# Diffusionism and the Hebrew Bible

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**Abstract:** The Diffusionist model has been used to explain cultural similarities in many fields of the humanities including anthropology, archaeology and ancient history. Diffusionism has often formed the presuppositions of those who have attempted to explain the similarities between certain elements of the Hebrew Bible and texts from other cultures of the Ancient Near East. This paper questions the appropriateness of Diffusionism as an explanation for common features found in ancient Israel and the Near East. Four particular cases of similarity are examined to test the merits of Diffusionism: accounts of the Flood, laws concerning the 'goring ox', biblical covenants and Near Eastern treaties, and creation accounts.

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*The oral style has been retained.*

Diffusionism played a brief role in the history of Anthropology.[1] It was an alternate answer to the puzzle of why societies wide apart on the globe showed similar features. The diffusionists maintained that an elite culture had made the breakthroughs, which were spread by subsequent diffusion. The alternate evolutionism held that all societies go through the same stages in their evolutionary progression. Modern 'primitives' are to be seen as people in arrested or delayed development. Each position implied something about the nature of humanity. Are humans inherently inventive and, given similar conditions and/or similar stages of technological progress, people without connections will make similar inventions? Or is genius rare? A small group of elites must have made the discoveries and then, by various means, those discoveries were diffused to other areas. The contemporary implication is that the brilliant few should be given leadership.

While evolutionism tended to predominate it too was superseded. There was a reaction against the depreciation of non-European 'primitive' cultures seen as people stuck in an early stage through their own deficiencies. It was claimed that experience of living with such people revealed integrated societies, in which customs and institutions are not evolutionary left-overs or heterogenous imports from outside, but parts of a functioning society adapted to its environment.[2] Thus, functionalism replaced both diffusionism and evolutionism. In turn functionalism has come under fire as static, ignoring the fact that societies experience change, and are constantly adjusting to pressures from outside.

Thus, Anthropology has had its controversies as it tried to understand commonness between cultures. Fashionable models have subsequently lost favour. Studies of the Hebrew Bible face similar questions, but the debate has seldom progressed beyond arguments over particular cases. That has left the model for understanding commonness more implicit than explicit, and that model has been Diffusionism.

There are historical reasons for this. The decipherment of hieroglyphs and cuneiform led to dramatic claims of commonness. I will concentrate upon Mesopotamia and cuneiform because they had the greatest impact. Pan-Babylonianism was quite explicitly diffusionist: the prior and 'superior' culture of Mesopotamia passed on its achievements to the later and 'culturally inferior' Hebrews. Even without the Anti-Semitic motivations of



***Figure 1:*** *The Ark tablet, c 1700 BC. Recently translated by Dr Iving Finkel. It gives instructions for building a boat as a means to survive the impending flood. Photo: Douglas Simmons/The British Museum.*

Pan-Babylonianism the time was right for a diffusionist model. The decipherment of these scripts and languages coincided with the great European cultural and colonial push into the rest of the world. That movement was coterminous with seeing a contrast between advanced Europeans and backward others. It is plausible to suggest that that model was transferred to the Middle East and became the lens through which the cultures with copious extant written evidence, especially Mesopotamia, were seen in contrast to those without such extant evidence. That conceptualisation must influence the way we see any commonness between Mesopotamia and the Bible.

Just because diffusionism is out of favour in Anthropology it is not a reason to ban it in Biblical Studies. The question is whether we have sufficient evidence to justify having it as our basic model. Often the implicit position has been that if the clear cases are explainable in diffusionist terms, then other less convincing overlaps should be seen the same way. Diffusionism must exclude the rival interpretations of common inheritance from a third party and independent invention.

Two issues are crucial. Do we know the way the cultural item was transferred in the clear cases? Do we know the cultural level of the receiving culture? This second question becomes entwined in controversy because there are many hypothetical reconstructions of the religious and cultural history of Israel. An argument of the form, 'Item X was readily accepted in Israel, because at that time Israel had no equivalent' depends on knowledge of the Israelite culture of the time. If that knowledge is conjectural, then the whole proposition depends on the truth of the conjecture. (Note also: the anti-functionalist postulate of an incomplete culture.)

## Mode of Transfer[3]

I have chosen, as cases for later consideration, instances where our knowledge of commonness is based on written texts. Most of the claimed overlaps are of this form. Was the Hebrew knowledge of the foreign cultural item based on somebody reading a cuneiform text or did the written text reflect a more extensive oral culture? There is no certain answer to this question.[4] General assertions about the relationships of written and oral forms do not necessarily apply to Mesopotamia. There are some hints that scribal culture may have been elite (Beaulieu 1992). Instructions to restrict access to information occur, but their meaning is debated (Lenzi 2008; and Stevens 2013). Even if there were no formal restrictions, common culture and learned culture do not always overlap.

We know something of the extensive education involved in learning to read and write cuneiform (Gesche 2001). It was not easily acquired, especially as the educational method necessary for a complex script required extensive memorisation. An interesting example has emerged of a merchant, who saw himself as not a scribe, yet had enough familiarity with the written language to write a somewhat unorthodox letter (Parpola 1997). We may expect that

many people, though not trained, may have had enough experience through daily and professional life to read and write at a basic level. Yet that may not have been the same as competence in literary written Akkadian. Even in an age of general literacy, many people struggle with text in higher cultural or technical registers, even in their own language. We must not read our widespread literacy into the past.

If the mode of transfer had to be an Israelite reading of a cuneiform text, or even if it was the oral tradition behind the text, when might Israel have encountered it? There are effectively three windows of most likely opportunity: when we know cuneiform was used in Palestine in the second millennium, during Assyrian domination of Israel, or when Jews were in Babylon during the Exile and later. They present different situations.

In the second millennium cuneiform was being written in Palestine. Our best evidence comes from the later period (the Amarna Age). The Amarna Letters from Canaan attest a very sophisticated system of using Akkadian verbal roots but declining the verb according to a form of West Semitic grammar. Thus, the verbs show modal endings as present in Ugaritic, but not in Akkadian. There is also a series of person and number markers in the various prefixed verb forms. While individual letters show inconsistent use of this system, sometimes mixing Akkadian forms with West Semitic ones, the system as a whole marks letters from the area the biblical text designates as Canaan. It is theoretically possible that somebody with only an oral experience of West Semitic invented this system, but familiarity with written text is more plausible.

