

A BIBLICAL CHALLENGE: CAN AN ACADEMIC APPROACH AIMED AT 'BEST EXPLANATION' OF THE BIBLICAL TEXT BE IMPORTED INTO THE SYNAGOGUE-SERMON WORLD OF 'INTERPRETATION?'

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Recent years have seen a renewed discussion of the question whether, and, if so, how, "modern" historical (including philological) study of the Bible ("MSB")¹ should be brought into the synagogue

* **Editors' note:** This essay is intended to illustrate the sorts of issues and discussions for which we are inviting submissions, in our call for submissions, printed in the final pages of this issue.

¹ We will employ the abbreviation 'MSB' to signal that this phrase has a specific meaning here. We do *not* mean, by the term "modern," to include *all* contemporary approaches to study of the Bible: contrast, *e.g.*, the description of "The Modern Study of the Bible" in the essay by Adele Berlin and Marc Zvi Brettler in Berlin and Brettler, eds., *The Jewish Study Bible* (New York: Oxford U.P., 2004), pp. 2084–2096.

In particular, we exclude, for purposes of this article, approaches that are "post-modern." For a general critique of post-modern approaches to historiography, see, *e.g.*, Moshe Rosman's opening discussion, "Introduction: Writing Jewish History in the Postmodern Climate," in his *How Jewish is Jewish History?* (Oxford: Littman Library of Jewish Civilization; 2007), asserting:

Against extreme postmodern practice, a position that has evolved among historians, including those writing Jewish historiography, is that language, non-transparent and a priori interpretative as it is, is our only means to access reality; but there *is* a reality to be accessed and it *can be* accessed. (P. 11.)

sermon.²

Accordingly, we include within MSB, for purposes of this essay, only study that sees itself bound by the general methodologies of historical research noted in, e.g., David Hackett Fischer, *Historians' Fallacies: Toward a Logic of Historical Thought* (NY: Harper, 1970).

This is *not* to say that post-modern approaches are not also valuable, in their own ways: but there *are*, we suggest, important differences and consequences between modern and post-modern approaches, as will be noted further *infra*; and so we limit ourselves here to just modern approaches. See again, e.g., Berlin and Brettler, *supra*, who conclude their article by noting that (what they call)

Cultural hermeneutics, though not uninterested in historical reconstruction, also focuses on the ways in which access to the power to interpret the text and construe its meaning serves to empower those who have traditionally been marginalized. And postmodernism has attempted to underscore the ironies of all such strategies, since in its view a stable and definitive meaning always eludes the interpreter. (P. 2096.)

(They also note that the broad label 'feminist interpretation' *includes both* modern and postmodernist approaches.)

- ² For a recent raising of this question, see Rabbi Elliott Cosgrove's sermon on May 15, 2010, with the punning title "Kugel on a Hot Sommer Day" (referring to James Kugel and Benjamin Sommer; see below), available online at https://pasyn.org/resources/sermons/%5Bfield_dateline-date%5D-23. Rabbi Cosgrove began his sermon by asking:

If every single Jewish studies professor, from every campus across North America, were to get on an airplane that took off, flew away, and never came back again, would Jewish life change at all? Our synagogues, our Hebrew Schools, our Jewish summer camps, our UJA's, our relationship with Israel—if there were no Jewish studies departments on campus, would it have any effect on the Jewish community?

A central participant in this renewed discussion has been Benjamin D. Sommer, Professor of Bible and Ancient Semitic Languages at the Jewish Theological Seminary of America (in New York). Sommer has sought, *inter alia*, both (a) to argue, at a theoretical level (*contra* to, e.g., James Kugel) that MSB *can* be integrated into a contemporary theological understanding of Judaism,³ and (b) to illustrate how such an integration might be accomplished, in respect of the key question of what God commanded at Sinai, in *Revelation & Authority: Sinai in Jewish Scripture and Tradition*.⁴ And his efforts have in turn

For an example of a discussion of our question already 100 years ago, see the "Introduction" to Solomon Schechter, *Studies in Judaism: First Series*, first published in England in 1896, reprinted in Philadelphia: JPS, 1911, and now available online at <https://archive.org/details/studiesinjudais00schegoog/page/n4>. Schechter (1847–1915, President of the Jewish Theological Seminary of America from 1902–1915) there spoke with apparent approval of Leopold Zunz (Germany, 1794–1886), and Zunz's historical analyses showing that, e.g., Leviticus was written during the post-Exilic period, and so was later than Deuteronomy. Schechter suggested that such results could, in the short term, be integrated into 'the synagogue' via an evolutionary understanding of "Tradition." In the long run, however, he suggested that Judaism would need to re-emphasize that it stands for specific theological positions, or 'dogmas.' This nuanced position is very different from the position often associated with Schechter based on the title of his talk, "Higher Criticism—Higher Anti-Semitism," delivered at a banquet in honor of Dr. Kaufmann Kohler, March 26, 1903, reprinted in *Seminary Address and Other Papers* (Cincinnati: Ark Publishing, 1915), pp. 35–39. (That text can also now be found online at <http://www.bombaxo.com/2009/06/27/higher-criticism-higher-anti-semitism/>, at the "biblicalia" website.) All references in this article to materials available online were accessed on August 29, 2018.

³ See, e.g., Sommer, "Two Introductions to Scripture: James Kugel and the Possibility of Biblical Theology," in *JQR* vol. 100, no. 1 (Winter 2010), pp. 153–182. (This is the essay referenced in Rabbi Cosgrove's sermon; see fn. 2, *supra*). Sommer was here reviewing James L. Kugel, *How To Read The Bible: A Guide to Scripture, Then and Now* (New York, NY: Free Press, 2009).

See also the collection edited by Sommer, *Jewish Concepts of Scripture: A Comparative Introduction* (NY: NYU Press; 2012).

⁴ New Haven: Yale U.P., 2015.

spurred substantial discussion.⁵

Against this backdrop, the aim of this paper is limited and pragmatic. This essay proposes to identify four practical obstacles facing the rabbi who wishes to introduce MSB into his/her synagogue sermon.⁶

First, we note that MSB does not speak in one voice. Part 1 of this article presents, as an example, how five prominent modern biblical scholars have understood a single word, and, hence, a single verse in the book of Jeremiah in different and, indeed, mutually inconsistent ways and used their respective interpretations as foundations for five different and mutually inconsistent understandings of Jeremiah's general message and, in particular, Jeremiah's relationship to the book of Deuteronomy. This presents, we suggest, a challenge for the synagogue rabbi of how to go about choosing amongst such competing explanations.

