

THE LAWS OF
HAMMURABI AND THE COVENANT CODE:
A RESPONSE TO BRUCE WELLS

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I thank Bruce Wells for his carefully considered response to my paper, “The Laws of Hammurabi as a Source for the Covenant Collection,” published in *Maarav* in 2003.¹ He raises issues that must be contemplated in evaluating the historical significance of correspondences between the Covenant Collection (CC) and the Laws of Hammurabi (LH) and other Near Eastern law collections and documents. On the whole his response seeks to demonstrate that CC is too dissimilar to LH to be dependent upon it. Specifically, in sections I and II of his response, he proposes and employs a method for evaluating the degree of similarity between laws. This involves grading the likeness of individual motifs within compared laws in order to judge the overall similarity of a particular law. By applying this approach, Wells endeavors to show that the various laws of CC have fewer correspondences with LH

¹ Bruce Wells, “The Covenant Code and Near Eastern Legal Traditions: A Response to David P. Wright,” *Maarav* 13/1 (2006): 85–118; David P. Wright, “The Laws of Hammurabi as a Source for the Covenant Collection,” *Maarav* 10 (2003): 11–87.

Abbreviations for Mesopotamian texts in this article include:

HittL = Hittite Laws
LE = Laws of Eshnunna
LH = Laws of Hammurabi
LU = Laws of Ur-Namma
MAL = Middle Assyrian Laws
NBL = Neo-Babylonian Laws

than my study claims. This conclusion is accompanied by the observation that certain laws in CC have more resemblances to laws in other non-Israelite texts that would not have been available to Israelite writers according to what we know from archaeological discoveries. Just as one must conclude that CC has no literary connection with these other texts, so one must conclude, he says, that it has no connection with LH. Part III of his critique examines the common order of laws and themes that I identified between the casuistic laws in CC and LH. By a strict re-charting of the correspondences, he seeks to show that CC does not actually follow the sequence of LH. The smaller number of similarities that can be observed between CC and Near Eastern law texts, whether in content or order, are, for Wells, to be explained by “meta-traditions,” i.e., the general diffusion of common legal ideas or issues across the ancient Near East. How these were diffused is not entirely clear, but each individual society took up many of the same ideas to develop comparable yet distinctive laws.

Wells’s observations have sharpened the way that I look at the evidence and have and caused me to reevaluate the way I present it, but I am ultimately not dissuaded from my thesis. The primary difficulty with his argument is that his methods assess similarity and difference strictly on the basis of the surface text without considering how differences may arise from creative textual revision. Parts I and II of the present response will show that difference is not necessarily a sign of distance but rather can be seen as the result of intentional transformation of the source text. Parts III and IV look at the related issues of CC’s similarity and access to texts other than LH and the capacity of the theory of meta-traditions to explain the comparative phenomena. Part V will summarize some new evidence from the apodictic laws that supports the claim of CC’s direct dependence on LH.

I. QUANTIFYING COMPARISON AND COMPOSITIONAL LOGIC

Wells correctly observes that I did not provide explicit evaluation of the strength of individual points of correlation between CC and LH and other Near Eastern law collections. He notes:

Wright does not use any one term to refer to what I am calling connections,² nor does he appear to be interested in making dis-

² Wells’ term “connection” is not entirely suitable since it, for me, presupposes a literary or genetic tie of some sort, something that Wells does not intend by his usage. The term “correlation” may work better than “connection.”

tinctions between different types of connections. He employs a wide range of terms to refer to a variety of possible connections. Moreover, there is no discernible pattern to his use of terminology. At times, it seems arbitrary.³

I did include a substantial but passing observation in a note, which Wells acknowledges, that some points of comparison were less exact than others.⁴ Moreover, assessment of the strength of similarities was implicit contextually in my discussion of aspects of the compared laws. But I did not create or call upon an existing method to gauge externally or in an *a priori* manner the degree of correlation between laws; nor did I formulate an exact set of evaluative terminology.

Wells seeks to correct this by formulating a method for making judgments about the strength of compared features.⁵ He evaluates each

³ Wells (N 1): 88. He lists after this comment various terms I use that imply without clarity an evaluation of correlations.

⁴ Wright (N 1): 34–35 n. 28; Wells (N 1): 92.

⁵ Wells's concern for establishing criteria for judging dependence is not new. Biblical scholarship in general and study of biblical law in particular have sought to outline criteria or tests for literary influence. Wells's method is distinctive in being more quantitative. For the comparative method in biblical law, see Meir Malul, *The Comparative Method in Ancient Near Eastern and Biblical Legal Studies* (AOAT 227; Kevelaer: Butzon and Bercker; Neukirchen-Vluyn: Neukirchener, 1990). For the study of textual dependence in biblical studies in general, see Richard B. Hays, *Echoes of Scripture in the Letters of Paul* (New Haven: Yale Univ., 1989): 29–32; Dennis R. MacDonald, *The Homeric Epics and the Gospel of Mark* (New Haven: Yale Univ., 2000): 8–9; Robert K. McIver and Marie Carroll, "Experiments to Develop Criteria for Determining the Existence of Written Sources, and their Potential Implications for the Synoptic Problem," *JBL* 121 (2002): 667–687; John C. Poirier, "Memory, Written Sources, and the Synoptic Problem: A Response to Robert K. McIver and Marie Carroll," *JBL* 123 (2004): 315–322. See most recently Jeffrey Stackert, *Rewriting the Torah: Literary Revision in Deuteronomy and the Holiness Legislation* (FAT 52; Tübingen: Mohr Siebeck, 2007): 18–19 and *passim* and Jeffrey Leonard, *Historical Traditions in Psalm 78* (Ph. D. Diss., Brandeis Univ., 2006): 48–63. Stackert's study demonstrates the dependence of the Holiness Legislation of the Pentateuch on Deuteronomy. Leonard's study demonstrates that for its historical allusions Psalm 78 relied on the JE source (probably combined) which had not yet incorporated P. Both dissertations work through the methodological issues for identifying textual dependence.

In previous works, I have urge caution in drawing conclusions about literary and phenomenological dependence, which I still affirm. See David P. Wright, *The Disposal of Impurity* (SBLDS 101; Atlanta: Scholars, 1987): 5–9 and especially the caution on p. 8; idem, "The Gesture of Hand Placement in the Hebrew Bible and in Hittite Literature," *JAOS* 106 (1986): 433–446 and esp. the observation on p. 446: "By drawing a comparison between the Hittite and biblical gestures I do not intend to imply that there is some sort of genetic or historical relationship between the two. It is possible this is so. But such a connection could only be established by a broader study of Hittite and biblical ritual forms which shows the similarity to be more than coincidental and by substantial evi-

law on a detailed, motif-by-motif, level and rates each point of comparison. His rankings, from lesser to greater similarity, are entitled “resemblance,” “similarity,” “correspondence,” and “point of identicalness.” To give a sense of the range, a “resemblance” is a “type of connection [with] no direct or close match between a law in CC and another text, but the content of the latter deals with a theme that could conceivably be related to the theme of the CC law,” whereas a “point of identicalness” is “when the match is so close that the two sets of material can be understood as identical or nearly identical in both theme and substance.”⁶ The more points of identicalness in a given law, the more reason one may have for a hypothesis of direct dependence, though Wells is guarded about this.⁷ The main intent of Wells’s argument is to show that there are fewer ratings of high similarity between CC and LH than my study implies. If this is the case—and if a rating of correlation is higher in some cases with a cuneiform law outside of LH—then, according to the argument, CC cannot be dependent on LH.

