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Deuteronomy: The First Torah

Before the Five Books of Moses were compiled as a complete work, evidence from Deuteronomy as well as from Joshua and Kings shows that Deuteronomy itself was known as “the Torah.”

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Torah scroll on display in the Chmielnik Synagogue(detail) Jakub T. Jankiewicz / Wikimedia

Introduction

The Book of Deuteronomy/Devarim (literally “words”) is constructed as a series of addresses that Moses delivers to the Israelites in Transjordan shortly before his death.

Moses’ speeches encompass nearly all the material in the book:

* Retrospective narrative material alongside hortatory exhortations (chapters 1–11).
* Legal material followed by the attendant blessings and curses for observing or neglecting these commandments (chapters 12–28).
* The description and ramifications of a nationwide covenant assembly (chapters 29–30).
* Two poetic texts addressed to the nation (chapters 32–33).

Deuteronomy is known in rabbinic literature as “*mishneh torah*” (see Deut 17:18) in the sense of a repetition of the Torah (thus also the meaning of the Greek name Deuteronomion)—and this appears to be its function in the current, redacted Torah.[1] Yet Deuteronomy’s original function can hardly be understood as a mere repetition or even an exposition of laws that appear in the other books of the Pentateuch because it is its own, independent book. So many laws that appear in Deuteronomy are new, having no parallel in other parts of the Torah (e.g., the law of the king, the law of the captive woman, and many, many others) so it cannot be construed as a repetition of the Torah.

Thus, when Deuteronomy 1:5 states: “On the other side of the Jordan, in the land of Moab, Moses began to clearly set forth this *torah*”[2] (הואיל משה באר את התורה הזאת), which *torah* does the verse refer to, which Moses is about to expound?

The Term “*Torah*” in Genesis through Numbers

Before approaching Deuteronomy, two points are worth noting. First, the most basic meaning of the term *torah* is “teaching” or “instruction,” from the same root as *moreh*/*morah* (see Jer 18:18; Mal 2:6–7; Prov 4:2). Second, elsewhere in the Pentateuch (outside of Deuteronomy), the term *torah* is mostly used with reference to a limited set of prescriptions related to a particular sacrifice or ritual. This is its sense, e.g. in Leviticus 6:2, “the *torah* of the burnt offering,” or in Leviticus 14:2 “the *torah* for cleansing a leper.”

Numbers 19:2 and 31:21 both use the term “*chukkat hatorah*” (“statute of the law”) with reference to purification rituals, either of a person who has had contact with a corpse or of vessels. The plural *torot* is also used as a synonym for commandments in general (thus Genesis 26:5).[3]

The Term “*Torah*” in Deuteronomy

Nowhere else in the Pentateuch outside of Deuteronomy does the term *torah* refer to an extended written legal document. This latter meaning seems to be unique to Deuteronomy itself.[4] Even as conservative a commentator as Malbim recognizes that the reference to “this *torah*” in Deut 1:5 is to the set of laws beginning in Deuteronomy chapter 12,[5] i.e. to the section of the book that modern scholars refer to as the Deuteronomic code, and not to the entire Torah, namely Genesis-Deuteronomy.

Malbim, like Ramban before him, insists that the laws in Deuteronomy were all made known by God to Moses at Sinai, but were only made public by Moses shortly before his death—in other words, these laws were part of the larger Torah, even if the term *torah* in Deuteronomy refers only to a portion of the Torah. For modern critical scholars, this is an unacceptable proposition, amongst other reasons, since Deuteronomy diverges from laws found elsewhere in the Pentateuch. (Compare, for example, Deut 12:20–24 and Lev 17:1–4 on the permissibility of consuming meat outside of a sacrificial context.) It is untenable that the Deuteronomic laws were given in conjunction with the very laws that they contradict.

In any event, it is eminently clear that the term *torah* within Deuteronomy is entirely self-referential.[6] This does not mean that other *torot*—some of which were also incorporated into our Torah—were not circulating at the time of Deuteronomy’s composition. For the author of Deuteronomy, however, these were not authoritative works.

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References to the (Deuteronomic) *Torah* in Joshua and Kings

According to the commonly accepted scholarly position, the editing of the Former Prophets in general and the books of Joshua and Kings in particular, was undertaken by circles who were heavily influenced by Deuteronomy, its style, and its outlook; that is why scholars call the books Deuteronomy-Kings the Deuteronomistic History. This is based on similarities of style and ideology in these books. Furthermore, the few references in Joshua and Kings to the *torah* of Moses appear in contexts that either echo the terminology of Deuteronomy or correspond with prescriptions that are unique to Deuteronomy. In other words, in Joshua and Kings the word *torah* refers to Deuteronomy, and not to the entire Torah.