One might ask however: but *why* is it necessary to choose? Cannot one just draw upon the differing 'insights' of, say, Baruch Halpern, or Richard Elliot Friedman (two of the five scholars to be discussed *infra*), in the same way that we routinely draw upon the differ-

⁵ See, e.g., the contributions to "Revelation and Authority: A Symposium," at <https://thetorah.com/revelation-and-authority/>. And see Sommer's response (February 2018) at <https://marginalia.lareviewofbooks.org/response-benjamin-d-sommer-jewish-theological-seminary/>. See also, e.g., Yehudah Gellman, "Conservative Judaism and Biblical Criticism," *CJ* 59:2 (Winter 2007) pp. 50-67, addressing an early version of what would become *Revelation & Authority*. (See Sommer's discussion therein at pp. 298-299, responding to Gellman).

⁶ We are excluding, accordingly, the question of how academic students of the Bible, in their own personal lives, have sought to integrate MSB with their individual halakhic observance. See, e.g., Eliezer Diamond, "Torah Study" in Martin Cohen, ed., *The Observant Life* (NY: Rabbinical Assembly, 2012), esp. at pp. 88-91.

We are also excluding 'adult-education' venues outside of the synagogue sermon itself, where certain of the obstacles noted herein might be mitigated.

Lastly, in referring to the 'rabbi,' we mean to include also anyone speaking in the sermon slot typically assigned to the rabbi.

ing insights of the four great medieval commentators found in our so-called Rabbinic Study Bible (“*Miqra’ot Gedolot*”),⁷ namely, Rashi,⁸ Rashbam,⁹ Ibn Ezra,¹⁰ and Nachmanides¹¹?

The short answer is that there is a fundamental difference between the purpose of MSB (as narrowly defined, see fn. 1, *supra*), and traditional commentary – and it is helpful, we suggest, for the overall point of this article, to identify this difference up-front. In brief, the medieval commentators were striving to implement the dictum in Numbers Rabbah 13:15 (12th cent.) that there are 70 faces (or facets) to the Torah, so that the text can legitimately be interpreted, simultaneously, from multiple different perspectives. The *Zohar* (late 13th cent.), in seeking to legitimize its own mystical perspective, referred to four such approaches with the acronym *PaRDeS* – referring to the perspectives of: *peshat* (“plain meaning”, or meaning based on the immediate context of the passage at issue); *remez* (literally, “hint,” referring to allegorical and/or philosophic implications of the text); *derash*, or *midrash* (referring to the method of the classic Rabbinic commentaries from the Land of Israel in Late Antiquity, e.g., Genesis Rabbah and Leviticus Rabbah); and *sod* (the “mystical”).¹²

While, on rare occasions, we might say that a grammatical proposition asserted by one of the medievals is just incorrect in light of our modern knowledge of the Hebrew language and comparable Semitic languages, for the most part, when, say, Rashbam contends that his grandfather Rashi relied too much, in commenting on a

⁷ Michael Carasik, between 2005 and 2018, working with JPS, has published an English version of *Mikra’ot Gedolot*, thus allowing the English reader to see all of the major medieval commentators addressing, on a single page, the same verse – thus highlighting the dialogue amongst them.

⁸ R. Solomon ben Isaac, 1040–1105, northern France. See Carasik, *supra*, for summaries concerning these medieval commentators.

⁹ R. Samuel ben Meir, ca. 1085–ca. 1174, northern France, grandson of Rashi.

¹⁰ R. Abraham Ibn Ezra, 1089–1164, b. Spain, d. England.

¹¹ R. Moses ben Nachman, 1195–ca. 1270, b. Spain, d. Israel.

¹² See the essay by Barry Walfish on “Medieval Jewish Interpretation,” pp. 1876–1900 in the *Jewish Study Bible*, *supra* fn. 1. See also, e.g., various essays in Sommer, ed., *Jewish Concepts of Scripture*, *supra* fn. 3. Other typologies have also been suggested.

particular text, on “midrash”-style analysis, and failed to address the “*peshat*”-style approach to its fullest extent, the modern rabbi remains free to draw upon both Rashi and Rashbam, simply recognizing their different perspectives.

By contrast, MSB, insofar as it is constrained by the standards of modern (as opposed to post-modern, see fn. 1, *supra*) study of the past (whether of past events, and/or of past literary product), attempts to provide a ‘best’ explanation in response to a historical or philological question, subject to generally accepted methodological standards.¹³ As a consequence, for example, it is generally accepted that certain theories that were advocated in the past have now been *refuted* by, *inter alia*, discoveries of new texts, and/or better readings of previously known texts. E. A. Speiser, in his ground-breaking commentary on Genesis,¹⁴ asserted that the triplet of stories featuring the ‘wife as sister’ (Genesis 12:10–20, Gen. 20:1–18, and Gen. 26:1–12) could be explained in reference to a custom that he discerned in certain texts from the ancient Mesopotamian city of Nuzi. But subsequent re-investigation of the issue, “based on almost twice the amount of documentation available to Speiser, ... revealed that Speiser’s interpretation of the Nuzi texts could no longer be maintained.”¹⁵ Likewise, while James Michener, in ch. 3 of his novel *The Source*,¹⁶ relied upon the accepted understanding, as of that time, of Canaanite engagement in ritual prostitution for his dramatic portrayal thereof, Jeffrey Tigay has explained that

There is in fact no evidence available to show that ritual intercourse was ever performed by laymen anywhere in the ancient Near East, nor that sacred marriage, even if it involved a real female participant, was practiced in or near Israel during the Biblical period.¹⁷

¹³ See fn. 1, *supra*.

¹⁴ N.Y.: Doubleday [Anchor Bible], 1964.

¹⁵ Barry Eichler, “On Reading Genesis 12:10–20,” in Mordechai Cogan *et al.*, *Tehillah le-Moshe: Biblical and Judaic Studies in Honor of Moshe Greenberg* (Winona Lake: Eisenbrauns, 1997), pp. 23–38; quote from p. 25.

¹⁶ NY: Random House; 1965.

¹⁷ See his Excursus #22, at pp. 480–481 in his commentary on Deuteronomy (Philadelphia: JPS, 1996).

Now, for various reasons, MSB has not yet reached the point of achieving general agreement upon a ‘best’ explanation. And modern Bible scholars are well aware of this deficiency. Thus, a recent scholarly review concerning the portions of the book of Isaiah often attributed to an 8th century B.C.E. prophet referred to as First Isaiah begins:

The deep divide among scholars regarding the composition and redaction of Isaiah [chs. 1–39] undermine the progress and impact of all research on the book. Disagreement among scholars is natural and inevitable, but when prominent perspectives differ by multiple centuries on the date of a given text, outsiders to the debate could be forgiven for doubting whether there is much science to our scholarship. Empirical approaches grounded in comparative data from Isaiah’s ancient Near Eastern world offer a potential way forward.¹⁸

Nevertheless, MSB remains committed to seeking, by the lights of “modern” methodologies for studying the past (including its literary products), a ‘best’ available explanation, and *not* to offering only alternative ‘interpretations.’ Accordingly, we submit that the “deep divide” (as quoted above) within present-day MSB in respect to many fundamental points, as illustrated in Part 1 herein, indeed presents a pragmatic problem to our hypothetical rabbi.

