Powy, *Enjoyment of Literature* [New York: Simon & Schuster, 1938], p. 16).

20. *Reorienting Rhetoric*, p. xiv.

21. *Reorienting Rhetoric*, p. 12.

22. *Reorienting Rhetoric*, p. 13.

23. *Reorienting Rhetoric*, p. xiv.

24. In making these distinctions, O'Banion depended on literacy studies by classicists and anthropologists which are increasingly being questioned within their

validity, however, of O'Banion's prescriptive agenda is irrelevant to the understanding of the rhetorical function of biblical law, and its evaluation can safely be left to others. For present purposes, certain *descriptive* aspects of O'Banion's rhetorical theory are most applicable.

O'Banion, following Cicero and Quintilian, defends the necessity of narrative in part because story is already juxtaposed with list in many speeches and texts. This juxtaposition is characteristic not only of the legal speeches with which the Romans were most concerned, but also of other kinds of persuasive texts from ancient Near Eastern and Mediterranean cultures. Thus the rhetorical theory espoused by O'Banion and his Roman predecessors describes and explains a prominent feature of ancient literary traditions. It also explains why the juxtaposition of law and narrative, list and story, has been met with consternation by Western interpreters trained by Aristotelian rhetoric to separate one from the other, a tendency amply evident in modern Pentateuchal studies, among other disciplines.

Story and List in Ancient Literature

Well-known examples of the combination of story and list are found in Hittite treaties of the late second millennium BCE. Historical prologues emphasizing the 'benevolence' of the overlord towards the vassal usually precede the lists of stipulations to which the vassal is bound.²⁵ The history-stipulation sequence of the treaties functions rhetorically to remind vassals of the past situation (whether military, legal or personal) and persuades them to remain loyal to their overlord by fulfilling the treaty's stipulations. The obviously one-sided accounts of the overlord's benevolence implicitly promise continued favor if the vassal upholds the treaty stipulations (and punishment if the vassal does not) and thereby intend to motivate compliance and dissuade rebellion.²⁶

own fields. For a re-examination of the impact of literacy on ancient Greek culture that suggests very subtle interactions between culture and literacy that defy broad generalizations, see R. Thomas, *Literacy and Orality in Ancient Greece* (Cambridge: Cambridge University Press, 1992).

25. On the structure of Hittite and other ancient treaties, see D.J. McCarthy, *Treaty and Covenant: A Study in Form in the Ancient Oriental Documents and in the Old Testament* (AnBib, 21A; Rome: Biblical Institute Press, 2nd rev. edn, 1981).

26. 'The history, then, is no objective recounting of what has happened. It has strong parenetic interests. It exhorts rather than merely informs...this hortatory tendency extends into the expression of the terms' (McCarthy, *Treaty and Covenant*, p. 53).

The rhetoric of story and list shapes other ancient texts in which the persuasive intent is less obvious than in the treaties. Narrative frameworks encase early second millennium BCE law codes from Mesopotamia, such as those of Lipit Ishtar and Hammurabi, and emphasize the king's accomplishments, justice and religiously sanctioned authority.²⁷ S.M. Paul noted: 'The prologue and epilogue of [the laws of Hammurabi] may be understood as one grand auto-panegyric to bring the attention of that deity to bear upon the deeds and accomplishments of the king'.²⁸ He concluded that such religious self-characterization was the primary purpose for the law-codes themselves.

The Karatepe inscription of Azitawadda of the Phoenician city of Adana (early first millennium BCE) rehearses at length the king's accomplishments, which include defense of the borders, suppression of outlaws, the building of 'this' city, and the establishment in it of a Baal cult, and then describes a brief cult calendar: 'A sacrific(ial order) was established for all the molten images: for the yearly sacrifice an ox, at the [time of pl]owing a sheep, and at the time of harvesting a sheep'.²⁹ The rhetorical force of the inscription resembles that of the Hittite treaties: the king's actions on behalf of the citizens oblige them to fulfill the sacrificial requirements of the inscription, though the military threat implicit in the treaties is not obvious here.³⁰