The first such instance is at the beginning of the Book of Joshua, where a few aspects of God’s initial charge to Joshua following Moses’s death closely parallel texts in Deuteronomy.

**Deuteronomistic** **Borders –**God’s declaration to Joshua that the Israelites will conquer the maximal borders of the promised land (Josh 1:3–5) closely echoes Deut 11:24–25.

**Be Strong and Courageous –** God’s call to Joshua to be strong and courageous (חזק ואמץ; Josh 1:6) follows the diction of Deut 31:7.

**“Do not Stray from it Right or Left” –**As part of this exhortation, God tells Joshua to faithfully observe “all the *torah* that Moses my servant commanded you.” This is augmented by the command “do not stray from it right or left” and the beneficial result “so that you will succeed wherever you go” (Josh 1:7).[15] The latter two phrases are taken straight out of Deuteronomy (17:11 and 28:14 for לא תסור ימין ושמאל and 29:8 for למען תשכיל). This suggests that the *torah* of Moses mentioned in this context also refers to Deuteronomy.

**Observe Torah and Be Successful –**The same can be said regarding David’s deathbed charge to Solomon. David encourages his successor to follow in God’s ways and to observe all the commandments “as written in the *torah* of Moses so that you will succeed in all that you do” (1 Kings 2:3).[16] The parallel with Deut 29:8 is very precise.

Citing Moses’ Torah in Joshua and Kings

Other texts in Joshua and Kings specifically cite passages from Deuteronomy when emphasizing that something was done in accordance with that which is written in the book of Moses’s *torah* (ככתוב בספר תורת משה – Josh 8:31 and 2 Kings 14:6). Again, it is significant that only Deuteronomy, and not texts that now form the first four books of the Torah, is cited in these cases.

Joshua Makes an Altar as per Deuteronomy’s Specifications, Inscribes and Reads Moses’ Torah, and Performs the Blessings and Curses Ceremony

Joshua 8:30–35 narrates how Joshua erected an altar on Mt. Ebal that was made of “unhewn stone upon which no iron had been wielded” and offered on it whole and well-being sacrifices – a clear citation of Deut 27:5–6.

Furthermore, Joshua inscribes a copy of Moses’s *torah* (משנה תורת משה) on stones and oversees the blessing and curse ceremony, as envisioned by Deut 27:2–3, 11–13. Again, as stated above, this is difficult to picture if referring to the Torah as a whole and not just Deuteronomy or the Deuteronomic Law Collection. Finally, Joshua reads all the words of the *torah*, the blessings along with the curses, as they are written in the *torah* book – an evident reference to some form of Deut 27:15–26 and Deut 28.[17]

Amaziah’s Adherence to a law in Deuteronomy

According to Kings, in the monarchic period, King Amaziah of Judah eliminated the assassins of his father Jehoash, but refrained from killing their children. The Deuteronomistic historian describes Amaziah’s policy as being in accordance with what is written in the book of Moses’s *torah* (2 Kings 14:6 citing Deut 24:16).

מלכים ב יד:ווְאֶת בְּנֵ֥י הַמַּכִּ֖ים לֹ֣א הֵמִ֑ית כַּכָּת֣וּב בְּסֵ֣פֶר תּֽוֹרַת־מֹ֠שֶׁה אֲשֶׁר צִוָּ֨ה יְ-הֹוָ֜ה לֵאמֹ֗ר לֹא יוּמְת֨וּ אָב֤וֹת עַל בָּנִים֙ וּבָנִים֙ לֹא יוּמְת֣וּ עַל אָב֔וֹת כִּ֛י אִם אִ֥ישׁ בְּחֶטְא֖וֹ ימות יוּמָֽת:

But he did not put to death the children of the assassins, in accordance with what is written in the Book of the Teaching of Moses, where Yhwh commanded, “Parents shall not be put to death for children, nor children be put to death for parents; a person shall be put to death only for his own crime.” (2 Kings 14:6)

דברים כד:טזלֹֽא יוּמְת֤וּ אָבוֹת֙ עַל בָּנִ֔ים וּבָנִ֖ים לֹא יוּמְת֣וּ עַל אָב֑וֹת אִ֥ישׁ בְּחֶטְא֖וֹ יוּמָֽתוּ:

Parents shall not be put to death for children, nor children be put to death for parents: a person shall be put to death only for his own crime. (Deut 24:16)

Josiah Finds the Torah (Deuteronomy?)

