

THE RELATIVE STATUS OF GOD AND ISRAEL
IN THEIR COVENANT RELATIONSHIP

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PART I.

THE PROBLEM OF COVENANT MUTUALITY

CHAPTER I

Introduction

The Covenant relationship between God and Israel constitutes the fundamental and central theme of the Bible. It is basic to the Old Testament's understanding of history. It determines the actions of God; it affects the destiny of Israel and, through it, also that of the nations with whom it comes into contact. Events such as the Exodus, the Wilderness Wandering, and the Conquest of Canaan derive their great significance not only from their intrinsic historic importance, but from the fact that they are direct manifestations of the Covenant relationship. The motivation for the message of the prophets, too, although their references to the Covenant are but infrequently explicit, evolves almost entirely from their concern with that relationship and the obligations it imposes. In fact, it is difficult to see how the Bible -- which, we think, is in essence neither a book about God nor a history of Israel, but a record of the relationship of the two -- would have come into being as we know it without the underlying and unifying theme of the Covenant.

CHAPTER II

The Problem Stated

In view of the extraordinary position which the Covenant occupies not only in the Bible, but in Jewish literature through the ages, we feel that there exists a need further to investigate and to seek to clarify, beyond the confines of theological interpretation, the exact nature of the Covenant relationship, and to do so particularly with regard to the status of each party in relation to the other. What kind of a relationship precisely does the term *א'בא* denote in this respect? Was it, for example, a relationship of mutual obligations; or was the entire load of the burden imposed upon but one of the two parties? and if so, which of the two? We think that an evaluation of the actual degree of power held by each party may well yield satisfactory answers to these questions, for it follows that, if one party is superior in might, the inferior party may be left with but insufficient means to enforce or protect its own side of the Covenant, and the entire agreement could become one-sided in character.

Now we may accept as axiomatic the proposition that a divine being, especially in the light of the attributes which the Bible ascribes to God, is far more powerful in every connotation of the word than a human being. Again in the light of biblical concepts, the Covenant between God and Israel constitutes a relationship as between omnipotence and frailty, the Creator and the work of His hands, the infinite and the finite. On the one side is a God of incomparable might,¹ on the other not only a small people, but "the smallest of all people."² It is indeed hard to conceive of a greater disparity in power or status. We are now immediately faced with the question as to what bearing such maximum disparity could have upon the God-Israel relationship. At first glance, God's supremacy is such as to enable Him, and Him alone, to enforce the Covenant, or else, to break it without fear of reprisal. Do such conditions automatically rule out a relationship in which the rights and privileges of the weaker party are safeguarded? Do they render a one-sided relationship between God and Israel inevitable?

To deal with this problem we shall first consider the question whether an equitable exchange of obligations is possible among Covenant partners of unequal status.

CHAPTER III

Basic Conditions for Mutuality in Contracts

There appears to be a growing awareness in modern Law of the close relationship that exists between the principles of freedom and equality in contractual relationships. In a famous dissent, Justice Holmes has spoken of "the equality of position between the parties in which liberty of contract begins."¹ Similarly, a French Jurist, Charmont,² maintains: "On tend à considerer qu'il n'y a pas de contrat respectable si les parties n'ont pas été placées dans les conditions non seulement de liberté, mais d'égalité. Si l'un des contractans est sans abri, sans ressources, condamné à subir les exigences de l'autre, la liberté de fait est supprimée."³

It is quite clear that both these statements not only speak of freedom and equality as basic requisites for a contractual relationship, but place them in positions of contingency one upon the other. In other words, the two opinions concur in the contention that the freedom to negotiate a contract with a given party is not truly freedom,

unless the two parties are in positions of equality to each other. The same thought appears, too, in the opinion of Cardozo that "the same fluid and dynamic conception which underlies the modern notion of liberty . . . must also underlie the cognate notion of equality."⁴ If liberty of contract, the free right to enter into a covenantal relationship, depends upon equality, it then becomes necessary to probe further into the term "equality of position." For if it were found to imply that partners to a contract had to be equal in the resources of physical might at their disposal, or in rank, or wealth, or influence, it is obvious that no valid, i.e., enforceable contract could come into being between rich and poor, strong and weak, not to speak of God and man.

In point of fact, however, "equality of position" in the understanding of Justice Holmes is not to be interpreted in this manner. In his book on Holmes, Max Lerner explains the phrase to mean "that freedom could not become real until the bargaining positions were equalized."⁵ It will appear then that, theoretically, at least, disparity of status does in no way impinge upon the freedom of contract. On the contrary, we suggest that "equality of position" is tantamount to the free opportunity of each party,

regardless of power and prestige, and free from any duress or fear of reprisal, to arrive at its own choice and decision regarding the acceptability of the other party, or the advisability of entering into contract and of negotiating its terms.

Now, in our own society such "equality of position" is upheld by the "equal protection of the laws"⁶ guaranteed to each party and individual. But even if such constitutional immunities were non-existent according to the opinions cited above, the degree of equality of position among parties to a contract, or the lack of it, would not be determined by the disparity in status between the parties, but by the element of freedom of choice and bargaining power which each party is permitted to enjoy. It is such freedom which ideally creates the conditions for contractual equality. If it can be said to exist in a given situation, the basis for mutuality of obligations, too, exists in a contract or covenant relationship even between parties of otherwise unequal status.

That such was actually the case long before constitutional guarantees came into being is borne out by some of the non-religious intra-human covenants in the Bible, of which the following three may serve as example: King

Abimelech makes a covenant with Abraham concerning the latter's right to a well⁷ which Abraham had dug and which Abimelech's servants had forcibly taken away. Since Abraham dwelt as a guest in Abimelech's territory, it must be assumed that the King had the means to withhold the well from Abraham indefinitely. He represents thus the party superior in physical power. Nevertheless, the covenant bears the earmarks of mutuality. The rights to the well are exchanged for the gift of cattle, and the inferior actually "reproves"⁸ the superior for the latter's past action. Clearly Abraham enters into the covenant of his own free will and without any duress whatever.

Again, in the Book of Joshua,⁹ Joshua enters into a covenant with the inhabitants of Gibeon, the alleged ambassadors from a "far country." In the very act of voluntarily requesting the covenant, they just as voluntarily proclaim themselves to be the inferiors.¹⁰ However, not only does Joshua, representing the superior party, agree to the covenant, but he upholds it against the criticism of his own people, and insists on carrying out his part of the obligations, even though it is later established that the inferior party had entered into the covenant under false pretenses.

Finally, we cite an example where the disparity between the parties is so great as to enable the superior to make of the inferior demands of the utmost severity and cruelty.¹¹ Nahash the Ammonite agrees to the offer of the men of Jabesh-gilead, who offer to serve him in return for a covenant with them, on the condition that they agree to have their right eye put out. But even in this case, the inferior party is able to ask for, and is granted, a period of respite to consider the conditions.¹² There remains for him an element of free choice, however agonizing the alternatives may be. The superior, in any case, does not immediately unleash his full power.

Because of the crassness of the situation, the last example demonstrates particularly well an additional important aspect common to all covenants between non-equals. In the last analysis, even equality of position in terms of freedom of choice will depend upon the readiness of the superior party to place limitations upon the potential of his arbitrary power. In fact, the greater the disparity between the parties in terms of power, the greater must be this willing effort by the superior party. It was this subjugation of superiority to the covenant oath which in

the Ancient Near East¹³ took the place of today's constitutional immunities and facilitated the conditions under which mutuality of covenant obligations could exist.

We now submit that this self-limitation on the part of the superior party prevails even in the case of the greatest possible disparity between partners, namely in the Covenant between God and His creatures. Part of the covenant between God and Noah, which is tantamount to a covenant with all flesh,¹⁴ is God's assurance that He would not again employ His superior might in bringing renewed destruction to the earth and its inhabitants.¹⁵ In view of the fact that the story of Noah follows upon the story of creation with its presentation of God as the all-powerful creator, and in view, too, of the constant references to God as the creator in later Books of the Bible,¹⁶ it is significant that the earliest biblical concepts of the "Creator" clearly involve a self-imposed curbing of His power in the making of a Covenant. Moreover, the theme of self-limitation is not confined to the covenant with Noah. As we shall see, numerous passages from other Books of the Bible¹⁷ indicate that God in effect limited His actions since that first time. For, whenever

He was on the point of forsaking Israel, destroying them, or leaving them to be destroyed, Moses and others could appeal to Him on various grounds¹⁸ none of which was by itself legally binding, but all of which together were intrinsically connected with aspects and sentiments pertaining to His covenant with Israel.

We are thus inclined to believe that even the greatest possible disparity in status between two covenant partners does not mitigate against, let alone exclude, a relationship marked by mutual obligations, however unevenly these might be divided between the partners. And though the self-limitation on the part of the superior power in no way minimizes the original disparity in power and status, it does in effect create a common platform upon which an interplay of action can take place.

NOTES TO CHAPTER III

1. Oliver Wendell Holmes, dissenting in *Coppage v. Kansas*, 236 U.S.1, 27.

2. Joseph Charmont, La Renaissance du droit naturel (Montpellier: Coulet et fils, editeurs, 1910), p. 172.

3. "There is now a tendency to consider no contract worthy of respect unless the parties to it are in relations, not only of liberty, but of equality. If one of the parties

be without defence or resources, compelled to comply with the demands of the other, the result is a suppression of true freedom." -- Charmont, supra, p. 172; trans. in VII, Modern Legal Philosophy Series, p. 110, sec. 83.

4. Benjamin N. Cardozo, The Nature of the Judicial Process (New Haven: Yale University Press, 1921), pp. 81-82.

5. Max Lerner, The Mind and Faith of Justice Holmes (New York: The Modern Library, 1954), p. 155.

6. United States Constitution, 14th Amendment.

7. Gen. 21:22-30.

8. Gen. 21:25.

וְכַנִּי (אֲדָרְבַּק אֶת-אֲבִימֶלֶךְ עַל-אִזְנֵי דָאָר דְּמִיָּה
אֶת עֲצָו עָרִיצוֹ אֲבִימֶלֶךְ)

9. Joshua 9:1 ff.

10. Joshua 9:11

עָרִיצִים אֵינִי וְעַתָּה כִּנְתוּ-לִי בְּרִית

11. I Sam. 11:1-4

12. Ibid., 11:3

וַיֵּאמְרוּ אֵלָיו בְּנֵי יִבְיָהוּ חֲבֵץ לֵן בְּעֵת יוֹמָם וַיִּשְׁלַח
מַלְאָכָיו בְּכֹף שָׂדֵה וְשָׂרָא וְאֶת-אִין מוֹשֵׁעַ אֲמִן וְזָאן
אֵלָיו

13. See below on Hittite Covenants, p

14. Gen. 9:8-17

...וְאֵין בְּנֵי מִדְיָן אֶת בְּרִית אֲנִי ... וְאֵת כָּל נֶפֶשׁ
בְּחַיִּים אֶת אֲנִי בְּעוֹלָם בְּבִרְתִּי וְכָל-חַיִּים בְּאֵין ...
וְכָל-יִכְנִי כֹל-בֶּשֶׂר עוֹר מִמִּי מִחַוֹּל ...

15. Gen. 9:17.

16. Cf., e.g., Isa. 44:24 ff; 45:7-8; Psa. 95:3-6; 104:1-9.

17. E.g., Ex. 32:10-14; Num. 14:11-20, Deut. 9:14-19, Hos. 11:9, Psa. 106:40-46.

18. See below, the discussion on pp. 36-37, 86, 128.

PART II

**CHARACTERISTICS OF COVENANT MUTUALITY
IN INDIVIDUAL BOOKS OF THE BIBLE**

CHAPTER IV

Genesis -- The Patriarchal Covenant

Although there is in the Bible a number of covenants involving God and Israel,¹ when we speak of "the Covenant" we have in mind that continuous relationship which began between God and Abraham² and was then extended at Mt. Sinai to embrace the entire people of Israel.³ The authors of the Bible, having previously introduced the idea of God entering into covenant with the work of His hands with regard to man and beast in general,⁴ now hasten to apply the concept to the subject of their special concern -- the relationship between God and Israel.

The word אברהם appears for the first time in this context in the fifteenth chapter of Genesis.⁵ Abraham is selected by God as the prospective progenitor of a covenant-people for whose habitation an entire land is to be cleared of its current inhabitants.⁶ To be sure, Abraham is worthy of the covenant because of his own righteousness,⁷ but it is in particular the generations after him which are to reap the benefit of God's promise.⁸ Abraham is not

covenanted as an individual alone; he is approached by God as the representative of a people as yet unborn.⁹

It is important to note that this initial explicit reference to the covenant between God and Israel contains the basic themes which, because they constitute the ideological nucleus and historical sine qua non of the Brith concept, are constantly referred to and restated in later Books of the Bible. These themes are as follows: Firstly, God is the originator as well as the initiator of the covenant. We find no mention anywhere of a request by Abraham for such a relationship. The idea, its implementation, and the selection of the covenant partner are clearly God's. Secondly, in entering upon the covenant, God enters upon a specific promise, a sacred oath, a solemn obligation with regard to the welfare and protection of His covenant partner. God's undertaking, however, is not limited to Abraham, but takes, so to speak, the form of a long-range program. Thirdly, therefore, the covenant is to be a perpetual relationship.¹⁰ It does not expire with Abraham's death, but remains in force throughout the generations.

Of the many questions which present themselves with regard to these basic aspects of the brith, we shall at this point address ourselves only to those which touch

upon the problem of mutuality and liberty of contract, as outlined in Chapter III.¹¹ Specifically we are concerned with the following questions: The early biblical passages dealing with the origin of the covenant indicate that its implementation was of God's doing; do they also offer any indication as to whether Abraham might have had any say or part in it? Was the covenant imposed upon Abraham by God, regardless of Abraham's wishes and inclinations, or could he of his volition have either facilitated or prevented it? The 15th and 17th chapters of Genesis speak only of what God undertakes to do for Abraham and his seed,¹² seemingly indicating a lack of obligations on the part of Abraham;¹³ do they also provide any evidence that covenant obligations at the time of the making of the covenant were not to be found exclusively on God's side?

Now, the covenant theme is so central in the Bible, so many aspects involving events, sentiments, and behavior patterns are directly connected with it, that a reference to such aspects, or the use of certain terminology indigenous to them, may well constitute a reference to the covenant itself. We cannot, therefore, confine our discussion only to such passages which refer to the covenant explicitly.

Instead of beginning at the point where the word brith first appears with regard to the covenant between God and Abraham (i.e., Gen. 15), we propose to make our point of departure the narrative in which God and Abraham first confront each other (i.e., Gen. 12).

We are told¹⁴ that God speaks to Abraham, asking him to leave his native land and to repair to another, as yet unspecified land in which he is to reap blessings in abundance and become the progenitor of a great and blessed people. Abraham's reaction to what may, with justification, be termed as much an invitation as a command -- in any case a rather drastic and sudden confrontation -- is summed up by the biblical author in a brief sentence: *וַיִּשְׁמַע אַבְרָהָם וַיֵּשֶׁב בְּלָאֵי*
וַיֵּשֶׁב אַבְרָהָם בְּלָאֵי, Abraham asks no questions and goes.

A few verses later,¹⁵ having arrived in Canaan, Abraham is again confronted by God who promises to give this land to Abraham's seed. Again Abraham remains silent. Instead he builds an altar unto God: *וַיִּבְנֶה אַבְרָהָם מִזְבֵּחַ*
וַיִּבְנֶה אַבְרָהָם מִזְבֵּחַ

Now, a superficial reading of this narrative may well convey the impression that -- in the matter of God-Man relations, as the Bible is wont to present them -- nothing extraordinary is happening here. It is hardly astounding

that the Creator of Heaven and Earth should command one of His creatures. It is even less astounding that He should be obeyed without question.

God's approach to Abraham here, however, is not only in the nature of a Divine command. It involves a deliberate choice, a special process of selection which, as stated before, is a crucial aspect of the covenant and one to which the Bible constantly refers.¹⁶ A discussion of God's reasons for His choice will be found elsewhere in this thesis.¹⁷ The outcome of his choice in the person of Abraham, however, and the part for which God had chosen him, clearly lifts Abraham high above the level of just another of God's creatures. Indeed, it makes of him a person of special concern in God's eyes.¹⁸ The situation in Gen. 12:1 ff. is therefore a very special situation;¹⁹ God's confrontation of Abraham entails a very special proposition which requires of Abraham a very special reply.

We suggest, therefore, that the few words used in the biblical narrative to indicate Abraham's acquiescence in the situations referred to above -- *וַיִּשְׁמָע* *וַיִּשְׁתָּחֲוֶה* and *וַיִּשְׁמָע* *וַיִּשְׁתָּחֲוֶה* -- constitute in effect an affirmative decision in answer to a Divine proposition, rather than unquestioning

and unconditional obedience to a Divine command. We revert here to what has been said above concerning the intrinsic nature of a contract and the principle of offer and acceptance which underlies it.²⁰ We submit that this principle and its corollaries is involved in the biblical narrative at hand. An offer -- not an order -- allows an element of choice, and a choice is contingent upon certain conditions. Indeed, we hold that the conditional element which is indigenous to the making of any contract and its liberty, is implicit, too, in the exchange between God and Abraham. We believe it to be present in a number of almost identical situations involving God and Abraham and God and Isaac.²¹ And we are strengthened in our contention by the fact that what is but implicit in these situations is unmistakably explicit in the case of Jacob, when he says

to God: *אֵל-יְהוָה אֲלֵכֶיךָ עָמָד וְרִמְתִּי בְּדֶיךָ כִּשְׁכֹּשֶׁת אֶבֶן אֲנִי
 פֹּחֵךְ וְנֶחֱלֵי-יָ אֶחָד לְאֵלֶיךָ וְבָעֵד לְפָנֶיךָ וְהָיָה דָּמִי
 אֲבִי וְיֵד וְיָד יְהוָה לִי לְאֵלֵכֶיךָ.*²²

These words may stand also as the verbalization of Abraham's initial reaction to God's *אֵל* *אֵל*.²³ Subsequently God makes His promise, states His own obligation *אֲנִי* *אֲנִי*, and Abraham acquiesces. Furthermore, it would seem to us that *אֲנִי* *אֲנִי* is tantamount in meaning

to the phrase which introduces the actual covenant ceremony;²⁴

וְהָיוּ שְׁנֵיהֶם כְּאֶחָד וְהָיוּ כְּאֶחָד

The two prospective partners have reached an understanding.