Another example, a fifth or fourth century BCE Greek dedicatory

27. *ANET*, pp. 159-80. According to S.M. Paul, 'The prologue and epilogue represent the literary framework which encases the body of the legislation. This tripartite division is a traditional one, first occurring in the reforms of Urukagina and Gudea, and found later in legal collections, treaties, and even in late historical prisms' (*Studies in the Book of the Covenant in the Light of Cuneiform and Biblical Law* [Leiden: Brill, 1970], p. 10). The combination of historiographic narrative with law for the purpose of characterizing the king appears also in medieval English legal manuscripts (M.P. Richards, 'The Manuscript Contexts of the Old English Laws: Tradition and Innovation', in P.E. Szarmach [ed.], *Studies in Earlier Old English Prose* [Albany, NY: SUNY Press, 1986], pp. 173, 187). This medieval practice may well have been influenced by the example of biblical law in narrative settings.

28. *Studies*, p. 23; see also p. 26.

29. *ANET*, pp. 653-54.

30. The curses which conclude the inscription do not mention failure to maintain the sacrificial order, concentrating instead on the future mutilation of Azitawadda's commemorative gate (*ANET*, p. 654, which therefore classifies this as a building inscription). Thus his rhetoric does not aim narrowly at the cult calendar, but more generally at the preservation of all of his accomplishments in the city, both architectural and cultic.

inscription found in Sardis in Asia Minor, demonstrates the influence of cultic instructions grounded in the story of a cult's establishment. The text records the erection of a statue of Zeus by Droaphernes, Persian hyparch in Lydia, and his command prohibiting this temple's priests from participating in the 'mysteries' of other local deities. The inscription's purpose, however, was not to commemorate the cult's founding but rather to record the stipulation's fulfillment by one Dorates.³¹ Though this text only alludes to the story of the cult's establishment rather than narrating it, it shows the persuasive effects on Dorates of an antecedent rhetoric of list and story.

My point is not to argue for a necessary connection between story and list in these or any other ancient genres. Treaties may lack historical prologues,³² later Akkadian law codes do not use narrative frames,³³ building inscriptions usually lack any stipulations or instructions,³⁴ and inscriptions of cultic instructions may merely allude to the conditions of their establishment.³⁵ Rather, the above examples illustrate the persuasive force of story and list when used in combination and therefore point to the rhetorical purpose behind that combination when it does occur.

This emphasis on rhetorical strategy distinguishes my thesis from attempts to establish the genre of the Pentateuch or its component parts on the basis of similar literary patterns in other ancient Near Eastern texts (such as Hittite treaties).³⁶ The combination of story and list

31. P. Frei, 'Zentralgewalt und Lokalautonomie im Achämenidenreich', *Reichsidee und Reichsorganisation im Perserreich* (Freiburg: Universitätsverlag, 1984), pp. 19-21; Greek text on p. 34 n. 47.

32. McCarthy summarized his comparative survey of treaties as follows: 'Thus the historical section is almost confined to the Hittite treaties, while a great emphasis on curses and the use of substitution rites characterize the treaties from Assyria and Syria' (*Treaty and Covenant*, p. 141).

33. This pattern does not appear in Middle Assyrian, Hittite or Neo-Babylonian legal collections (Paul, *Studies*, p. 11 n. 5).

34. E.g. the inscriptions of Kilamuwa, Zakir and Yehawmilk (*ANET*, pp. 653-56), to mention only a few.

35. E.g. the Greek Xanthos (Letoon) inscription of 358 or 337 BCE and the Punic tariffs found at Marseilles and Carthage begin by simply listing those who decided on the cult and/or its rules. For the Xanthos inscription, see A. Dupont-Sommer, 'L'inscription araméenne', in H. Metzger (ed.), *Fouilles de Xanthos, tome VI: la stèle trilingue du Létôon* (Paris: Librairie C. Klincksieck, 1979), pp. 129-78; Frei, 'Zentralgewalt', pp. 12 and 29 n. 13; for the Punic tariffs, *ANET*, pp. 656-57.

36. So Mendenhall, 'Covenant Forms'; M.G. Kline, *Treaty of the Great King: The Covenant Structure of Deuteronomy* (Grand Rapids: Eerdmans, 1963);

appears too widely and too unpredictably to be regarded as a distinguishing feature of a particular genre.³⁷ It should rather be regarded as a strategy of persuasion employed by many cultures in a variety of literary genres for the purpose of convincing readers and hearers of the document's, or its writer's, authority.