Can we form some sort of an idea of what level training in cuneiform the Canaanite scribes reached? K. van der Torn (2000) is of the opinion that it was at a fairly low level. The letters to pharaoh were fairly standard in form. Of course, Rib-Addi of Byblos forms an exception, but his correspondence is characterised by much repetition. Van der Toorn's opinion is strengthened by his interpretation of the 'Canaanite glosses' in the letters. Not infrequently a regular Mesopotamian form, generally a Sumerogram, is glossed by its Canaanite translation. Why does that happen in a letter written to Egypt? Was the Egyptian 'Colonial Office' staffed by Canaanites who needed help with Akkadian? Van der Toorn's alternative is that the product of the scribe would need to be checked by the city ruler, the nominal author of the message. It is unlikely that he would have any knowledge of Akkadian, so it would need to be translated for him. The gloss is then to assist in that process. Whether the translator was the original scribe, trying to save himself on-the-spot embarrassment, or another scribe, it does not attest a high competence. Yet this explanation is hypothetical.

Other evidence complicates the picture. There have been studies of the petrography of the clay used in the Amarna letters (Goren *et al.* 2004). J.-P. Vita (2015) has combined this data with studies of the palaeography of the letters and

other evidence. The result is that at some sites a number of scribes was involved in the production of the letters. Given the time involved and possible impact of throne change and scribal death, this in itself is not surprising. It contrasts with the fact that in other cases letters from different cities were written by the one scribe. This could indicate special local circumstances[5] or that not every city had its own scribe. Both on the basis of script and language different scribal schools seem indicated. As one moves south in Syria-Palestine the scribes show more influence from their native Canaanite language. Similarly, as one moves from the centre of cuneiform into Palestine and Egypt, the care taken in preparing the clay and firing tablets decreases (Goren *et al.* 2004: 318–319).

The site of Amarna itself yielded the sort of scholarly tablets that one expects where scribes have been trained (Izre'el 1997; and Goren *et al*. 2004: 76–87). The clay of most shows that they were copied in Egypt, though a few were imported from Mesopotamia. Whether we can derive anything from the lack of similar archives from Palestine is a question. Chance finds, such as the Megiddo Gilgamesh text mentioned below, point to some such activity. Among the cuneiform texts found in Palestine itself there are some that relate to scribal training, such as liver models, lexical and mathematical texts (Horowitz *et al.* 2006: 29–32; 42–43, 66–68, 73–74,78–80). Thus there were in Canaan, in the Old Babylonian period, but probably towards the end of that period, and during the Middle Babylonian or Amarna Period, people trained in cuneiform. We do not find any evidence in this material of the involvement of Israelites. Whether we think Israelites or proto-Israelites were present at that time depends on our view of the history of Israel.

There are some cuneiform texts from Palestine from the period of Assyrian dominance (Horowitz *et al.* 2006: 19–22). There are fewer than from the Amarna Age and finds are heavily slanted towards Israel rather than Judah. No texts indicative of scribal education are included. This is meagre evidence but on the basis of it, this would seem a less likely period for cultural interchange, *if it depended on written texts*.

No cuneiform texts found in Palestine come from the Neo-Babylonian period. There are a few, but only one tablet, from the Persian period (Horowitz *et al.* 2006: 23). If this was the period of cultural transfer, it most likely happened in Babylonia rather than Judah.

A combination of many factors during the Babylonian exile the period gives rise to the idea that Israel the adopted Babylonian elements into the Bible. It fits the tendency to give late dates to the biblical text. If the Mesopotamian written tradition had an oral basis, Israelites could easily have been exposed to it. It is also possible that Jews were trained in cuneiform, though the shift to Aramaic makes this less likely. We know from the Murašû archive and the tablets from Al-Yāḫūdu that later Jews made use of cuneiform. Yet these are all possibilities rather than certainties.

The ideal intermediary for cultural interchange in this period would be Daniel or his friends. Their training would have exposed them to a wide range of Babylonian texts. However, the reliability of the information given in the book is often doubted. In particular the portrayal of their traditional orthodoxy is called into question. Is it legitimate to declare a source inauthentic but to take from it what suits our thesis? If we exclude the information in the book of Daniel we are left with only the general probability that Jews may have been trained in Akkadian. The crucial question becomes how they may have responded to being exposed to items from the Babylonian tradition. That makes the next section significant.

## The Cultural Level of the Receiving Culture

There was a time in the nineteenth century when it was expected that non-European cultures would simply abandon their customs and take on the totality of European culture. It is now realised that such take-up has been sporadic and selective. The functionalist explanation is that the receiving cultures were not empty, just waiting to be filled. They adopted what they could use without abandoning things they wished to keep.

I have suggested that the model that has been adopted to explain the relationship of the Bible to other cultures has been diffusionist. Practically that means that we cannot avoid the question of what was there before the Babylonian influence came to bear. Otherwise, we risk a circular argument: 'Cultural item X came to Israel from Babylon at some late stage. Therefore Israel did not have that item before the late period.' Alternates would be, 'Israel adopted X from Babylon in the late period, because it added a minor component to what it already had' or 'Babylon and Israel shared X in the late period because they shared it in a far earlier period'. Unless we know, on some independent basis, the culture of Israel prior to the crucial contact, we cannot choose between explanations.

We run then into the plethora of hypothetical reconstructions of the history of Israel. However, there is a somewhat different question that can be asked. Should we conclude from the paucity of extra-biblical texts from Palestine that there was no significant culture there prior to stimulus from the 'great cultures' of Mesopotamia, Egypt and later Greece?

The literary similarity between Ugaritic texts and later biblical texts is well known (Fisher *et al.* 1972–1981). However, a question has to be asked about the Ugaritic texts themselves. Did they come out of nowhere? Or are they evidence of a significant culture in the western Levant? There is evidence that we should reconsider the relationship of Mesopotamia and the west.