Part 2 of this article notes, moreover, that, even within MSB, there are several competing frameworks—so that even if it appears, on the surface, that there is nothing controversial in the argument of a particular Bible scholar, nevertheless, he or she may be relying upon an underlying framework that *is* controversial. We illustrate this by reference to Sommer’s *Revelation & Authority*, which relies specifically upon certain controversial tenets of the so-called neo-documentarian hypothesis. Once these underlying ‘framework’ battles are identified, the question returns: how is our hypothetical rabbi supposed to

¹⁸ Christopher Hays, “Introduction,” at p. 1, in the issue, “The Formation of Isaiah in its Ancient Near Eastern Context,” *Hebrew Bible and Ancient Israel*, vol. 6, no. 1 (2017).

choose amongst the competing 'modern' underlying frameworks?

Part 3 herein focuses on a conceptual limitation inherent to MSB: it seeks to read any given biblical text as it was understood at the moment(s) *in the past* when the text was first spoken, and/or published¹⁹; and it is beyond the scope of MSB, as a sub-discipline of the modern study of the past, to say anything about how any such 'original' understanding might be relevant today (or might be re-cast to become relevant).²⁰ We are all familiar with instances where various biblical texts, by their *express* statements, present challenges to our modern understandings of Jewish ethics (in reference to, *e.g.*, commands to wipe out the then-existing inhabitants of the Land).²¹ Less obvious may be cases where a modern value is *missing* from the text; and, in Part 3, we discuss an example of such a 'missing' value. If we are to adopt MSB, we need to recognize the conceptual limits of that approach; but are those limitations acceptable—given our need in the synagogue to address contemporary problems?

Finally, in Part 4 herein, we note a more localized contextual concern: the sermon is often delivered following a 'Torah service' that

¹⁹ We use 'published' here in the sense of Baruch Halpern, "Jerusalem and the Lineages in the Seventh Century BCE: Kinship and the Rise of Moral Liability," in Halpern and Hobson, eds., *Law and Ideology in Monarchic Israel* (Sheffield: JSOT Press, 1991) pp. 11–107, *e.g.*, at p. 79, arguing that "it appears that Hezekiah commissioned the first collection of literary prophecy" and then publicized that collection as part of his specific political/strategic program. (This essay is reprinted as ch. 10 in the collection of Halpern's essays published as *From Gods to God: The Dynamics of Iron Age Cosmologies* [Tübingen: Mohr Siebeck; 2009].) Such 'publication' may have been transmitted, however, by means of oral reciters; see generally David M. Carr, *The Formation of the Hebrew Bible: A New Reconstruction* (NY: Oxford U.P., 2011).

²⁰ See, *e.g.*, the remarks delivered by Prof. Baruch J. Schwartz, on March 22, 2015, at the Pardes Institute, Jerusalem, on the publication of the second edition of the *Jewish Study Bible*, available at <https://thetorah.com/how-can-a-torah-commentary-be-source-critical-and-jewish/>, "How Can a Torah Commentary be Source-Critical and Jewish?."

²¹ See K. Berthelot, J. E. David and M. Hirshman, eds., *The Gift of the Land and the Fate of the Canaanites in Jewish Thought* (NY: Oxford U.P., 2014).

was substantially reformulated in the 17th and 18th centuries to reflect the mystical approach of the 16th century kabbalist R. Isaac Luria (1534–1572) (referred to as the “Ari” – *ha-elohi Rabbi Yitzhak*, the saintly Rabbi Isaac²²). How does MSB fit within that liturgical context?

Part 1: The Problem of Multiple Inconsistent Positions

Consider the following verse from Jeremiah, ch. 8 vs. 8:²³

אֵיכָה תֹאמְרוּ חֲכָמִים אֲנַחְנוּ וְתוֹרַת יְהוָה אֲתָנוּ אֵבֶן הַגִּיהַ לְשֹׁקֵר עֹשֶׂה
עֵט שֹׁקֵר סֹפְרִים:

Baruch Halpern proposes the following translation:

How can you say, ‘We are wise men, and the Torah of Yhwh is with us’, even as the pen of deceit of scribes made it into deceit [*sheker*]?²⁴

A quick review shows that modern Bible scholars have proffered multiple—but mutually inconsistent—explanations for this verse, and its significance. Thus:

²² See Lawrence Fine, *Physician of the Soul, Healer of the Cosmos: Isaac Luria and his Kabbalistic Fellowship* (Stanford, CA: Stanford U.P., 2003) at 28.

²³ While earlier and later portions of ch. 8 are included in the synagogue *haftarah* cycle (see the *haftarot* for *Tzav* and *Tish’ah Be’Av*), this verse is ‘skipped’ and, so, is not generally familiar to synagogue-goers—whether in the standard Ashkenazic or Sephardic traditions. (See the “new JPS” *Prophets* [1978], “Table of Scriptural Readings” [including Ashkenazic and Sephardic traditions] at pp. xiii–xviii).

²⁴ Baruch Halpern, “The False Torah of Jeremiah 8 in the Context of Seventh Century BCE Pseudepigraphy: The First Documented Rejection of Tradition,” ch. 4 in his collection *From Gods to God, supra*, fn. 19 (first appearing in a 2007 festschrift, which version is available also on-line). JPS, *The Prophets* (1978) translates as follows: “How can you say, ‘we are wise, and we possess the Instruction of the Lord’? Assuredly, for naught the pen has labored, for naught the scribes!”

1. According to a well-known book by Karel van der Toorn,²⁵ this verse shows that Jeremiah was *opposing* the book of Deuteronomy, which was, at that time, first being endorsed and publicized by King Josiah.²⁶ Thus, van der Toorn asks us to note “the disparaging reference in the Book of Jeremiah to the ‘Teaching of Yahweh (*torat yhwah*) as the product of the deceitful pen of the scribes’ (Jer. 8:8),” and asserts that “it makes sense to think that it was indeed an early edition of Deuteronomy that provoked Jeremiah’s criticism.”²⁷ This view might certainly strike an American who grew-up reading Richard Elliott Friedman as odd – since Friedman (see the next paragraph) has argued that indeed Jeremiah, together with his scribe Baruch, *wrote* the book of Deuteronomy!

2. Friedman, in his popular book *Who Wrote the Bible*,²⁸ agrees that Jeremiah was, in this verse, objecting to *some* existing book. But, Friedman reasons, since Jeremiah (in his view) (co-)wrote Deuteronomy, Jeremiah must have been objecting to some *other* book. And so, by process of elimination – since Friedman assumes that whatever Jeremiah was objecting to is included within our Torah – Friedman concludes that the ‘book’ to which Jeremiah objected must have been “P,” the Priestly Code (corresponding to most of Leviticus, plus the first part of Numbers, the last chapters of Exodus, and various insertions in Genesis). Hence, according to Friedman, this verse is evidence showing that “P” must have existed as an identifiable source *prior* to the time of Jeremiah, and, hence, prior to Deuteronomy! Thus Friedman argues (at pp. 209–210):

We have already seen quotations of P in the book of Jere-

²⁵ Karel van der Toorn, *Scribal Culture and the Making of the Hebrew Bible* (Cambridge, MA: Harvard U.P., 2007).