Several difficulties indicate this method is neither practical nor probative. First, it involves an atomistic analysis that does not consider the broader collectivity of evidence. It is true that some of the correspondences that I identify between CC and LH are not as decisive as others when independently considered. But the point of my analysis was not to show that any particular individual law has correlations with LH and was therefore dependent on it, but that the majority of CC’s casuistic laws reflect a *sequence similar* to the laws in LH. The weaker points of comparison thus gain meaning and strength in view of the whole web of similarities between CC and LH.

Secondly, Wells’s method produces an artificial sense of objectivity. It shifts evaluation from the necessarily multifaceted operations of discernment available in human cognition to a simplistic instrument of evaluation which is imagined to compel assent by its mathematical and

dence indicating how ritual forms were mediated from one culture to the next”; idem, “Analogy in Biblical and Hittite Ritual,” in *Religionsgeschichtliche Beziehungen zwischen Kleinasien, Nordsyrien und dem Alten Testament* (Bernd Janowski, Klaus Koch, Gernot Wilhelm, eds.; OBO 129; Freiburg, Schweiz: Universitätsverlag; Göttingen: Vandenhoeck & Ruprecht, 1993): 473–506, esp. the final observation on p. 504: “While similarities [between biblical and Hittite analogical ritual] cannot be quickly dismissed, it seems that those we have seen so far are fortuitous, especially now after looking at the psychological and rhetorical rationale of analogical ritual.”

⁶ Wells (N 1): 89, 90.

⁷ See Wells’s reservation, cited in part III, below (N 61), about making conclusions about the literary connection of Exod 21:35 and LE 53, the closest correspondence between CC and any cuneiform law.

almost computational binary operations (a judgment of a motif being *more or less* similar). Comparing two texts requires a much more complex type of analysis that includes consideration of the interconnection of numerous variables such as vocabulary, grammar, syntax, genre, context, elements present in one text but missing in the other, literality versus paraphrase, synonymy, wordplay, interpretation, revision, larger literary context, historical context, and goal or purpose. A simple quantitative approach cannot effectively deal with all of these mutually determinative factors. Thus, while I can agree with Wells that certain comparisons, for the limited reasons that he contemplates, appear to be stronger or weaker, his method as a whole does not lead to persuasive or definitive conclusions.

This brings us to the third observation. Well's approach does not include room for the compositional logic—what Bernard Levinson calls the “hermeneutics of legal innovation”—that transforms a source text.⁸ M. Malul made reference to this sort of creative adaptation in his critique of A. Van Selms' argument that denied a connection between the goring ox laws of CC and LH.⁹ Van Selms attempted to show the inde-

⁸ Bernard M. Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation* (Oxford: Oxford Univ., 1998). Of fundamental methodological importance is Norbert Lohfink's observation that Deuteronomy has so creatively revised the slave laws from CC that it is impossible to reconstruct Exod 21:2–11 from Deut 15:12–18 (“Fortschreibung? Zur Technik von Rechtsrevisionen im deuteronomischen Bereich, erörtert an Deuteronomium 12, Ex 21,2–11 und Dtn 15,12–18,” in *Das Deuteronomium und seine Querbeziehungen* [Timo Veijola, ed.; Schriften der Finnischen Exegetischen Gesellschaft 62; Göttingen: Vandenhoeck & Ruprecht, 1996]: 153–154, 159, 162.

⁹ Malul (N 5): 113–151; A. Van Selms, “The Goring Ox in Babylonian and Biblical Law,” *ArOr* 18/4 (1950): 312–330. M. David, “The Codex Hammurabi and its Relation to the Provisions of the Law in Exodus,” *OTS* 7 (1950): 149–178, at the same time made an argument for independence on the basis of differences. More recently, Eckart Otto, *Körperverletzungen in den Keilschriftrechten und im Alten Testament* (AOAT 226; Kevelaer: Butzon & Bercker; Neukirchen-Vluyn: Neukirchener, 1991), has made a similar argument for the independent development of the laws of CC (see pp. 11–24, 123–134, 147–148, 158–165, esp. 133–134, 160–162, 165). The primary force of his argument lies in his reconstruction of the history of the laws of CC. This portrays the laws as developing autochthonically and being originally collected into discrete subcollections that were later brought together. This precludes direct or indirect dependence on cuneiform law for individual laws. As he says:

“In dem bäuerlichen Milieu der Ortsgerichtsbarkeit als traditionshistorischem Wurzelgrund der kasuistischen Rechtssätze [of CC] ist die Kenntnis internationaler Rechtsgelehrsamkeit eher unwahrscheinlich. Dies gilt auch dann, wenn man mit ‘kanaanischen’ Ursprüngen des Volkes Israel im Kulturland rechnen will, läßt sich doch eine Herkunft aus urbanem Kontext der Spätbronzezeit nicht wahrscheinlich machen. . . . Eine Rezeption keilschriftlicher Rechtsüberlieferungen ist in diesem Hirtenmilieu [the socio-economic context out of which Otto supposes that Israel arose] wie auch

pendence of the biblical laws by stressing their differences. Malul observed that the differences must certainly be accounted for, but that they may well be due to changes wrought on a source due to a different world view of the authors using the source. Thus Malul could conclude that, despite their differences, “the biblical laws of the goring ox . . . are closely dependent upon their Mesopotamian counterparts” and that “the biblical author or editor knew first-hand the Mesopotamian law and he may have even had a copy (or copies?) of them in front of him when he composed or edited his biblical version.”¹⁰

My *Maarav* study could not go into explaining how CC transformed its sources because of space limitations and in the interest of doing first things first. But I took up the matter of textual revision in an article published the following year in the *Zeitschrift für Altorientalische und Biblische Rechtsgeschichte (ZABR)*, which explained how CC transformed the goring ox laws of LH 250–252.¹¹ Though concerned primarily with Exod 21:28–36, this study provided indications about how

in dem dörflichen Milieus des eisenzeitlichen Israel eher unwahrscheinlich” (p. 171, 172–173).