It was formerly assumed that writing came to Anatolia as a borrowing from Mesopotamia. Hittite (or Luwian) hieroglyphs were seen as a later phenomenon. There are now arguments that we should see Hittite cuneiform

as parallel to autochthonous hieroglyphs (Waal 2012).[6] What is certain is that cuneiform texts from Anatolia refer to texts on wooden boards, seemingly wax covered boards (Symington 1991). Due to lack of preserved examples we cannot be certain whether the script used on these boards was hieroglyphic or cuneiform, or both (Symington 1991: 115). References to the content of such boards make it clear that they were used to record ritual and administrative information, and for letters.[7] An ivory board excavated at Nimrud (ND 3557) preserves four lines of the well-known astronomical text *Enūma Anu Enlil* and is explicit evidence that literary/scholarly texts were recorded on this medium, see Mallowan (1954: 99, pls xxii–xxiii).

Were there also an existing West Semitic writing system and literary tradition in parallel with the appearance of cuneiform texts in the Levant in the second millennium BC? The texts in alphabetic cuneiform from Ugarit and other places suggest there were. A number of arguments has been presented for interpreting the cuneiform alphabetic signs as based upon existing West Semitic written signs (Stieglitz 1971; and Dietrich and Loretz 1988). The scattered texts in variants of the alphabetic cuneiform script suggest that there was a much wider and varied use of the West Semitic script (Bordreuil 2012; and Sanders in Horowitz *et al.* 2006: 157–160). The literary sophistication shown in the Ugaritic literary texts points to a prior tradition.

Keeping in mind the Anthropological debate, two consequences follow. If the biblical text adopted something which had a Mesopotamian origin, it most likely indicates a congeniality between what was appropriated and what was there originally. To put it another way, we cannot conceptualise the west as a blank space waiting for Mesopotamia to form some culture for it. Even 'primitive' cultures adopt selectively.

A second consequence is whether this western cultural development had early contact with what developed as Mesopotamian culture. That question is analogous to the debate set off by what look like very early contacts with Mesopotamia around the time of the unification of Egypt, and the anthropological realisation that cultures can be in contact for a very long period with each pursuing a distinctive approach. Cultures can be active and dynamic, not just passive and receptive.

If there was an Israelite culture in the west, sharing the cultural level of other western societies, to what extent was it imbued with the orthodoxy that we find in the biblical text? Note the qualification below on my use of 'Israel'. Many theories of the development of religion in Israel answer that question for us, but they remain at the theory level. If we reject the blank page implied by diffusionist theories then there are two possibilities. One is that there was a developed religious system that absorbed only those Mesopotamian elements that could be fitted to what already existed. The other is that the system was

so well developed that an importation from a recognised pagan source was impossible. The implication is that the obvious overlaps came from much earlier, in whatever way it was that they came to be shared.

## Particular cases

Issues of terminology arise. The biblical text is clear that the ideology, which lies behind the text we now have, was often a minority position. Thus, talking about 'Israelite' society and belief is problematic. To avoid long circumlocutions, I will use the term 'Israelite' to mean the culture, which lay behind the Bible.

I will examine four cases of claimed commonness between the Bible and Mesopotamia. I think three are real: the Flood, the Goring Ox, and Covenant and Treaty. I doubt that the creation account in Genesis is dependent on *Enūma Eliš*.

## The Flood

We need to look at both the Mesopotamian situation and the biblical side, and each in its total context. The Flood story is restricted to Mesopotamia and the Bible in the Ancient Near East (ANE). Yet surprisingly similar stories come from places outside of the ANE. Naturally that gives rise to debate as to whether these other sources depend upon missionary spread of Bible stories, but the ancient Greek version seems excluded from that explanation.[8]

The lack of an Egyptian flood story could be explained by the separation of Egypt, but the lack of a Hittite story is more interesting, given Mesopotamian cultural influence in Anatolia. Functionalism gives us a factor we need to keep in mind in all these cases. Both the Bible and the Mesopotamian tradition had ways to integrate the Flood story within fundamental theological themes, but they were different themes. In Mesopotamia it fits with the unreasonableness of the gods. In the Bible it fits with the contrast of God's righteousness and human sin. Whereas both Mesopotamia and the Bible can pick out an individual as particularly righteous or favoured, in an Egypt it would have been more difficult to set a pharaoh apart from the whole state apparatus. In making conclusions from presence or absence we must note that cultures both accept and reject.

The Flood appears both in historical literature and in literary versions in Mesopotamia. In the Sumerian King List it is placed relative to rulers and dynasties but uncertainties over these figures prevent us from making anything of that.[9] Modern explanations often see the source of the story in a flood of the Tigris-Euphrates system. The biblical and Mesopotamian versions agree in placing the final destination of the boat north of Mesopotamia (George 2003, I: 516). Riverine floods propel objects downstream, not upstream. Here we have conflict of etic and emic perspectives. From the etic perspective of modern scholarship, we make the story more plausible to us. The story itself says something different. Mesopotamian versions tend to stress rain as

*Figure 2: Neo-Assyrian clay tablet, the Epic of Gilgamesh, Tablet XI, from the Library of Ashurbanipal, 7th century BC. Size 152 x 133 x 32. Photo: CJ Davey, courtesy the Trustees of the British Museum.*

a cause of the flood, and the rainstorm as something terrible to experience.[10] We cannot say rain was the only cause, as there are some obscure terms in the description (Gilg. XI: 100–105). It would be unwise to say lower Mesopotamia never experienced severe storms, but one would think their experience of flooding would be as floodwaters from further north. That there are elements in the story, which do not fit Mesopotamia, does not disprove a Mesopotamian origin. However, we must be careful to let the text speak for itself and not to read in what we expect. There was a version of the flood story in the Old Babylonian *Atra-ḫasīs*. Whether it is the oldest version is uncertain because there is a partially preserved Sumerian story of the flood (Civil in Lambert and Millard 1969: 138–145). On the basis of palaeography that text is not earlier than Late Old Babylonian. We cannot therefore assert that the Sumerian is earlier than the Akkadian flood stories. In *Atra-ḫasīs* the Flood is the culmination of a number of attempts by the gods to reverse the invention of humans, who have now proved annoying. Enlil's earlier attempts at destruction (drought, pestilence and famine) were foiled by flattery of Enki, the god favourable to man, but crucial to the destruction. So too in the final attempt, Enki's instruction to build the boat is conveyed indirectly to the hero Atra-ḫasīs in a way that circumvented Enlil's plans.