Most famously, King Josiah is greatly distressed upon hearing the words of the long-lost “book of the *torah*” (2 Kings 22:11),[18] and following a consultation with the prophetess Huldah, calls a national assembly at which he and the people commit themselves to fulfilling all the terms of the covenant written in that book (2 Kings 23:3). Inasmuch as some of the most salient features of Josiah’s subsequent cultic reform relate to precepts that are unique to Deuteronomy,[19] it is no wonder that commentators and scholars from medieval times to the present have identified the *torah* scroll referred to in the Josiah story with Deuteronomy, or at least some early form of it.[20]

Conclusion: The *Torah* in Deuteronomy is Deuteronomy

We have thus seen that Deuteronomy and the literature most influenced by it understood “the *torah* of Moses” to refer to none other than Deuteronomy itself.[21] This is not to say that other parts of what eventually came to be the complete Pentateuch did not exist prior to or alongside Deuteronomy—but these were not known to, or at least not seen as authoritative by, the authors of Joshua and Kings. Evidence of quotation and citation in the Deuteronomistic History suggests that they certainly were not combined together into a five-part Torah when the Deuteronomistic History was written—otherwise, how can we explain why only Deuteronomy is referred to?[22]

To the extent that Deuteronomy exhibits a certain overlap with other Pentateuchal passages, Deuteronomy should not be seen as mere repetition of the first four books of the Bible, or even as an attempt by Deuteronomy to clarify these books. Rather, Deuteronomy’s purpose when referencing other Pentateuchal legal and narrative passages should be understood as an attempt to modify, or even radically (if subtly) transform, its earlier or contemporary sources.[23] It does so in a self-contained *torah*: (an early form of) the book of Deuteronomy.

An Afterthought

Ironically, Deuteronomy, which makes so many changes to other Pentateuchal material, is itself greatly concerned about not being changed or altered in any way:

דברים ד:בלֹ֣א תֹסִ֗פוּ עַל הַדָּבָר֙ אֲשֶׁ֤ר אָנֹכִי֙ מְצַוֶּ֣ה אֶתְכֶ֔ם וְלֹ֥א תִגְרְע֖וּ מִמֶּ֑נּוּ לִשְׁמֹ֗ר אֶת מִצְוֹת֙ יְ-הֹוָ֣ה אֱ-לֹֽהֵיכֶ֔ם אֲשֶׁ֥ר אָנֹכִ֖י מְצַוֶּ֥ה אֶתְכֶֽם:

Deut 4:2You shall not add anything to what I command you or take anything away from it, but keep the commandments of Yhwh your God that I enjoin upon you.

דברים יג:אאֵ֣ת כָּל הַדָּבָ֗ר אֲשֶׁ֤ר אָנֹכִי֙ מְצַוֶּ֣ה אֶתְכֶ֔ם אֹת֥וֹ תִשְׁמְר֖וּ לַעֲשׂ֑וֹת לֹא תֹסֵ֣ף עָלָ֔יו וְלֹ֥א תִגְרַ֖ע מִמֶּֽנּוּ:

Deut 13:1 Be careful to observe only that which I enjoin upon you: neither add to it nor take away from it.

[View Footnotes](https://www.thetorah.com/article/deuteronomy-the-first-torah)

This is also what Maimonides had in mind when naming his great halachic compendium *Mishneh Torah*.