In addition, he argues that his deduced original individual laws in some respects appear to be more archaic than those of LH (or LE), which gainsays a literary connection. In contrast, the later redaction of the original laws imposed an alternating (and in some cases a chiasmic) form on the laws which, he says, was influenced by cuneiform legal tradition (pp. 169–170, 173). See also his “Town and Rural Countryside in Ancient Israelite Law,” *JSOT* 57 (1993): 3–22; idem, “Aspects of Legal Reforms and Reformulations in Ancient Cuneiform and Israelite Law,” in *Theory and Method in Biblical and Cuneiform Law. Revision, Interpolation and Development* (B. M. Levinson, ed.; JSOTSup 181; Sheffield: Sheffield Academic): 182–192. His reconstruction is insightful but ultimately speculative. Particularly problematic is the fact that the content of the laws, even though containing significant differences, does accord significantly with LH and other cuneiform laws. If one allows for the influence of cuneiform redactional techniques on CC, it is reasonable to explain similar content by such influence.

¹⁰ Malul (N 5): 159. Other scholars have made use of observed differences to deny connections between legal corpora. For example, William Morrow, *Scribing the Center: Organization and Redaction in Deuteronomy 14:1–17:13* (SBLMS 49; Atlanta: Scholars, 1995): 116, says that “In view of the fact that many of the clauses in Exod 21:2–6 have no parallel in Deut 15:12–18, it probably cannot be proven that 15:12–18 is dependent precisely on the law in Exod 21:2–6.” On this issue, see Bernard M. Levinson, “The Manumission of Hermeneutics: The Slave Laws of the Pentateuch as a Challenge to Contemporary Pentateuchal Theory,” in *Congress Volume Leiden 2004* (André Lemaire, ed.; VTSup 109; Leiden: Brill, 2006): 283–284 and n. 6 there.

¹¹ David P. Wright, “The Compositional Logic of the Goring Ox and Negligence Laws in the Covenant Collection (Ex 21:28–36),” *ZABR* 10 (2004): 93–142. The same issue included my critique of chiasmic structures proposed to explain the order of laws in CC: “The Fallacies of Chiasmus: A Critique of Structures Proposed for the Covenant Collection (Exodus 20:23–23:19),” *ZABR* 10 (2004): 143–168. This also critiqued the notion of chiasmic analysis generally in biblical scholarship.

CC revised other laws.¹² This article indicated that CC transformed its Akkadian sources in much the same way that Deuteronomy transformed laws from CC,¹³ and in much the same way that the Holiness Legislation transformed laws from both CC and Deuteronomy.¹⁴ Indeed, the compositional techniques of Deuteronomy and the Holiness Legislation turn out to be part of the scribal and academic tradition operative already in CC.¹⁵

A few examples of how CC transformed its sources will show that one cannot simply make an estimation on the basis of visible similarities and differences. The debt-slave law in Exod 21:2–11 consists of two parts, vv. 2–6 concerning a male debt-slave and vv. 7–11 concerning a female, specifically a daughter. The initial verses of each of these sections are based on LH 117:¹⁶

<p>Exod 21:2,7 כִּי תִקְנֶה עֶבֶד עִבְרִי שֵׁשׁ שָׁנִים יַעֲבֹד וּבִשְׁבַעַת יֵצֵא לְחֻפְשֵׁי חָנָם וְכִי־יִמְכַר אִישׁ אֶת־בִּתּוֹ לְאִמָּה לֹא תִצָּא כַצָּאת הָעֲבָדִים</p>	<p>LH 117 <i>šumma awīlam e'iltum iṣbassūma aššassu mārāšu u mārassu ana kaspim iddin ū lū ana kiššātīm ittandin šalāš šanātīm bīt šāyimānišunu u kāšišišunu ippešū ina rebūtīm šattim andurāršunu iṣšakkan</i></p>
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²If you acquire a Hebrew slave, he shall work for six years. In the seventh he shall go free, without further obligation.

If an obligation has come due for a man, and he sells his wife, son, or daughter, or is himself surrendered¹⁷ for debt

¹² My forthcoming book with Oxford University Press will describe in detail the compositional logic for the entire Covenant Code.

¹³ Levinson, *Deuteronomy and the Hermeneutics* (N 8): *passim*.

¹⁴ See Levinson, “Manumission” (N 10): 281–324 (he argues that the manumission laws depend upon and transform both laws from CC and Deuteronomy); Stackert (N 5): throughout. I agree with Israel Knohl (*The Sanctuary of Silence* [Minneapolis: Fortress, 1995]) and Jacob Milgrom (*Leviticus 17–22* [AB 3A; New York: Doubleday, 2000]: 1319–1364) that the Holiness Legislation includes more than just the Holiness Code (Leviticus 17–26), but I disagree that Holiness Legislation (or a basic core thereof) is prior to the (basic) laws of Deuteronomy.

¹⁵ See Stackert’s insightful final chapter where he lays out the history of source revision in biblical law in light of the issues of proto-“canonical” or authoritative texts ([N 5]: 209–225). He argues that each successive law collection sought to replace or supersede the sources upon which it relied. See also N 70 and N 71, below.

¹⁶ Wells ([N 1]: 93) was right in critiquing my confusing inclusion of v. 7 with vv. 2–6. I did this to show that both vv. 2 and 7 depend on LH 117. This discussion and Table 1, below, correct the confusion.

¹⁷ The verb *ittandin* may be an N-perfect. So John Huehnergard, *Key to A Grammar of Akkadian* (Atlanta: Scholars, 1997): 95: “If financial difficulty has seized a man and he sold his wife, his son, and his daughter, or he has been sold into debt servitude, they will work in the house of their buyer or debt-exactor for three years; in the fourth year their freedom will be established.” In his discussion of the forms of the N-stem, he uses

⁷If a man sells his daughter as a slave-woman, she shall not go free as male slaves go free. servitude, they shall work in the house of their buyer or creditor for three years. In the fourth year their freedom shall be effected.

CC keeps the essential formulation of the protasis from LH 117 in v. 7: “If a man sells his daughter.” It changes the protasis in v. 2, however, to read “If you acquire.” This change of Hammurabi’s formulation was made to accord with the second person audience of the altar law in 20:24–26, which is part of the basic composition of CC (see Part V and N 92, below). CC thus addresses to the community its casuistic laws, which otherwise are mainly formulated in the standard third person.¹⁸ But, though CC alters the protasis of v. 2, its apodosis follows the same basic formulation as LH 117, which says that the individual works for X years with freedom granted in year X+1. The major change in this part of CC’s law is in lengthening the period of servitude to six years with freedom in the seventh. This is done to accord with the six/seven pattern of the laws about the seventh day (23:12) and the seventh year (23:10–11). One will note that the time prescriptions of those laws closely follow that of the debt-slave law in 21:2 (and hence of LH 117). Those laws are also concerned about poverty. Thus there is a conceptual and formal interdependence between these two sets of laws (see further Part V, below).