²⁶ Van der Toorn follows the theory that Deuteronomy, in whatever form it was ‘discovered’ in the ruins of the Temple (see 2 Kings 22:8–20), was not ‘known’ until that ‘discovery.’ Contrast, *e.g.*, other views suggesting that at least parts of Deuteronomy were known earlier, *e.g.*, Halpern, fn. 19, *supra*.

²⁷ At p. 143.

²⁸ Richard Elliott Friedman, *Who Wrote The Bible?* (2d ed.) (N.Y.: Harper Collins, 1997), at pp. 146–148.

miah itself. Jeremiah plays upon P expressions, reverses the language of the P creation story, denies that God emphasized matters of sacrifices in the day that Israel left Egypt. Jeremiah knew the Priestly laws and stories. He did not like them, but he knew them.

How hostile he was to them can be seen in an extraordinary passage in the book of Jeremiah. Jeremiah says to the people:

How do you say, "We are wise, and Yahweh's *torah* is with us"? In fact, here, it was made for a lie, the lying pen of scribes.

The lying pen of scribes! Jeremiah uses even tougher language than the modern Bible critics [such as Van der Toorn] ("pious fraud"). Jeremiah says that a *torah* that the people have comes from a lying pen. What *torah* is that? Most investigators have claimed that it was Deuteronomy. They assumed that it had to be Deuteronomy because they accepted the Wellhausen hypothesis that P was not yet written in Jeremiah's days. But this meant seeing Jeremiah as attacking a book written in the same style as his own book. It meant seeing Jeremiah attacking a book with which he agreed on virtually every major point. And, to my mind, it meant seeing Jeremiah as attacking a book that he (or his scribe) wrote. All because they thought that P was not written yet. But it was.

It is not surprising to find Jeremiah so hostile to the Priestly *torah*. The Priestly stories attacked his hero, Moses. The Priestly laws excluded him and his family from the priesthood. What we have in Deuteronomy is just what we might expect: a hint that its author was acquainted with P, but no sign of acceptance of P as a source of law or history.

Conclusion: the P stories and laws were present in Judah by the time of Jeremiah and [Deuteronomy]; that is, before the death of King Josiah in 609 B.C.

3. Baruch Halpern, in a well-received article,²⁹ agrees that Jeremiah is here objecting to some existing text; but Halpern argues that the text to which Jeremiah is opposed is an early version of 'JE,' i.e., the old versions of the Genesis/Exodus/wilderness-wandering stories, which versions still endorsed child sacrifice—including a version of the 'Akedah' (Genesis ch. 22; the 'Binding of Isaac') that existed *before* it was re-written to express an opposition to child sacrifice, in accordance with the arguments advanced by Jeremiah and Ezekiel in opposition to child sacrifice. Thus Halpern summarizes:

The upshot is that pre-seventh century BCE sources presuppose infant sacrifice, which was of course practiced in Jerusalem until Josiah's day, at the Tophet that he defiled in the Valley of Hinnom. From a preliminary viewpoint, in other words, it would appear that Jeremiah and Ezekiel, in an age of the rejection of tradition, embrace the rejection of JE, probably already combined and promulgated in the early seventh century, in favor of the traditions represented by Deuteronomy, the Deuteronomistic History, and P.³⁰

4. William Schniedewind, in his *How the Bible Became A Book: The Textualization of Ancient Israel*, which focuses on the relation between oral and written modalities of transmission of Biblical traditions, argues that Jeremiah is here opposing the fundamental concept of reducing *any* of the Biblical traditions to writing, in contrast to the traditional oral transmission:

The wider context of the Jeremiah passage, however, puts it into perspective. In Jeremiah 8:7-9, this written *Torah* of YHWH is juxtaposed with different types of oral tradition:

7 Even the stork in the heavens knows its times;
and the turtledove, swallow, and crane observe
the time of their coming; but my people do not

²⁹ See fn. 24, *supra*.

³⁰ At p. 340, in the 2007 pagination.

know the tradition (*mishpat*) of YHWH. 8 How can you say, "We are wise, and the Law (*Torah*) of YHWH is with us" [when in] fact, the false pen of the scribes has made it into a lie? 9 The wise shall be put to shame, they shall be dismayed and taken; since they have rejected the word (*davar*) of YHWH, what wisdom is in them?

Critical to the proper interpretation of this passage from Jeremiah are the Hebrew terms (italicized in parentheses in the translation) *mishpat*, *Torah*, and *davar*. Clearly, the *Torah of YHWH* refers to a written text, though scholars usually debate which text. Some think that it refers to Deuteronomy; others suggest that it refers to already written (and false) interpretations of Deuteronomic law. I think the issue is not *which text*, but the authority of any written text as opposed to oral tradition. The context clears up the issue. Verse 9 refers to the "word (*davar*) of YHWH"; this is a technical term in Biblical Hebrew literature that refers to the oral word of God given to the prophets. Wisdom is associated with the oral tradition of the community and proclamations of God's messengers, so how could one reject them and still be wise?

The term *mishpat* in verse 7 is a bit more fluid in meaning; however, it may be translated as "the *tradition of YHWH*" or "the *custom of YHWH*." *Mishpat* is often found in biblical literature in places where it appeals to no known written tradition, yet there is obviously a well-established custom or tradition at work. So, for example, a new king is installed in a traditional procedure and place, "according to the custom (i.e., *mishpat*) of the king" (2 Kgs 11:14). The prophet Samuel warns Israel about "the ways (i.e., *mishpat*) of a king" (II Sam 8: 9, 11). The use of *mishpat* as a legal term does not reflect written texts, but rather legal judgments. In most cases, there is no written text as such that could even form the basis of the *judgment* (e.g., Gen 18:25; Lev 19:15). Both the social context of Jeremiah's day and the immediate literary context suggest that Jeremiah 8:8 is a protest against the

authority of the written texts that were understood as subverting oral tradition and the authority of the prophets.³¹

5. Moshe Weinfeld (1925–2009), in his classic *Deuteronomy and the Deuteronomistic School*,³² argued that, in effect, all of the foregoing have mistranslated the line from Jeremiah, in not recognizing that “*la-sheker*,” as an *idiom*, means something different from “*sheker*” standing alone—as already recognized (he contends) in the Septuagint. Thus Weinfeld, in suggesting that Deuteronomy emerged from a “scribal circle,” explained Jeremiah’s statement as follows:

Jeremiah fully identified himself with the religious ideology of the book of Deuteronomy and also appears to have supported the Josianic reforms (Jer. 11:1–8). There is no evidence to support the view that Jeremiah regarded Deuteronomy as an invention and forgery, as many scholars contend. The word *sheker* in Jer. 8:8 does not mean ‘forgery’, but ‘in vain’, ‘to no purpose’ as in I Sam. 25:21: ‘Surely in vain (*la-sheker*) have I guarded...’. The prophet in our verse is not denouncing the book of Deuteronomy but condemning the ‘*hakhamin sofrim*’ for not observing the teaching that they themselves had committed to writing: the pen of the scribes has made (i.e. composed) to no purpose, the scribes have written in vain.³³

This is not the place to attempt to adjudicate as to which of these five competing general understandings of the book of Jeremiah, and of the relations between that prophet and the book of Deuteronomy, is soundest, according to accepted principles of historical/philological research. But plainly these positions cannot *all* constitute the ‘best’ ex-

³¹ William Schniedewind, *How the Bible Became a Book: The Textualization of Ancient Israel* (NY: Cambridge U.P., 2004), at pp. 116–117.