The contract can now be signed.

We have presented the events leading up to the making of the covenant in what might be called "secular" terms because of the fact that in Abraham's days covenants were an established institution in the Near East. W. F. Albright has drawn attention to the "first published extra-biblical occurrence of the word [*bērit*] from early times -- not later than the first third of the fourteenth century B.C."²⁵ Moreover, the Hittite tradition of covenant making, which is contemporary with Israel's beginning, is considered to have played a part in the affairs of that time.²⁶ Now, from such accounts as the biblical story of Abraham's purchase of Machpelah,²⁷ which may well be an example of the relationship between Hittite and Israelitic covenant proceedings, we surmise that such covenanting was accompanied by an established ritual which involved a great deal of bargaining. Although, because of our own insufficient knowledge of the Hittite material, we hesitate to draw any personal conclusions in this matter, it seems,

nevertheless, unlikely that such rites, or the psychology which motivated them should abruptly have fallen into desuetude because a new concept involving a deity as a covenant partner was in the making. The covenant with God was, after all, not yet "theology" in Abraham's days. Like any other covenant, it was an aspect of practical living, evoking at least in the beginning reactions of established conventional human behavior. It is certainly idle to speculate on the nature of a situation involving a negative decision on Abraham's part. We think it important to state, however, that an element of choice and a conditional element is present in Abraham's response to God's initiative in making the covenant.²⁸ Inasmuch as this element of choice on Abraham's part corresponds directly to God's selection of Abraham and his seed, we feel that, despite the great disparity in status and power between the two parties, the covenant, even at the time of its making, has characteristics of mutuality and cannot rightfully be termed a one-sided arrangement.

We see further evidence for this contention in the implications arising out of the Bible's account concerning the fate of Ishmael vis-à-vis that of his step-brother

Isaac.²⁹ In terminology strongly reminiscent of that employed in God's promise to Abraham at the beginning of the chapter,³⁰ Ishmael is assured by God of a blessed and prosperous future. Then follow the words (17:21a): וְיִשְׁמָעֵאל יִהְיֶה גָּדוֹל. It is obvious from the position of the object, וְיִשְׁמָעֵאל, placed at the beginning of the sentence, that we have here a deliberately emphatic statement. Ishmael is to be blessed and made great in a manner similar to that promised to his father and brother; but -- and this is a crucial "but" -- one thing will be withheld from him: he will not be a partner to the covenant. Practically, this means, of course, that Ishmael and his seed shall not dwell in Canaan, and that he shall have no share in God's specific promise to Abraham. But from the so strongly emphasized distinction between the two kinds of Divine promise and blessing, we also draw the conclusion that the bestowal of God's favors, even of favors in abundance, does not in itself constitute a covenant with God. No party's one-sided action constitutes the covenant. By implication we are left here with the strong impression that a covenantal relationship requires a form of interaction in which both parties must share, in whatever disproportionate manner. In the final chapter, the attempt will be made to

determine the nature of the covenant requirements for both parties.³¹ For the purposes of the theme at hand, we simply wish to use this illustration as a further point in our argument for mutuality in the covenant between God and Israel.

Our final point is drawn from the remarkable verses which deal with the dispute between God and Abraham over the fate of Sodom and Gomorrah.³² Doubtlessly, the significance of the entire episode must be evaluated against the background of the newly formed covenant, for the narrative makes it apparent that the relationship between God and Abraham has assumed new and rather startling dimensions. We find, for example, for the first time a clear-cut statement with regard to what is expected of Israel as part of the brith. The statement is contained in verse 19, which we shall quote in its entirety:

כִּי יִפְדֶּתִי לְמַעַן אֲבִי אֶת־בְּנֵי וְאֶת־בָּתוּלָּתוֹ אֶתְּנֶה
וְאַחֲרָיו בְּרֵךְ יְהוָה לְעַלְמָא זָדָה וְנִלְכֵּס לְמַעַן פְּדִיָּא יְהוָה
אֶת אֲבִירָהּ אֶת אֶת־בָּרָה עֲלֵי

In what is an obvious reference to the covenant, God states that He has "known" Abraham. The next word is יָדָע which indicates a purpose and implies a condition: Under the covenant, Abraham is required to teach his people what the covenant, in turn, requires of them, namely

וְיִלְמְדוּ אֶת־בְּנֵי וְאֶת־בָּתוּלָּתוֹ אֶתְּנֶה

is added to the scale of covenant mutuality. We draw attention to it here because it seems to us that the application of this theme to a God-Man relationship bears out a point previously made in this thesis with regard to all covenants between non-equals: the superior party must place limitations upon his superiority in order to facilitate the covenant.³⁶ The narrative under discussion describes a situation in which the disparity in status between the "Judge of all the Earth" and the creature of "dust and ashes" is reduced almost to the level of equality. Abraham, in effect, speaks to God in the manner of "man to man"; and God is willing thus to be spoken to. He makes no attempt to silence Abraham. On the contrary, at least within the framework of this story, He submits to Abraham.

Once again, then, we are drawn to the conclusion that mutuality of obligations not only is clearly an aspect of the earliest concepts of the covenant between God and Israel, but that the Bible consistently applies the notion of self-limitation to God's omnipotence, in order to bring mutuality within the realm of practical feasibility. Franz Delitzsch has defined covenant as "ein auf Wechselseitigkeit gestelltes Verhaeltnis, welches zwei Gleichstehende eingehen oder womit der Hoeherstehende dem Niederen entgegenkommt."³⁷

As a result of our own examination, we can agree with this definition as far as the brith is concerned. It is precisely this "entgegenkommen" which, inasmuch as it has the effect of creating the "equality of position between the parties in which liberty of contract begins," makes of the brith a relationship of interaction.

NOTES TO CHAPTER IV

1. Subsequent covenants in the Bible include the Covenant at Shechem (Josh. 24:1-25), the Covenant at Hebron (II Sam. 5:3 ff.), the Covenant under Nehemiah (Neh. 9:1-10:1), and the Covenant of Moab (Deut. 28:69). It will be noted, however, that in all but the last of these instances, God is not a party of, but a witness to the covenant. The Covenant at Moab, on the other hand, is clearly marked as "additional" (37N) to that of Horeb.

2. Gen. 15:18.

3. Ex. 19.5 pp.

4. Gen. 1:28-30; 9:1-17.

5. Gen. 15:18 אֶת־אֲבִרָם כִּירָת יְעֹקֵב

6. 15:18b ff.

7. 15:6 2773 11 62204

אברהם נתן את הארץ בארץ כנען 8. 15:18

9. 15:4b לע"ה לד ל' חנוכה לכ לכ"ד

10. Gen. 17:6, 13.

11. See above, pp. 6-8.

12. The same is true of God's renewal of the Covenant with Isaac (26:3 ff.) and Jacob (28:13 ff.). No pledge of any sort is exacted from either.

13. Such views have in fact been expressed by representative scholars at the turn of the century as well as today. Richard Kraetzschmar writes in Die Bundesvorstellung im Alten Testament (Marburg, 1896), p. 61, concerning Gen. 17: "Jahwe allein verpflichtet sich Abraham bleibt frei von jeder Leistung." In his article, "The Covenant Form in the Israelite Tradition," Biblical Archeologist, XVII (1954), p. 62, George E. Mendenhall states: "It is not often enough seen that no obligations are imposed upon Abraham. Circumcision is not originally an obligation, but a sign of the covenant, like the rainbow in Gen. 9."

14. Gen. 12:1-3.

15. 12:7.

16. Deut. 7:7; I Sam. 12:22b; Amos 3:2; etc.

17. See below, pp. 83, 110-111.

18. Gen. 12:3. מאבן אברהם ואקלן אבר ובריתו בק נא אברהם הארץ

19. The significance of this situation may well be characterized by Walther Eichrodt's description of the brith as "God's personal invasion" into history. The phrase occurs in the Preface of the Fifth Revised Edition of Walther Eichrodt's The Theology of the Old Testament, translated by J. A. Baker, S.C.M. Press Ltd., London, 1960.

20. See above, pp. 7-8; below, pp. 120-121.

21. Gen. 13:17-18

Gen. 17:2-3

Gen. 26:24-25

קום תתחילך בארץ --- ויאמר אברהם
ואמר בריט בני --- ויפל אברהם על פניו
והוקיט את צדק --- ויבן את מצבה

22. Gen. 28:20-21.

23. Gen. 12:1.

24. Gen. 15:6.

25. W. F. Albright, "The Hebrew Expression for 'Making a Covenant' in Pre-Israelite Documents," Bulletin of the American Schools of Oriental Research, No. 121 (Feb., 1951), p. 22.

26. Cf. Mendenhall, op. cit., pp. 52-57.

27. Gen. 23.

28. The same conditional aspect prevails with regard to God's offer of the covenant. The following may serve as an example: in Gen. 26:3 God speaks to Isaac:

וְאֵלֹהִים אָמַר אֶל יִצְחָק וְשָׁכֵן בְּאֶרֶץ מִצְרָיִם

The form וְאֵלֹהִים is noteworthy, inasmuch as it introduces a purpose clause: Dwell here so that I might be with you and bless you in accordance with the covenant oath. (One would expect וְאֵלֹהִים for "and I shall be with you.") Quite obviously, the inference is that God might not fulfill the covenant if Isaac were not minded, for his part, to act upon God's instructions.

29. Gen. 17:20-21.

30. Compare 17:2 וְאֵלֹהִים אָמַר אֶל אַבְרָם, and 17:6 וְאֵלֹהִים אָמַר אֶל יִצְחָק with 17:20 וְאֵלֹהִים אָמַר אֶל יִצְחָק

31. See below, p.

32. Gen. 18:17-33.

33. See above, p. 21.

34. 18:28.

35. 18:26b וְאֵלֹהִים אָמַר אֶל אַבְרָם

36. See above, pp. 10-11.

37. Franz Delitzsch, Neuer Commentar Ueber Die Genesis, 5. Auflage (Leipzig: Dorffling & Franke, 1860), p. 172.

CHAPTER V

Exodus, Leviticus and Numbers -- The Sinaitic Covenant

The Book of Exodus describes a notable change in the structure of the Covenant as compared to that described in Genesis. Such phrases as ¹וְהָיָה אֲתָנָם לִי לְעָם וְאֵנִי לָאֱלֹהֵיכֶם and ²וְהָיָה יְהוָה לְאֱלֹהֵיכֶם וְאַתֶּם תִּהְיוּ לְעָמִי -- אֲנִי יְהוָה sound the keynote of the relationship which now signifies the brith. The new covenant which is made at Mt. Sinai is no longer a covenant between God and individuals, but between God and a people which in its entirety is to be a "peculiar treasure" to Him.³

Along with this important extension of the covenant concept, other changes, pertaining particularly to the subject of mutuality, are apparent. As we have seen, reciprocity of sentiments and actual obligations -- although indubitably inherent in the relationship -- could for the most part be discerned only by implication in the Patriarchal Covenant, since the majority of explicit obligations rested upon God. It was God who bound Himself, who swore the Covenant oath. The Sinaitic brith, however, clearly enunciates

specific conditions and imposes definite obligations which are incumbent upon the people as a whole. According to the Elohist tradition, which contains the bulk of the covenant material in Exodus, it is these ordinances (*פ'ג צוה*) which constitute the *א'ו צוה* ,⁴ (even as the Ten Commandments are referred to as the *א'ו צוה* (*צוה*)⁵, and it is to them that the people swear obedience by means of a covenant ritual and a covenant oath.⁶

We are thus clearly confronted by a different covenant Gattung, which is characterized (1) by a distinct structure of formulation,⁷ (2) by an unmistakably legal background and flavor,⁸ and (3) by what may appear as a reversal in the matter of the distribution of covenant obligations, which seem to have been transferred in great measure from the Divine to the human Covenant partner.

The "Book of the Covenant," to be sure, also contains obligations incumbent upon God.⁹ In addition to the reiterated promise to bring Israel into Canaan, He is to be their defender and protector, making Israel's enemies His own enemies. God's obligations, however, are contingent upon the people's observance of previously non-existent Covenant laws. Thus a significant aspect of the Sinaitic

Covenant is the fact that, because of the identification of Covenant with Law, the responsibility for the preservation of the Covenant rests now squarely with the people. (The same, of course, is true with regard to the realization of the covenant's intent, namely to become a Kingdom of Priests and a Holy Nation.)

In subsequent Books of the Bible, notably in Deuteronomy, this identification is brought ever more forcefully to the consciousness of the people, as we shall see.¹⁰ The prophets, too, in their scarce explicit allusions to the brith, make reference to a Covenant of Law.¹¹ Whatever other significance of a historic nature this circumstance may have,¹² it also tends to bear out our observation that a reference to the Mosaic Covenant may be assumed to indicate primarily a conception of the Covenant relationship in terms of human obligations, i.e., Israel's responsibility to act out God's will.

Notwithstanding these characteristics of the Sinaitic Covenant, notwithstanding, too, the findings and assumptions of biblical scholarship with regard to the Covenant's historicity, or its legality, or its classification as a Gattung sui generis, we believe that an examination

of the biblical text reveals a basic theme indigenous to the Exodus brith, which is wholly consistent with the Leitmotif inherent in the relationship between God and the Patriarchs. We believe, too, that there exists with regard to the two covenants a line of logical and organic development which is more likely to lead from Genesis to Exodus rather than by a process of "Ausdehnung" in the opposite direction.¹³

Concerning the position of relative strength between Overlord and Vassal in the Hittite suzerainty treaties, Mendenhall writes that mutuality exists only to the extent "that the vassal exchanges future obedience to specific commandments for past benefits which he received without any real right."¹⁴ At first glance this would appear to be also an accurate evaluation of the relationship between God and Israel at the time of the making of the Sinaitic Covenant. The people had, after all, done but little to deserve God's intervention on their behalf in Egypt. The entire Exodus, the plagues, the destruction of the Egyptian pursuers -- all the "might acts" of God took place without a single concrete Gegenleistung on Israel's part.¹⁵ As a result, God's statement, יְהוָה יָדָא כִּי לֹא עָשָׂה יִשְׂרָאֵל כְּדֵר 16 comes almost as a surprise.

The Bible makes it perfectly clear, however, that the motivating force behind God's actions is the Covenant with the Patriarchs. All source compilers are unanimous in ascribing God's concern with Israel's plight in Egypt to the circumstance that He "remembered" His Covenant with Abraham, Isaac and Jacob.¹⁷ In the E account¹⁸ this motivation is even expressed in the form of a prediction by Joseph on his deathbed, thus making it clear -- if such clarification were needed -- that God's "remembering" neither follows a temporary lapse of Divine memory nor heralds a new phase in His relations with His Covenant partner; rather did it constitute an inevitable consequence, a natural and to-be-expected result of His covenant with the Patriarchs.¹⁹

The events leading up to Sinai, particularly to the Exodus -- which in itself, wherever it is referred to in the Bible, constitutes a reference to the Covenant -- appear thus as the organic link between two covenants and, by inference, two aspects of covenant relationship, both of which we believe to be present in the Mosaic brith. God liberates Israel from Egypt as a prelude to the Covenant based upon Law and Man's required initiative in fulfilling it;

but in doing so, He is just as much motivated by the Covenant which came about by reason of God's pleasure in Abraham and His selection of him.

It is, we think, once again this theme of selection,²⁰ which constitutes the unifying element between the two covenants. It determines the concept of the *ἡγορεῖται*; it explains the people's miraculous deliverance from Egypt, and its worthiness to experience the grand theophany at Sinai. It is basic to the entire concept of the Covenant in the Bible and, as we have seen, it is constantly referred to in this connotation.²¹ It seems strange, therefore, although not necessarily impossible, that this theme, or the covenant with Abraham which is built on it, should have been absent from the early versions of the Patriarchal stories and should have been instilled into them by a process of reverse projection.

In any event, it is clear that the "new" covenant in no wise precludes the "old." On the contrary, it would appear from the passages cited below that the Patriarchal Covenant, inasmuch as it bespeaks the at this stage still undefined reasons underlying God's choice of His first covenant partner, continues to play a unique role in determining the post-Sinaitic relationship between God and Israel.

We cite the following passages as evidence:

There is, firstly, the Elohist account of God's reactions to the building of the Golden Calf by the Children of Israel.²² Because they have transgressed one of the cardinal principles contained in the Decalogue (אֱלֹהִים יִשְׁכַּח־כֶּם), God wishes to consume them. According to the laws of the Sinaitic covenant, there is certainly no reason why the sentence should not be carried out. Nevertheless, by invoking the Patriarchal Covenant, by asking God, in fact, to "remember" Abraham, Isaac and Jacob, as well as His own oath unto them, Moses succeeds in assuaging God's wrath: וַיִּשְׁכַּח אֱלֹהִים. And God repents.

Another instance occurs in the book of Leviticus.²³ The passage deals at length with the statutes and commandments which Israel must observe, and with the rewards which, according to the Covenant, they will receive from God for doing so. The passage also spells out the extremely severe punishments for the breach of the commandments: terror, disease, starvation, defeat, desolation and destruction, all of which culminate in this statement (26:38):

וְהָיָה כִּי יִשְׁכַּח אֱלֹהִים וְיִשְׁכַּח אֶת-יִשְׂרָאֵל

At the conclusion of this grim recital of horror, however,

The covenant with the Patriarchs, on the other hand, because of God's choice of Abraham and God's oath, brings into focus the apparently unending attachment of God to His people, and its influence tends to transcend the letter of the law in post-Sinaitic days. The legal and -- what for want of a better term can only be described as -- the "personal" components of the brith, however, combine to form an organic and indivisible whole in the relationship which ensues after Sinai, although at one time or another, in order to meet the needs of a given situation, one aspect may be given predominance over the other.