CC’s formulation of separate legislation about a daughter in vv. 7–11 is due to a problem in the legal logic of LH 117. The only daughter that would qualify as a candidate for debt-servitude in the Akkadian law would be an unbetrothed daughter. A betrothed daughter and certainly a married daughter are attached socially and economically to other men. Yet if an unbetrothed daughter entered into servitude, especially for a period as long as six years, her creditor would probably take advantage of her sexually. CC apparently recognized this problem and found a solution in other cuneiform legislation, similar to MAL A 55–56 (see Part III for the availability of MAL A in the Neo-Assyrian period; also see N 70):

⁵⁵[šumma a ʾi]lu batulta [ša ina bēt a]biša [usbu]tuni [. . .] ša lā ūtarrišūni [puš]qa(?) la patteatūni lā aḫzatūni u rugummānā ana

nadānum as a paradigm verb and gives *ittandin* as the N-perfect (*A Grammar of Akkadian* [Atlanta: Scholars, 1997]: 359, 360; in this chapter he includes LH 117–118 as readings).

¹⁸ Exceptional second person forms within the casuistic laws include: 21:13–14 (based on the altar law of 20:24–26), 21:23 (marking a general law; see N 38 below); 22:17 (rationale unclear; perhaps originally a G-stem verb).

*bēt abiša lā iršūni a ʾīlu lū ina libbi āle lū ina šere lū ina mūše
ina rebēte lū ina bēt qarīte lū ina isinni āle a ʾīlu kī da ʾāne batulta
iṣbatma umanzi ʾši abu ša batulte aššat nā ʾikana ša batulte ilaqqe
ana manzu ʾe iddanši ana mutiša lā utārši ilaqqēši abu mārassu
nīkta ana nā ʾikānīša kī aḥuzzete iddanši šumma aššassu laššu
šalšāte kaspe šīm batulte nā ʾikānu ana abiša iddan nā ʾikānša
iḥḥassi lā isammakši šumma abu lā ḥadi kaspa šalšāte ša batulte
imaḥḥar mārassu ana ša ḥadiūni iddan*

⁵⁵[If a] man seizes a maiden by force and rapes her—a maiden [who lives in the house of h]er father [. . .] who is not asked for, whose [wom]b(?) is not opened, who is not married, and against whose father's house a claim does not exist—whether in the middle of the city, in the open country, at night in the street, in a grain-store, or in a city festival—the father of the maiden shall take the wife of the one who had intercourse with the maiden and give her for raping. She shall not return to her husband. He takes her. The father shall give his daughter who had intercourse to the one who had intercourse with her in marriage-like dependent protection. If he does not have a wife, the man who had intercourse shall give to her father threefold the silver that is the price of the maiden. The one who had intercourse with her shall marry her. He shall not constrain/reject (?) her. If her father is not willing, he shall receive the threefold amount of silver for the maiden and give his daughter to whomever he desires.

⁵⁶*šumma batulta ramanša ana a ʾīle tattidin a ʾīlu itamma ana
aššitišu lā iqarribū šalšāte kaspe šīm batulte nā ʾikānu iddan abu
māras[su] kī ḥadiūni epp[aš]*

⁵⁶If the maiden gives herself to the man, the man shall swear (to this effect). They shall not approach his wife. He shall pay the threefold amount of silver that is the price of the maiden. The father shall do with his daughter as he desires.

Employing the logic of such legislation, CC telescoped the affair and prescribed directly that the creditor (or his son) is to “marry” the daughter.¹⁹ That laws like MAL A 55–56 were a consideration for CC

¹⁹ While this may not be a marriage in the full sense, the relationship between the man and the woman is sufficiently similar to allow associating it phenomenologically with marriage. For discussion, see Ralf Rothenbusch, *Die kasuistische Rechtsammlung im “Bundesbuch” [Ex 21,2–11.18–22,16]* [AOAT 259; Münster: Ugarit, 2000]: 249–251 and n. 92; Bernard S. Jackson, *Wisdom-Laws: A Study of the Mishpatim of Exodus 21:1–22:16* (Oxford: Clarendon, 2006): 93–102, 378–379.

is evident in its appending its own version of the law at the end of its casuistic laws in 22:15–16:

15 וכי יפתה איש בתולה אשר לא-ארשה ושכב עמה מזהר ימהרנה
 לו לאשה 16 אסמאן ימאן אביה לתתה לו כסף ישקל כמהר הבתולה

¹⁵If a man seduces a maiden who is not betrothed, and he lies with her, he shall acquire her as a wife by paying the bride price. ¹⁶If her father refuses to give her to him, he shall (still) weigh out silver as the bride price of maidens.

Hence this law is not merely placed where it is because it deals with compensation for damaged property, the theme of the immediately preceding verses (21:37–22:14). It is a footnote justifying the daughter-slavery law in 21:7–11. Moreover, it may also be placed at the end of the casuistic laws because it comes from a source other than LH and is therefore given a subsidiary location in the collection.²⁰ CC includes only the case of seduction (cf. MAL A 56) because the creditor's sexual conquest of the woman would likely be through persuasion and not overt force. Moreover, that CC is concerned about the logic of daughter debt-slavery in appending 22:15–16 explains why CC does not include other laws about illicit sexual intercourse such as adultery and rape.

After creating the basic laws in 21:2 and 7 on the basis of LH 117, CC supplemented each (in vv. 3–6 and 8–11) with material from other places in LH. Verses 3–6 were created by a combination of materials and considerations from LH 117, 175, and 282:

Exod 21:3–6
 אסבנפו יבא בנפו יצא 3א אסבעל
 אשה הוא ויצאה אשתו עמו

^{3א}If he came in by himself, he shall go free by himself. ^{3ב}If he is the husband of a woman, she shall go free with him.

אסדאדניו יתךלו אשה וילדהלו בנים
 או בנות האשה וילדיה תהיה לאדניה
 והוא יצא בנפו

⁴If his master gives him a woman and she bears him sons or daughters, the woman and her children shall belong to her master, and he (the male slave) shall go free by himself.

LH 117, 175, 282
 117 *šumma awīlam e'iltum iṣbassūma aš-
 šassu mārāšu u mārassu ana kaspim iddin*
 . . .

¹¹⁷If an obligation has come due for a man, and he sells his wife, son, or daughter . . .

175 *šumma lū warad ekallim ū lū warad
 muškēnim mārat awīlim iḥuzma mārī
 ittalad bēl wardim ana mārī mārat awīlim
 ana wardūtīm ul iraggum*

¹⁷⁵If a palace-slave or a slave a commoner marries a woman of the *awīlum*-class and she bears (him) children, the owner of the slave has no claim of slavery on the children of the woman of the *awīlum*-class.