Persuasion depends, according to O'Banion and his Roman predecessors, on the correlation of the desired result with the narrative of its origins; of the proof with the statement of the case; of the list with the story. The story alone may inspire, but to no explicit end. The list alone specifies the desired actions or beliefs, but may not inspire them. It is the combination of both together that maximizes the persuasive effect of a speech or text. The texts reviewed above suggest that this practical insight shaped the composition of at least some persuasive rhetoric long before the classical theorists analyzed its nature.

The Rhetoric of Divine Sanction

In many of the above examples of persuasive texts, there is another common element besides list and story: divine enforcement is invoked through blessings and curses. Ancient texts frequently invoke divine powers to strengthen their persuasive appeal, a rhetorical device of which the classical theorists disapproved.

Treaties typically conclude by both invoking deities as witnesses and by pronouncing blessings on those who keep the treaty's stipulations and curses on those who do not. The blessings and curses are relatively brief in the Hittite documents, but the curses become longer and more elaborate in the Assyrian treaties of the eighth to seventh centuries BCE.³⁸

Many other kinds of texts appeal to deities to enforce their wishes. Hammurabi's laws conclude with a long string of blessings and curses.³⁹ Ancient Near Eastern commemorative inscriptions regularly curse those who might in the future disturb the architectural or inscriptional achievements of their writer.⁴⁰ So it was that Azitawadda concluded the

McCarthy, *Treaty and Covenant*; Weinfeld, *Deuteronomy and the Deuteronomistic School*. For a critical survey of the issue, see Nicholson, 'Covenant', pp. 54-69.

37. Though in Israel's culture it did become a typical feature of Torah.

38. McCarthy, *Treaty and Covenant*, p. 121; Weinfeld, *Deuteronomy and the Deuteronomistic School*, pp. 116-46.

39. *ANET*, pp. 178-80.

40. For a summary of typical formal elements, see A.K. Grayson, 'Histories and Historians of the Ancient Near East: Assyria and Babylonia', *Or* 49 (1980), pp. 151-54.

Karatepe inscription with a typical juxtaposition of promise and threat.⁴¹ Greek dedicatory inscriptions also employ this device. The Xanthos inscription, which records the establishment in Asia Minor under Persian authority of a temple cult and its laws in the fourth century BCE, concludes with eight lines of curses (out of a total of twenty-seven lines in the inscription).⁴² Greek laws, inscribed in the vicinity of temples to emphasize the deity's authorization of the law, threaten divine enforcement with curses.⁴³ Foundation ceremonies and their written memorials usually incorporate blessings and curses as a structural element.⁴⁴

In the dialectic of story and list, blessings and curses may look like another form of list. Their rhetorical force, however, differs considerably from that produced by lists of laws, stipulations, or instructions. The latter address beliefs and behavior, whereas appeals to divine authorizations and threats aim at motivation.

The persuasive intent behind such texts is undisguised in the blessings and curses. J. de Romilly has surveyed classical theorists' misgivings about the rhetorical use of such 'sacred magic'.⁴⁵ From Isocrates and Aristotle in the fourth century onwards, theorists emphasized rationality as the key to saving rhetoric from being merely a technique for manipulating emotions.⁴⁶ For such theorists curses and incantations, like narrative, threaten to overwhelm an audience's capacity to reason by arousing irrational and supernatural concerns.⁴⁷ The rhetorical power of

41. *ANET*, p. 654; cf. the concluding blessings and curses of other inscriptions on pp. 653-56.

42. Frei, 'Zentralgewalt', pp. 12, 29 n. 13.

43. New legislation was, according to R. Thomas, particularly likely to invoke religious threats: 'The monumental stone inscription was perhaps at first an attempt to give new political and procedural laws the weight and status—and, most important, divine protection—that was already accorded the unwritten laws' (*Literacy and Orality*, p. 72; see also pp. 145-46).