The Book we are to consider next, Leviticus, is a case in point. It is essentially a compilation of statutes. It clearly conceives of a Covenant relationship which is determined by the compliance with law. We read:²⁸

אֲנִי אֶתְּנֶה אֶתְּכֶם לְעָם קֹדֶשׁ וְאֶתְּכֶם אֶתְּנֶה לְעָם קֹדֶשׁ
 וְכָל הַחֹק אֲשֶׁר אֶתְּנֶה לְפָנֶיךָ תִּשְׁמָר
 וְכָל הַמִּצְוָה אֲשֶׁר אֶתְּנֶה לְפָנֶיךָ תִּשְׁמָר

And conversely:²⁹ וְכָל הַחֹק אֲשֶׁר אֶתְּנֶה לְפָנֶיךָ תִּשְׁמָר
 וְכָל הַמִּצְוָה אֲשֶׁר אֶתְּנֶה לְפָנֶיךָ תִּשְׁמָר

One could wish for no more clear-cut statement either with regard to the statutory or reciprocal character of the relationship: Israel is to keep God's law, and God is to protect Israel. At the same time it is apparent that the content of the brith cannot be compressed into so simple a

formula. The chapters which comprise the "Holiness Code,"³⁰ for example, although they do not contain the word brith, state rules of conduct which are obviously indigenous to the Covenant. It is questionable, however, whether the concept of the actual relationship between God and Israel inherent in the code, is as ceremonially and cultically formal as the ceremonial and cultic character of "holiness" in Leviticus would indicate. The fundamental principle is, of course, contained in the phrase: ³¹ *וְיִשְׂרָאֵל יִהְיֶה לִּי כֹהֵן קָדֹשׁ*

The Bible itself defines *קָדֹשׁ* in terms of *יָרָא* *יִשְׂרָאֵל* *לִי* *כֹהֵן* *קָדֹשׁ* 32. Obviously, *קָדֹשׁ* determines an "apartness" on an entirely different level, which the English word "holy" expresses but inadequately. We think, however, that -- regardless of the divergent nuances of meaning which the term *קָדֹשׁ* may signify when applied to God on the one hand and Israel on the other -- the demand that Israel's being *קָדֹשׁ* approximate God's way of being *קָדֹשׁ*, introduces an added dimension into the relationship. We encounter here an aspect of Covenant mutuality which goes beyond mutuality of deeds or "emotions." On one level, *וְיִשְׂרָאֵל יִהְיֶה לִּי כֹהֵן קָדֹשׁ* means for Israel concrete laws of ritual purity and lawful behavior in intra-human relations. On another level, we believe, it postulates a

relationship with God, as the result of which the human partner will learn to share in those attributes of the Divine personality which the term *elohim* expresses.

Thus, for all the statutes of law which govern the relationship of God and Israel, we submit that the brith in the immediate post-Sinaitic period retains a rather "personal" character. This observation is further attested to by the nature of the expressions which occur in the Books under discussion with regard to the relative status of the two Covenant partners. We have already pointed to the use of *'elohim* in Exodus.³³ In Leviticus, God speaks of Israel as His special servants whom He delivered from bondage.³⁴ The most graphic analogy to the God-Israel relationship occurs in the book of Numbers. Moses makes it by implication.³⁵ In a moment of anger and frustration he complains to God that the Covenant was not his idea, and that he was ill-disposed to be a nursing-father to a sucking child that must be carried and sustained every inch of the way:

וְאֵנִי בְרִיתִי אֶת כָּל-הָעָם בִּצְעָה אֶקְחָנִי
 וְלֹא-תָאֵר אֵלַי מִלֵּוּל בְּחִיקָךְ כֹּהֵן יֵשׁ כֹּהֵן אֶת-בִּינְךָ
 עַל כִּצְמוֹתַי אֶשֶׁר (עֲשֵׂיתָ לִּי) אֲדַבְרָה

What appears significant is the circumstance that in each of these instances the brith is likened unto an

aspect of a family relationship. God is portrayed as the paternal head who quite literally "lays down the law," punishes, but, even as He does so, manifests a father's concern, love, and good intentions for the future of His children. Israel, on the other hand, appears as a child or servant who as yet has but little appreciation of what is being done for him. He is therefore often dissatisfied, once even openly rebellious.³⁶ The concept of the Covenant as a father-child relationship appears thus quite early in the biblical chronology of Covenant history and continues to remain a consistent aspect of it.

Inasmuch as the "rebellion" referred to above is mentioned among the narratives in the book of Numbers, it is opportune at this point to consider exactly what, on the biblical view, constitutes a rebellion against God. Actually, the Hebrew word for "rebel," *37* , occurs at this point for the first time with regard to God and Israel; indeed, it occurs nowhere else in the Pentateuch.³⁷ We are confronted here with a unique situation. The people, to be sure, had disobeyed before. They had complained and "murmured" before, when they remembered nostalgically the land of Egypt and the food they had eaten there;³⁸ and -- as in the case of Taberah³⁹ --

they had been severely punished. But it was not till after they had listened to the discouraging report by the majority of the men whom Moses had sent to spy out Canaan,⁴⁰ that the people refused to go forward; then they stated categorically:⁴¹

It is at this point that Joshua and Caleb say:⁴²

Israel's decision to return to Egypt is no mere breach of the Covenant; it is a complete and willful negation of it. The people desire to revert to their pre-covenantal existence, and this would have the effect of frustrating entirely God's Covenant oath, namely to bring the people to their own land. Now, the fact that such a situation, and only such a situation, constitutes a rebellion according to the Biblical authors, will certainly aid us in determining in the course of our final conclusions whether or not the Covenant can be terminated at all by either party. At this point we can merely state our impression that, in view of the above, the Pentateuchal writers do not look upon the Covenant as a relationship that can easily be undone. Despite the severe punishments provided for by law, it allows for a considerate amount of human failings. Even in an extreme case such as this, the Covenant ends only for those who have negated it. The "generation of the wilderness" alone does not see the promised land. The Covenant itself is continued.

NOTES TO CHAPTER V

1. Ex. 6:7

2. Ex. 19:5,6. Kraetzschmar has referred to this passage as to "Die ausfuehrlichste Darlegung der am Horeb festgesetzten Bundesbedingungen" (Die Bundesvorstellung, p. 130).

3. The Elohist mentions a covenant in which Moses appears as a separate partner in addition to Israel. (Ex. 34:27, ^{אֶת־יְהוָה אֱלֹהֵינוּ}) This, however, is the only reference to a covenant with Moses in Exodus. In general an image of Moses as God's plenipotentiary, not as a separate covenant partner prevails throughout the Ex. narratives. In P as well as JE, God's initial allusions to the Covenant (Ex. 2:24; 3:7,8) concern the people in general and do not single out Moses. Similarly, the E account of the Burning Bush (Ex. 3:2-6, 9-15), in which God first confronts Moses, speaks of Moses only as God's representative to the people.

4. Chapters 21 - 23. The appellation ^{אֱלֹהֵינוּ} occurs in Ex. 24:7.

5. Ex. 34:28b.

6. Ex. 24:4-8.

7. Detailed information is contained in the article by James Muilenburg, "The Form and Structure of the Covenantal Formulations" (Vetus Testamentum, XI [1959], pp. 347-365.

8. In the article referred to above, "The Covenant Form," etc., Mendenhall speaks of the Sinaitic covenant as being directly connected with one of a number of historical and legal traditions contained in the Bible "which can be identified as preserving the text of the Covenant between Yahwe and Israel." The article also contains his theories concerning the relationship between the Covenant and the Hittite suzerainty treaties, p. 56 ff.

9. Ex. 23:22, 23, 25 ff.
10. By a system of Blessings and Curses. See below, pp.86-87.
11. E.g., Isa. 24:5; Jer. 11:12; Mos. 8:1.
12. See below, pp. 135 ff.
13. In his work, Theologie des Alten Testaments (Berlin: Evangelische Verlagsanstalt, 1950), pp. 14, 15, D. Walther Eichrodt states "dass die Gesamtkonzeption des Bildes der Vaeterzeit aus der durch die mosaische Bundstiftung gepraeigten Gottesauffassung ihre Gestalt empfangen hat." In this connection he continues to speak of an "Ausdehnung des geschichtlich begruendeten Bundesverhaeltnisses Israels auf die Vaeter."
14. Mendenhall, op cit., p. 58.
15. See below, n. 20.
16. Ex. 4:22.
17. Ex. 2:24 (P).
Ex. 3:15-16 (J).
Ex. 3:6 (E).
18. Gen. 50:42.
19. See also above, pp. 36-37.
20. Again we use the term "selection" in the light of the suppositions made in Chapter I, i.e., a mutual process inspired by God's initiative. We believe that the material contained in the Exodus narratives likewise bears out such an interpretation. Although, as stated above, no Gegenleistung of a concrete nature on Israel's part preceded the Exodus, we see a sine qua non for God's act of deliverance in the notion that the people must first believe in Him, which is explicit in the text (Ex. 4:1, 5, 31). The phrase ^{אָדן} ^{יְהוָה} ^{יִשְׂרָאֵל} ^{יִשְׂרָאֵל} in Ex. 4:31 thus has the same force as ^{אָדן} ^{יְהוָה} ^{יִשְׂרָאֵל} ^{יִשְׂרָאֵל} in Gen. 15:6. It signifies Israel's affirmative response, which enables God to act upon His selection.

21. Deut. 7:7; I Sam. 12:22b; Amos 3:2; etc.

22. Ex. 32:7-14.

23. Lev. 26:3-46. The entire passage is assumed to be the work of the same compiler.

24. Lev. 26:42.

25. II Kings 13:23.

26. II Kings 18:12.

27. ויעברו את בני ישראל
ואת ישראל ואת ישראל
27. אם כי-אמר צוה משה עזר ונח

28. Lev. 26:3.

29. Lev. 36:4.

30. Lev. 17 - 26.

31. Lev. 19:2.

32. Lev. 21:26.

33. Ex. 4:22.

34. Lev. 26:42,55.

35. Num. 11:12.

36. Num. 14:1-10.

37. Num. 14:9. Subsequently ^{37N} in the sense of rebelling against God, occurs only in Ez. 2:3 (referring to the same events described in Num. 14), in Josh. 22:16, 18, 19, 22, 29 (referring to the building of a rival altar), and in Neh. 9:26 and Dan. 9:5, 9, as part of a general review of Israel's sins.

38. Num. 11:5.

39. 11:1-3.

40. Num. 13:31-33.

41. 14:4.

42. 14:9.

CHAPTER VI

Joshua -- The Covenant at Shechem

The completion of the conquest of Canaan by the Israelite tribes, which forms the first part of the events related in the book of Joshua,¹ constitutes also a crucial time in the relationship between God and Israel. God, in effect, had fulfilled His Covenant oath and had brought His people into the Promised Land. The people, in turn, although not always enthusiastically, had demonstrated their belief in God by accepting the yoke of His ordinances and by pitting themselves against a mightier enemy. Thus each of the two parties had complied with the terms agreed upon at Sinai. But now that the goal had been reached, what kind of a relationship was to ensue between God and Israel? Were the old conditions still in force, or had the time come for a new agreement?

What happened, of course, was the covenant at Shechem² and the statutes and ordinances which Joshua set there before the people. To them the people respond with a renewed pledge:³

אנחנו נשמע בקול ה' אלהינו
 ככל כל אשר יאמר לנו
 ונשמע בקול ה' אלהינו
 ונשמע בקול ה' אלהינו

Later, when the people decide to serve the Lord, Joshua

forewarns them once again.¹⁰

... לא תוכלו לשמש את-י' ב' אלהים קדושים בלא את-קנא בלא לא-ישא ארבעתם ואלהאיתם
 כי תצטוו את-י' ואת-אלה נכר וזה וזה לכם וזה אתכם
 אחרי אשר-בשר לכם

Even after the people have reiterated their decision,

Joshua emphasizes the fact that the choice to enter the

Covenant was their choice.¹¹

... צ'ק אתכם בכם
 כי אתם בחרתם לכם את-י' לשמש אותו

Now in view of the fact that, along with Covenant conditions and obligations, a statement of choice forms a regular part of this kind of Covenant Gattung,¹² the question whether 24:15 literally offers an alternative is highly debatable. It is the supreme object of the Shechem Covenant to keep the people away from the worship of the Canaanite deities and to unite the Tribes in the service of the God of Israel. This, in fact, is the tenor of the preceding chapter (Joshua 23) -- accredited by scholars in its entirety to D[2]¹³ -- which makes no mention of the Covenant, but culminates in the following exhortation concerning the brith at Sinai:¹⁴

בחרתם את-י' ואת-אלהים אחרים
 ואת-אלה אחרים ואת-אלה אחרים
 ואת-אלה אחרים ואת-אלה אחרים
 את-י' בכם ואת-אלה אחרים
 את-י' בכם ואת-אלה אחרים

We think, therefore, that 24:15 is to be understood in much the same manner as the Deuteronomist's warning in 23:16, notwithstanding the explicit alternative which the text offers.

Nevertheless, the manner in which the Shechem Covenant is presented by E allows for Israel a certain initiative and participation in the making of the Covenant. In Judges 2:1 -- a parallel account of the Conquest -- it is again God who testifies to the unlimited duration of the Covenant: *אֲנִי אֶלְכֶם וְאֶלְכֶם אֲנִי אֶלְכֶם*. But in the passage under discussion, it is the people who take steps to insure the continuity of the brith relationship. The people, of course, continue also to break the Covenant. The book of Judges abounds with the phrase:

וְכָל יְמֵי חַיֵּיהֶם שָׁרְעוּ אַחֲרֵי אֱלֹהֵי הַכְּנָעַנִים, 15

which means in every instant that they served the gods of Canaan. It is therefore hardly possible to advance a theory to the effect that the Covenant at Shechem points to a more mature understanding of the people's role as God's partners. The reasons for the people's desire to continue the relationship have to be sought in more pragmatic areas.

Throughout the E and P accounts of the Conquest, as well as in some of the sections attributed to D[2], God

appears as the one who "fought for Israel."¹⁶ By His guidance and intervention He delivers Israel's enemies into her hands. At Jericho, Joshua is visited by "the Lord's general" (*ל-ג-ב-א-י-ה*).¹⁷ God's military leadership, however, is subject to the fulfillment of the terms of the Covenant.¹⁸

*ואל יטלו מן ישראל אקדוק לפני אידיבק ערב יבנו
לפני אידיבק כי ביו לחרב לא אודיע ליהוה עמכם
אם לא שמעו פהבם מקרבכם*

If the Israelites fail to live up to the demands that the brith makes upon them, they stand no chance before their enemies. Also, the people who were born in the Wilderness had to be circumcised at Gilgal¹⁹ prior to the conquest so as to carry the sign of the Covenant on their flesh. There can be little doubt, then, that the people who fought in the conquest of Canaan must have looked upon the Covenant relationship and their Divine Covenant partner as the means that afforded them safety, success, and victory in strange surroundings and perilous circumstances. If so, it is little wonder that they wanted such a relationship to continue, particularly since the provisional victories had not provided them with permanent security in the new land.

In a later chapter we shall introduce the concept of an historically determined relationship between God

and Israel. By that we mean that the concept of Covenant, as well as the relationship between the parties, is at various times determined by prevailing circumstances and the need of the hour. In view of what has been said above, the Covenant at Shechem would appear to be a case in point. For the purposes of this chapter, however, we thus conclude that the Elohist account in Joshua establishes the continuity of the brith in the Sinaitic tradition (i.e., based upon obedience to Law), and that this extension of the Covenant, according to the Biblical narrative, came about by mutual consent and desire of the two Covenant partners.²⁰

NOTES TO CHAPTER VI

1. Chaps. 1-12
2. Chap. 24.
3. 24:24.
4. A detailed comparison is contained in Muilenburg's article cited above.
5. Ex. 19:3-6.
6. Muilenburg, "The Form and Structure of the Covenantal Formulation," p. 352.
7. Josh. 24:25.
8. 24:2.
9. 24:15.

10. Josh. 24:19,20

11. 24:22

12. Cf. the covenants at Sinai (Ex. 19:3-6), at Gilgal (I Sam. 12:6-17) and in Deut. 30:15-20.

13. S. R. Driver explains the term D^[2] as follows: "In this book, (Joshua) JE, before it was combined with P, passed through the hands of a writer who expanded it in different ways, and who, being strongly imbued with the spirit of Deuteronomy, may be termed the Deuteronomic editor, and denoted by the abbreviation D^[2]. [S. R. Driver, An Introduction to the Literature of the Old Testament (The Meridian Library, New York), 1957, p. 104.]

14. Josh. 23:16.

15. Judges 2:11; 3:7,12; 4:1; 6:1; 10:6.

16. Josh. 10:14b; 10:42; 23:3.

17. 5:14.

18. 7:12.

19. 5:2-8.

20. As for some of the parts of the book of Joshua which are attributed to the Deuteronomist, we note that in them the concept of love as an aspect of the relationship between God and Israel appears for the first time outside the book of Deuteronomy itself (22:5; 23:11). Unlike Deuteronomy (7:8-13), however, there is here no mention of God's love for Israel. According to the n^[2] interpretation of the law of Moses, only Israel is commanded to love; and although there are a number of references in which God's special feeling for Israel is implicit (Josh. 21:45; 23:3,14), such feeling is not denoted by the term $\rho \gg k$.