²⁰ See Wright, "Compositional Logic" (N 11): 111–112 n. 42. See also N 71, below.

⁵וְאִם־אָמַר יֹאמֵר הַעֲבָד אֶהְבֵּתִי אֶת־אֲדֹנָי
 אֶת־אִשְׁתִּי וְאֶת־בְּנֵי לֵא אֲצַא הַפֶּשֶׁתִּי
⁶וְהִגִּישׁוּ אֲדֹנָיו אֱלֹהֵי־הָאֱלֹהִים וְהִגִּישׁוּ אֶל־
 הַדֶּלֶת אוֹ אֶל־הַמְּזוּזָה וְרָצַע אֲדֹנָיו אֶת־
 אָזְנוֹ בַּמְרָצַע וְעַבְדוֹ לְעֹלָם

⁵If the servant should say, "I love my master, my wife, and my children; I will not leave," ⁶then his master shall bring him to the God, and bring him to the door or the doorpost. His master shall pierce his ear with an awl, and he shall thus work for him permanently.

²⁸²*šumma wardum ana bēlišu ul bēlī ata
 iqtabi kīma warassu ukānšuma bēlišu
 uzunšu inakkis*

²⁸²If a slave should to his master say, "You are not my master," his master shall prove that he is his slave and shall cut off his ear.

Both v. 4 and vv. 5–6 involve conceptual inversion of their source laws. This is clearest in vv. 5–6. These verses contain five points of similarity with LH 282: (a) reference to a slave, (b) reference to his speaking, (c) a quotation of his speech, which defines his relationship to the master, (d) a judicial procedure, and (e) mutilation of the ear.²¹ That LH 282, which deals with a *chattel-slave* (*wardum*), could be brought to bear on a debt-slave is reasonable given CC's general conflation of debt-slave and chattel-slave legislation from LH (see below).²² While it can be argued that the rule in v. 4 makes general sense in view of slave customs broadly in the ancient Near East, it can be seen as specifically but inversely motivated by LH 175 (note the proximity of this law to LH 178 which influenced vv. 10–11; see below).²³ Verse 4 is like LH 175 except that the statuses of the male and female have been reversed. In v. 4 the male slave is theoretically free (i.e., he is freeable), whereas the wife is a chattel-slave. With this reversal, the children are treated differently from those of LH 175, remaining the property of the creditor-master. Finally, v. 3 can be seen as a bridge between v. 2 and vv. 4–6. Verse 3b, which speaks of a wife accompanying her husband, may have been stimulated by the mention of a wife

²¹ The article by Victor Avigdor Hurowitz ("His Master Shall Pierce his Ear with an Awl" [Exodus 21.6]: Marking Slaves in the Bible in the Light of Akkadian Sources," *Proceedings of the American Academy for Jewish Research* 58 [1992]: 47–77), while insightful (Wells [N 1]: 98 n. 34), does not explain vv. 5–6 better than a connection to LH 282. See the critique of Hurowitz at Rothenbusch (N 19): 242 n. 60. Still one may ask, even if 21:5–6 depends on LH 282, where did CC get its ear piercing (as opposed to ear severing, which of course does not fit the context of vv. 5–6): did CC invent it or was there some underlying tradition, related or unrelated to slavery?

²² Wright, "Compositional Logic" (N 11): 132–135.

²³ I now discount a connection with a law like LU 4, even though Wells ([N 1]: 95) stresses the similarity between this and v. 4.

in LH 117.²⁴ Verse 3a appears to be a free creation linking v. 2 to what follows.²⁵

The laws following the basic daughter law in v. 7 were also created from laws elsewhere in LH:

Exod 21:8–11
 אִם־רָעָה בְּעֵינֵי אֲדֹנֶיהָ אֲשֶׁר־לָו יַעֲדָהּ⁸
 וְהִפְדָּהּ לְעַם נְכָרִי לֹא־יִמְשַׁל לַמְכָרָהּ
 בְּבִגְדֵי־בָהּ

⁸If she is displeasing in the eyes of her master who has designated her for himself,²⁶ he shall let her be redeemed. He shall not have power to sell her to a foreign people because he betrayed her.

וְאִם־לָבִנוּ יִיעֲדֶנָּה כַּמְשַׁפֵּט הַבְּנוֹת
 יַעֲשֶׂה־לָּהּ

LH 148, 154–156, 148–149, 178
¹⁴⁸*šumma awīlum aššatam iḥuzma*
la 'bum iṣṣabassi . . .

¹⁴⁸If a man marries a woman and *la 'bum*-disease then seizes her . . . [see the correspondence to Exod 21:10 for the rest of LH 148]

¹⁵⁴*šumma awīlum mārassu iltamad awī-*
lam šuāti ālam ušeṣṣūšu

¹⁵⁵*šumma awīlum ana mārīšu kallatam*
iḥirma māršu ilmassi šū warkānumma
ina sūniša itatilma iṣṣabtūšu awīlam
šuāti ikassāšūma ana mē inaddūšu

¹⁵⁶*šumma awīlum ana mārīšu kallatam*

²⁴ CC's careful redistribution of the women of LH 117 in vv. 3 and 7–11 makes it look like its basic debt-slave law in v. 2 only applies to males. Women are not equally included. That the rest of the laws (vv. 3–6) speak only about a male as the enslaved person supports this limited interpretation of v. 2. Jackson ([N 19]: 88–89, 102) argues that v. 2 does not include females. Several, however, argue that it does: Rothenbusch (N 19): 250; Carolyn Pressler, "Wives and Daughters, Bond and Free: Views of Women in the Slave Laws of Exodus 21.2–11," in *Gender and Law in the Hebrew Bible and the Ancient Near East* (V. H. Matthews, Bernard M. Levinson, and Tikva Frymer-Kensky, eds.; JSOTSup 262; London: T&T Clark, 1998): 148, 167; Eckart Otto, "False Weights in the Scales of Biblical Justice? Different Views of Women from Patriarchal Hierarchy to Religious Equality in the Book of Deuteronomy," in *Gender and Law*, op. cit., 142.

²⁵ For a comparison of Emar 6 16 with Exod 21:2–6, see N 59, below.