³² Moshe Weinfeld, *Deuteronomy and the Deuteronomistic School* (first published, Oxford: Clarendon Press, 1972; reprinted, Winona Lake: Eisenbrauns, 1992).

³³ At p. 160. See also “Preface” at p. vii and at pp. 158–160.

planation for the text. Nor, as outlined above, could our hypothetical synagogue rabbi simply present, *e.g.*, Friedman's position as constituting an *interesting* 'insight' into the past: Friedman, and the others noted here, are not seeking to be 'interesting,' but rather to provide what each asserts is *the 'best'* available explanation; and each proposes to be judged, and cited, accordingly. If, say, Weinfeld's analysis of the text is the best explanation, then Van der Toorn is not 'interesting,' but rather simply wrong.

But, how is our hypothetical synagogue rabbi supposed to choose amongst these, for purposes of a sermon?

Part 2: The Problem of Underlying Inconsistent Frameworks

There have been, in recent years, two major attempts to utilize MSB in the cause of progressive Jewish theologies: David Frankel's *The Land of Canaan and the Destiny of Israel* (hereafter, abbreviated as *The Land*),³⁴ and Benjamin Sommer's *Revelation & Authority* (see fn. 3, *supra*). While these works do not appear to directly conflict in the manner discussed in Part 1, *supra*, nevertheless, the underlying *frameworks* of these two works, in reference to their fundamental approaches to the study of the biblical text, are, however, incompatible—and, indeed, as Sommer acknowledges, his main argument would fail if Frankel's framework approach were adopted.

In brief, Sommer argues that there is a certain *unanimity* amongst (what he sees as) the key four predicate documents comprising the Pentateuch—*i.e.*, what he regards as J, E, P, and D,³⁵ as those documents stood as of around the 6th cent. B.C.E.—in respect of their

³⁴ David Frankel, *The Land of Canaan and the Destiny of Israel: Theologies of Territory in the Hebrew Bible* (Winona Lake: Eisenbrauns, 2011).

³⁵ The division of the Pentateuch in reference to four main sources, known as "J," "E," "P," and "D," has been standard in Biblical scholarship for two hundred years. The precise delineations amongst these sources, however, continues to be a subject of debate. Moreover, many scholars, as noted *infra*, identify *additional* sources. Thus, the author of Leviticus 19 (the so-called "Holiness Code") is often associated with a later 'priestly' author referred to as "H." And the 'Balaam' cycle in Numbers is sometimes associated with a source from the East of the Jordan River.

understandings of Sinai, and the importance of law to the ongoing lives of the Israelite community.³⁶

³⁶ Thus Sommer writes:

While the four sources disagree in considerable ways in regard to lawgiving – where it happened, when it happened, why it happened, and most of all what the actual law is – they agree on the importance of law. [Sommer's footnote at this point refers to Frankel, *The Land*, and seeks to distinguish Frankel's approach.] For each of the four, Sinai was not merely about theophany or God's self-disclosure; it was about command. It is worth pausing to note this, because one could of course imagine revelation in other ways, and some biblical texts outside the Pentateuch do so. A few poetic texts refer to Sinai as a place where God appeared to Israel for the sake of the manifestation itself, regardless of lawgiving (Habakkuk 3.3–6; see also Psalm 114, which alludes to Exodus 19 subtly while conjoining the event at Sinai and the event at the Reed Sea but does not mention law specifically). Others speak of Sinai or similar locations south of Canaan as the place from which God went forth to wage war on behalf of His people (Judges 5.4–5; Psalm 68.8–10). A similar understanding of Sinai plays a role in Exodus 3–4, where Moses experienced God's presence in the form of a strange flame inside a bush. There God revealed the divine name (Yhwh) and commissioned Moses to serve as Yhwh's lieutenant in the war of liberation against Israel's Egyptian overlords. One may ask, then, who appeared at Sinai – God the lawgiver; God the warrior; or, quite simply, God? While there need be no contradiction among these three possibilities, different texts emphasize them differently. The section of the biblical canon that came to be most authoritative in all forms of Judaism, however, accentuates the legal aspect of revelation. (This statement is equally true of rabbinic and Karaitic Judaism, and it was valid for Qumran Judaism as well. It applies even more strongly for the Samaritans, who regard only the Pentateuch as canonical and do not accept the Prophets and Writings in their scripture.) Within the Tanakh it is specifically

Sommer, however, is a follower of the methodology known as the neo-documentarian position.³⁷ According to that position: (a) we can see how J, E, P, and D—as once-separate documents—were all merged together at one point in time; but (b) we cannot say *anything* about the pre-history of any of those four documents, *i.e.*, prior to the time of that merger. Accordingly, we must accept D as it appears today, where the ‘law section’ in Deuteronomy, chapters 12–26, is combined with a Sinai (or more precisely, Horeb) narrative in ch. 5.

However, Frankel believes (as do many others) that we *can*, for example, discern different layers *within* what is now the book of Deuteronomy; and, in particular, we can see that, at an early stage, D did *not* include any reference to Sinai (or Horeb)!³⁸ Scholars who believe that we can identify layers within D often point to, in support of their approach, the opening lines of the “*Arami Oved*” [‘my father was a wandering Aramean’] ‘confessional’ (from Deuteronomy 26:5–10), from which we read today at the center of our modern Passover Haggadah—and note that there is no reference therein to Sinai, in between the references therein to the Exodus, and to the entry into the Land. Accordingly, Frankel, and others, *e.g.*, Alexander Rofé,³⁹ would argue that those lines represent an ancient tradition that had not yet incorporated the alternative Sinai/Horeb traditions, and hence an older ‘layer’ of D.⁴⁰

the Pentateuch that is normative for Jews, and the Pentateuch (in this respect following each of its main predecessor texts) consistently interweaves lawgiving with revelation. In Judaism’s core canon, God’s self-manifestation took place not only to teach theology or to establish relationship but also to command. (Pp. 123–124.)