Excerpts from speeches related to *Atra-ḫasīs* occur in what I. Finkel (2014) has called the *Ark Tablet* (Figure 1). Finkel suggests that its collection of speeches and nothing else probably reflects that it was intended for some sort of public performance (Finkel 2014: 235). It is also characterised by instructions for construction of a very large coracle, similar to those used in the marshes of Mesopotamia.

There is a similar story in the *Gilgamesh Epic,* often seen as derived from *Atra-ḫasīs*.[11] There are Old Babylonian and later versions of the Gilgamesh story. The complication is that the parts of the story which contain the Flood in the later Standard Babylonian Version, and which therefore might have contained it in the Old Babylonian version, have not been found. The recovered bits of the Old Babylonian version are close enough to the later, Standard Version that we are justified in saying that they are versions of the one story. Whether the Flood story in the Standard Version is closer to the biblical version than the story in *Atra-ḫasīs* is open to question, especially when we add to *Atra-ḫasīs* the details found in the *Ark Tablet.* If all of *Atra-ḫasīs* had been preserved*,* that might not have been the case.[12]

It is possible that the Old Babylonian version of the *Gilgamesh Epic* had no Flood story.[13] That makes the

story in the Standard Version a later innovation and its agreement with the biblical story would place their common version in the first millennium.

It is important to note, however, that an Akkadian tablet fragment from Ugarit (RS 94.2953) contains a flood story with the motif of the release of birds from an ark to find the shore, as instructed by Ea (Darshan 2016). Hence, this second millennium text has similarities with both the Standard Version of the Gilgamesh story and the biblical account. We know that training of scribes in cuneiform involved copying out passages from various texts, including literary texts (Gesche 2001; and George 2003, I: 35–36). Since cuneiform was obviously being taught in the west in the second millennium, we might expect a version of the *Gilgamesh Epic* to be involved. Confirmation of this comes from the finding of a fragment of the *Gilgamesh Epic* at Megiddo (George 2003, I: 339–345; and Horowitz *et al.* 2006: 102–105).

Since copying of texts was part of the curriculum essential for scribal training, we cannot assume that the presence of these literary texts in the west meant that they were integrated into the native culture.[14] That opens the door to another possible interpretation. In Mesopotamia and in the Bible we have two separate versions of the widespread Flood tradition, each adapted to the theological view of the respective literary tradition. The restriction to Mesopotamia and Israel in the ANE reflects not derivation but the ability of those particular cultures to accommodate the story.

If the Old Babylonian version did not contain the flood, what is the source of the distinctive story in the Standard Version, that has affinities with the biblical story? We have no idea. The thesis that it was composed specifically for that later version and from there taken into the biblical text has no advantage over a number of other possibilities.

The crucial issue is the completeness of our present knowledge of the Mesopotamian literary tradition. Many of the episodes of the *Gilgamesh Epic* come from separate Sumerian stories about Gilgamesh. The Flood story does not. Besides *Atra-ḫasīs* there is a Sumerian Flood story which has no explicit connection to Gilgamesh in what has been preserved. Nobody knows if it is the ultimate origin of the Akkadian story or a translation into Sumerian of the Akkadian story. Seeing it as having an Akkadian origin would go against the normal trend of regarding Sumerian stories as being given Akkadian translations, but in such cases we often have an earlier Sumerian version. In this instance we cannot say the Sumerian version is earlier.

An episode which does not seem to fit the logic of the main story, has been attached to the Standard Version as Tablet XII. It is a fairly literal translation into Akkadian of a Sumerian text that otherwise does not play a role in the Standard Version. The significant thing is that there is no extant evidence of this story between its Old Babylonian period Sumerian text and its appearance in translation as an addendum to the Standard Version. This

gap goes against the assumption that our knowledge of the Mesopotamian tradition is fairly complete. George's comprehensive treatment of the *Gilgamesh Epic* shows large variations in the versions of the story.

Finkel thinks that the period of the Babylonian Exile is the time when the Mesopotamian story passed to the biblical by a process of direct copying. He puts forward the biblical story of Daniel as depicting the circumstance in which this could have occurred, though he is conscious that there has been a tendency in scholarship to deny the reliability of that story (Finkel 2014: 177–204). Since he sees the process as a direct copying of the Mesopotamian text, with some religious changes, he needs to identify a time when Jews were learning Babylonian and cuneiform and the book of Daniel gives him that.

He rejects the possibility of parallel Mesopotamian and biblical traditions from Old Babylonian times on the ground that the two versions would have diverged more from each other in that time. However, if both had been preserved in writing that might not apply. On similar grounds of the closeness of the accounts, he rejects the possibility that the Jews picked up the story by oral transmission. There the argument is stronger. He bolsters his argument by suggesting that the shock of the destruction of Jerusalem and the exile led to the gathering of existing material, such as is preserved in Kings and Chronicles, supplemented by Mesopotamian material to fill the gaps of earlier history. He suggests that the tower of Babel story reflects the impact of the ziggurat of Babylon on the less developed Hebrews and adds the parallel of the Moses in the bulrushes story with the legend of Sargon and the long lives of early figures as Mesopotamian contributions. He accepts the traditional separation of the biblical story into J and P sources and postulates separate cuneiform sources for them, each a version of the *Atra-ḫasīs* story. He does not interact with the traditional dating of those sources, which places J before the Exile.[15]

These issues are an illustration of the main thesis of this paper that the Comparative Method has employed an unstated diffusionist premise. Mesopotamia was the superior culture, which created a strong impression on the traditions of the Jews. Finkel is happy to accept the sources of Kings and Chronicles as having existed prior to the Exile, but is not specific on anything else. How can we be sure that the prior Jewish traditions were weak on the early history? What about the prophetic material?