²⁶ This reading (found in the LXX [ἢν αὐτῷ καθομολογήσῃατο], Vulgate [*sui cui tradita*], Targum Onkelos [דִּיקִימָה לִיהָ], and the Masoretic *qərē*), instead of the consonantal text אֲשֶׁר־לָו יַעֲדָהּ "who has *not* designated her," makes the best sense in view of the parallel phrase in v. 9 and the difficulty of making legal sense of what a negative would mean in the context of displeasure and breaking faith *with the woman*. Pressler (N 24): 158 n. 26 observes that "the verb *y'd* makes better sense with a dative," which I take as meaning that a reading "to him" provides a nice parallel to "to his son" in the next verse. See also Gregory Chirichigno, *Debt-Slavery in Israel and the Ancient Near East* (JSOTSup 14; Sheffield: Sheffield Academic, 1993): 248; Jackson (N 19): 85–86, 90. Those who prefer the *katib* include Rothenbusch (N 19): 221, 252–254; Ludger Schwienhorst-Schönberger, *Das Bundesbuch* [BZAW 188; Berlin: de Gruyter, 1990]: 314 n. 43; Innocenzo Cardellini, *Die biblischen "Sklaven"-Gesetze im Lichte des keilschriftlichen Sklavenrechts* (BBB 55; Königstein: Hanstein, 1981): 253 n. 53.

iḫirma māršu lā ilmassima šū ina sūnīša ittatil 1/2 mana kaspam išaqqalšimma u mimma ša ištu bīt abiša ublam ušallamšimma mutu libbiša iḫhassi

⁹If he designates her for his son, he shall do for her (treat her) according to the law pertaining to daughters.

¹⁵⁴If a man knows (sexually) his daughter, they shall make that man leave the city.

¹⁵⁵If a man chooses a bride for his son and his son knows her, but afterwards he (the father) lies in her lap and they catch him, they shall bind that man and throw him into the water.

¹⁵⁶If a man chooses a bride for his son and his son does not know her, but he (the father) lies in her lap, he shall weigh out one-half mina (= thirty shekels) of silver and whatever she brought from the house of her father he shall restore to her. A husband of her choosing may marry her.

¹⁰ואם אחרת יקח לו שארה כסותה וענתה לא יגרע ¹¹ואם שלש אלה לא יעשה לה ויצאה חנם אין כסף

¹⁴⁸*šumma awīlum aššatam iḫuzma la 'bum iššabassi ana šanītim aḫāzīm panīšu ištakkan iḫhaz aššassu ša la 'bum išbatu ul izzibši ina bīt ipušu uššamma adi balḫat ittanaššīši*

¹⁴⁹*šumma sinništum šī ina bīt mutīša wašābam lā imtagar šeriktaša ša ištu bīt abiša ublam ušallamšimma ittallak*

¹⁷⁸*šumma uḡbattum nadītum ū lū sekretum ša abūša šeriktam išrukūšim ṭuppam išturūšim ina ṭupim ša išturūšim war-kassa ēma eliša ṭābu nadānamma lā išturšimma mala libbiša lā ušamšīši warka abum ana šimtim ittalku eqelša u kirāša aḫhūša ileqqūma kīma emūq zittīša ipram piššatam u lubūšam inad-dinūšimma libbaša uṭabbū šumma aḫhūša kīma emūq zittīša ipram piššatam u lubūšam lā ittadnūšimma libbaša lā uṭtībū eqelša u kirāša ana errešim ša eliša ṭābu inaddinma erreša ittanaššīši eqlam kirām u mimma ša abūša id-dinūšim adi balḫat ikkal ana kaspim ul inaddin šaniam ul uppal aplūssa ša aḫhīšama*

¹⁰If he takes another (woman), he shall not withhold her (the first wife's) food, clothing, and habitation.

¹¹If he does not do these three things for her, she may leave without further obligation; no (redemption or debt) payment is due.

¹⁴⁸If a man marries a woman and *la 'bum*-disease then seizes her, and he decides to take a second (woman), he may marry (her), but he may not divorce (lit.: forsake) his wife whom *la 'bum*-disease seized. She shall stay in a dwelling that he builds and he shall support her as long as she lives.

¹⁴⁹If that woman does not consent to dwell in her husband's house, he shall

replace the dowry that she brought from her father's house, and she may leave.

¹⁷⁸If an *ugbatum*, *naditum* or *sekretum*, whose father gives her a dowry and writes for her a document, but in the document that he wrote for her he did not write for her to dispose of her property as she wishes and has not allowed her to parcel it out to the extent that she desires, after her father dies, her brothers shall take her field and orchard and give her an allowance of food, oil, and clothing according to the value of her inheritance, and (thus) satisfy her desire. If her brothers do not give her an allowance of food, oil, and clothing according to the value of her inheritance, and do not satisfy her desire, she shall give her field or orchard to any cultivator she desires, and her cultivator shall support her.

Exod 21:8 and 10–11 are primarily based on LH 148–149. Verses 10–11 and LH 148–149 specifically speak of taking a “second” wife, impose a requirement of support, and describe a situation in which the woman might leave. CC’s primary innovation is the transformation of a law about a marriage in general to a case of a daughter debt-slave marriage to a creditor. CC makes the appropriate changes, such as ruling that the debt is cancelled instead of saying that the woman takes her dowry when she leaves. It also alters the description of her leaving from one of implied divorce to going free (*yš’*) from slavery.²⁷ CC has also made explicit the type of support that the woman receives, listing three modes of sustenance. It has apparently been inspired by the threefold list of support in LH 178, which also uses the verb “he shall support her” (*ittanaššīši*), the same verb for support found in LH 148. LH 148–149 also seem to have influenced v. 8 when it speaks of the woman’s being displeasing to her creditor-husband. But CC, by not specifying a particular cause, appears to have generalized the reason for displeasure beyond a condition of *la ’bum* skin disease. The displeasure noted in v. 8 can be seen as the reason for taking a second wife in vv. 10–11.

Between the motif of displeasure and taking a second wife in vv. 8, 10–11, CC has inserted a rule about the creditor designating (*y’d*) the woman for his son (v. 9). Part of the motivation for this may have been LH 155–156. These speak of a man “choosing” (*hârum*) a wife for his son and the father’s consequent intercourse with the woman. A related rule about a

²⁷ Note that LH 172 uses the cognate *wašûm* “to go out” of a woman divorcing her husband.

man's intercourse with his own daughter precedes in LH 154. The phrase in Exod 21:9, "he shall do for her according to the law pertaining to daughters" may therefore actually be a prohibition against the father's using his slave daughter-in-law sexually, not a rule that she is to be treated as a free woman. This makes sense in the context of Exod 21:8,10–11, which assume and are implicitly concerned about the creditor's sexual access to the woman when she is designated for him.