44. Summarized by M. Weinfeld, *Deuteronomy 1-11* (AB, 5; Garden City, NY: Doubleday, 1991), pp. 10-12.

45. J. de Romilly, *Magic and Rhetoric in Ancient Greece* (Cambridge, MA: Harvard University Press, 1975). She uses the phrase 'sacred magic' to describe rites such as incantations, curses, and so on, in cultures like pre-classical Greece which did not discriminate clearly between religion and magic (pp. 4-6). Curses, of course, form a widely attested inscriptional genre on their own (see *ANET*, pp. 326-29; J.G. Gager [ed.], *Curse Tablets and Binding Spells from the Ancient World* [New York: Oxford University Press, 1992]).

46. De Romilly, *Magic*, pp. 70-75.

47. For Plato, sophistic rhetoric generated illusions just like magic, and his hatred

divine sanctions is thus evident in the writings of classical theorists, not from their use of them, but from their antipathy towards them.

So a full description of the above texts' rhetorical force should emphasize three interdependent elements: story, list and divine sanction.

Pentateuchal Rhetoric

The Pentateuch presents laws in three separate collections. This triple depiction of law is evident in a literary survey and has been re-emphasized by historical research into the differences and relations between them. Each of these presentations exhibits the characteristic features of ancient persuasive rhetoric surveyed above.

The Sinai Covenant

The rhetoric of persuasion structures the presentation of the Sinai covenant in Exodus. Narrative introductions and conclusions emphasize speeches specifying Yahweh's past benevolence towards Israel (19.4-6) and the people's repeated agreement to the covenant's obligations (19.8; 24.7), while a narrative interlude points out that Moses' role as mediator, and hence his authority as law-giver, is instated at the people's request (20.18-20). These stories serve to (1) establish Yahweh's legitimacy on the basis of past and present events, (2) ground Israel's legal obligations on communal self-committal, and (3) explain and authorize Moses' role as mediator on the basis of the people's request. Stories thus legitimate the origins, and the application to Israel, of the lists of laws.

The laws specify the nature of Israel's obligations. The structures of both the Decalogue and the Book of the Covenant suggest that the thrust of these obligations is dual: religion and ethics (though the categories overlap in many instances). The Decalogue begins with religious requirements (Exod. 20.3-11), and then turns to ethical obligations (vv. 12-17). Prohibitions of images and rules for altars similarly begin the Book of the Covenant (20.23-26), but ritual calendars also conclude its stipulations (23.10-17, followed by three ritual laws in vv. 18-19).

of the rhetoric expressed itself in the terminology of magic (e.g. *Euthydemus* 288b). This accusation of magical practices was a serious charge in fourth-century Greece, when people associated with witchcraft, incantations and 'immoral cults' were prosecuted (de Romilly, *Magic*, p. 27). Plato's views on the negative effects of magical curses appear in the *Republic* II 364b-c, and the *Laws* XI 933a (Gager, *Curse Tablets*, pp. 249-50).

In between appear casuistic laws governing civil and criminal behavior, with only an occasional ritual stipulation mixed in (22.20, 28-31). The lists thus specify the implications of the story: the people of Israel have obligated themselves to an exclusive relationship with Yahweh and to ethical dealings with each other and with strangers.

The concluding divine sanctions motivate the people's compliance with the covenant stipulations. Exodus 23.20-33 makes obedience to the messenger of Yahweh a condition of Israel's success in conquering and settling the land of Canaan. Occasional threats (vv. 21, 33) do not disrupt the overall theme of promise in this exhortation. The fact that the object of obedience is Yahweh's messenger, rather than the law as in Leviticus and Deuteronomy (see below), has occasioned theories of diachronic development in this text.⁴⁸ As the text stands, however, these promises contingent on obedience to Yahweh refer to the previous and subsequent stories of deliverance, summed up in the figure of Yahweh's messenger (cf. Exod. 14.19), and thus ground the promise of future success in the experience of past deliverance. Since the stories of past deliverance are used to legitimate the law (19.4-6), the effect is the same as if the promise was conditioned directly on obedience to the law: obedience to Yahweh's messenger and obedience to Yahweh's law (related through the mediator, Moses) are implicitly equated.⁴⁹ When read together, the divine sanctions join the stories and lists of laws in a rhetoric of persuasion to motivate assent and compliance.