CHAPTER VII

The Former Prophets -- The Covenant With David

If the book of Joshua established the continued efficacy of the Covenant relationship, the book of Judges vividly illustrates the precarious situation in which the Covenant finds itself in the years and centuries which followed. The situation is characterized by these words:¹

וְאֵלֶּיךָ יָשָׁב אֶל־יְהוָה אֱלֹהֵינוּ
וְאֵלֶּיךָ יָשָׁב אֶל־יְהוָה אֱלֹהֵינוּ

As one biblical scholar put it, some of the people had indeed "feathered their nests without the assistance of the Covenant."² They had given in to the lure of the dominant civilization:³

וְאֵלֶּיךָ יָשָׁב אֶל־יְהוָה אֱלֹהֵינוּ
וְאֵלֶּיךָ יָשָׁב אֶל־יְהוָה אֱלֹהֵינוּ

It is quite clear that the authors of Judges look upon the entire period covered by these Books in the light of the Covenant relationship. The misfortunes and military defeats which Israel endured during that time are depicted as punishment from God for the breach of the Covenant.⁴ The times of good fortune and success under

the Judges, on the other hand, as well as the Judges themselves whom the Lord "raised up," come about because of God's "repentance" as He beholds the oppression of His Covenant partner.⁵ As a matter of fact, we are told that the entire long struggle for stability in Canaan -- 410 years from the death of Joshua to the death of Samson, according to Bible chronology -- was made even longer by God because of Israel's transgression of the Covenant:⁶

וען ארע ערנא העו' ענא ארע קרית ארע צוית ארע ארע
 ואל ארע ארע ארע ארע ארע ארע ארע ארע ארע ארע
 ארע ארע ארע ארע ארע ארע ארע ארע ארע ארע
 ארע ארע ארע ארע ארע ארע ארע ארע ארע ארע
 ארע ארע ארע ארע ארע ארע ארע ארע ארע ארע

Now, in view of the fact that the narratives which comprise the books of the Former Prophets are composed of a variety of sources whose origin and date cannot be satisfactorily determined, it is difficult to draw any valid conclusions regarding aspects of Covenant mutuality during that period. What does emerge clearly from the data presented above is the conviction on the part of the author (or authors) that Israel cannot survive the difficult period of adjustment in Canaan without the Covenant, i.e., without unconditional allegiance to God and the law

of Moses vis-à-vis the religious and secular civilization of Canaan. Inasmuch as this period is also a time in which Israel is undergoing the birth pains of a national life, we might offer the suggestion that we have here an aspect of Covenant mutuality which is marked by an awakening national consciousness and the need to make this new phenomenon a part of the Covenant relationship. Not Israel, the people alone, but Israel, a developing political entity was now to be a party to the Covenant and to be protected by God in that capacity. In return, Israel was to serve Him alone, and thus retain its distinctiveness as a nation among nations.

A completely different attitude toward the efficacy of the Covenant among changing conditions, however, is implicit in the manner in which one of the narratives,⁷ describing the beginnings of the Monarchy, deals with the people's demand for a king at Ramah:⁸

יְהוָה יָדָע כִּי יִשְׂרָאֵל לֹא הָיוּ לְעַם מְלִיכָה
וְכָל הַיּוֹם הַהוּא הָיוּ לְעַם מְלִיכָה

This was a time when the invasion of the Philistines threatened the very existence of Israel. To the author of this account, however, political necessity presented no valid issue. If the terms of the Covenant had been kept

by the people, neither a military emergency nor the need for a king in loco dei would have arisen. And the people's desire to be and to be judged פ'לען פון⁹ conveys to him a lack of appreciation for the uniqueness of the Covenant relationship on their part. The request for a king is thus plainly interpreted as a rejection of the brith.

The one consistent impression we thus gain from reading the book of Judges and the early parts of Samuel is indeed that the Covenant, as far as its influence upon the people was concerned, had fallen on hard times and that something had to be done about it. According to Bible chronology, the period from the end of the conquest of Canaan, as reported in Joshua, to the death of Samuel covers approximately 450 years. This total, as Driver points out,¹⁰ is almost certainly too high. But even if it were to be halved, the fact remains that in Samuel's days the Covenant ceremonies at Shechem, not to speak of the Covenant at Sinai, had long since become a matter of hearsay. The last eyewitnesses had died. Here was a generation far removed from the vibrant, supernatural aspects of the Covenant. They lacked the intimate knowledge of God which the Patriarchs had possessed. They had not known the awe which had come upon the people at Sinai or the thrill at seeing

the walls of Jericho crumble. All they knew was the drudgery of the law, the monotony of the cult, and the threat of the enemy from the west. As far as the people were concerned, the covenant had lost its compelling force.

We submit that the character of the relationship which marks the Covenant between God and David according to the biblical description¹¹ was at least in part shaped by a desire to "personalize" the relationship between God and Israel, i.e., to make the brith once again a living reality in the lives of the people. Whatever the historical facts and political realities which play a part in the establishment of the Davidic dynasty, as far as the Covenant is concerned, it marks the beginning of a new, or rather the new beginning of an old, relationship between the Covenant partners.

Once again, as in the case of Abraham, God selects "his servant" David because he is a " *le p'ko elik*"¹² and chooses him for an everlasting Covenant.¹³ Again, too, God binds Himself by voluntarily committing Himself to a relationship in the course of which He might punish, but never utterly destroy,¹⁴ thus limiting His superior powers. It is noteworthy, too, that, as in the case of Abraham, no

specifically stated obligations are recorded for David himself. It is only in the restatement of the Covenant for Solomon¹⁵ -- a passage which from its marked Deuteronomic phraseology is plainly an addition by a compiler strongly under the influence of Deuteronomy -- that mutuality of obligations is explicit.¹⁶

It is clear from the biblical narratives, nevertheless, that God's Covenant with David was far from being one-sided. For one thing, David was punished by God for his sin concerning Uriah.¹⁷ From the phrase:

18 it is quite obvious that David had transgressed a statute in conjunction with the Covenant. Furthermore, in the "Song of Triumph"¹⁹ attributed to him, David himself states the terms of the relationship as well as the nature of the covenant:²⁰

וַיֵּלֶךְ אֲחֵנֶיךָ אִתְּךָ יְהוָה כִּי-חֶפֶץ הָיָה
 יְהוָה וְעַתָּה כְּדָד יִצְוֶינִי וְשִׁבְעָה
 כִּי שְׁמוֹנִי בָנִי וְעַתָּה וְלֹא קָדְשִׁי מֵאַחֲרֵי
 כִּי טָל-מִשְׁעָבִי וְלֹא-יִצְוֶינִי מִקְדָּשִׁי לֹא-יִצְוֶינִי מִקְדָּשִׁי

That there was mutuality of obligation is also quite apparent from verses such as these:²¹

עַתָּה-יִצְוֶינִי תְהַחֲמֶנּוּ
 עַתָּה-יִצְוֶינִי תְהַחֲמֶנּוּ וְעַתָּה-יִצְוֶינִי
 עַתָּה-יִצְוֶינִי תְהַחֲמֶנּוּ

and²²
 אֲתָה עֲשֵׂה עִמָּךְ עֲשֵׂה עִמָּךְ אֲתָה עֲשֵׂה עִמָּךְ
 אֲתָה עֲשֵׂה עִמָּךְ אֲתָה עֲשֵׂה עִמָּךְ

Plainly, Gegenleistung in terms of obedience to God's commandments was required of David under the Covenant.

Most important, however, the Davidic brith was not a covenant with David alone, even as the Abrahamitic brith was not a covenant with Abraham alone. Both Abraham and David were chosen because of God's pleasure in them. The conditions of the Covenant, however, applied to their descendants as well. The Davidic covenant is a covenant with the House of David.²³ And in this connection the mutual obligations are specific. We may refer to them as "a house for a house," or, in the words of the Bible with regard to Solomon:²⁴

וְיָבִיט ה' אֶת-יִשְׂרָאֵל וְיֵשְׁבֶה
בְּיָמָיו כְּיָמֵי דָוִד וְכֵן יִשְׁכֶּנֶה
וְיִבְנֶה בְּיָמָיו כְּבֵית ה' וְכֵן יִשְׁכֶּנֶה

We offer now the following interpretation with regard to the Davidic Covenant: After Saul had apparently failed to win the approval of God and, much more definitely, some of the biblical compilers -- the book of Chronicles which reports the selection of David²⁵ completely ignores the anointment of Saul -- the House of David which makes Jerusalem the City of the Lord, builds the Temple of the Lord, and carves out an empire in the name of the Lord, is presented as being especially chosen to carry forward the Covenant of the Lord וְיִבְנֶה בְּיָמָיו כְּבֵית ה' וְכֵן יִשְׁכֶּנֶה forever. Particularly

in view of the preceding decline in Covenant relations, such a presentation of the brith assumes added significance. We may well revert to Eichrodt's phrase with regard to the covenant with Abraham and maintain that, because of the renewed great emphasis on God's selection of David, which is absent in the case of Saul, the Davidic Covenant is made to appear in the nature of a second instance of "God's personal invasion into history." The implications of the Davidic covenant, however, are even more far-reaching in terms of the relative status between God and Israel.

If God is willing to choose for Himself once again a special covenant partner -- albeit only as leader of His covenanted people, not as the progenitor of a new people -- and, despite his shortcomings, commit Himself to an everlasting association with him and his descendants, then Israel, even if it falls short of its obligations, may well hope for leniency and forgiveness, and God can be relied upon ultimately to turn punishment into restitution and adversity into deliverance. The Davidic covenant thus conveys a strong note of optimism and hope which is particularly striking after the lack of enthusiasm by the people which marked the Covenant relationship described in the book of Judges.

That the brith with David does indeed come to denote such a relationship between God and Israel in the Bible, is borne out by the manner in which it is subsequently referred to in the Prophets²⁶ on which see below, Chapters VIII and X. Invariably such references constitute a message of hope, reassurance, and forgiveness: God's Covenant has not ended, and God's selection still stands.

NOTES TO CHAPTER VII

1. Judges 6:10.
2. Harry M. Orlinsky, Ancient Israel (Ithaca: Cornell University Press, 1954), p. 56.
3. Judges 2:13.
4. 2:14
5. 2:18.
6. 2:20-23.
7. There are in the First book of Samuel two narratives which deal with the manner in which Saul becomes King -- in different ways and from different points of view. The older narrative, comprising 9:1-10:16; 10:27b; 11:1-11.15, treats Saul's appointment favorably. It is the later story which is under discussion above.
8. I Sam. 8:7.
9. I Sam. 8:20.

10. S. R. Driver, An Introduction to the Literature of the Old Testament (New York: The Meridian Library, 1957), p. 161.

11. II Sam., Chap. 7.

12. I Sam. 13:14.

13. II Sam. 7:13; 23:5.

14. 7:14, 15.

15. I Kings 9:1-9.

16. 9:4-7.

17. II Sam. 12:7-15.

18. 12:9.

19. 22:1 - 23:7.

20. 22:20-23; cf. also Psa. 18:20-23.

21. 22:26-28.

22. I Kings 3:6.

23. II Sam. 7:26b, 29.

24. II Sam. 7:13

25. I Chronicles, Chap. 17.

26. Amos 9:11; Isaiah 4:8, 55:3; Jer. 33:19-22; Ezek. 37:24-28.

CHAPTER VIII

The Pre-exilic Prophets -- Messengers of the Covenant

It is a striking yet indisputable fact that explicit references to the Covenant are so rare among the prophets of the eighth century as to be scarcely noticeable. Thus Hosea uses the word brith twice with regard to God and Israel,¹ Isaiah once,² Amos and Micah not at all. As a result, a multitude of theories has been advanced by biblical scholars, the most extreme of which being that for these prophets the brith as a formal relationship between God and Israel was altogether an unknown entity.³

Now the fact remains that Hosea and Isaiah do refer to the Covenant. And while the frequency or rarity of such references might well be a factor in determining the attitude of the prophets toward the concept, it can hardly make any difference to the basic fact that they were acquainted with it. It should also be considered that Amos and Hosea in Israel, and Isaiah and Micah in Judah, prophesied in the same period, in part even at the same time. In the circumstances, therefore, and particularly in view of the textual similarities in Isaiah and Micah,⁴

it seems a reasonable assumption that what was known to one was hardly unknown to the other, and that, even as the opposition on the part of Elijah to the secular power but a few decades before had been motivated by his understanding of the Covenant,⁵ so the message of all the eighth century prophets was squarely based upon their attitude toward the existence of a covenant between God and Israel and their interpretation of it.

Furthermore, the argument that the early prophets conceived of a special relationship between God and Israel, but that that relationship could not be identified with the traditional, i.e., the patriarchal or Sinaitic brith,⁶ is, we think, not only contradicted by the text itself, but evidences a basic misunderstanding of the Covenant idea in biblical history. For it is absurd to assume that there exists any other relationship at all between God and Israel but the Covenant relationship. There are, to be sure, different covenant formulations emphasizing different aspects of the relationship and determining different degrees of covenant mutuality. We have previously noted, however, that one formulation is never obviated by the next, and that they are indeed aspects of the same Covenant. The

alternative before the people is never one set of Covenant obligations as against another, but very simply: Covenant or no Covenant, God or the idols,

or ברית פר . Thus we cannot agree to the basic distinction made by some scholars between brith as a legal institution governing mutual obligations, and brith as a "personal" relationship in the course of which God alone bestows His "grace" upon Israel.⁷

Moreover, we have previously noted that the Covenant is not always referred to directly in the Bible, but that a reference to aspects or events associated with a covenant formulation must be understood to constitute a reference to the Covenant itself. Here again, the theme of God's selection, for example, although it is more closely related to the patriarchal or Davidic covenant, is fundamental for all of the brith relationship. "Statutes and ordinances," although more particularly an aspect of Sinai and Shechem, are nevertheless a timeless characteristic of the Covenant. The Exodus from Egypt, in particular, not only constitutes a covenant reference as explicit as the Revelation at Mt. Sinai, but beyond that denotes a crucial moment in the Covenant relationship per se, namely

God's "remembering" His people in time of trouble, which is a sine qua non for the entire fabric of the Covenant. Kraetzschmar's distinction, "Dass er [Amos] nicht in einer Bundesschliessung am Sinai, sondern in der Tatsache der Herausführung aus Ägypten das konstituierende Moment des Gemeinschaftsverhältnisses mit Jahwe sieht,"⁸ therefore proves only what he wishes to disprove. The fact that Amos and Hosea refer to the act of deliverance from Egypt⁹ is but one of the many instances of the obvious Covenant consciousness which underlies their writings.

We offer the following examples. All the seventh century prophets, in the established Covenant tradition, have God speak of "My people" or "His people" with regard to Israel. The theme of Israel's selection by God is constantly referred to.¹⁰ What could bespeak God's attitude toward the Covenant more clearly or movingly than the phrase of Amos¹¹ אֲנִי יְהוָה וְאַתֶּם כְּנָעַנִים or of Hosea¹² וְאַתֶּם כְּנָעַנִים וְאֵלֶיךָ יָשָׁבְתִי ?

What could more clearly convey the notion of God's Covenant faithfulness than Micah's¹³ וְאַתֶּם כְּנָעַנִים וְאֵלֶיךָ יָשָׁבְתִי ?

In Amos, furthermore, a covenant relationship, i.e., a relationship which ideally should be mutually contributed to,

is implied in such grammatical formulations as

פִּדְיוֹן מִכַּד וְכִפּוּר מִפְּשָׁעָם ,¹⁴

or

פִּדְיוֹן מִכַּד וְכִפּוּר מִפְּשָׁעָם ,¹⁵

The emphatic וְכִפּוּר plainly contrasts the acts performed by God, in fulfillment of His Covenant promise, with Israel's failure to live up to the Covenant. Last, but not least, in Isaiah, Hosea, and particularly in Micah, the judicial flavor of the language in certain passages,¹⁶ as well as the references to the "controversy between God and His people,"¹⁷ suggest the concept of a formal covenant relationship of a legal nature for the breach of which Israel is being indicted.

Inasmuch as the idea of the controversy between God and Israel involves a direct confrontation of the two Covenant partners, it illustrates, apart from its legal connotations, most tellingly the prophetic concept of the Covenant and particularly of Covenant mutuality. It is often extremely difficult to use the collective "prophetic" with regard to the attitude of men so highly individualistic by temperament and disposition. For each one undoubtedly perceived of the Covenant and its obligations in consonance with the dictates and needs of his own environment and

personality. The prophets appear to differ, for example, on the question as to whether the Covenant would allow God to dissolve His relationship with Israel. For Hosea, such a possibility does not exist. God loves Israel¹⁸ -- how can He give him up?¹⁹ Although Israel might rebel and be punished,²⁰ the Covenant is insoluble. Isaiah and Micah identify their most exalted visions of the future with the Covenant.²¹ Thus they, too, testify to its enduring and beneficent purpose, notwithstanding the heavy toll which the punishment of the guilty will take.²² Although they do not define God's selection of Israel in terms of personal love, it is clear that the selection itself is continuous.

More complicated is the manner in which Amos looks upon God's obligations concerning the maintenance of the Covenant. There is no doubt that he envisages for Israel's breach of the Covenant relentless and radical punishment.²³

ואם-יִשְׂרָאֵל בָּרַח אֶת-אֱלֹהֵי אֲבוֹתָיו אֲנִי-מֵבִיט וְאֶרְאֶה וְאֶחְדָּשׁ אֶת-בְּרִיתִי עִם-יִשְׂרָאֵל וְאֶעֱשֶׂה אֵלָיו חֶסֶד וְחַנּוּן כְּכִלְיֹתוֹ אֶת-הַבְּרִית אֲשֶׁר-כָּתַבְתִּי עִם-בְּנֵי יִשְׂרָאֵל וְאֶעֱשֶׂה אֵלָיו חֶסֶד וְחַנּוּן כְּכִלְיֹתוֹ אֶת-הַבְּרִית אֲשֶׁר-כָּתַבְתִּי עִם-בְּנֵי יִשְׂרָאֵל

Similarly, the passage:²⁴ כִּי-כִּי-בָרַח יִשְׂרָאֵל מִיַּד מִצְרַיִם וְאֶתְּנֶה אֶת-יִשְׂרָאֵל לְעָמָר וְלְעָמָר וְלְעָמָר וְלְעָמָר וְלְעָמָר וְלְעָמָר וְלְעָמָר וְלְעָמָר וְלְעָמָר וְלְעָמָר
has been interpreted to convey the notion that even though God had redeemed Israel from Egypt, "that fact must not be understood to imply that an irrevocable covenant existed

between them. He had similarly brought up other peoples, which did not prove that He had an everlasting covenant with them."²⁵

Such an interpretation, however, can hardly be upheld in view of the fact that, as already Ibn Ezra points out,²⁶ the very purpose of the rhetorical question in the verse is to convey the difference and not the similarity between Israel and other peoples in the eyes of God. According to Amos, God has no other obligations except to Israel. Far from expressing any notion of universalism, the phrase is much more akin to the previous statement:

וְאָמֹס בְּרַחֲמֵי יְהוָה . Amos certainly believes that precisely because of the uniqueness of the Covenant relationship, a violation of it deserves divine severity rather than forbearance -- a kind of noblesse oblige in reverse. Yet, even if we draw no conclusions from the suspiciously abrupt change to hopefulness at the end of Chapter 9, there is nothing to indicate that in punishing Israel even to the point of near destruction, God is portrayed as considering His Covenant obligation at an end.