The homicide law (Exod 21:12–14), which Wells examines,²⁸ in association with the laws on injury of 21:18–19 and the killing of a slave in 21:20–21, provides another case where CC has significantly transformed its sources. The starting point is to observe that CC's homicide and injury laws in 21:12–14,18–21 correspond with LH 206–208:

<p>Exod 21:18–19,12–14,20–21</p> <p>¹⁸וכי יריבין אנשים והכה איש את רעהו באבן או באגרף ולא ימות ונפל למשכב ¹⁹אם יקום והתהלך בחוץ על משענתו ונקה המכה רק שבתו יתן ורפא ירפא</p>	<p>LH 206–208</p> <p><i>šumma awīlum awīlam ina risbatim imta- hašma simmam ištakanšu awīlum šū ina idū lā amhašu itamma u asām ippal</i></p>
<p>¹²מכה איש ומת מות יומת ¹³ואשר לא צדה והאלהים אנה לידו ושמתו לך מקום אשר ינוס שמה ¹⁴וכי יוד איש על רעהו להרגו בערמה מעם מזבחי תקדמו למות</p>	<p><i>šumma ina mahāšīšu imtūt itammāmma šumma mār awīlim ½ mana kaspam išaqqal</i></p>
<p>²⁰וכי יכה איש את עבדו או את אמתו בשבט ומת תחת ידו נקם נקם ²¹אך אם יום או יומים יעמד לא יקם כי כספו הוא</p>	<p><i>šumma mār muškēnim 1/3 mana kaspam išaqqal</i></p>

¹⁸When men fight and one strikes his fellow with a stone or with a fist/object, and he (the latter) does not die but takes to his bed—¹⁹if he gets up and walks about outside on his staff, the striker is absolved, but he must recompense him for his period of inactivity and provide for his cure.

¹²He who strikes a man so that he dies shall be put to death, ¹³but he who did not plan it, but God caused it to occur—I will appoint a place for you to which he may flee. ¹⁴If a person plots against his fellow to kill him by deceit, you shall take him from my altar to be put to death.

²⁰⁶If an *awīlum* strikes another *awīlum* in a fight and injures him, that *awīlum* shall swear (saying), "I did not strike him with intent," and he shall pay the physician.

²⁰⁷If he dies from his being struck, he shall also swear (an oath of inadvertence, as in previous paragraph). If (the victim) is an *awīlum*, he shall weigh out one-half mina (= thirty shekels) of silver.

²⁸ Wells (N 1): 99–100.

²⁰If a man strikes his male slave or female slave with a rod and he dies under his hand (i.e., immediately), he is to be avenged.

²¹But if he lingers for a day or two, he shall not be avenged, since he is his (the master's) silver.

²⁰⁸If (the victim who dies when struck) is a commoner, he (the assailant *awīlum*) shall weight out one-third mina (= twenty shekels) of silver.

The primary difference in CC is the location of the homicide law, several verses before vv. 18–21. CC's homicide law is also formulated participially, as opposed to the casuistic form of vv. 18–21 and LH 206–207.²⁹ Another difference is that CC's homicide and battery laws in vv. 20–21 present a slave as the victim instead of a commoner as in LH 208. One more significant difference is CC's unique and almost internally inconsistent rule that lethal beating of a slave requires vengeance if death is immediate; otherwise the owner is not liable to vengeance.

To clarify CC's transformations we begin with the slave law in Exod 21:20–21. CC chose to deal with a slave instead of a commoner, probably because CC's society did not have a correlation for the socio-economic category of a "commoner" (*muškēnum*). CC replaced this person with a slave, a status extant in its social group. Other laws in the environment of LH 208 that include slaves in their delineation of social gradations (LH 196–205, 209–214, 215–217, 218–220, 221–223) can be viewed as the textual stimulus for including a slave in particular.³⁰ A further modification that CC made to its law, now dealing with a slave, was to fold in rules for debt-servants from LH 115–116.³¹

¹¹⁵*šumma awīlum eli awīlim še'am ū kaspam išūma nipūssu
ippēma nipūtum ina bīt nēpīša ina šīmātīša imtūt dīnum šū ru-
gummām ul išu*

¹⁶*šumma nipūtum ina bīt nēpīša ina mahāšim ū lū ina uššūšim
imtūt bēl nipūtum tamkāršu ukānma šumma mār awīlim mārāšu
idukkū šumma warad awīlim 1/3 mana kaspam išaqqal u ina
mimma šumšu mala iddinu itelli*

¹¹⁵If a man is owed grain or silver by another man and he (the creditor) takes someone from the debtor's dependents to serve as

²⁹ Despite Albrecht Alt's classification of the participial formulation as a type of apodictic law (see "The Origins of Israelite Law," in his *Essays on Old Testament History and Religion* [Oxford: Blackwell, 1966]: 109–110), conceptually it relates to casuistic law; so Schwienhorst-Schönberger (N 26): 228; cf. Jackson (N 19): 54–56, 147–148.

³⁰ These are chattel-slaves, designated with the terms *wardum* "male slave" and *amtum* "female slave."

³¹ The Akkadian designates these with the term *nipūtum*, in contrast to the terms for chattel-slaves (see the previous note).

a debt-servant, and the debt-servant dies (naturally) in the house of creditor, that case has no claim.

¹¹⁶If the debt-servant dies from beating or from mistreatment in the house of his/her creditor, the owner of the debt-servant (= the debtor) shall bring proof against his merchant. If (the debt-servant was) the man's son, they shall kill his son. If (the one in bondage was) the man's slave, he shall weigh out one-third mina (= twenty shekels) of silver. He shall forfeit as much as he gave as a loan.

According to LH 116, a creditor who kills a debt-slave is liable to a form of capital punishment. This law says specifically that, if a creditor kills a debtor's son, the creditor's son is executed. A number of scholars agree, apart from a judgment of CC's dependence on LH, that CC's law here does in fact deal with debt-slaves.³² Furthermore, a number of scholars also bring LH 115–116 into comparison to help explain CC's law.³³ Schwienhorst-Schönberger made the particular observation that the position of the laws in vv. 20–21 correlate inversely with LH 115–116: v. 21 and LH 115 deal with cases where the debt-slave dies on his own, and v. 20 and LH 116 deal with cases where the debt-slave dies from a beating and the creditor is liable.³⁴ This positional inversion is similar to that evident in the child striking and cursing laws (21:15 // LH 195; 21:17 // LH 192–193; see the crossing arrows for both of these sets of laws in Table 1, below).³⁵

But CC does not seem to envision just a debt-slave in vv. 20–21. The decision that the owner is not prosecutable if the slave does not die immediately (v. 21), “because he is his silver (i.e., his property or in-

³² Cf. Rothenbusch (N 19): 298, 302 and n. 331; Schwienhorst-Schönberger (N 26): 66–67, 68–70; Raymond Westbrook, *Studies in Biblical and Cuneiform Law* (CRB 26; Paris: Gabalda, 1988): 89–100. Chirichigno ([N 26]: 145–185) says that these are just chattel-slaves (but this cannot be sustained); cf. Wright, “Compositional Logic” (N 11): 132–136.

³³ Rothenbusch (N 19): 317–319; Schwienhorst-Schönberger (N 26): 68–69; Westbrook (N 32): 90–91, 100; Cardellini (N 26): 344.

³⁴ Schwienhorst-Schönberger (N 26): 68–69.