Exodus 19-24 thus falls generally into the pattern observed in some other ancient texts of persuasion: stories introduce lists which conclude with divine sanctions. The major difference is that in Exodus, story surrounds the lists and sanctions rather than just introducing them. Third-person narration encompasses the other genres which are cast as direct speech. This difference shows once again that the combination of story, list and divine sanction is not characteristic of any one genre or literary convention, but is rather a rhetorical strategy adapted to various

48. G. Beer, *Exodus* (HAT, 3; Tübingen: Mohr [Paul Siebeck], 1939), p. 121; M. Noth, *Exodus* (tr. J.S. Bowden; OTL; Philadelphia: Westminster, 1962), p. 192; B.S. Childs, *The Book of Exodus: A Critical, Theological Commentary* (OTL; Philadelphia: Westminster Press, 1974), p. 486.

49. An old interpretive tradition has equated the מַלְאָךְ, 'messenger', not with an angel as usually translated, but with Moses (Maimonides, *Guide for the Perplexed*, 2.34; cf. Childs, *Exodus*, p. 487). Most recent commentators find the parallel usage of the term for a supernatural messenger in Exod. 32.34 and 33.2 too strong a precedent to deny that meaning here.

ancient genres and literatures. Here, Israel's writers adapted this strategy to the conventions of Hebrew literature, which uses direct speech to incorporate inset genres within a narrative frame.⁵⁰

Levitical Law

The rhetorical context of the priestly legislation is more difficult to describe because the unit's literary boundaries are less obvious. Its usual delineation as Exodus 25–Numbers 9 makes sense on the grounds of style and content, but ignores the fact that this material shares the same temporal and physical setting as the preceding chapters.⁵¹ P's Sinai material in its present form seems to have been shaped with the content of the entire Pentateuch in mind, with the result that its rhetorical force depends more heavily on the wider context than is the case with either the earlier Exodus legislation or with Deuteronomy.

The dominant organizing principle in the priestly legislation is list, not story. Three kinds of lists follow each other in succession: instructions for building the Tabernacle (Exod. 25–31), continued and partially repeated by the list-like narrative of the fulfillment of these instructions (chs. 35–40); laws and regulations, which themselves divide into three literary blocks consisting of sacrificial regulations (Lev. 1–7), purity rules (Lev. 11–16) and laws of the holy community (Lev. 17–27); and census lists and rules for religious personnel (Num. 1–9). The lists describe the ideal cult and ideal community; that is, they describe Israel as it should be. The whole complex of lists bifurcates into those pertaining to the cult, whose physical description (Exod. 25–31, 35–40) precedes the rules for its operation (Lev. 1–7), and those pertaining to the whole community, whose rules for operation (Lev. 11–27) precede its physical

50. For the application of this convention to genres of inset poetry, see J.W. Watts, "This Song": Conspicuous Poetry in Hebrew Prose, in J.C. de Moor and W.G.E. Watson (eds.), *Verse in Ancient Near Eastern Prose* (AOAT, 42; Neukirchen-Vluyn: Neukirchener Verlag, 1993), pp. 345–58; and *Psalm and Story: Inset Hymns in Hebrew Narrative* (JSOTSup, 139, Sheffield: JSOT Press, 1992).

51. As a result, the literary structure of these books lends itself to a variety of analyses. Compare, for example, the description (which takes seriously the divisions between books) of Exod. 25–31 as the cultic laws matching the civil legislation in Exod. 21–23 (so Mann, *Book of the Torah*, pp. 102–103), with the analysis (based on the stylistic distinctives of the priestly source) of Exod. 25–31 as the physical description of the cult matched in Lev. 1–7 by the rules for its operation (so E. Blum, *Studien zur Komposition des Pentateuch* [BZAW, 189; Berlin: de Gruyter, 1990], pp. 300–301).

description (Num. 1–7).⁵² The rhetorical force of the lists derives from a constant focus on the ideal; that is, from the persuasive power of a vision of cult and people structured for communion with God. Among the lists, the laws of Leviticus distinguish themselves by their normative force: whereas the Tabernacle instructions and the census lists describe past achievements only, the laws and ritual instructions bind readers to the task of maintaining the ideal cult and community that were first created at Sinai. The laws thus hold out to readers the goal of achieving or maintaining the ideal in their own day. According to the lists of Leviticus, a well-ordered temple service and holy community remain the necessary and sufficient conditions for God's presence in the midst of Israel.