The problem is crystallised by the selective use of material from Daniel. He appropriates the fact that Jews were trained in cuneiform Akkadian. He sees no significance in the fact that the text describes the rejection of aspects of Babylonian culture, and more than just rejection of idolatry. Was there a pre-exilic culture that was sufficiently confident of itself to be exposed to Babylonian literature but see itself as superior? This possibility can be negated by a theory of the gradual development of Jewish religion, which places dogmatic certainty very

late. However, that is theory and requires a large neglect of the text itself. It is akin to the diffusionist theory that views all the cultures outside of Mesopotamia and Egypt as being inferior and conscious of their inferiority.

If we step away from theory and go with bare data, we have the following evidence. Versions of a flood story were present in Mesopotamia from at least the Old Babylonian period. At least one was concerned to conform the craft involved to a Mesopotamian model. We do not know if the Old Babylonian version of the *Gilgamesh Epic* contained a flood story and therefore whether that was closer to the biblical story. Among those who posit direct borrowing from the Mesopotamian story, opinion is divided as to whether the foundational Mesopotamian account was *Atra-ḫasīs* or the *Gilgamesh Epic*. The variety of versions and the gaps in the extant texts make these questions uncertain. What is often overlooked is that both biblical and Mesopotamian traditions are incorporating the story within their fundamental theological perspectives. There is also in the *Ark Tablet* assimilation of the story to local ship building practice.

### The Goring Ox

Like several ANE cultures, the Hebrew Bible has laws. While there are overlaps of topics, there is only one clear case of verbal similarity. It is in the laws dealing with attack by an ox.[16] The passages at issue are Laws of Eshnunna (LE) 53, 54/55, Laws of Hammurabi (LH) 250-52, and Exodus 21: 28-32, 35, 36.  In particular the ruling for the case where one ox has killed another ox is practically identical between LE 53 and Ex. 21:35. Another close parallel exists in the case of failure to guard an ox that was prone to gore, whose owner had been warned of the danger (LE 54/55, CH 251, Ex. 21:36). LH 250 resembles Ex. 21:28 in absolving the owner when the ox was not previously known to attack. LE has no equivalent provision. R. Yaron (1988: 293–294) suggests that the similarity is due to all being 'derived from common Near Eastern legal practice and tradition.' This solution is rejected by M. Maul (1990: 113–151) who claims that the close verbal overlap of LE 54/55 and Ex. 21:36 can be explained only by copying on the part of the biblical author.[17]

In this debate there is a number of unresolvable issues: were Mesopotamian law codes a reflection of, or contribution to, actual legal practice or were they literary documents aimed to enhance the prestige of the royal 'author'.[18] How can we tell at this distance? One detail is puzzling. The Mesopotamian Law Code that is well known to modern scholarship and was copied throughout Babylonian history was that of Hammurabi. On this topic Hammurabi's code shows similarity of treatment, but not verbal correspondence. The closeness is still significant, particularly as the topic does not come up in later codes such as the Middle Assyrian Laws and the Hittite Laws. The verbal closeness appears in the Laws of Eshnunna. The Laws of Eshnunna are dated c. 1770 BC. There is no

evidence that they were copied later and Eshnunna was not a significant city in later times.

Here is a mirror-image situation to what confronted us previously. In that case, if we conclude that the source was the *Gilgamesh Epic* then, purely on the basis of the dating of the most relevant text of that story, we would place the time of overlap with the biblical tradition in the first millennium. In the case of the goring ox, on the same basis, we would place it in the second millennium.

These laws in both Mesopotamian and biblical versions fit with the surrounding laws in having an emphasis on responsibility. Laws of Eshnunna 56/57 and 58 are formally close to the ox laws and the law in Exodus 21:33–34 is also formally similar to the biblical ox laws. Once again, the common element is not a foreign body in either culture.

### Covenant and Treaty

George Mendenhall (1955) and others drew attention to the fact that some biblical covenants show a close formal relationship to specifically Hittite treaties. The late second millennium date of the Hittite treaties would then place some biblical covenants in that period. The use in Hittite treaties of an appeal to history for the vassal's motivation contrasts with treaties of the Assyrian period.

The Developmental Hypothesis about the origins of the Pentateuch reordered the history of various parts of the biblical text on the basis of a theory of the development of religion. Both the sequence of events and the dating of those events are hypothetical. A potential connection to real history exists in the suggested placing of Deuteronomy in the reign of Josiah, thus in the Assyrian period. However, both Ken Kitchen (1966: 90–102, and 1977: 79–85) and Meredith Kline (1972) drew attention to the importance of history in Deuteronomy, thus linking it to the Hittite treaties.

Mendenhall's theory involved a way in which Israelites could have become familiar with the Hittite treaty form. Rather than being a specifically Hittite form he saw it as the form of a certain period. The Egyptian Empire would have used that same form in governing its vassals. Since what later became Israel had been part of that Egyptian Empire, they would have been familiar with that form.

Kitchen later developed an elaborate model to trace the history of the biblical covenant form (Kitchen and Lawrence 2012).[19] He postulated an origin in Mesopotamia that then spread to Syria and Egypt. Moses would have become familiar with it from the Egyptian court and taken it with him when he became the Israelite leader. Thus, while defending his original position of placing the Pentateuchal covenants in the second millennium, he was moving from the original form of that position which stressed the connection to the Hittites.

Those, who wanted to place Deuteronomy in the Assyrian period, had to nullify Mendenhall's argument.

**Figure 3:** *Clay tablet. The cuneiform inscription documenting the Egyptian-Hittite treaty between Pharaoh Ramesses II of Egypt (in Thebes) and Ḫattušili III of Hattusa (in modern-day Turkey), mid-13th century BCE. Photo: Osama Shukir Muhammed Amin, courtesy Neues Museum, Berlin, Germany. Vorderasiatisches VAT 7422.*

A fragmentary Assyrian treaty came to light with brief appeals to history (Deller and Parpola 1968). This was seized upon as nullifying Mendenhall's argument. Attempts were made to see parts of Deuteronomy as dependent upon Assyrian texts.