In general, then, the prophetic view concerning God's Covenant responsibilities is not so different from

previous conceptions as the following clear-cut and definitive evaluation of mutual covenant relations by Isaiah would indicate.²⁷

לכנ-לך ונכחך יאמר יבנה ---
 אק-תאבן ושמעתיך אק-תאבן
 אק-תאבן ושמעתיך אק-תאבן

God still is the protector and provider who will be "reasonable" toward His people in forgiving its sins, i.e., its laxity in fulfilling Covenant conditions. Even as in the case of Israel's "rebellion" in the desert,²⁸ the one thing that cannot be tolerated is a direct negation of the Covenant itself, and even then אק-תאבן does not mean cessation of the Covenant.

What is altogether different, however, is the prophetic understanding of what constitutes a negation of the Covenant on Israel's side. Or, to put it differently: What are the implications of אק-תאבן ושמעתיך on the prophetic view? Allowing, again, for individual differences, we suggest that Micah's ingenious formulation constitutes a definition of Israel's Covenant requirements on which all of the eighth century prophets could agree:²⁹

דלית אק-תאבן ושמעתיך
 אק-תאבן ושמעתיך
 אק-תאבן ושמעתיך

The key to an understanding of this passage denoting Israel's Covenant obligations is to be sought in the word hesed.³⁰ Now it is apparent from the Deuteronomic and post-Deuteronomic passages in which hesed appears side by side with brith³¹ that there exists a relationship between these two concepts. In these instances, however, hesed is a quality emanating from God and flowing to man. As far as we can determine from our investigation concerning the usage of hesed in the Bible, notwithstanding some debatable exceptions,³² this is the only direction in which hesed can flow as between God and man.

Hesed can, indeed, be a human quality. To the extent, however, that it originates with man, it is not a quality which man extends towards God but which is mutually extended among human beings. As indicated in countless instances in the Bible, hesed may exist in different forms between different types of individuals or groups of people.³³ In every case, however, the extension of hesed and its acceptance determines a special relationship of mutual and mutually assured rights or privileges, treatment or behavior, or aspects of emotions. It creates a particular bond of mutual concern among people, and it is probably with this

in mind that S. R. Driver has spoken of hesed as "a quality exercised mutually among equals."³⁴

We now submit that, seen in this light, Micah's גֹּאֵל יִשְׂרָאֵל, particularly in conjunction with יְהוָה-רַחֵם יִשְׂרָאֵל serves as a perfect illustration of the prophetic understanding of Israel's Covenant obligations. Firstly, the requirement to love hesed as one walks with God adds another line, and a crucial one, to the diagram of Covenant mutuality as far as the prophets are concerned. Since hesed is a quality which man extends only to man, the line of Covenant reciprocity no longer runs from God to man and back to God. On the prophetic view, it runs from God to man and back to God only by way of his fellow man. Only thus can man return God's hesed. In other words, according to the prophetic Covenant concept, some of man's obligations to God are identical with his obligations to his fellow man.

Secondly, inasmuch as the display of hesed creates a relationship motivated by a common concern, thus making for equality among the people so concerned, גֹּאֵל יִשְׂרָאֵל contains another great principle indigenous to the prophetic understanding of the Covenant. It is the supposition that

all the people are equal partners in the relationship with God and therefore subject to the same privileges and obligations.

It is not our task to specify the particular areas upon which the various prophets place their individual emphases. We believe, however, that when they pleaded for justice, or love, or condemned corruption, rebellion, or idolatry, they were driven by their concern for the Covenant relationship between God and Israel, the human obligations of which they saw in a new light. We think that it was perhaps this concern over the corruption of the relationship which still went under the name of brith in their days, rather than their ignorance of or alleged opposition to the institution, which caused them to use this term so rarely.

Consider, for example, the scorn of Amos³⁵

וְיָמִין בְּחֵטְאֵי קִיּוֹן אֶת־יָדָיו וְיָמִין לֹא יִדְּעוּ זֶה לֹא יִדְּעוּ זֶה לֹא יִדְּעוּ

or Hosea's injunction concerning the real meaning of the

Covenant³⁶ כִּי צִוִּיתִי וְלֹא זָכַר וְצִוִּיתִי אֲלֵהֶם וְלֹא שָׁמְעוּ

of Isaiah's complaint of "religion by habit,"³⁷

וְיָמִין יִדְּעוּ אֶת־יָדָיו וְיָמִין לֹא יִדְּעוּ זֶה לֹא יִדְּעוּ

or Micah's accusation against religious complacency³⁸

וְיָמִין יִדְּעוּ אֶת־יָדָיו וְיָמִין לֹא יִדְּעוּ זֶה לֹא יִדְּעוּ
זֶה לֹא יִדְּעוּ זֶה לֹא יִדְּעוּ

We are left with the impression that at least some of the people might well have been unconscious of doing evil and thus imagined themselves to be well within the Covenant requirements. It is not altogether impossible that the radical contrast between their own covenant concept and the mechanical covenant mouthing of the people made the prophets shun the word brith. On the other hand, why should they have used the term specifically more often? Most of the people knew what they were being condemned for. Be that as it may, whether they mentioned the brith or not, it was their conviction that a covenant existed and had to be upheld which inspired their prophecy. And it was their insistence that man's obligations to God could not be observed without man's obligation to man, and that all men enjoyed equal status before God, which first established a bond between the Covenant and their own concepts of social justice and morality.

NOTES TO CHAPTER VIII

1. 6:7; 8:1.

2. 24:5.

3. Kraetzschmar, Bundesvorstellung, p. 122:
 "Bei keinem der Propheten des 8. Jahrhunderts laesst sich also ein Anzeichen fuer die Vorstellung, dass das religioese Verhaeltnis auf einer zwischen Jahwe und dem Volke geschlossenen Berith beruhe, erkennen."

4. Cf. Isaiah 2:1 ff and Micah 4:3 ff.

5. I Kings 19:10, 14.

6. Kraetzschmar, Bundesvorstellung, p. 100:
 "Der eine Hauptfehler ist, dass man die Begriffe Verhaeltnis zu Jahwe und Bundesverhaeltnis nicht genuegend auseinander haelt."

7. Cf. Eichrodt, Theologie des Alten Testament, pp. 14-16.

8. Kraetzschmar, op cit., p. 102.

9. Amos 11:2; Hosea 13:4.

10. Isaiah 14:1
 Amos 2:10; 3:2.
 Hosea 13:4.

11. 3:2.

12. 13:4.

13. 2:7.

14. 2:9.

15. 2:10.

16. Isaiah 2:2, 3:17; Hosea 4:1; Micah 6:1 ff.
 Concerning Micah, see also Herbert B. Huffman, "The Covenant Lawsuit in the Prophets," in I.B.L. (Dec., 1959), p. 285.

17. Micah 6:2.

18. 3:6, 11:1.

19. 11:8.

20. 14:1.

21. Isaiah, Chap. 11; 2:2-4; Micah, Chap. 4.
22. Isaiah 1:24-28; Micah 1:6 ff; 2:12 ff.
23. Amos 9:4.
24. Amos 9:7.
25. Commentary on Amos by S. M. Lehrman in The Twelve Prophets (The Soncino Press, 1948), p. 121.
26. לְכָל בְּנֵי יִשְׂרָאֵל
וְלְכָל בְּנֵי יִשְׂרָאֵל
27. 1:18, 19, 20.
28. See below, p. 42.
29. Micah 6:8.
30. For a discussion of the various aspects and meanings of צֶדֶק see also below, n. 32, and Chap. IX.
31. Deut. 7:9, 12; I Kings 8:23; II Chron. 6:14; Dan. 9:14; Neh. 1:5, 9:32.
32. Under B. D. B. (Hebrew and English Lexicon of the Old Testament by Francis Brown, S. R. Driver, and Charles A. Briggs [Oxford, 1907], p. 338) are listed three passages in the Bible in which hesed is extended by man to God. They are:

וְלִי חֶסֶד צֶדֶק (Jer. 2:2)

וְלִי חֶסֶד צֶדֶק (Hos. 6:4)

וְלִי חֶסֶד צֶדֶק (Hos. 6:6)

As for the Hosea passages, it is difficult to see why hesed should not denote a quality as between humans. The verses immediately following (vss. 7-10) describe in detail the very things the addiction to which is considered by Hosea a transgression of the Covenant with God. It will be noted

that they are all acts of wickedness and immorality which man commits against his fellow:

וְהָיָה כִּי יִשְׁכַּח אֱלֹהִים אֶת הַחֶסֶד וְהָיָה כִּי יִשְׁכַּח אֱלֹהִים אֶת הַחֶסֶד
וְהָיָה כִּי יִשְׁכַּח אֱלֹהִים אֶת הַחֶסֶד וְהָיָה כִּי יִשְׁכַּח אֱלֹהִים אֶת הַחֶסֶד
וְהָיָה כִּי יִשְׁכַּח אֱלֹהִים אֶת הַחֶסֶד וְהָיָה כִּי יִשְׁכַּח אֱלֹהִים אֶת הַחֶסֶד
וְהָיָה כִּי יִשְׁכַּח אֱלֹהִים אֶת הַחֶסֶד וְהָיָה כִּי יִשְׁכַּח אֱלֹהִים אֶת הַחֶסֶד

This is the kind of man-to-man hesed to which the prophet ironically refers as a "morning cloud and the dew that early passes away" (6:4b). God, however, requires the real hesed which is the very opposite of the evils mentioned in the verse and would cause man to behave toward his neighbor with equity, decency, and respect. In point of fact, this verse is a perfect example of the prophetic concept of human covenant obligations as outlined above. Plainly, hesed here is an intra-human obligation, the immediate beneficiary of which is not God but man.

The passage from Jeremiah presents greater difficulty. The suggestion that God is remembering His own hesed (so as to prod Himself into extending it again, as it were) cannot be categorically rejected. It would appear, however, that the remainder of the verse (וְהָיָה כִּי יִשְׁכַּח אֱלֹהִים אֶת הַחֶסֶד) does not support the logic of such a reading. We suggest, nonetheless, that inasmuch as Jeremiah employs here the husband-wife metaphor which is commonly used by the Prophets to denote the relationship between God and Israel, it is really as if one human being were speaking to another. In other words, metaphorically though not actually, hesed again, in this verse, too, denotes an intra-human relationship.

33. Cf., e.g., Gen. 47:29, as between relatives;
Jos. 2:12-14, as between host and guests;
I Sam. 20:8, as between friends and allies;
II Sam. 3:8, as between king and subjects.

34. S. R. Driver, A Critical and Exegetical Commentary on Deuteronomy (New York: Charles Scribner's Sons, 1895), p. 102.

35. 5:18.

36. 6:6.

37. 29:13b

38. 3:11b.

CHAPTER IX

Deuteronomy -- The Covenant And Hesed

Of all biblical Books, none is more important for an evaluation of the Covenant relationship than the Book of Deuteronomy. This is, firstly, due to the fact that the Covenant constitutes one of the major themes, if not the major theme, to which the Book constantly makes reference. Secondly, Deuteronomy is different from other books which deal with the brith in that it does not merely report on Covenant events or laws but "expounds" them.¹ In doing so, from its particular vantage point in history,² it presents an evaluation, or re-evaluation, of the nature and purpose of the relationship between God and Israel. Since, as we shall see, it incorporates older covenant ideas, bears unmistakable marks of the influence of the seventh-century prophets, and may be presumed to have influenced in turn later biblical writings, we may well consider it the most representative expression of the biblical view on the Covenant. As such, we shall also have to refer to it to a considerable extent in our final

conclusions. At this point we shall be content merely to point to what is new and unique in the Deuteronomic evaluation of the Covenant concept.

The characteristic mark of the Deuteronomic exposition of the Covenant relationship is not so much that it introduces concepts not previously expressed in the Bible, but that these concepts are presented as an extension of more traditional themes. Thus, throughout the Book we are aware of a blending of formally divergent or unrelated aspects of the Covenant relationship. An examination of a key passage may serve as an illustration.³

כי עק קדוש אתה ליבא אלביק בק חור יבא אלביק
 לביא לו לעק סגולת מלך העמים אשר עני באצמם
 לא מידבק מלך העמים אשר יבא חסד וידה חסד כי אתה
 במצות מלך העמים כי מאבדת יבא אתה וממנו את
 בשבועת אשר נשבע לאבותינו הוציא יבא אתה ביד
 חזק ויפיק מיד עבדים מיד עבדים חזק ויפיק
 כי יבא אלביק בלא באלביק האל הנאמן שחך הקדוש
 ובחסד לאבדיו ולשמי חזקו לאבדיו ולשמי לשמי
 אל-עניו להאבדיו לא יאחר לשמי אל-עניו לשמי-לו
 ומחנה את-החזק ואת החזק ואת המשפטים אשר אנכי
 מצוה ביום לעשות
 ופיך עקב לשמון את המשפטים האלה ומחנה ומשפטים
 אתה ומחנה יבא אלביק לך את-הקדוש ואת-החסד אשר
 נשבע לאבותינו ואהבך והרעך והרעך פני-הטוב
 ופני-אצמתיך בנך ופניך ופניך ופניך ופניך ופניך
 בנך עני באצמם אשר נשבע לאבותינו אתה לך

The following terms and the ideas which they signify in connection with the Covenant are familiar to us from previous Books:

עֲוֹן פָּחַד, 4
 פִּנְיָה-סֵן, 5, אֵלֶּיךָ, אֵלֶּיךָ, אֵלֶּיךָ, 6
 אֵלֶּיךָ, 7, אֵלֶּיךָ, 8

וְנָח (with regard to man's observance), 9

פִּנְיָה, 10

וְנָח, 11

and, of course, וְנָח. It will be readily noted, too, that all but one of these terms have their frame of reference in the Sinaitic Covenant and the events immediately preceding it. They refer either to the familiar theme of God's choice of Israel and aspects indigenous thereto (פִּנְיָה-סֵן, אֵלֶּיךָ, אֵלֶּיךָ), or to God's binding Himself to Israel (אֵלֶּיךָ), to His mighty acts for Israel (אֵלֶּיךָ), or to aspects of the Covenant conditions for either side (וְנָח; וְנָח; וְנָח).

Among these familiar terms and ideas, however, we also notice associations and concepts which were not a part of the terminological pattern of Exodus and which occur for the first time in Deuteronomy, or in Books which may be said to have originated in the "Deuteronomic climate."¹² These are: the association of brith and hesed (6:9); the use of

shamar in conjunction with God's Covenant obligations, and its association with hesed and brith (6:12); the addition of אֱהָבָה to אֶל־יְהוָה and the direct connection of God's Covenant oath with God's love.

We note first of all the inclusion of the concept of love in the relationship of God and Israel. It appears as a qualifying factor for the Covenant oath, as the reason for God's choice of Israel, and as an addition to the formally stated divine promise to bless and multiply His people. Now, we have previously refrained from using the word "love" in connection with God's unmistakable emotions toward Israel, simply because the biblical writers did not choose to speak of it in this term. We have already noted that the Exodus version of the Decalogue, as well as the book of Joshua contain injunctions for Israel to love God (22:5, 23:11). And, of course, it is the prophet Hosea who first speaks of God's love for Israel (3:6, 11:1). The book of Deuteronomy, however, is unique for two reasons. Firstly, it conceives of love as an emotion mutually extended between God and Israel. And, secondly, inasmuch as it identifies God's love for Israel as the motivating force behind His initial "Covenant readiness," it makes mutual love a sine qua non for the Covenant relationship.

Next we turn to another Deuteronomic peculiarity which impinges upon covenant mutuality. The use of the word *שמע* with regard to God's observance of the Covenant in the Bible is unknown prior to Deuteronomy or contemporary Books such as I Kings (8:24) or II Chronicles (6:15).¹³ In earlier Books, only man's observance of the Covenant is denoted by *שמע*. God's involvement is expressed by such verbs as *שמע*, *שמע*, *שמע* and *שמע*, or by another Deuteronomism, *שמע*.¹⁴ The Deuteronomic juxtaposition: *שמע ישראל יהוה אחד* (7:11) *שמע ישראל יהוה אחד* (7:12) however, seems to express not only the obvious circumstance of mutual covenant observance, but also, as in the matter of love, a common element in the manner of approaching such observance. In other words, what is implied here is the notion that Israel is capable of feeling the same emotion and accepting the same responsibilities as God. If that is so, the disparity between God and Israel appears greatly reduced in comparison with the presentation of other Books, and we submit that, on the Deuteronomic view, the two covenant partners appear in positions with regard to each other which presuppose a considerable degree of equality or near-equality.

Another extremely concise statement with regard to the relative status of God and Israel strengthens our belief:¹⁵

אג-יבאב פאמנא פיאק אפואל אק לאאפיק ואלאבא אפאבא
 ואלאבא חקיו ואלאבא ואלאבא ואלאבא אקאל
 ואלאבא פאמניק פיאק אפואל אק לאאפיק ואלאבא אפאבא...

Mutuality, here, is apparent on three counts. (1) The plainly stated conditions for both parties clearly indicate mutuality of obligations. (2) The juxtaposition of the two Hifcil forms of חלל denotes an element of mutual choice. Neither party appears to be under duress, but both avouch each other through the agency of Moses. (3) Again, the use of the same verb with regard to God's and Israel's covenant-making indicates what we have already termed the mutuality of approach as well as its underlying connotations of equality.

It may well be that this unusually strong note of equality which is struck in connection with the mutual avowal of God and the people of Israel represents a reaction and implies a value judgment against the Davidic covenant in which God selects one man to be annointed king. In Deuteronomy, the Covenant is again with the people and with all the people,¹⁶

אג-יבאב פאמנא פיאק אפואל אק לאאפיק ואלאבא אפאבא...