³⁷ At p. 270, fn. 67. See also, advocating for this approach, Joel Baden, *The Composition of the Pentateuch: Renewing the Documentary Hypothesis* (New Haven: Yale U.P., 2012); and Jeffrey Stackert, *A Prophet Like Moses: Prophecy, Law and Israelite Religion* (NY: Oxford U.P., 2014).

³⁸ Frankel, *The Land* at pp. 85–96.

³⁹ Alexander Rofé, *Introduction to the Literature of the Hebrew Bible* (Jerusalem: Simor; 2009).

⁴⁰ See Frankel, *The Land* at pp. 38, 119–120, and 727. Rofé, *supra* fn. 39, at pp. 258–259, explains:

The ordinary reader, reaching Deut. 26:5–10 after having read most of the Pentateuch, thinks that these verses are a summary of the familiar story. Von Rad's hypothesis, however, turns the matter right round. Rather than a summary, we have here the first oral kernel, in its *Sitz im Leben* in the communal life of the Israelite cult, that was later developed into a comprehensive and detailed story by J and by the other authors of the Pentateuch who followed him.

I find von Rad's bold hypothesis plausible. In its favour is the evidence of those elements of the first-fruits recitation that run contrary to the usual story of the Pentateuch, and which thereby demonstrate that the first-fruits recitation, far from being a précis of the longer story, is instead a distinctive, ancient kernel. Note that the worshipper's confession begins, not with the three Patriarchs, but with one only, i.e., Jacob, who is called an 'Aramaean'. (It is not clear whether Jacob is so designated on account of his mother or of his having resided with Laban, or of some other tradition regarding his origins.) In any event, the sequence of the three Patriarchs has not yet become part of this confession. More remarkable still is the fact that the 'first-fruits recitation' describes YHWH as intervening in Israel's destiny only from Egypt onwards; he had not revealed himself to Jacob. We have here a clear parabola. First the Israelites were nomads; cf. '*oved*' [meaning] 'wanderer', as in '*tzon ovdot*,' 'wandering sheep' (Jer. 50:6), after which they became sojourners in Egypt and then slaves; then, when they were at their nadir, they cried to 'YHWH, our God' (according to LXX) who intervened, took them out of Egypt, and made them masters of the land 'which you, YHWH, have given me'. YHWH first revealed himself, then, not to the Patriarchs, but to Israel in Egypt—a unique description which could not have been coined as a summary of the books with which we are familiar. It preserves, rather, the memory of an independent tradition, that preceded the formulation of the Pentateuchal documents. At the same time, the confession is at the centre of the religious awareness of the ancient Israelite worshipper. Thus, it is very, likely to be the ancient

Accordingly, if one accepts the methodology of Frankel and Rofé, and, if one has concluded that earlier identifiable traditions within D thus did *not* include Sinai and also did not include an emphasis upon law, then Sommer's unanimity argument is called into question.⁴¹

Conversely, however, there are some good reasons why the neo-documentarians like Sommer have rejected alternative methodologies: approaches like those of Frankel (or Rofé) have trouble explaining how the texts could have been changed in so many respects, in such an ongoing and continuous process of change, over such a long period of time. On their evolving-text approach, it is as if every night, over a period of at least two hundred years (from, say 500–300 B.C.E.), partisans of different ideologies took turns sneaking into the Temple in Jerusalem, and making various changes to the official Torah text that was kept there, in favor of one or another political position. For example, one scholar following this methodology has argued that we can see, within Numbers ch. 27, how advocates of Priestly power in the Second Temple period modified the pre-existing text telling the story of how Moses transferred leadership to Joshua, by adding-in a role for the high priest at the time (*i.e.*, Aaron's son Eleazar).⁴² (We dis-

kernel from which, over time, the documents with which we are familiar developed.

See also at pp. 294–298.

⁴¹ Sommer is aware, of course, of Frankel's position: see *Revelation & Authority* at p. 312, fn. 111.

⁴² See Itamer Kislev, "The Investiture of Joshua (Numbers 27:12–23) and the Dispute on the Form of Leadership in *Yehud*," *Vetus Testamentum* 59 (2009), pp. 429–445. According to Kislev, the original text, *before* a role for Eleazar was written-in, was as follows (at p. 438):

*And YHWH answered Moses, Single out Joshua son of Nun, an inspired man: lay your hands upon him thereby placing some of your radiance upon him, so that the whole Israelite community may obey him. By his instruction they shall go in and out of battle. Moses did as YHWH commanded him.

Kislev asserted (at p. 440):

cuss that text further in the next section.) But, did no one *notice* that these changes were being made? Did no one object?

Accordingly, if our hypothetical synagogue rabbi wishes to present a sermon based upon Sommer's 'reading' in *Revelation & Authority*, can he or she fairly do so, without also noting how Sommer has adopted 'framework' constraints that are controversial even within MSB? And must our hypothetical rabbi take a position in respect of those 'framework' disputes, in order to present a particular scholar's contention fully and fairly?

Part 3: What Happens When MSB Shows That Our Texts Are Missing Values We Consider Important?

Many of us would like to be able to argue—in reference to circumstances today both in the United States, and in Israel—that liberal democratic values are inherent in Judaism.^{43, 44}

As just noted, the Torah *does* include a story concerning the selection of a new leader, *i.e.*, upon the imminent death of Moses—and thus *had* the opportunity to teach a 'democratic' lesson: but our text does *not* do so.

In Numbers 27:17–23, as it now stands, Moses suggests to God that Israel will need a new leader once Moses dies; and God directs a ceremony to be held whereby Moses, with the aid of the High Priest Eleazar, designates Joshua as the new leader.

It may be surmised that the background for these revisions lay in the aspirations of priestly leadership that came about during the Persian period, as the hopes for reinstating the monarchy weakened and eventually receded into the realm of messianic imagination.

⁴³ Those of us living in Canada may be experiencing less of a tension today. We do not mean to exclude Jewish communities elsewhere in the world.

⁴⁴ See, *e.g.*, for a typical advocacy of this position, Bernard M. Zlotowitz, "The Biblical and Rabbinic Underpinnings of the [American] Constitution," *Judaism* vol. 37 no. 3 (1988), pp. 328–334.

Imagine, however – to dramatize the ‘opportunity missed’ (and with apologies in advance insofar as the attempt at humor in the proposed counter-narrative falls flat) – that the story in Numbers 27 had gone like this:

- Moses suggests that a new leader be designated.
- God proposes the following: the 600,000 Israelite men of fighting age are to be gathered into 600 groups of 1000 each; and each group is to designate one representative, to be called an ‘elector.’ These 600 electors are then to gather and vote on the person most qualified to be the new leader. If the electors choose wisely, they, and the designee, and all Israel will be blessed; but if they do not choose wisely, everyone will be cursed.
- The 600 electors then gather. 500 vote for Joshua; 100 vote for a very young Bernie Sanders. God is pleased and blesses everyone.