Amid the lists' dominant rhetoric of ideals, interposed narratives warn of dangers which threaten the divine-human communion. The story of the golden calf (Exod. 32–34), placed between the Tabernacle's building instructions and the account of their fulfillment, narrates the subversion of Israel's cult into idolatry even before its institutions have been constructed. The incident threatens the existence of the people as a whole (Exod. 32.9–14) and the less dire outcome nevertheless emphasizes the close connection between ritual observances and Israel's endurance as a people (in the 'ritual decalogue', 34.10–27). The story of the cult's inauguration (Lev. 8–10), placed between sacrificial regulations and the community's rules of purity, narrates the fulfillment of the priestly ideal in the Tabernacle worship. The achievement is authenticated by divine fire on the altar (9.24), and then is immediately threatened by priestly malpractice and Yahweh's fiery retribution (10.1–3). Thus both sets of narratives emphasize that observant maintenance of the cult preserves the people's standing before God, and thereby the community's social and political viability also. Threats to this divine-human communion, however, appear immediately and persistently, and resistance requires the vigilance of priests and people alike (Exod. 34.11–16; Lev. 10.8–11).

Divine sanctions play a major structural role at the end of Leviticus, repeating the idealistic promise of the lists but emphasizing even more the dangers highlighted by the narratives. Leviticus 26 specifies the blessings resulting from observance of the commandments (vv. 3–13), summing them up in the promise of God's dwelling with Israel (vv. 11–12). But the curses resulting from disobedience receive more space and chronicle the various disasters that can afflict individuals and nations, up

52. Blum, *Studien*, p. 302.

to and including exile (vv. 14-39). Unlike the story of the golden calf, however, Leviticus 26 explicitly excludes the ultimate threat of nullifying Israel's covenant relationship with Yahweh: repentance will always be met by God's mercy, even in exile (vv. 40-45). The blessings and curses that conclude Leviticus thus encapsulate the rhetoric of ideals and threats emphasized by the preceding lists and stories respectively, but end by synthesizing this dialectic into a vision of Yahweh's eternal faithfulness to the covenant. As a result, the idealism of the priestly legislation becomes more than a statement of obligations enforced by threats; it unveils a vision of hope grounded in Yahweh's covenant commitment to Israel. The priestly writers and editors thus used the rhetoric of list, story and divine sanction to persuade their readers and hearers of both the serious consequences of human actions and the constancy of divine mercy.

Deuteronomy

The book of Deuteronomy presents the most obvious biblical example of the rhetorical use of story, list and divine sanction. Cast for the most part as a speech by Moses to the Israelites prior to his death, Deuteronomy is not only explicitly rhetorical (in the narrow definition of the term), it alone of the Pentateuchal books combines story, list and divine sanction in a single voice. The interplay of the various rhetorical elements is therefore most apparent in this book, as is its evident structural similarity to other ancient Near Eastern texts which employ the rhetoric of list, story and divine sanction.⁵³

The mix of narrative and exhortation that begins and ends Moses' speech repeatedly grounds the people's present and future obedience in Israel's past experience, which illustrates not only Yahweh's acts of mercy but also God's punishing judgments. The recital of past events thus anticipates the list of possible blessings and curses, so that the latter become a description of the entire speech: 'I set before you today a blessing and a curse' (11.26; cf. 30.15, 19). As in the past, so in the future, Israel holds the key to its own fortunes in its observance of the law.⁵⁴

53. E.g. McCarthy argued that Deuteronomy, and not the Sinai traditions of Exodus, exhibits the influence of the treaty genre (*Treaty and Covenant*, pp. 157-205, 243-76, 292).

54. For analyses of the introductory frame of Deuteronomy, see the commentaries and additionally: A. Menes, *Die vorexilischen Gesetze Israels im Zusammenhang*

The lists of laws specify the obedient life in terms not only of ritual observances and of civil laws, but also in the regulation of institutions such as monarchy, temple and prophecy (12.1-13.5; 17.14-20; 18.15-22). Such rules seem less interested in the legal form of the institutions themselves than in their ability to model the obedience to the commandments mandated of all the people. So the king's role is defined largely in terms of studying the law, and prophets are evaluated by their degree of support for the law. Thus the laws themselves aim to persuade readers and hearers to follow the whole law in general, as well as to teach specific provisions.