As a matter of fact, we cannot fend off the impression that the general tone of entire passages, such as Chapter 8, is such as to portray two covenant partners, each of whom is respectfully aware of the position which the other occupies under the Covenant. The concern of Moses that Israel might claim all credit for retaining power and wealth,¹⁷ does not exactly bespeak an attitude of self-abasement on Israel's part before the Covenant. Moreover, Deuteronomy presents God as being very much concerned about His reputation among the nations. Repeatedly the relationship between God and Israel is considered against the background of the attitudes and reactions of other nations.¹⁸ When Moses wishes to deter God from dissolving the Covenant, he appeals to His love, as we shall see, but also points out that the Egyptians might doubt God's ability to fulfill His obligations.¹⁹ Clearly, the Deuteronomic viewpoint holds up the mirror of "public opinion" to the actions of God and Israel alike. Seen against such a background, we think that the Covenant with its common as well as mutual obligations presents an impression of equality rather than disparity among the partners.

At the same time, the strong statutory character of the Covenant is plainly evident. The observance of the

legal statutes of Sinai is again stressed as being absolutely necessary and compulsory for Israel. The long list of blessings and curses²⁰ leaves the people in no doubt that the Covenant cuts deeply into their personal lives. To be sure, mutual love and mutual legal obligations exist side by side in the Deuteronomic concept of the brith. The formal inclusion of love into the relationship, however, in no way justifies any breach of the Covenant obligations. Predominantly, the brith in Deuteronomy denotes a legally constituted and regulated relationship.

In view of such a conception, the Deuteronomic characteristic of placing brith and hesed into apposition is particularly noteworthy and problematic. It should be stated first of all that brith and hesed are not to be considered a hendiadys. God's hesed, as well as His promise of hesed unto Israel, are undoubtedly an aspect of His relationship with the Patriarchs, the people of Israel at Sinai, and particularly David.²¹ Whether a relationship with God governed exclusively by hesed would produce the same results as a relationship based on brith, however, is highly questionable. The difficulty lies primarily in the fact that brith denotes mutuality, and God's hesed, as we have seen,

does not. In other words, it takes two, God and Israel, to make and maintain a brith. Hesed, on the other hand, if it involves God at all, is something which He alone can contribute to the relationship.

Now, in analyzing God's acts of hesed in the Bible, we come to the conclusion that they can be divided into two main categories. Firstly, acts of hesed are performed by God in pursuance of and in accordance with the Covenant agreement in order to aid, advance, protect, or reward His Covenant partner.²² Such acts run the gamut of obligations, from choosing a wife for Abraham to selecting a king for Israel. Secondly, however, there is another kind of hesed: God may exercise it at His discretion when Israel violates and thus invalidates the Covenant. In such an event, God's hesed may ignore the legal terms of the brith and forgive.

We cite the following passages as evidence:

יְבוּסִים יְבוּסִים אֵל כְּחוֹס וְחַיִּים אֵל כֶּכֶן אֲבִימֶלֶךְ וְרַב־חֵסֶד וְאִמְתּוֹ נָצַח
 חֵסֶד לְאֲבִימֶלֶךְ נָשָׂא עִין וְלֹא וְחֵסֶד לְיִצְחָק לֹא יָצָא
 יְבוּסִים אֵל כֶּכֶן אֲבִימֶלֶךְ וְרַב־חֵסֶד נָשָׂא עִין וְלֹא יָצָא
 מִי אֵל כְּחוֹס נָשָׂא עִין וְרַב־חֵסֶד לְאֲבִימֶלֶךְ נָשָׂא עִין וְלֹא יָצָא
 לֹא כְּחוֹס לְאֲבִימֶלֶךְ כִּי חֵסֶד חֵסֶד

The parallel passages in Exodus and Numbers, however, make abundantly clear what forgiveness means: it certainly

does not mean that Israel is not to be punished. It does mean that there is to be no cessation of the Covenant. A further example is to be found in the Davidic covenant. We read that God's hesed is not to be withdrawn from David as it was from Saul;²⁶ but

וְהָיָה כְּשֶׁיִּהְיֶה לְדָוִד וְלִבְנֵי דָוִד וְלִבְנֵי יִשְׂרָאֵל כְּשֶׁיִּהְיֶה לְדָוִד וְלִבְנֵי דָוִד .²⁷

The continued bestowal of hesed therefore makes for an everlasting covenant, regardless of the fact that David might sin and have to be punished.

Thus, hesed, while it does not exclude punishment, expresses God's determination to preserve the Covenant and to extend forgiveness in order to do so. As for Deuteronomy, we think that the placing of brith and hesed into apposition with one another is motivated by the same reasoning which introduced the concept of דְּפָדָה into the Covenant relationship. Both are considered a part of what we have already termed God's Covenant readiness, and thus are also inherent in, or even precede, His Covenant oath. According to Elbogen, brith, hesed, and Shevucah are related because all of them express "dass Jahwe Abraham und die Seinen in die Gottesgemeinschaft aufgenommen hat."²⁸ The same thought, however, is already expressed in Micah:²⁹

וְהָיָה כְּשֶׁיִּהְיֶה לְדָוִד וְלִבְנֵי דָוִד וְלִבְנֵי יִשְׂרָאֵל כְּשֶׁיִּהְיֶה לְדָוִד וְלִבְנֵי דָוִד .
וְהָיָה כְּשֶׁיִּהְיֶה לְדָוִד וְלִבְנֵי דָוִד .

We suggest, then, that קִבְלָה לַיהוָה in Deuteronomy, as well as in post-Deuteronomic Books expresses the conviction that God will not only observe the brith when Israel reciprocates, but will perpetuate it even if it is not mutually contributed to. We may well consider קִבְלָה in connection with אֲוֶרָה in the nature of a safety clause built into the Covenant in order to safeguard its maintenance, and to protect the inferior party against the consequences of its "natural" shortcomings. For it is conceded that Israel, even as she has done in the past, might break the Covenant again.³⁰ It is also indicated, however, that in such an event God, by an appeal to His Covenant oath and its inherent hesed, as well as by other means, may be moved to abandon His intentions to discontinue the relationship with Israel.³¹

To the degree that קִבְלָה may thus be considered almost a Covenant obligation on God's part, the brith appears virtually unbreakable on the Deuteronomic view. This should not be interpreted to mean, however, that the entire Covenant relationship becomes a manifestation of God's hesed. The significance of the Deuteronomic Covenant concept is to be found in the idea that every succeeding generation stands at Mt. Sinai, as it were, and must accept and heed the Laws

of the Covenant anew.³²

אם את-אקדמי כל יום את-דפדוף דאס י אא
אנא אפא דא דאק ח"ח

Deuteronomy plainly re-affirms, even strengthens the statutory character of the Sinaitic Covenant and the mutually obligating relationship for which it stands.

Because of its emphasis on the formally legal aspects of the Covenant, the Deuteronomic concept has been termed "a regression"³³ as compared to the supposed prophetic idea concerning the relationship between God and Israel. Such an opinion, however, is based upon an erroneous evaluation of the prophetic attitude toward the Covenant -- as we have pointed out -- as well as of the Covenant itself -- as we shall see. As the result of this study, it is becoming increasingly clear to us that the dividing lines in the Bible between what may be considered "legal" or "moral" are extremely uncertain and flexible. Value judgments on such grounds are therefore untenable and should be made and received with great caution.

NOTES TO CHAPTER IX

1. 1:5.

2. Although, of course, Deuteronomy did not suddenly

spring into being in 621 B.C.E., we must assume the seventh century as the time of its crystallization.

3. Deut. 7:6-13
4. Ex. 19:6.
5. 19:5.
6. 13:5.
7. 13:9.
8. 20:6.
9. 19:5.
10. 21:1.
11. Gen. 12:2.
12. See above, n. 2.
13. Such as in I Kings 8:24 (II Chron. 6:15):

14. The use of ²¹³ in connection with ¹¹²² occurs only in Books or passages the origin of which is attributed to the Deuteronomistic era. Cf. f.e.: Deut. 4:13, 28:69; Josh. 7:11, 23:16; Judg. 2:20; I Kings 11:11.

15. Deut. 26:17, 18.
16. 29:9.
17. 8:17.
18. 4:6, 33, 34; 9:4, 27 ff, 29:23 ff.
19. 9:28.
20. Chap. 27.

21. Cf. f.e. Gen. 24:12 for Patriarchs; Ex. 15:17, 20:6 for Sinaitic Covenant; II Sam. 7:14-16 (Ezechron. 17:13-14), I Kings 8:23-25; Psa. 89:25, 27-28, 31-34 for Davidic Covenant.

22. Some typical examples are to be found in Gen. 24:12, 23:11; Ex. 15:13; I Kings 3:6; Psa. 103:17.

23. Ex. 34:6.

24. Num. 14:9.

25. Micah 7:18.

26. II Sam. 7:15.

27. II Sam. 22:51.

28. I. Elbogen, 3^{er} -Verpflichtung, Verheissung, Bekraeftigung in Festschrift fuer Paul Haupt (Leipzig, 1926), p. 44.

29. Micah 7:20.

30. Deut. 31:16.

31. 9:26 ff. See also above, p. 86, for another aspect of the same verse.

32. Deut. 5:3.

33. Kraetzschmar, Bundesvorstellung: "Rein religios betrachtet ist sie aber ein Rueckschritt von der Hoehe prophetischer Gotteserkenntnis herab."

CHAPTER X

Jeremiah -- The "New Covenant"

It is clear from even a superficial reading of the text of the book of Jeremiah that the concern with the Covenant relationship occupies a central position in Jeremiah's life. According to Kaufmann, Jeremiah was "the prophet of Deuteronomy and the Covenant that was based on it."¹ There is almost general agreement among scholars that the style, terminology, and content following upon the prophet's injunction (11:2) *וְהָיָה כְּסֵפֶר הַבְּרִית* indicate that *וְהָיָה כְּסֵפֶר הַבְּרִית* means the "Book of the Covenant" of the Josianic reform.² For example, in commenting on 11:1-8, S. R. Driver says: "This, with evident allusion to the lawbook discovered in Josiah's 18th year (v.2 'Hear ye the words of this covenant': v.3b almost verbatim = Dt. 27:26a: with v.5b cf. ib. v.26b), relates, no doubt, what took place shortly after that event."³

In the 31st chapter of Jeremiah, however, a relationship between God and Israel is envisaged, one to which the term *וְהָיָה כְּסֵפֶר הַבְּרִית* is applied.⁴ With regard to this

term, many divergent theories and opinions have been advanced -- too many, in fact to be enumerated here -- all of which are concerned with a clarification of what exactly is "new" about the New Covenant. Since we believe that the problem bears heavily upon the question of Covenant mutuality, it becomes our task, too, to ascertain whether or not the Covenant relationship is really envisaged in a new light.

The passage reads as follows:⁵

הנה ימים באים (אך-יבוא) וכתי את-בית ישראל
ואת-בית יהודה ברית חדשה לא ברית אשר כתי
את-אבותם ביום המצוי קידש לעבד/אך מאד מצויים
אשר-המה פירו את ברית ואני קדשתי אתם (אך-יבוא)
כי זאת ברית אשר אכרת את-בית ישראל אחרי
הימים ההם (אך-יבוא) נתתי את-תוכי קדשתי ועל-לך
אכתבה ועל-לך לאחריק ומה יבוא-לי לך

Now what exactly is the objection raised to the "old" brith which was made ביום המצוי קידש לעבד/אך מאד מצויים i.e., the Sinaitic covenant? Is it that it was too statutory or legal, stifling the relationship between God and Israel by the formality of too many laws? And are we now to understand, as some scholars would have us believe, that the New Covenant ushered in a new, spontaneous relationship of "grace" because God has placed His law בקרבך ועל-לך ?

We find no evidence whatever for such assumptions. There is also no indication that the new Covenant constitutes the end of divine punishment, or the beginning of a relationship in which punishment becomes unnecessary because it is no longer connected with the observance of statutes and ordinances.

As we understand this passage -- or any other passage referring to the Covenant in Jeremiah -- no criticism whatever of the Sinaitic brith as the blueprint for the relationship between God and Israel is implied.

Jeremiah's position is made clear by the juxtaposition of

יְהוָה וְיִשְׂרָאֵל and יְהוָה וְיִשְׂרָאֵל . Again, as in previous instances, the use of the personal pronouns with the perfect tense places the strongest possible emphasis on the contrast between the two covenant partners with regard to their conscientiousness in meeting the obligations of the Covenant. Israel had not done her share although God had done His. But such a state of affairs is not only a conspiracy against God,⁶ but it violates the very essence of the Covenant as Jeremiah sees it. For him, no one-sided relationship between God and Israel is possible. No covenant can be sustained indefinitely by but one party, even if that party is God. What is required is not a change of

Covenant, but literally a change of heart. We submit, how-

ever, that ונתתי את תוכו קדרק ואל לים אנתקנך

is far from constituting an abstraction of the old, i.e.,

the Sinaitic covenant, into "a principle operative from

within."⁷ A new covenant means a new man who by his own

impulse will be moved to carry out the prescribed covenant

relation.⁸ ולא ואלהן עור אי את כעבד ואיש את אחיו

לאמר דין את יבוב כי כולם ידעו אותי למקטנך ער-עצורם (אק-
יבוב כי אטלה לעזרם ואחטאם לא אצנך-עור

For it need hardly be emphasized that ואל לים אנתקנך

or such other phrases in Jeremiah as ונתתי לם לזמא אתי⁹

or ונתתי לם לם חרע¹⁰ or ונסכל ערלוא לזמא

in Ezekiel,¹¹ are in direct line with the terminology as

well as the spirit of Deuteronomy.¹² The Deuteronomic con-

cept of the Covenant, however, can hardly be called an

abstraction:¹³

כי בחצות הצאור אק אנני מצוק ב'וק לא נעלאת היא
מחק ולא נחקד היא ---
כי אקדוב אל'ק דצקכ כהוא פכ'ק ואלקק לעלול

We can think of no more concise and accurate

definition of the קב'ת חרע than the two words

ולקק לעלול. Jeremiah, possibly in a mood of dis-

illusionment with the Josianic reform, envisages a day when

Israel will no longer meet its covenant obligations at the

end of a policeman's stick. One day these obligations will become so much a part of their lives that they will literally know them "by heart" and will not even require a reminder in the form of the Ark of the Covenant.¹⁴

וְהָיָה כִּי יִשְׁמַע הָעָם אֶת הַקוֹל
 אֲשֶׁר יִשְׁמַע הָעָם אֶת הַקוֹל
 אֲשֶׁר יִשְׁמַע הָעָם אֶת הַקוֹל
 אֲשֶׁר יִשְׁמַע הָעָם אֶת הַקוֹל

We submit, then, that the significance of the New Covenant lies in its inherent desire to restore (or renew) the Covenant by restoring its mutuality. That mutuality of obligations in Jeremiah's days involved emotional aspects, and can no longer be adequately expressed by the formula "obedience in return for protection," has become apparent by now. In view of the fact, however, that Jeremiah's New Covenant is a part of his eschatology, and therefore often regarded as a terminus a quo for a new and "universal" covenant era (Heilszeit) in which the idea of covenant mutuality has been discarded (dabei den Character eines auf Gegenseitigkeit beruhenden Vertrages voellig abgestreift hat),¹⁵ we cannot state emphatically enough that the text bears out no such supposition. Mutuality does not only continue to remain a basic aspect of the New Covenant, but the "renewal" of the Covenant is predicated upon it. Moreover,

it is not God's grace which makes the Covenant new but, hopefully, man's, i.e., Israel's, newfound intimate acquaintance with the Covenant requirements.

NOTES TO CHAPTER X

1. Kaufmann, The Religion of Israel, p. 146.
2. "Sind 'die Worte dieses Bundes' das Deuteronomium? Dies wird von der heutigen Forschung fast einstimmig bejaht . . . Die Gegner dieser Anschauung sind gering an Zahl: ausser Volz und Nötscher nur E. König, Gesch. der alt. lischen Religion 3/4 1924, 420 f und Tuukko in der Kittel Festschrift 1933, 144" (Wilhelm Rudolpf, Jeremia [Tubingen, 1947] p. 67).
3. S. R. Driver, Introduction to the Old Testament, p. 255.
4. 31:30.
5. Jer. 31:30-32.
6. Jer. 11:9.
7. Driver, Introduction to the Old Testament, p. 262.
8. Jer. 31:33.
9. 24:7.
10. 4:4.
11. Ezek. 36:26.
12. Cf. Deut. 29:3, 14; 30:6, 10.
13. 30:11, 14.
14. 3:16b, 17.
15. Eichrodt, Theologie, p. 19.

CHAPTER XI

Ezekiel and Deutero-Isaiah -- "The Covenant of Peace"

From the point of view of Covenant relations, the Babylonian exile had ushered in a strange situation. God had not just punished His covenant partner, He had expelled him from the very land which He had promised him under the Covenant agreement. What consequences did such an act have for the continuation of the Covenant? Did it mean that God had decided to put an end to His relations with Israel, or could the Covenant still exist even under such conditions? The fact that the brith did survive the ideological as well as the historical test of the Exile indicates first of all how strongly engrained and resilient the idea of the Covenant had become in the life of the people. Even if observed inadequately, or in the breach, or on foreign soil, the brith nevertheless constituted a living reality. If one reads the prophets carefully, one is amazed, for example, at the amount of argument that goes back and forth between the two covenant partners. God contends with the people, and the people contend

with God.¹ Even the faithful Jeremiah exclaims:²

...אנכי וְאַתָּה יְיָ אֱלֹהֵינוּ אֵלֵינוּ וְאַתָּה יְיָ אֱלֹהֵינוּ אֵלֵינוּ וְאַתָּה יְיָ אֱלֹהֵינוּ אֵלֵינוּ

We think that the right to argue, question, even disagree, is an important aspect of the Covenant relationship, illustrating its strength rather than its weakness. It is when either party ceases to speak or listen to the other that the Covenant is in trouble.³

The second reason for the survival of the Covenant must unquestionably be sought in the zeal and genius of the two men who prophesied in Babylon at that time and instilled into the Covenant the particular ideas which it needed for a continued meaningful existence, viz., Ezekiel and Deutero-Isaiah. Although divided by a generation and the mark of their individual personalities, they had these things in common: they insisted that the Covenant was still in force,⁴ and that, as a result, Israel would again enjoy happiness and peace in her own land.⁵ Thus, in their mouths, the Covenant relationship became an instrument of hope and a symbol of redemption. This is the more remarkable since each of them was motivated by different aspects of the brith and reflects in his message different concepts of covenant mutuality.