The point of this counter-story is, of course, to highlight that there isn’t any democracy in the Torah. Imagine how different the history of Christian Europe, with its ‘divine right of kings,’ might have been, if the Torah had, from the beginning, endorsed democracy. And imagine how different Jewish political theory might be today, if there had been a clear alternative in the Torah itself to a Davidic king as the ideal.⁴⁵

A common reaction, when I have previously ‘tried out’ this hypothetical counter-narrative, has been: but, of course, the Torah did not teach democracy, for Numbers was written before anyone else in the Ancient Near East had thought about democracy.

To which my response has been – yes, that’s exactly the point: the Torah was written within a particular historical context, as illuminated for us by MSB. MSB can *contextualize* for us the values that the Torah does and/or does not teach: but it is simply beyond the role of MSB to argue as to how we might nevertheless ‘derive’ contemporary values from our time-specific text.

⁴⁵ See my article “A Proposed Distinction Between Expectational and Aspirational Messianism” in *Zeramim* II:2 (Winter 2017–2018), pp. 121–138.

There may, however, be good reason why, in advocating for a contemporary understanding of Judaism, we would be reluctant to thus flat-out 'admit,' per an MSB analysis, that the Bible *is* missing some values that we today regard as essential. Perhaps we appropriately prefer 'midrash' to MSB precisely so that we don't have to confront this values gap. Strikingly, chapter one of Martin Goodman's recently published *A History of Judaism*⁴⁶ begins *not* with the Pentateuch nor with the Prophets, but rather with Josephus, in the first century C.E. — and his midrashic review of the 'tradition.'

Moreover, as American Jews, we are living, perhaps surprisingly, in an age of renewed Christian Bible Fundamentalism, as seen in, for example, the assertion by the U.S. Attorney General Jeff Sessions that the New Testament, in Romans 13:1-5, commands, in the name of God, that the immigration laws as interpreted by our government officials must be strictly followed, regardless of the cruel penalties imposed on parents and children seeking entry into this country.⁴⁷ And a fundamentalist 'Bible Museum' now stands in the heart of Washington D.C..⁴⁸

One way to oppose such Christian Fundamentalism is to argue that that is just *not* what 'the Torah' means. But, as a minority in this country, it is difficult for us to make that argument.⁴⁹ Moreover, we cannot then avoid the rebuttals that point out that the Torah also endorses a number of values that liberal Jewish Americans tend to reject, *e.g.*, the death penalty, or slavery, or the unequal treatment of women.

There is an important late midrash that takes a different approach. We learn in *Pesikta Rabbati* 5 (following the translation of Ste-

⁴⁶ Princeton: Princeton U.P., 2018.

⁴⁷ See, *e.g.*, *USA Today*, 6/16/2018 (available online at <https://www.usatoday.com/story/news/2018/06/16/jeff-sessions-bible-romans-13-trump-immigration-policy/707749002/>), "Jeff Sessions Quotes Romans 13 Defending Trump Immigration Policy."

⁴⁸ See Candida Moss and Joel Baden, *Bible Nation: The United States of Hobby Lobby* (Princeton: Princeton U.P., 2017), reviewing the background ideology of the new museum.

⁴⁹ See my "Judaism and American Civil/Political Society In the Age of Trump" in *Zeremim* I:3 (Spring 2017), pp. 111-129.

ven Fraade):⁵⁰

R. Judah b. R. Shalom (ca. 375) said: Moses requested [of God] that the oral teaching [*mishnah*] be written. The Holy One, blessed be he, foresaw that in the future the nations would translate the Torah and read from it in Greek and say, "They are not Israel." The Holy One, blessed be he, said to him, "O Moses! In the future the nations will say, 'We are Israel; we are the children of the Lord.' And Israel will say, 'We are the children of the Lord.' Now, the scales would appear to be balanced [between the two claims]." The Holy One, blessed be he, would say to the nations, "What are you saying that you are my children? I only recognize as my son one in whose hand are my 'mysteries'?" They would say to him, "And what are your 'mysteries'?" He would say to them, "the oral teaching [*mishnah*]." . . . Said the Holy One, blessed be he, to Moses, "What are you requesting, that the oral teaching be written? What then would be the difference between Israel and the nations?" Thus, it says, "Were I to write for him [Israel] the fullness of my teaching [*torah*]; if so, "they (Israel) would have been considered as strangers" (Hos. 8:12).

In other words, our answer to such Christian Fundamentalism, then and now, might be – our covenant with God is based on the Oral Torah, and on how *it* interprets the (written) Torah.

The implications of this midrash for the place of MSB in contemporary Jewish thought seem to me to be double-edged. On the one hand, perhaps what this midrash is teaching is that, in effect, there is no place for MSB, because all that counts is the Oral Torah. On the other hand – and this is, perhaps, the approach taken by medieval commentators like Rashbam (*supra* fn. 9): since we *have* the Oral Torah as a separate source of authority for our halakhic practice, we should

⁵⁰ See Steven Fraade, "Concepts of Scripture in Rabbinic Judaism," in B. Sommer, ed., *supra* fn. 3, *Jewish Concepts of Scripture* at p. 39. A parallel version is set forth in Tanhuma, *Vayyera* 5, as discussed in Moshe Halbertal, *Concealment and Revelation: Esotericism in Jewish Thought and its Philosophical Implications* (Princeton: Princeton U.P., 2007) at pp. 2–3.

feel even *more* comfortable in examining the Torah critically and contextually.⁵¹ Perhaps a better understanding of where 'we came from,' and of the original context of Scripture, will show how far our values have evolved, and suggest ways in which they might further evolve.

It may seem odd, however, to 'return to Tradition' in this way: for Moses Mendelssohn (Germany, 1729–1786), at the start of the so-called Enlightenment ("Haskalah") movement, sought precisely to return Judaism to a focus on Bible, to escape what he viewed as the constraints of the Talmudic 'tradition.'⁵² See, similarly, David Ben-Gurion's 'turn to the Bible' for purposes of his Zionist ideology.⁵³

Perhaps, instead of ping-ponging between Bible and Talmud, we need an approach that incorporates, yet moves beyond, both of these (see, *e.g.*, Schechter's suggestion in fn. 2, *supra*). Surely, however, that is a topic for another day; it is enough here to note that MSB, by its inherent limits, forces us to confront some uncomfortable broader questions.

4. The Problem of Liturgical Context

We turn, as our last 'problem,' to a concern that is more prosaic, and more specific to the synagogue.

The high point (in physical terms, if not also emotional terms) of the 'Torah liturgy' in many contemporary synagogues occurs when the Torah scroll is lifted (*hagbah*'), and (in many synagogues) we all proclaim⁵⁴:

⁵¹ See, similarly, Bernard Schwartz, *supra* fn. 20.

⁵² See Barry Scott Wimpfheimer, *The Talmud: A Biography* (Princeton: Princeton U.P., 2018) at pp. 196–198.