This debate must be placed in a broader context. While a very individual and creative scholar, Mendenhall's work was within the general context of the Albright period where the tendency was to find substantial historicity in the early biblical text. As the Albright synthesis collapsed, ironically partly because it depended on poor use of comparative data, there was a reaction. That reaction tended to drag the origins of the biblical text into a very late period. Even an Assyrian period placing of Deuteronomy was too 'conservative'. Thus, defenders of the Developmental Hypothesis and the Assyrian dating of Deuteronomy were not just holding out against the conservative implications of Mendenhall. They were arguing against a far more radical redating of the text in the other direction (Perlitt 1969).

I attempted a re-evaluation of the evidence and came to conclusions which did not align clearly with either position (Weeks 2004). The tendency of scholarship had been to see 'treaty form' as something that hovered above national culture, available to all to use. Over time this universal form changed so that one could speak of a second millennium form and a first millennium form.

I argued that, while there must have been, way back, a general inheritance, treaty form was much more a reflection of national cultural tendencies. The Hittite use of history turned up in other genres of texts and the Hittite state structured internal state relationships by treaty forms and concepts.

As a form responding to internal dynamics, the treaty form within a culture could change over time. Thus the late use of history in Assyrian treaties was accompanied by a shift in the rhetoric of the royal inscriptions. For the first time an Assyrian ruler started talking about the 'good' he did for vassals. A consequence of thinking of treaty form as a generalised international thing was the assumption that the Egyptian Empire would have governed its vassals in the same way that Hittite and Assyrian Empires did: by treaties. That seemed even more likely in that a parity treaty existed between Egypt and the Hittites. However, I could not find clear evidence of Egyptian use of vassal treaties. The Amarna Letters, where we would expect to find it, speak of treaties between the vassals but not with the Egyptian sovereign. What is claimed by others to be evidence appears to be a case of scholars finding what they expected to find.

The problem is that we are trying to understand the meaning of overlap between biblical text and surrounding cultures without thinking historically about these cultures. Why was history so important to the Hittites, but appeal

to history was absent in Assyrian treaties until just before their empire collapsed? I think we are looking at the difference between the two empires and their methods of control. Whether those differences sprang from something in the pre-imperial stage of these countries, I am not in a position to decide. Hittites used history to teach lessons and appealed to history to establish the reasonableness of obedience. The contrasting role of curse in Assyrian treaties reflects reliance on power. As Assyrian monopoly on power became threatened they started to shift to another rhetorical strategy. In terms of the debate within Anthropology my concerns have a relationship to functionalism in that national cultures must be seen as wholes, but in line with objections against functionalism, cultures are not unchanging.

This understanding raises a fundamental question: is the overlap between some biblical covenants and Hittite treaties an accidental product of the fact that both use history as motivation? If it were only the concentration on history, we might argue accidental similarity. However, Mendenhall's original case pointed to the close correspondence in form. That is more convincing with the covenant of Joshua 24 than with the Sinai covenant. Nevertheless, it is a strong argument for connection. J. Berman (2011) has pursued the connection of the Bible to Hittite treaties.

A biblical connection to Hittite treaties has been countered by questioning the possibility of connections between Israel and the Hittites. That is a serious question, especially as I would argue that the Egyptian Empire cannot be used as the intermediary. We are thus faced with a situation with some similarity with the overlap between Exodus 21 and the Laws of Eshnunna: a close correspondence but a mystery as to how the overlap took place.

Those who want to place Deuteronomy in the Assyrian period appealed to similarity between the curses of Deuteronomy 28:26-35 and the curses in the Vassal Treaties of Esarhaddon 410-430 (Wiseman 1958; and Weinfeld 1965). Weinfeld claims the order of the curses, followed in both texts, is especially significant because it follows a common Mesopotamian ordering of the gods. B.M. Levinson and J. Stackert (2012) have added to this an argument that Deuteronomy 13 is based on Esarhaddon's treaty. It is hard to see why a passage that is focused on opposing idolatry should have a clear connection to Esarhaddon's treaty, especially as they admit, prophecy is not a major concern of the Esarhaddon treaty. Their theory also involves seeing Deuteronomy as an attempted replacement for the Covenant Code in Exodus, which has its own problems.

If we accept, for the moment, Weinfeld's argument, it presents us with an individual item in Deuteronomy when the thrust of the whole document, with its massive focus on history, points more to affinities with Hittite treaties. As I have pointed out previously, in the reign of Ashurbanipal we find a new Assyrian interest in the 'good' they do for the vassal. That element is not in the Vassal Treaties of Esarhaddon, but it is in Deuteronomy and in Hittite texts.

Perhaps an early whiff of the shift in Assyrian rhetoric that becomes public in the texts of Ashurbanipal could have reached the biblical author of Deuteronomy, who was also influenced by the Vassal Treaties of Esarhaddon and who combined these various influences in his Deuteronomy. That is theoretically possible, but the text as a whole gives prominence to themes that we associate more with the Hittites. There have been attempts to find the order of a Hittite treaty in Deuteronomy, but the fact that it is an address rather than a treaty blurs the formal characteristics. Should the correspondence of Joshua 24 with Hittite treaties influence our judgement on Deuteronomy?

What is clear in the various attempts to align Deuteronomy with the Vassal Treaties of Esarhaddon is the fact that there is very little overlap claimed. Since it is often claimed that the purpose of the biblical author was to use the Assyrian text to undermine the imperial claims of Assyria, we would expect more engagement with the Assyrian text. For a use of an Assyrian form to undermine Assyrian imperialism to be effective would require wide knowledge of the Assyrian text, not just knowledge by the few Jews trained in Akkadian. If the knowledge was based on oral proclamation, would the average hearer remember these small details?