Ezekiel, the priest, is a man obsessed with the idea of Covenant. To him a contract, whether sacred or profane, is a time-honored institution and a sacred thing.⁶ He sees the Covenant in historic perspective and notices that Israel has a long record of non-fulfilled obligations and of rebellions.⁷ He notices, too, that history repeats itself, and he therefore comes to certain conclusions concerning the Covenant between God and His people: as by her rebellions Israel had negated the Covenant in the wilderness,⁸ so had they negated it now. But even as God had refrained from breaking the Covenant then, so would He not break it now. Instead

וְעָזְרֵתִי אֶחָדָה וְעָזְרֵתִי אֶחָדָה

וְעָזְרֵתִי אֶחָדָה

9

What is significant is the suggested rationale for God's decision not to break the Covenant, namely:

וְעָזְרֵתִי אֶחָדָה וְעָזְרֵתִי אֶחָדָה 10

We gain the impression that God cannot afford to undo the brith without admitting the failure of His own project in the sight of the nations. Ezekiel considers the Covenant unbreakable, וְעָזְרֵתִי אֶחָדָה,¹¹ not because God has any legal obligations toward Israel -- by her rebellion, Israel has forfeited all legal claims under the Covenant -- but

12 because God apparently
 considers Himself bound by a force of circumstances more
 compelling than the legal clauses of the agreement. It
 will be remembered that God's concern with the reactions
 of the nations was a notable feature of the Covenant
 philosophy in the book of Deuteronomy.¹³ There, however,
 it appeared side by side with a second reason for God's
 Covenant loyalty, namely His love for Israel.¹⁴ Ezekiel
 plainly follows the Deuteronomic tradition only with regard
 to the first consideration. In view of the fact, however,
 that Ezekiel refrains from making "love" an issue in God's
 forbearance with Israel, it is particularly noteworthy that,
 in the tradition of Hosea and Jeremiah, he nevertheless
 uses the husband-wife metaphor with regard to the Covenant
 relationship between God and Israel.¹⁵ It is true that
 even in doing so he fails to convey an impression of love.

Compare, for example, Ezekiel's

16 וְכִי־אֶמְצָא אֶת־בְּרִיתִי אִתָּךְ
 אֶת־בְּרִיתִי אִתָּךְ בְּיָמֶיךָ

17 וְכִי־אֶמְצָא אֶת־בְּרִיתִי אִתָּךְ
 אֶת־בְּרִיתִי אִתָּךְ בְּיָמֶיךָ

Even apart from the implications of hesed, we are aware of
 a feeling of profound compassion in Jeremiah which he pro-
 jects into the Covenant relationship. Such an attitude is

not readily noticeable in Ezekiel. Perhaps his concern with the cultic aspects of the Covenant¹⁸ caused him to see the relationship in a more sober light. We think, however, that the two phrases cited, despite their variance, convey the same meaning: God and Israel are considered to be inseparable. Ezekiel goes on to say that God takes no pleasure in punishing Israel and wants the Covenant to endure.

אמר אלֵיכם ה'־אני נא-אצני יבֹלֵב אק אהבֶה פְּנֵי אִיִּי

¹⁹ פֶּנֶסֶה בִּי אֶת־הַלֵּל רַעַז מִדֶּרֶבֶל וְחַיִּים

It becomes therefore Israel's obligation under the Covenant to find its way back to God, do His commandments, and restore the relationship to life.

וּבֵין לִי לָעָם וְאֲנִי אֶהְיֶה לָהֶם לֵאלֹהִים...
וְהַשְׁפַּט יֵלֶכְוּ וְחֻקֹּתַי יִשְׁמְרוּ וְעַל אֹתָם
וְכָרְתִּי לָהֶם בְּרִית שְׁלוֹם
20. בְּרִית עוֹלָם יִהְיֶה אֹתָם

Thus, to the extent that it requires a "new man," Ezekiel's "Covenant of Peace" is not unlike Jeremiah's "New Covenant."

We think that the famous vision of the Valley of the Dry Bones²¹ may also well denote the resumption of the brith, for it is the concept of a restored relationship with God which bears the name בְּרִית שְׁלוֹם in Ezekiel. As such,

it builds a bridge into the future and identifies the Covenant with a new era of personal happiness and national restitution.

22 יְהוָה רָחֵם דָּבָר מִיָּהּ וּפְנִיחַ אֲנִי עַל-אֲדָמָתְךָ
וְיִצְחָק כִּי אֵין יְהוָה דְּבָרִי וְעֵשֶׂת נָא-יְהוָה
* * * * *

The exile was more than a third of a century old when the Second Isaiah began to prophesy in Babylon. It had taken a heavy toll of the people and their morale. Ezekiel had spoken of a new Covenant with God, a time of peace and redemption. But why should God intercede in the people's behalf? Was it not He who had caused the exile to happen?

23 מִי נִתֵּן לְמַסֵּב יֵצֵא וְיִשְׁלַח לְהַצִּיל בָּלֹא יְהוָה

Isaiah's prophecy is essentially the answer to this question. It is thus no exaggeration to state that all of his message constitutes his determination to bring the people back to the Covenant. His approach to the brith, however, can only be understood in relation to the particular circumstances of his time. The people knew that they had been punished for their guilt. Isaiah set out to comfort them with the reassurance that their guilt had been paid off.

24 נְחֻם נְחֻם עַם יִמְחַר אֲשֶׁר בָּרַח עַם-לֵב וְיִשְׁלַח
יִקְרָא אֲשֶׁר כִּי מֵאֵל זָכָר כִּי נִצְרָה עֲוֹנוֹ כִּי
לְקַח מִיָּד יְהוָה כָּפָרָיו בְּלֹא-חַטָּאוֹת

The captives sat by Babylon's river and asked:

25 איך יציר אג' שיר יבול על ארמית נכר

The prophet answered

26

שיר ל'בול שיר חבל

Israel's long years in exile had caused her to feel that she had also been exiled from God's presence and was like a divorced wife who is sold for credit.

27 כח אחר יבול אי נב ספר כריתות אחר אחר
27 און מ' מלש ארמית אחר און

But, asks the seer:

28 ואשר נעזיק כי תמאס אחר אחר

It is clear from the passages cited above that Isaiah's immediate concern in his attempt to re-establish Covenant relations between God and Israel is twofold: He must not only convince the people that, notwithstanding their sinful past, they are still eligible to be God's Covenant partner, but also that, notwithstanding the hard present, God was still desirous of accepting them as such. We think that the basic premise on which the Second Isaiah's prophecy, as well as his concept of the Covenant relationship, is based, is best illustrated by the following passage:²⁹

כי-מי נח זאת לי אשר עשיתי מקרב מי-נח
על-הארץ כן עשיתי מקרב עמך ומעצרבך
כי תפריק ימאן ופגעות תמאס'נה וחסי' מאתך
לא ימאן ודכית שומ' לא תמאס אחר מלחמך יבול

The first part is, of course, a reference to God's initial Covenant with man and beast.³⁰ It will be remembered that we have already spoken of God's oath in connection with this Covenant as an act of self-limitation on His part.³¹ We suggested that it constituted a deliberate curbing of the potential of His superior power as a result of which the initial disparity between Himself and his Covenant partner was greatly diminished. Thus there was created a platform of relative equality on which the Covenant was concluded.

We suggest that Isaiah's reference to God's Covenant oath to Noah implies the same principle with regard to the relationship between God and Israel in the Exile. The abnormally great disparity between the punishing God and the banished people must be diminished in order to restore the brith. God is to stay His powers of punishment and devouring anger, and approach the people by way of His hesed³² so that the people may find their way back to Him. To put it bluntly: as far as the people are concerned, the "Covenant of Peace" is predicated upon the proposition that once Israel had paid the penalty, God had again come out of hiding and was eager to resume relations.

To the many who must have given up God and the Covenant entirely, as well as to those who were still in doubt concerning the continued existence of the Covenant, the Second Isaiah brought this assurance:³³

אתה ישראלי אל תשני מחיית כבוד פסע'ך ונענן
חטאת'ך לאהב אלו' כי עאלת'ך

It must not be assumed, however, that the prophet's obvious compassion for his people caused him to conceive of a Covenant relationship which would leave all Covenant responsibility to God. The Second Isaiah's Covenant of Peace is no one-sided "Gnadenverhaeltnis," but is firmly predicated upon the principle of mutuality. God's very act of creating a common covenant platform which involved self-limitation entails the idea of a mutual rapprochement. Moreover, it is plain from the text that the relationship is contingent upon a number of definite obligations on Israel's part.³⁴

כה אמר ייבוק שמהו חשש ואלו צדקה כי-קול דב' יאמ'ר
אלוה וצדק'ת רב'ת אלוה אלוה יצא שאת וכן-אדם חצ'ק
דב' שמו שמו חצ'קו ואלו וצו חצ'קו כל-דב'

Israel is always to be aware that it was her imperviousness to these obligations which had caused the separation between God and herself.³⁵ The Covenant is therefore a clearcut statement of what God expects of His people before He will

fulfill His own obligations:

36 כי את יְהוָה אֱהַב מִשְׁפָּט הַיָּד אֵלָּה אֲדוֹלָה וְנִגְדָה
פְּעֻלָּתָם בְּאֵימָה וּבְרִיָּה עֲלֹם אֲנִיָּה לְפָנָם

An aspect of mutuality may also be discerned in yet another area of the Covenant relationship in the Second Isaiah. We cite the following passage as an illustration;³⁷

אֲתָם עַד־יָ (אֵל-יְהוָה) וְעַד־יָ אֶשֶׁר בְּחֵרָתִי לְמִשְׁחָן
וְנִאֲמִינוּ לִי וְהִבִּינִי כִי-אֵל הוּא לִפְנֵי לֹא-נִזְכָּר
אֵל וְאַחֲרָי לֹא-יִבֵּן

Now the idea of Israel's chosenness [אֶשֶׁר בְּחֵרָתִי] is one with which the prophet is particularly preoccupied, and to which he gives repeated expression.³⁸ Very understandably, the message that the God who had selected Abraham in love and had kept a Covenant with his seed would again choose Israel and strengthen her, could not be heard often enough in the Exile.

But the centrality of the selection theme in Isaiah -- of which the Covenant is a concrete expression -- illustrates also his concept of history. As did the other great prophets, the Second Isaiah sees history in terms of, even as the result of, the Covenant relationship. The flow of history is determined by how the two partners fare with each other. The plans which, for better or for worse, God

had for His people, decide the fate of the world. Because of Israel's sin, Babylon is made victorious;³⁹ because of Israel's forgiveness, Babylon must perish.⁴⁰ Whether it is Egypt, Ethiopia, or Seba, their fates are decided for Israel's sake.⁴¹

With this in mind, the first words of the passage cited above, *יְהוָה בְּרַחֲמָיו*, assume a special meaning. The prophet not only states his conviction that Israel is especially chosen, but offers a reason for her choice. In other words, Isaiah, in point of fact, submits a rationale for the relationship between the Covenant partners in the following terms: God directs history for Israel's sake, and thus Israel through history acts as a witness to God's uniqueness and omnipotence.

It is apparent that we encounter here a highly significant aspect of Covenant mutuality. As a matter of fact, in view of the implied interdependence of the two Covenant partners, we may well speak of a common purpose in history to which God and Israel mutually contribute. The fact of their interdependence, however, also highlights a basic problem with regard to God and man. God's initiative in selecting Abraham and his seed is, of course, basic

to the idea of the Covenant. At the same time, it is not until the Deuteronomic era that we find explicitly stated reasons for God's choice.⁴² Now we think that even God's love for Israel is more liable to explain His choice of His Covenant partner than His reasons for wanting to enter upon a Covenant in the first place. 195 p. 16 suggests such reasons: God needed someone to bear witness to His very being as well as to His actions in the universe.

Thus we submit that part of the Second Isaiah's concept of the Covenant relationship is the idea that God needs Israel [or man] even as Israel [or man] needs God. We are not concerned here with the almost limitless theological implications which arise out of this idea. From the point of view of the relative status between God and Israel, however, the supposition that God needs Israel as witnesses, suggests another rather obvious reason as to why God may punish but not destroy Israel. It is not only His love or hesed that keeps Him from breaking the Covenant when Israel breaks it. In view of Israel's role in history, God cannot break the Covenant if His own direction of history is to remain universally recognized.

We also mention parenthetically that the concept of the brith as the expression of a common purpose in history

is valid only with regard to the relationship of God and Israel to each other. Since the fate of the nations depends entirely upon the fate of Israel, it is obvious that they cannot share in the Covenant. Similarly, the repeated reference of Israel's being "a light unto the nations"⁴³ is not to be understood in the manner of their carrying a mission unto the nations. On the contrary. We think that the significance of אור לגוי"ם as well as the relationship between Israel and the nations is best expressed by the words of Deuteronomy:⁴⁴

כי הוא חמאבכם ובינתכם לעיני בעמים אשר ישמרון
את כל-בחקים האלה ואמרו כך עק-יחכם ונבון כעל-העצום
הזה כי מי-עליו שצוה אלהים-אלו אלהים קדשים אלו כי בור
אלהינו בל-קראנו אלהים

In point of fact, the Second Isaiah's concept of history in terms of the Covenant bespeaks a pronounced nationalism,⁴⁵ of which the following passage is but one example:⁴⁶

אשר יקרה בעיני ונכבד ואני אפתח ואני אק
תחתיו ואעמיק תחת נפש

Beyond this, however, the Covenant is identified with a specific national purpose:

47 ופדו"י יביה ישובו וראו ציון ברנה

Plainly, the Covenant becomes the symbol as well as the instrument of Israel's national restoration to which the

people are to be called by God and to the challenge of which they must respond.⁴⁸

We thus conclude that the Covenant relationship, as it appears in the Second Isaiah, makes heavy demands upon the contributions of the people in a number of areas, even as, at the same time, it constitutes a message of forgiveness for the past and of hope and assurance for the future.

NOTES TO CHAPTER XI

1. Cf., e.g., Mal. 1:2, 3:13, 6:7; Isa. 1:18; Micah 12:9-10; Ezek. 33:17.

2. Jer. 12:1.

3. Isa. 1:15.

4. Ezek. 16:10; Isa. 50:1.

5. Ezek. 37:25, 26; Isa. 52:8, 9.

6. Cf. Ezek. 17:11-20. Note use of verb *3>N* cf. above, Chap. V, n. 37.

7. Chap. 20.

8. Ezek. 20:13.

9. 20:37.

10. 20:9, 14, 22.

11. 16:61b.

12. 16:62.
13. Deut. 9:28. See also above, Chap. IX, p. 86.
14. See above, Chap. IX, p. 83.
15. Ezek. Chap. 16.
16. Ezek. 16:60.
17. Jer. 2:2.
18. Ezek. 20:4b.
19. 33:11.
20. 37:23b, 24b, 26a.
21. Ezek. 37:1-15.
22. 37:15.
23. Isa. 42:24.
24. 40:1.
25. Psa. 137:4. Inasmuch as this verse also reflects the fact that there was no sacrificial cult in the Exile, i.e., that the Jews were deprived of one of the most concrete ways of religious expression and identification, it appears the more remarkable that the Covenant did not only survive, but inspired the religious and national consciousness which preserved the identity of the people during the Exile and paved the way for the restoration. (See also below, pp. 112-113.)
26. 42:10.
27. 50:1.
28. 54:6b.
29. 54:9-10.
30. Gen. 9:8-17.

31. See above, p. 11.
32. See above, pp. 88-89.
33. Isa. 44:22.
34. Isa. 56:1, 2.
35. 59:1.
36. Isa. 61:8.
37. 43:10.
38. Cf. e.g.: 41:8, 9; 42:1; 43:1 ff.; 44:1.2;
45:4 ff; 51:2; etc.
39. Isa. 42:24.
40. 43:14.
41. 43:3.
42. See above, p. 86.
43. Isa. 42:6, 49:7.
44. Deut. 4:6-8.
45. Cf. also such other passages as 49:22, 23;
51:16; etc.
46. 43:4.
47. 51:11.
48. Cf. above, n. 22.

PART III**THE NATURE OF COVENANT MUTUALITY**

CHAPTER XII

The Covenant Formula

Having considered some of the implications which arise out of the Covenant relationship, we shall now turn to a discussion of the inherent nature of the Covenant agreement. It has become clear that the implications of the brith are such as to touch upon every phase of Israel's existence. As the Covenant progresses in time, as each succeeding covenant formulation or interpretation adds to it particular obligations and conditions of its own, it is apparent that the relationship between God and Israel comes to involve an ever increasing variety of aspects of a personal, religious, social, military, national, even international nature, all of which, it would seem, combine to give the Covenant a rather complex appearance, particularly as compared to the simple

אני הנה בריתי אתך --- ואנכי בריתי אתך

of Abraham's days.¹

On the biblical view, however, this is not the case. Whatever widening spheres are encompassed by the

implications of the Covenant relationship, its essential nature remains constant because the basic propositions upon which it was initiated with Abraham, and extended at Sinai, remain constantly applicable. For, notwithstanding the fact that the Bible reports the conclusion of a number of individual covenant agreements, on the Biblical view God enters upon but one covenant with Israel. We think that this point is made abundantly clear by two different passages in the Deuteronomic "expounding" of the Covenant. We have already referred to one of the passages in our discussion of Deuteronomy.² The other is even more explicit:³

וְאֵל אֱלֹהֵינוּ אֶתְּחַבֵּד אֶתְּחַבֵּד אֶתְּחַבֵּד
 כִּי אֵל אֶחָד יְהוָה אֱלֹהֵינוּ אֶחָד יְהוָה
 יְהוָה אֱלֹהֵינוּ אֶתְּחַבֵּד אֶתְּחַבֵּד אֶתְּחַבֵּד

It follows that the brith is not merely an event in time, but indeed a גְּרִיטָה, a continuous relationship which transcends time and events and remains subject to essentially the same motivations and considerations which were present at its conception.