⁵³ See Wimpfheimer, *supra*, at pp. 204–207. See also Alan Levenson, "Reading the Bible," *JQR* vol. 107, no 4 (Fall 2017) pp. 557–568, re-viewing, *inter alia*, Anita Shapira, *The Bible and Jewish Identity* [Hebrew] (Jerusalem: Hebrew U. Magnes Press, 2005).

⁵⁴ Translation from *The Artscroll Siddur* (RCA edition) (Brooklyn: Mesorah, 1990), at p. 445.

This is the Torah that Moses placed before the Children of Israel, upon the Command of Ha-Shem, through Moses' hand.

And many of us also point with a pinkie finger, or tallit, towards the Torah, as it is lifted and opened.

This fundamentalist declaration is, of course, *not* contained in any single verse in the Torah: rather, it is a mash-up of Deut. 4:44 and Numbers 9:23.

Professor Ruth Langer has shown,⁵⁵ through her exhaustive historical analysis of all available pre-modern prayer books (and/or manuscripts, and commentaries), that: (a) the recitation of the *first* half of the above-quoted declaration, *i.e.*, consisting of only Deut. 4:44, is first attested only in the mid-16th cent.,⁵⁶ and (b) the addition of the concluding words, from Numbers 9:23, is first attested in 1700, "explicitly as a custom of" R. Isaac Luria, the great 16th cent. Safed Kabbalist (known as the "Ari," see fn. 22, *supra*).⁵⁷

Langer also notes:⁵⁸

Not a single [pre-modern] prayer book or halakhic text on Torah reading dictates the now-common custom of pointing to the text while reciting these words. The origin of the custom is obscure, both in Ashkenaz and in the oriental rites where it is also common. It is possible that it is somehow connected to the widely imitated custom of [R. Isaac] Luria, the Ari, to try to be close enough to the scroll at this point to be able to read its letters... [H]e was known deliberately to follow the Torah scroll to its place of display so that he could read the letters and receive the "light" transmitted through the contents of the scroll itself.

⁵⁵ Ruth Langer, "Sinai, Zion and God in the Synagogue: Celebrating Torah in Ashkenaz," in Ruth Langer and Steven Fine, eds., *Liturgy in the Life of the Synagogue: Studies in the History of Jewish Prayer* (Winona Lake: Eisenbrauns, 2005).

⁵⁶ At p. 138.

⁵⁷ At p. 148 and fn. c.

⁵⁸ At p. 143, fn. 56; and continuing with pp. 151–152.

The sermon is often delivered very shortly after this fundamentalist declaration, and physical affirmation, derived from the Ari's mystical beliefs as to the sanctity of each letter of (and indeed of each seemingly blank space in) the Torah scroll.

How is one to move from that mystical 'high' to the mundane historical/philological analyses of MSB? How can we teach a critical understanding of the Torah's contents, and at the same time imagine the Torah scroll itself as mystically embodying God's presence, and leading us into battle, scattering God's foes?

Perhaps we need to also teach a historical-critical understanding of our liturgy, in addition to, and as a prelude to MSB. In any event, however, do we wish to have our contemporary understanding of the Torah framed by the mysticism of the Ari? Perhaps the task of bringing MSB into the synagogue is even more essential, as a counterbalance to the unwillingness of many synagogues to alter 'the liturgy'—regardless of how 'recent' that liturgy might be. (Or perhaps we might re-locate the sermon to *before* 'hagbah'.)

Conclusion

I see three insights emerging generally from the welter of MSB:

1. A variety of different groups, with different backgrounds and with different historical experiences, all have wanted to be included in 'Israel' and have wanted their traditions to be included in the overall story. Thus, for example, Yigal Yadin argued that the 'Tribe of Dan' began as one of the Philistine-type 'Sea Peoples,' but joined Israel, and its story came to be included as part of the 'twelve-tribe' narrative.⁵⁹
2. Despite their differences, the different components comprising Ancient Israel all shared certain values—even though they debated sharply as to how to *prioritize* those values.

⁵⁹ Yigal Yadin, "'And Dan, Why Did He Remain in Ships? (Judges 5:17)," reprinted as ch. 12 in Frederick Greenspahn, ed., *Essential Papers on Israel and the Ancient Near East* (NY: NYU Press, 1991) (first published in 1968).

Sometimes, the Tanakh itself has preserved both sides of a debate. Thus, for example, as shown by Paul Hanson,⁶⁰ the prophet known as Third Isaiah, in Isaiah ch. 66 (the *haftarah* for *Shabbat Rosh Hodesh*) and the prophet of Zechariah ch. 3 (in the *haftarah* for *Shabbat Hanukkah* and also for the portion *Beha'alotekha*) debated sharply as to the primary need for those residing in Jerusalem as of around 520 B.C.E. (*i.e.*, following the destruction of the First Temple in 586 B.C.E.): Isaiah advocated a program of general economic development, and spiritual enrichment, while Zechariah focused on investing all available resources in building the Second Temple.

Other times, modern scholarship helps us to imagine one of the otherwise-unattested voices in an ancient debate. Thus, Römer and Brettler⁶¹ have argued that there was once a debate as to whether the Torah itself should include the story of Israel's entry into and conquest of the Land, *i.e.*, including what is now the book of Joshua, so that the Torah would consist of *six* volumes, or whether the Torah should stop with the death of Moses – thus focusing more on the role of law, rather than the role of the Land, for Jewish life. (And applying this approach elsewhere, one can hear a variety of minority voices implicit, even where the text appears to be univocal.)

3. Conversely, MSB has also shown how other texts has *harmonized* debates. Thus, to take a famous example: whereas Ex. 12:9 required that the Passover offering be roasted by fire, and Deut. 16:7 required that the offering be boiled, 2 Chron. 35:13 reported that when Josiah caused the people to celebrate Passover, “they boiled the paschal-offering in fire, according to law” – a culinary contradiction.⁶²

I suggest that we need inclusiveness, *and* we need to hear differing, and different, voices, *but* we also need to understand how to harmonize. If MSB can point us to precedents for how we achieved these goals in the past, then that might well warrant inclusion of MSB in our

⁶⁰ Paul Hanson, *The Dawn of Apocalyptic: The Historical and Sociological Roots of Jewish Apocalyptic Eschatology* (Philadelphia: Fortress Press, 1975), esp. pp. 170–186.

⁶¹ Thomas Römer and Marc Brettler, “Deuteronomy 34 and the Case for a Persian Hexateuch” *JBL* 119/3 (2000), pp. 401–419.

⁶² See Michael Fishbane, *Biblical Interpretation in Ancient Israel* (Oxford: Clarendon Press, 1985) at p. 135.

A Biblical Challenge: Can an Academic Approach Aimed at 'Best Explanation' of the Biblical Text Be Imported Into the Synagogue-Sermon World of 'Interpretation?'

Richard L. Claman

synagogue sermons today—but the obstacles noted here should not be overlooked.

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