In making a decision whether we align Deuteronomy with Hittite treaties or with Assyrian ones, issues raised above become relevant. What was there in Israel before Josiah and Deuteronomy? The Developmental Hypothesis gives an answer, but it is a hypothesis. Were the themes of history and the good that God did for Israel unknown before Israel came under Assyrian influence? If they were not present, what was there instead? I ask these questions because, going back to the old diffusionism, I think we have tended to see Israel as a blank space ready to be written on by the more advanced cultures. Even if the curses of Deuteronomy were shaped by Assyrian influence that would not prove the source of the rest of the document. Critical approaches to the Hebrew Bible have many examples of inconvenient texts being assigned to later editors.[20]

It is completely plausible that a Jew might have had some access to versions of the Vassal Treaties of Esarhaddon.[21] For an Israelite editor to adapt the forms of curse embedded in an Assyrian text would require some access to cuneiform, either directly or indirectly. That is not impossible but, as mentioned above, would have been more likely in an earlier period.

The great argument against aligning biblical covenants with Hittite treaties has always been the question of how Israel knew of Hittite treaties. I have difficulty accepting the solutions proposed by Mendenhall and Kitchen to overcome that problem. Yet the two cases considered previously revealed gaps in documentation. If, as suggested previously, there was a significant Levantine culture, the

problem is lessened. That would also increase the possibility that the curses in question belonged to a wider treaty culture and their usefulness for dating is limited.

## The Creation Accounts

Once again it is important that we look at the big picture and not fit the evidence into what we would expect. Was there a serious interest in the details of creation in the ANE? Our culture has a fascination with the details of the process, whether we think of them in religious or secular terms. We tend to read our concerns into other cultures and suppose that they must have had similar concerns. I suggest that with respect to creation it was not so. Basically, we have references to creation in Mesopotamian and Egyptian texts. The detailed Egyptian one, the Memphite Theology (Breasted 1901), is more interested in the origin of the gods than in the origin of the physical world. I know of no Hittite text which touches on creation. Some scholars have been so convinced that creation was a major theme in the ANE that they find it in the Ugaritic Baal Cycle, even when there is no textual evidence.[22]

When we turn to Mesopotamia, we find a varied situation. Creation may be mentioned as a backdrop, and in some sense, a justification for an incantation (Lambert 2013). It can also appear as a prelude to what really seems to interest the author, namely the way in which the skills and institutions of society come from the gods. The former approach is an attempt to grant authenticity to a ritual. The latter is an attempt to justify the present order of society. In these uses the important thing is not the details of the creation process, but creation as backdrop to the real concern.

That means that *Enūma Eliš* and the first few chapters of Genesis stand out as special. Given the presuppositions of Pan-Babylonianism and the model of advanced Sumerians and backward Hebrews, it is understandable that the former was made the source of the latter. If we take away that presupposition, is the resemblance close enough to see overlap?

Gunkel in his *Schöpfung und Chaos in Urzeit und Endzeit* shifts to a consideration of other biblical passages which show a conflict between God and the sea or sea creatures. He is trying to resolve the problem of deriving a story characterised by its lack of conflict from a story where conflict is a major element. Yet logically his argument should 'prove' the derivation of the other biblical stories, in which conflict exists, from *Enūma Eliš*, rather than Genesis 1 from the Babylonian story. If Genesis 1 had the conflict elements removed from it because of their polytheistic associations, why were they not removed from the relevant passages in the psalms and prophets?

Now that the Ugaritic texts have revealed similarities with these biblical texts another possibility appears, more in line with the tenor of this paper. The Ugaritic texts and the biblical texts where sea and sea creatures appear as opponents of a divinity are other example where two different cultures were able to incorporate a similar element because each could adapt the element to their ideology. In the Ugaritic texts they are the enemies of Baal, which he must overcome to establish his position. In the biblical text they stand for the enemies of God's people, which God fights against.[23]

One can escape from such dilemmas by proposing a very mixed biblical text with inconsistences. Gunkel does not really wrestle with the problems because his presupposition is that all these texts sit upon a mass of oral mythological traditions. What we make of those other biblical texts is a separate question. However, the Ugaritic texts have shown that their imagery has closer affinities with West Semitic texts than with Akkadian texts. Once again one can save the hypothesis by a theory where theomachy is intrinsic to creation. However, as Lambert (1965) has pointed out, that is refuted by the early Mesopotamian evidence. I have insisted that we have to be agnostic about a supposed oral tradition underlying the written tradition in the ANE. Yet if it did exist and it was the source of the later written tradition, then we would expect some written evidence of it. The great enigma of *Enūma Eliš* is its source and especially the role of Tiamat (Lambert 2013: 236–240). If there had been an oral tradition behind it, it was well hidden. Thus, the greater role we give to oral tradition the more *Enūma Eliš* appears as a separate production by an intellectual and the sophisticated language points to that.

Thus, the presuppositions, out of which Gunkel created his theory, do not fit his starting point. If *Enūma Eliš* could be an independent production, then so could Genesis 1.

The theory of an Israelite borrowing has been bolstered by debateable assertions about the possibility of Israelite knowledge of the *Enūma Eliš*. Many have claimed that the story was dramatised in the Babylonian New Year Festival (*e.g.* Bidmead 2004). The extant ritual does not clearly indicate this and proponents have not been able to agree on where to place the supposed dramatization (Weeks 2015: 103–105). It is claimed that the story was read publicly at the festival. The text actually says it was read to Marduk in his temple (Pongratz-Leisten 1994: 52). Even if it had been read publicly it is problematic how much a Jew would have understood, even if that Jew had had the knowledge of Akkadian necessary for everyday life. It is an esoteric text. Added to that is uncertainty about the extent to which Aramaic was the everyday language during the Exile.

I have included the creation stores in my survey to make the simple point that there are cases where some sort of relationship to an external source is obvious on the face of the texts. There are others where a whole series of doubtful supplementary hypotheses are needed to argue a relationship. We have enough problems explicating the clear cases without including the highly unlikely.

## Conclusion

We are not in a position to say precisely how similar elements appeared in biblical and other ANE texts. We might think we know the dates of connection, but the gaps in the evidence mean that these are uncertain. On the basis of extant documentation, the goring ox belongs to the second millennium. I suspect that many will not be willing to accept that and I raise it merely to make the point of the uncertainty of our documentation.