If, as has been suggested,⁴ Deut. 29:12 may then be regarded in the nature of a covenant formula the essence of which is implied from the very beginning, it remains for us now in conclusion to address ourselves to some specific

questions concerning basic tradition, implicit or explicit, which underlie this formula, and to do so particularly with regard to the rights and privileges of each party in relationship to the other.

NOTES TO CHAPTER XII

1. Gen. 17:4, 9.
2. Deut. 5:3.
3. Deut. 29:13-14.
4. W.O.E. Oesterley and Theodore H. Robinson, Hebrew Religion: Its Origin and Development (New York: The Macmillan Company, 1937), p. 158.

CHAPTER XIII

The Scope of Covenant Mutuality

Basic to our entire discussion has been the proposition that the Covenant relationship was predicated upon the principle of Gegenseitigkeit, i.e., mutuality. Having explored as many aspects of mutuality as we consider to be apparent in the biblical text, we offer now our findings concerning the scope of mutuality as between the two parties. It must first of all be realized that by definition every contractual relationship -- inasmuch as it is predicated upon the two acts of offer and acceptance -- involves an aspect of mutuality. If A gives to B certain amounts of money, neither contract nor mutuality are involved. If, however, A offers to pay B certain amounts of money and B accepts the offer, such an arrangement constitutes a contract and entails mutuality, to wit, the mutuality of agreement, even if no obligations whatever fall upon B. Such an agreement in contemporary jurisprudence is known as a unilateral contract.

The above has its parallel in the Genesis narratives. As we have seen, God undertakes certain obligations

with regard to Ishmael.¹ The Bible states specifically, however, that these divine obligations did not constitute a covenant at all. Thus in Ishmael's case we cannot even speak of a unilateral contract, and no aspects of mutuality whatever are involved.

This situation is different, however in the first confrontation of God and Abraham as it appears in Gen. 12:1-7, and as discussed above (Chap. IV, pp. 19 ff). In this instance, God proposes to undertake certain obligations with regard to Abraham and his seed if Abraham will leave his native land, *וְאַבְרָהָם עָזַב*, and Abraham leaves. Now, in accordance with modern legal interpretation, even a promise on Abraham's part to leave would denote his acceptance of God's offer and, inasmuch as it involves mutuality of promise, would establish a bilateral contract. The actual fact of his departure, however, establishes mutuality on yet a different plane, for it betokens not only Abraham's agreement to God's proposal, but in itself constitutes a covenant obligation. In leaving the land in accordance with covenant conditions, Abraham for his part has actually begun to execute the Covenant. He responds to God's obligations with his own. Plainly, even apart from other explicit and

implicit obligations incumbent upon him and his descendants as we have stated them, mutuality of obligation is a definite factor here.

Now, in view of the fact that mutuality of obligations becomes obvious after Sinai -- which on the Biblical view is but an extension of the same relationship -- we maintain that from its very inception the Covenant between God and Israel is bilateral by nature. It is, and remains, a contractual agreement between two parties which obligates both these parties to an active participation in and contribution to the relationship. Even though, as we have seen, the nature of the actual obligations grows increasingly complex, the scope of mutuality remains the same: from Genesis to the Second Isaiah, the Covenant formula, as expressed in Deut. 29:12, involves a legally constituted relationship of mutually obligating considerations.

Now it is axiomatic that where there is mutuality of obligations, there must also be mutuality of benefits. It is quite obvious that the obligations undertaken by God with regard to Israel -- i.e., blessings, protection against enemies, the possession of Canaan -- also constitute the benefits which Israel will derive from her partnership with

God. On the other hand, it is not generally recognized, let alone admitted, that by the same token God, too, derives certain benefits from the partnership itself and from some of the obligations which are incumbent upon Israel. We have noted repeatedly the concern which the biblical writers feel and express for God's reputation of omnipotence among the nations. We have also spoken of the role which Israel plays as God's witnesses in history. Furthermore, one of the cardinal covenant obligations for Israel is the command not to enter into any covenants with any other deity.²

It is quite plain then that on the biblical view God enters upon the Covenant not unmindful of the role it can play in establishing and enhancing His own status in the world which He has created. In other words, although God loves Israel, the Covenant also serves His own purposes, even as it serves Israel's. Particularly in view of the fact that these are implications arising out of Deuteronomic and post-Deuteronomic Books, i.e., Books which bespeak an "advanced" concept of the Covenant, they should not be easily overlooked by those who consider the Covenant a Heilsverhaeltnis. In this connection we shall now make a

point which is to be reiterated in the concluding chapter, namely that even though God's love and hesed are an intricate part of the relationship with Israel, the mutual behavior and the relative status of the two parties to each other is predominantly determined by considerations which arise out of the legal structure of the Covenant. And though this is usually taken for granted with regard to Israel's actions -- if for no other reason than that the Bible is most explicit concerning Israel's punishment if she fails to live up to her covenant obligations -- we must also accept the fact that God's actions, for better or for worse, are motivated by essentially legal considerations.

NOTES TO CHAPTER XIII

1. See above, Chap. IV , pp. 23-24.
2. Ex. 24:32, and many others.

CHAPTER XIV

The Terms of Covenant Mutuality

Further to what has been said above concerning the legal determinants for the actions of God and Israel, we are now to ask some specific questions concerning them and concerning the structure and duration of the Covenant itself. What, for example, can be said with regard to a situation in which either party desires to terminate the relationship? Under what circumstances can it be terminated? Indeed, can it be broken at all? Or else, to what means may either party resort in order to enforce the Covenant if the other party is lax in its observance? What can it do to punish the laxity, and what conclusions can we reach from all these questions with regard to the status which God and Israel occupy in relation to each other?

First, we shall deal with the question of the terminability of the contract. It will appear to us that on the biblical view the Covenant is de facto, if not de jure, unbreakable. As we have seen, Israel violates the Covenant

repeatedly and consistently. She disobeys its statutes, worships other gods, frustrates God's obligations by refusing to go forward to the promised land, and ignores the essential obligations of the Covenant as envisaged by the prophets. In each case, Israel is either severely punished, or forgiven, or both -- but the Covenant continues. It continues even in national calamity, destruction, and is, in fact, reactivated in exile on foreign soil. The fact is that, even though Israel may break, though not repudiate, the Covenant, God never does. He threatens, but will not carry out His threat; He punishes, but does not irreparably destroy. In other words, the Covenant is unbreakable because, according to the Bible, God will not allow it to be broken.

This conviction pervades the entire Bible. It is shared by the prophets at the time of their gloomiest predictions of punishment. Even in such extreme cases as the people's rebellion in the desert,¹ or the people's insistence upon a King -- which Samuel interprets as the rejection of the kingship of God -- God makes no move to end the Covenant. In the first case, the guilty generation only is excluded from the Covenantal scheme; in the second

case, God gives in entirely.

Now since we must accept as axiomatic the proposition that, in addition to His legal rights God has the power to do whatever He wishes to do, it is plain that on the biblical view He elects to refrain from using either in order to end the Covenant relationship. Instead, He scrupulously lives up to His Covenant oath and, at His discretion, uses His hesed, of which we have already spoken as a sort of "built-in" safety clause for Israel. Once again, however, we believe that shevuah and hesed are not the only determinants for His behavior. Undoubtedly, God's own need for the Covenant פ"ע ג'רן plays a part in His refusal to break it.

We believe that this last reason is also a strong factor in the next question to be considered. In view of the fact that we are dealing with a relationship of mutual consideration in the course of which the delinquent party is subject to punishment and, in the case of Israel, does in fact undergo punishment, we may well pose the question as to what avenues of action would be open to Israel in order to enforce the terms of the Covenant and bring God to account if He were ever delinquent in His obligations.

This is, of course, a purely hypothetical question, because in all the Bible there is no record of God's failure to live up to the terms of the Covenant. Purely from the legal point of view, God's actions are always beyond reproach. But even if it were not so, we cannot seriously consider the idea of Israel's disciplining God. On the other hand, we believe that the concept of Israel's remonstrating with God, even attempting to force His hand, as it were, is quite within the fabric of the Covenant relationship. Abraham's argument with God over the fate of Sodom and Gomorrah, the repeated appeals of Moses concerning Israel's fate, the anguished outcries of Jeremiah against his God-imposed fate, the instances of personal indignation such as the Psalmists²

... וְלֹא שָׁדַרְנוּ אֲדֹנָיִךְ אֱלֹהֵינוּ מִן הָאָרֶץ ... לֹא נִשְׁכַּח
 תִּשְׁכַּח אֲדֹנָיִךְ

let alone Job's desire to have his day in court with God,³ are all cases in point.

Moreover, as we have seen, the Bible does conceive of situations in which pressure can be brought to bear upon God with a considerable degree of success. And although there is of course no question of Israel's actually punishing God in these instances, it is nevertheless apparent that in view of God's own needs and purposes for the Covenant, an

irreparable break of the Covenant by Israel would undoubtedly be a source of hardship even to an omnipotent God. Israel is thus not entirely powerless. She can, and occasionally does, get her own way.

The entire question of Israel's ability to protect or enforce her own Covenant privileges is of course only an aspect of a larger problem. It is the question as to whether or not God and Israel may be considered equal partners in their Covenant relationship. It is important in this connection that a careful distinction be made between two different concepts: equality of personal rank or status on the one hand, and what we have previously referred to as "equality of position" before the law on the other. Now it is true that the Bible accords to man a relatively high estate.

107687 3/20 1971 says the
Psalmist. Nevertheless, it is also obvious that the one
created cannot be equal to the creator. There can be no
question about the initial disparity between God and man.
It is different, we think, with regard to the equality of
rights which God and Israel enjoy as Covenant partners. It
is our impression that the biblical accounts of the Covenant
relationship quite consistently emphasize the equal standing

that the two partners enjoy before the law, as well as the equal recourse that they have to the terms of the agreement. More important than that, the Bible makes clear that the Covenant, in the true sense of the word, is an agreement, and not a pact imposed by the stronger upon the weaker party. This agreement involves not only mutuality of obligations but, as we have seen, mutuality of choice which in turn makes for equality of position. Assuredly, it was God who took the initiative in seeking a Covenant partner. On the other hand, we believe that Abraham, the other Patriarchs, as well as subsequent generations likewise had their moment of choice and free decision before they acceded to God's proposal. We are therefore convinced that the Bible assigns to God and Israel positions approximating equality before the Covenant.

By way of summation of the above, and further to clarify the relative status of God and Israel, we submit the diagram on the following page. The diagram, of course, does not state the full facts nor does it present the data adequately. It will serve, however, to illustrate our conclusions that the brith denotes a contractual agreement between two parties in equality or near-equality of position,

| COVENANT TERMS AND PROVISIONS | GOD | | ISRAEL | |
|----------------------------------|-----|----|--------|----|
| | Yes | No | Yes | No |
| Punishes | x | | | x |
| Enforces | | x | x | |
| Breaches | | x | x | |
| Repudiates | | x | | x |
| Free Choice of Partner | x | | x | |
| Obligations | x | | x | |
| Benefits | x | | x | |
| Love | x | | x | |
| Hesed | x | | | x |
| Kodosh | x | | x | |
| Initiative for Covenant | x | | | x |

the terms of which not only provide for mutually applicable considerations in a variety of areas, but generally determine the behavior of the two parties toward each other.

NOTES TO CHAPTER XIV

1. See above, Chap. V , pp. 41-42.
2. Psalm 44:18b, 23a, 24a.
3. See e.g., Job 9:19 ff.
4. Psalm 9:6.

CHAPTER XV

The Significance of Covenant Mutuality

We have come to the end of our investigation. What remains now is to say a final word concerning the overall significance of the Covenant relationship as it appears on the biblical view, and to venture a personal opinion concerning its purpose from the standpoint of mutuality. Now, in reiterating our belief that the determinants for the Covenant relationship are basically legal, i.e., that the mutual behavior of God and Israel alike is regulated by considerations binding upon both, we are aware of the difficulties underlying such a position. In consonance with the philosophy of western jurisprudence, it may be argued on the one hand that no real equality of position can exist between two sides of which one, i.e., God, is a party to the relationship as well as its judge. On the other hand, there is the "traditional" position to the effect that to look upon the Covenant in terms of a quid pro quo or du ut des relationship is to do it a gross injustice, since such a view ignores the manifestations of Divine grace which are said to be inherent in the relationship.

With regard to the first argument, we must first of all express our own conviction that the concept of Covenant, although certainly real enough in the days of biblical, and post-biblical, history, nevertheless is a concept, i.e., an idea. Rather than being a concrete fact itself, it is the means by which facts are interpreted. As we have seen, it is crucial to the biblical outlook upon history in general and the destiny of Israel in particular. Thus, like most truly great ideas, the Covenant idea, too, is greater than the formula which incorporates it and attains to the highest reality.

But to the extent that the Covenant is a concept, i.e., that it originates within the mind of man, it also stands and falls with certain fundamental tenets concerning the nature of the Divine Covenant partner. What point, for example, would there be in conceiving of a covenant with a God who is whimsical, arbitrary, or deliberately cruel? Or else, since, as we have noted, the Bible is quite outspoken concerning the fallibility and stiff-neckedness of Israel, what purpose would be served by entering into a brith with a God who is a stickler for the letter of the law? Such an arrangement, if it were conceived, would obviously

defeat its own purpose. Therefore Israel's Covenant partner had to be *יְהוָה* *YHWH*, His *אֱלֹהִים* *Elohim* had to contain *שׁוֹמֵר* *Shomer*, and the assurance that God would never break the Covenant had to be implied from the beginning of the relationship.

There is a legal maxim according to which a legal document is always interpreted more stringently against the person who draws it. Even the biblical authors of old appear to have been cognizant of the psychology behind this maxim, for it would seem to us that in the Covenant between God and Israel the cards are usually stacked in favor of Israel. It therefore matters but little that God is both judge and partner. The biblical architects of the Covenant have made certain that, as far as the maintenance of the Covenant is concerned, Israel cannot lose in the long run.

We hasten to add, however, that nothing of what has been said above in any wise violates the fundamental legality of the brith. It is one thing to conceive of a covenant involving mutual obligations and to interpret them more stringently against the covenant's initiator (or more leniently in favor of the weaker party); it is another to

believe that a covenant between God and Israel is not basically concerned with the obligations of man but purposes above all to lead man to a personal intimacy with God and the experience of His grace. We believe that the latter point of view negates the real significance of the Covenant. For if there results any "grace" at all, i.e., a beneficent influence, from the Covenant relationship with God, it derives precisely from an aspect of the legality of the relationship, namely its mutuality. Nowhere in the Bible do we find any indication that the legal constitution of the Covenant precludes against a personal relationship with God. What, for example, could be more "personal" than the Patriarchal or Davidic Covenant formulations?

These, however, hardly constitute special periods in which divine grace flowed more freely than usual. In general, we think that the particular aspects of an individual covenant formulation and the relationships established by them are determined by practical historical consideration. Since the concept of a covenant between God and Israel is basic to the historical perspective of the biblical writers, individual covenant events usually

are made to fit the conditions and fill the needs of a given time. Of course, a covenant with individuals is bound to be more "personal" in character than a relationship with an entire people. In a "person-to-person" relationship, such as the Patriarchal covenant constitutes, there is also but little need for a great many formal rules and explicitly spelled-out conditions between the parties. The parties perform their mutual obligations on the basis of their mutual knowledge and understanding of each other. It is different, however, when the covenant is extended to embrace the whole people, moreover a people of slaves. A system of laws, as well as provisions to enforce the laws, is an absolute necessity under such conditions. Thus, the grand theophany at Sinai ushers in the beginning of a more formal relationship. Furthermore, we have already noted instances of historically determined covenant relations in the case of the Covenant at Schchem, which constitutes a military alliance between God and Israel; in the Covenant with David, which justifies the establishment of the monarchy by the theme of personal selection; and certainly in the Deuteronomic restatement of the Covenant in the light of the Josiah reform. Quite

obviously the prophets, too, incorporate the great social, political, and national problems of their times into their understanding of the Covenant.

In all instances, however, we think that the basic concept of a mutual relationship is the same. The brith is never so legal as not to be personal; but it is also never so personal as not to be legal. In this apparent paradox lies its special character. Perhaps the best example for this is the use of the marriage metaphor in order to denote the relationship between God and Israel. Obviously, the image is employed to convey the love and loyalty between the Covenant partners. Yet a marriage constitutes a legal contract, and the very essence of the relationship between husband and wife is to be sought in its mutuality.

Such, indeed, is the significance of the Covenant relationship on the biblical view. Plainly, it is the very idea that Israel may enter into partnership with God, "observe" it, as God "observes" it, be *elohim* as God is

elohim, manifest *God* as God manifests *God*, and generally live out a relationship of interaction and exchange which lends to the Covenant its essential note of optimism

and constitutes its basic purpose: God and Israel are to make history together.

Personally, we see the highest development of the Covenant idea in the prophetic interpretation of Covenant mutuality. Their insistence that man's Covenant obligations to God involve obligations of social responsibility and concern for His human co-partner in the brith represents the best proof for the fact that no invidious distinction exists between what is legal or "moral" in the Covenant relationship. Such a distinction not only lacks validity but does grave injustice to the nature of biblical law. For law is the organic part of God's relationship with Israel, and the basis for His communication with His people. But "the teachings of the Lord, epitomized in the Torah, the Law of Moses, did not lead to salvation unless put to daily use."¹ Thus the brith asks of Israel a concrete and constant question:²

וְיִשְׂרָאֵל יִשְׁמַע וְיִשְׁתַּחֲוֶה לַיהוָה אֱלֹהֵינוּ
וְיִשְׂרָאֵל יִשְׁמַע וְיִשְׁתַּחֲוֶה לַיהוָה אֱלֹהֵינוּ

Not the least part of the significance of the Covenant between God and Israel is the fact that it also demands of Israel a concrete answer in form of a constant commitment.

NOTES TO CHAPTER XV

1. Orlinsky, Ancient Israel, p. 150.
2. Mal. 2:10 b.

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