1. The term באר also appears later in Deuteronomy (27:8) with a similar meaning, in the context of inscribing words in a clear and distinct fashion (cf. also Hab 2:2).
2. See further in Marc Z. Brettler, “Torah,” *The Jewish Study Bible* (2nd ed.; New York: Oxford U. Press, 2014), pp. 1–2.
3. In one instance, however, Deuteronomy uses the term *torah* to refer to a judicial ruling (17:11).
4. See his commentary *ad loc.*
5. This is particularly so in view of the fact that the full phrase *sefer hatorah* occurs nowhere else in the Pentateuch except for Deuteronomy. See M. Weinfeld, *Deuteronomy 1–11* (Anchor Bible, vol. 5; New York: Doubleday, 1991), p. 81.
6. וְזֹ֖את הַתּוֹרָ֑ה אֲשֶׁר־שָׂ֣ם מֹשֶׁ֔ה לִפְנֵ֖י בְּנֵ֥י יִשְׂרָאֵֽל:
7. Accordingly, the way this verse is recited in synagogue to refer to the complete Torah scroll being raised does not reflect the verse’s original, contextual meaning.
8. This verse is the textual source for the phrase *mishneh torah* referred to above. The more accurate rendering is “a copy of this torah,” as reflected in Targum Onkelos’s translation פתשגן אורייתא הדא (as opposed to a recapitulation of the Torah). This meaning can be derived from the use of the term *mishneh kesef* in Gen 43:12, referring to the double amount of money with which Joseph’s brothers returned to Egypt, and the term *lechem mishneh* in Exod 16:22, referring to the double amount of *manna* that was collected on Fridays. Thus, *mishneh torah*is to be explained as an additional copy of the *torah* scroll, a doubling, as it were, of the original copy.
9. וְכָתַבְתָּ֣ עֲלֵיהֶ֗ן אֶֽת־כָּל־דִּבְרֵ֛י הַתּוֹרָ֥ה הַזֹּ֖את בְּעָבְרֶ֑ךָ
10. See the rabbinic source known only from the Cairo Genizah (Mekhilta to Deuteronomy), which records R. Simeon bar Yohai’s opinion that only the book of Deuteronomy was inscribed on the monumental stones. See S. Lieberman, *Tosefta Ki-Fshuta*, vol. 8 (New York: JTS, 1973), p. 700, who is cited by J. H. Tigay, *The JPS Torah Commentary: Deuteronomy*(Philadelphia: JPS, 1996), p. 394, n. 11.
11. See Mishnah *Sotah* 7:4.
12. לַעֲשׂוֹת אֶת כָּל דִּבְרֵי הַתּוֹרָה הַזֹּאת הַכְּתוּבִים בַּסֵּפֶר הַזֶּה
13. For the centrality of writing in Deuteronomy, see J-P. Sonnet, *The Book within the Book: Writing in Deuteronomy* (Leiden: Brill, 1997). For other isolated examples of writing in the Pentateuch, see Exod 17:14; 24:4; Num 5:23.
14. :רַק֩ חֲזַ֨ק וֶֽאֱמַ֜ץ מְאֹ֗ד לִשְׁמֹ֤ר לַעֲשׂוֹת֙ כְּכָל־הַתּוֹרָ֗ה אֲשֶׁ֤ר צִוְּךָ֙ מֹשֶׁ֣ה עַבְדִּ֔י אַל־תָּס֥וּר מִמֶּ֖נּוּ יָמִ֣ין וּשְׂמֹ֑אול לְמַ֣עַן תַּשְׂכִּ֔יל בְּכֹ֖ל אֲשֶׁ֥ר תֵּלֵֽךְ
15. כַּכָּת֖וּב בְּתוֹרַ֣ת מֹשֶׁ֑ה לְמַ֣עַן תַּשְׂכִּ֗יל אֵ֚ת כָּל־אֲשֶׁ֣ר תַּֽעֲשֶׂ֔ה
16. Despite the many overlaps, there are still some slight variations between the description of Josh 8:30–35 and the prescriptions of Deut 27, for which see R. D. Nelson, *Joshua: A Commentary* (Old Testament Library; Louisville: Westminster John Knox, 1997), pp. 118–119.
17. According to one rabbinic tradition (see Radak ad. loc.), the *torah* scroll that was brought to Josiah was set precisely at the column containing Deut 28:36, which predicts exile for the people and its king.
18. The unique Deuteronomic precepts that are undertaken by Josiah in the description of his cultic reform are: a) destroying the cult of “the host of heaven” (2 Kings 23:4–5, 11, with reference to Deut 4:19; 17:2–3); b) removal of the cultic personnel known as “*kedeshim*” (2 Kings 23:7, with reference to Deut 23:18); c) destruction of the cultic “high places” located outside of God’s chosen place, i.e. Jerusalem (2 Kings 23:8, 15, with reference to Deut 12:2, 4–5); d) celebration of a national Passover specifically in Jerusalem (2 Kings 23:21–23, with reference to Deut 16:5–6).
19. L. Ginzberg, in his *The Legends of the Jews* (Philadelphia: JPS, 1946), vol. 6, n. 116, notes that many medieval authors seem to have had a version of the Jerusalem Talmud, Shekalim 6, 59c, in which Josiah’s scroll is identified with Deuteronomy. In any case, this identification is made explicitly by the church father Jerome in his comments to Ezek 1:1, and by Pseudo-Rashi to 2 Chr 34:14. In modern scholarship, the identification of Josiah’s *torah*scroll with Deuteronomy goes back to the work of W. M. L. de Wette (1780–1849).
20. This conception changes in literature of the post-exilic period, such as the books of Ezra-Ne2hemiah and Chronicles, in which the “*torah* of Moses” refers to something akin to the complete Pentateuch. However, that is a subject for a separate essay. The main contention of this essay is challenged by David Zvi Hoffmann in his Deuteronomy commentary, *Sefer Devarim* (Hebrew translation from the German; Tel-Aviv: Nezach, 1961), vol. 2, pp. 337–341. The reader is invited to refer to Hoffmann and decide which approach is most convincing.
21. The dating and stages in which the Deuteronomistic History was written is debated in biblical scholarship, but a core version was written or edited in the Babylonian exile, as suggested by the last recorded event at the end of 2 Kings.
22. For a demonstration of how radical legal transformations can be accomplished through textual subtleties, see B. M. Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation* (New York: Oxford U. Press, 1997).