The reality is that there are huge gaps in our evidence. My suspicion is that a very doubtful diffusionist presupposition has allowed us to fill the gaps in the evidence by doubtful conclusions.

It may be purely an accidental result of the cases I chose to examine, but something links the clear ones. The common element could fit into both the outside culture and the biblical culture, but not necessarily in the same way. There is a point to functionalism, in that what cultures accept has to fit.

Suppose there were to have been a wider culture or cultures, which we now cannot see because of the loss of documents. It is tempting to postulate that if we had those texts we would see that the biblical flood story did not originate until the first millennium, or that copies of the Laws of Eshnunna survived until late, or that there was a significant knowledge of Hittite culture in Canaan in the late second millennium. However, we cannot make the invisible say what we want it to say.

In what follows I am assuming that the significant overlap of covenant form is with the Hittites and not the Assyrians. I have made the point that the three cases of commonness, which I think are real, fit into the biblical culture and the culture of the other society, as far as we can tell from the written remains. Is this the clue for explaining their commonness? Since I am not a diffusionist I cannot be certain of the origin of each and I wonder if it is important. The more crucial thing is that it could fit the cultures in which the element is found lodging.

*Enūma Eliš* as the model creation story does not meet this test. The God of the Bible does not have to struggle for his position. Those passages that show a conflict between God and the sea and/or sea monsters belong to the problem of commonness between the Bible and West Semitic culture. I suspect they may be another case of a common item that will fit in two cultures, but in different ways.

Noel K. Weeks

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## Endnotes

1  For examples of diffusionism see Perry 1923; and Elliot Smith 1911. For the history of Anthropology from different perspectives see Kuper 1999 and 2005; and Harris 2001.

2  For functionalist influence in biblical interpretation see Talmon 1977 & 1978. For critique of this position see Maul 1990, 42-46.

3  Tigay (1993) saw this as unproblematic. Israel and Babylon were in the same world and so borrowing would have been straightforward. He argues that Akkadian texts from the periphery display as much difference from homeland versions as claimed biblical borrowings do from the Mesopotamian original. I think this underestimates the problems of cultural distinctions and gaps in our sources. Sometimes the issue is not whether there is a connection but when and what the commonness means for both cultures.

4  Foster (2007: 49) questions the belief that an oral background lay behind Babylonian mythology on the grounds that the Babylonian tradition favoured the written over the oral. For a study which shows the difficulty of proving oral tradition behind Mesopotamian written texts and argues for a bare oral communication between scholars, see Elman 1975. It is possible oral tradition functioned differently depending on period and genre of material.

5  Goren *et al.* (2014: 323) suggest they were sent from Egyptian administrative centres in Syria-Palestine. Vita 2015: 146–149 disagrees.

6  For a more controversial form of this thesis see Woudhuizen (forthcoming).

7  The pattern seems to be that temporary records were kept on the writing boards, more permanent ones on clay tablets. The waxed boards, being easier to correct and amend would be more suitable for preliminary records. For the same reason there was concern about the security of the waxed record. I had earlier wondered about the use of clay tablets when native media were available (Weeks 2018: 53). To the durability suggested there I would now add security.

8  Lambert and Millard (1969: 17) reject any connection to such accounts. For a listing of such accounts see Filby 1970: 45–58.

9  For the section of the list involving the flood see Jacobsen 1939: 58–68. For an attempt to interpret the list see Michalowski 1983.

10  Heidel (1949: 261–264) emphasises the prominence of rain in the account over against assumptions of a simple Mesopotamian origin.

11  For comprehensive treatment see George 2003.

12  For example the place where the sending out of the birds might have been described, is lost in the extant text, but the *Ark Tablet* mentions animals coming two by two. Finkel (2014: 176) sees *Atra-ḫasīs* as the background to Genesis rather than the Gilgamesh Epic.

13  George (2007: 75) suggests this on the basis that an early Neo-Assyrian text had no room for it. However, Old Babylonian versions already contain mention of Gilgamesh's search for Utnapishtim, the Babylonian flood hero George 2003, I: 272–281.

14  For the complex relationship between Mesopotamian and Hittite divination and evidence of indirect reception of Mesopotamian sources plus continuation of indigenous

techniques see Archi 1987.

15 There seems an ambiguity in the treatment in that, though he is specific that the Genesis story is based on *Atra-ḫasīs* (Finkel 2014: 176), when it comes to the copying in the Neo-Babylonian period the discussion focuses on the *Gilgamesh Epic.* That is explicable in that the commonly copied text in that period was the *Gilgamesh Epic*, but it weakens the argument. We cannot deny that versions of *Atra-ḫasīs* may have existed, but it is more likely that, if there were two sources of the biblical story the popular *Gilgamesh Epic* would have played a role.

16 For discussion and comparison see Jackson 2008: 208–212.

17 Maul sees this case as the definitive example that will prove biblical authors copied Mesopotamian texts.

18 That they may have been ignored in practice says nothing about aim. Practical failure has been many lawmakers' fate.

19 For my critique of this position see Weeks 2019: 290–292, 295–298. For other reviews of this work see Stol 2013; Boeckel 2014; Siddall 2015; and Von Dassow 2016.

20 Paradoxically texts so treated include prophetic passages which would place treaty concepts before Josiah, such as Hos. 6:7 and 8:1.

21 The discovery of a copy in a temple in what is today eastern Turkey increases the probability that copies were distributed around the Assyrian empire. See Lauinger 2012.

22 See the introduction and edition of the Baal Cycle by Parker 1997: 81–176.

23 Further exploration of this would diverge from the intent of this paper, but this line of thought could fit with the thesis that the Western conflict of a storm god with the sea provided a crucial part of the story of Marduk and Tiamat Jacobsen 1968. This would be an example of an element derived from an outside source to meet a need created by the shift to imperialism. On this thesis the relationship between *Enūma Eliš* and biblical accounts of a conflict to a divinity and the sea is an indirect one. One needs the Ugaritic texts to see the true relationship. Naturally Gunkel did not have that advantage but it is a lesson to us to realise how much of the total picture is still hidden to us.