The blessings and curses conclude the speech by drawing the consequences of obedience and disobedience starkly, but the speech goes even further by institutionalizing their recital in a future ceremony at Shechem. Deuteronomy obliges Israel not only to legal obedience but also to repetition of the book's own rhetoric of persuasion through re-enactment, both by individuals (6.20-25; 17.18-20) and by the nation as a whole (11.29; 27.12; cf. 31.10-13). The choice between blessing and curse extends through time to the readers and hearers, whom Deuteronomy obliges to observe the covenant and to transmit the stories, laws and sanctions to present and future generations.

The rhetoric of Deuteronomy employs the elements of story, list and divine sanction more obviously than any other part of the Pentateuch and integrates their effects more thoroughly.⁵⁵ Past and future mirror each other in the stories and sanctions, emphasizing the stark consequences confronting the people in every time and place. The laws specify the nature of obedience and disobedience, but also are concerned with how obedience must be modelled by religious and governmental leaders alike. The result of this unitary rhetoric is a document that drives home to readers and hearers the validity and urgency of the Deuteronomic program.

The Pentateuch

The blocks of literary material discussed above are large and complex, and the rhetoric of story, list and divine sanction cannot do justice to all

seiner kulturgeschichtlichen Entwicklung (Giessen: Töpelmann, 1928), pp. 126-41 and Mann, *Book of the Torah*, pp. 147-52.

55. As Mann concluded: 'The reciprocity of law and story is now transparent: obedience to law is rooted in the recital of and identification with a story, an identification that is vacuous without obedience to the law' (*Book of the Torah*, p. 151).

of their contents. All the more complicated is the larger body of literature in which they are placed. The Pentateuch's convoluted structure, varieties of genres and range of themes forces any attempt at synthetic description to a high level of abstraction. Nevertheless, the overall shape of the Pentateuch betrays the now familiar rhetoric of stories (Genesis through Exodus 19), lists (Exodus 20 through Numbers) and divine sanctions (Deuteronomy).

The employment of this rhetorical strategy appears most clearly at the end of the Pentateuch, in Deuteronomy. Despite its various materials, that book describes itself in the stark language of blessing and curse (Deut. 11.26; 30.19) and depicts its contents as Moses' hortatory recapitulation of earlier laws and experiences. Its emphasis in narration, sanctions, and even in some of the legal lists falls on obedience to the law as a whole more than on the particulars of the legislation. Deuteronomy thus lends itself to the persuasive role of emphasizing the ultimate consequences of urgent choices; in other words, to the rhetoric of divine sanctions, of blessings and curses.

The shift from a preponderance of narrative to a preponderance of list in the middle of Exodus has long been noted by biblical interpreters. Exodus, Leviticus and Numbers not only contain many lists; they also exemplify the rhetoric of list by their effort to specify the nature of the ideal. Here universal principles are made manifest by particular actions, and by requiring the latter, the lists point the people of Israel towards the former.⁵⁶ The rhetoric of list usually finds its justification in story, and the central books of the Pentateuch are no exception. Besides allusions to preceding narratives in scattered motive clauses, the lists interact with stories on a more fundamental level. For example, the construction of the Tabernacle, related in lists of instructions and list-like narratives of their fulfillment (Exod. 25–31, 35–41), depicts a recreation of the world whose degradation the stories of Genesis have chronicled. The account concludes in Exodus 39–40 with language evocative of the first creation story in Genesis 1.⁵⁷ Specific stipulations, for example, regarding the sabbath, the blood prohibition and Passover, echo themes already emphasized in narratives. The blessings promised to the obedient (especially

56. For discussion of how the most specific rules may point to universal principles, see J. Milgrom, 'The Biblical Diet Laws as an Ethical System', *Int* 17 (1963), pp. 288–301.

57. J. Blenkinsopp, 'The Structure of P', *CBQ* 38 (1976), pp. 280–83; Blum, *Studien*, pp. 306–11.

Lev. 26.9–13) evoke earlier divine promises in the narratives (e.g. Exod. 6, Gen. 9, 17) which are now attainable to those who observe the law.⁵⁸ The lists of laws thus provide the solutions to problems and issues detailed by the narratives, which in turn demonstrate the necessity of the law.

Pentateuchal stories, especially those of Genesis, may seem to have the least connection to the rhetoric of story, list and divine sanction. The above observations, however, point to themes in the narratives which find their resolution only in the lists that follow: themes such as the degradation of creation, the nature of the divine–human relationship and the identity of Israel as Yahweh's people. Connections between stories and lists appear most noticeably in the material usually credited to P. Discussion of the Levitical legislation above noted the unusual dialectic of list and story in Exodus 25 through Numbers 9. Within the larger context of the Pentateuch, however, this material takes its place as list in a more typical pattern of story, followed by list, concluding with divine sanctions. The close relationship between P's narratives and lists suggests that the priestly writers and editors worked with the larger context in mind and intentionally structured the whole to highlight Levitical legislation as the central lists in the Pentateuch's rhetoric.

The resulting Pentateuch is a complex document, far removed in size and scope from the texts published complete through public law readings. Yet its form shows that the rhetoric of story, list and divine sanction still shapes its priestly redaction, though now it is probably no longer the primary rhetoric of oral readings but rather the intermediate rhetoric of a literary genre shaped by oral conventions. The goal, however, remains the same: to persuade hearers and readers to observe the law by describing its extraordinary origins in a story stretching back to creation, by specifying the ideal divine–human relationship which it makes possible, and by promising great blessings and threatening worse curses contingent on the audience's response. The rhetoric of story, list and divine sanction unifies the Pentateuch for the overriding purpose of persuasion.

ABSTRACT

Greco-Roman theorists of rhetoric pointed out the persuasive force of story, list and divine sanction in combination and considered it dangerous. That practical insight, if not that evaluation, was shared by writers throughout the ancient world who on its

58. Blum, *Studien*, pp. 326–29.

basis structured texts of various types to maximize their rhetorical power. In ancient Israel, where law was published through public readings of entire documents, the need to maximize the texts' persuasive force led writers to employ the same rhetorical strategy. Thus law finds itself in the company of story and divine sanctions in almost all of Israel's extant legal traditions until the late first millennium BCE. As these traditions were combined into ever larger blocks of material, the setting in public readings of whole documents must have become increasingly anachronistic. Yet the rhetoric of story, list and divine sanction still shapes the maze of genres and traditions which make up the Pentateuch.

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CREATION AT THE BEGINNING OF HISTORY: JOHANN GOTTFRIED HERDER'S INTERPRETATION OF GENESIS 1*

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In 1823, twenty years after Herder's death, Thomas de Quincey wrote,

...the best notion I can give of Herder to the English reader is to say that he is the German Coleridge; having the same all-grasping erudition, the same spirit of universal research, the same disfiguring superficiality and inaccuracy, the same indeterminateness of object, the same obscure and fanciful mysticism (schwärmerey), the same plethoric fulness of thought, the same fine sense of the beautiful, and (I think) the same incapacity of dealing with simple and austere grandeur.¹

This characterization of Herder makes me suspect that de Quincey knew the book I am focussing on here, the *Oldest Document of the Human Race*, or *Älteste Urkunde des Menschengeschlechts*,² as its German title runs. The book has never been translated into English. It is surprising in its enthusiasm, fails in most of its arguments, but nevertheless, it leaves the exegete with some good ideas.

* This article is a slightly revised version of a paper read to the 1994 Summer Meeting of the Society for Old Testament Studies in Edinburgh. I would especially like to thank Dr John Day, Oxford, for improving my English.

1. In *Collected Writings*, IV (London: A. & C. Black, 1890), p. 381 (from an article originally published in *The London Magazine*, VII, 1823).

2. Vol. 1 (Riga: Hartknoch, 1774), vol. 2 (Riga: Hartknoch, 1776), repr. in later editions of Herder's works, most recently in U. Gaier *et al.* (eds.), *J.G. Herder, Werke* (in zehn Bänden) (Frankfurt/Main: Deutscher Klassiker Verlag, 1985-), V, pp. 179-660. All translations from *Werke* are my own.