³⁵ The kidnapping law (21:16), which breaks up vv. 15 and 17, corresponds structurally with LH 194, which breaks up 192–193 and 195 (see Table 1 herein). This may seem like pure coincidence until it is realized that LH 194 is concerned about a *šihrum* “young child” and its abuse, the specific victim and general situation in LH 14. This structural and terminological connection is probably not a coincidence, especially in view of CC's other points of dependence on LH. It demonstrates CC's concern for replicating the structure of LH at times even on a small scale. The inversion of order in 21:15,17 and 20–21 reminds one of Seidel's Law (see, e.g., Levinson, *Deuteronomy* [N 8]: 18–20).

vestment),³⁶ is consonant with chattel-slave law of LH, which presumes that an owner's injuring or killing his chattel-slave is merely the owner's economic loss. The implied reason in LH is that a chattel-slave is his property, the explicit rationale in v. 21. LH, in fact, has no laws on an owner's injuring or killing a chattel-slave; it only has laws about an external agent injuring or killing a chattel-slave (e.g., LH 119, 213–214, 217, 219, 220, 223).

With the correspondence of vv. 20–21 and LH 208 explained, we can turn to the homicide law. That the homicide law in CC is connected with the series in LH 206–208 is visible in a conceptual gap apparent in vv. 18–19 when moving to vv. 20–21. Verses 18–19 deal with the *injury* of a *free* person, the subject of LH 206, whereas vv. 20–21 deal with the *homicide* of a *slave*, which corresponds (given the explanation, above) with LH 208. One would expect, even apart from comparative considerations, that a law on the homicide of a free person would follow vv. 18–19, which would create a transition from vv. 18–19 to 20–21.³⁷ The disjunction has been caused by CC's moving the topic of homicide to the beginning of all its assault laws, a reasonable modification of Hammurabi's text, which comes from wanting to place the most severe kind of assault at the beginning of laws on the topic. That CC's homicide law correlates with LH 207 is also seen in their common interest in inadvertence and temple adjudication. The latter feature is explicit in CC in the requirement to flee to the sanctuary.³⁸ It is implicit in Hammurabi's re-

³⁶ This is the clear and straightforward meaning of v. 21 in the context of v. 20. I cannot accept Schwienhorst-Schönberger (N 26): 67 who translates *kī kaspō hū'* as "denn dies [d.h. diese Angelegenheit, nämlich, daß der Sklave frühzeitig stirbt] ist sein Geld [das ihm dadurch verloren geht]," based on the last phrase of LH 116: "he shall forfeit as much as he gave." He adds that one may translate it freely as "denn um sein Geld geht es hierbei." Nor can I agree with Westbrook (N 32): 89–100, that the phrase means "it (i.e., the revenge) is his money (i.e., the debt)." In connection with this, the verb *ya 'āmōd* does not mean "stand/be up" (cf. v. 19; Rothenbusch [N 19]: 222, 298–299 n. 319 interprets this as "auf den Beinen sein") or even more specifically "to do (slave) service" (Schwienhorst-Schönberger [N 26]: 64–66; he gives the meaning "Dienst tun").

³⁷ One might want to explain the difference between vv. 18–19 and 20–21 as an example of "maximal variation"; but see Wright, "Laws of Hammurabi" (N 1): 21 n. 15, with a reference to Eichler's study (B. L. Eichler, "Literary Structure in the Laws of Eshnunna," in *Language, Literature, and History: Philological and Historical Studies Presented to Erica Reiner* [F. Rochberg-Halton, ed.; New Haven: AOS, 1987]: 71–84).

³⁸ Asylum would have lasted until determination of guilt. If the person was convicted of intentional homicide, he would have been taken from the altar to be put to death, as prescribed by v. 14. If it was determined that the homicide was inadvertent, then the person would remain only until indemnification was paid or arrangements were made for it to be paid. That indemnification is required for inadvertent homicide is clear from the *talion* law in 21:23b–25. The penalties prescribed in these verses are for inadvertent

quirement of swearing an oath (LH 207, cf. 206). Elsewhere in LH, judicial declarations are made *maḥar ilim* “before the god” (LH 9, 23, 106, 120, 126, 240, 266, 281), which is presumably at a temple or, at least, a datum that could be interpreted as occurring at a temple.³⁹

CC’s participial formulation in the homicide laws can be explained by cross influence from another source. The laws in 21:12,15–17 (on homicide, striking a parent, kidnapping, cursing a parent) and also in 22:17–19 (on a sorceress, bestiality, and sacrifice to other gods) share a common formulation in which a participle describes an illicit action

homicide or injury. The case of miscarriage, to which they are attached, describes the *accidental* knocking of the pregnant woman (see v. 22). Moreover, the verb “you shall give” means “you shall pay,” based on the use of the verb “give” (*nātan*) elsewhere in CC (21:19,22,30,32) as well as *nadānum* in LH (LH 101, 106–107, 112–113, 120–121, 124, 126, 138–140, 217, 221–225, 228, 234, 238, 239, 242/243, 247, 248, 251–252 [// Exod 21:29,32], 258–261, 264, 267, 271, 273–274, 276–278). Hence CC does not envisage actual *talion* punishment, in contrast to the literal wording of LH 196–201, upon which CC relies. On a specific contextual level the rule in v. 23b, “you shall give life for life” means that the man who knocks a pregnant woman inadvertently so that she dies must provide equal compensation. But application of the *talion* law is not limited to the context of miscarriage (contra Wells [N 1]: 103). It is a general rule, which applies to all other cases of homicide and injury (so Rothenbusch [N 19]: 278, 285, 293–294, 300). That it is a general rule is evident in the shift to the second person (this does not refer to recompense by the community or a communal judicial body, contra Raymond Westbrook, “Lex Talionis and Exodus 21,22–25,” *RB* 93 [1986]: 52–69; for a critique of Westbrook’s interpretation, see Schwienhorst-Schönberger [N 26]: 107–109). Its general application is also seen in the listing of injuries that would likely be found in cases other than just knocking a pregnant woman. The *talion* law therefore makes up an element omitted from CC’s main homicide law in vv. 12–14, but present in LH 207: inadvertent homicide requires indemnification. CC’s *talion* law has extended the requirement of indemnification to inadvertent injuries (contra LH 206, which only requires payment of the physician). The payment of indemnification for injuries in vv. 24–25 correlates conceptually with a novelty in vv. 18–19 over against LH 206. Besides requiring paying the doctor’s fee as found in LH 206, CC requires paying for the person’s “idleness” (*šibtô*; v. 19). This payment is due even in a case of inadvertent injury (v. 18 does not require the striking to be seen as intentional). The compensation payment in v. 19 and the *talion* payment for injuries in vv. 24–25 are both *disability* payments. I aver that CC sees them as related. It describes them in different ways because of the underlying sources used for the different laws (i.e., LH 206 does not feature *talion*, so CC does not describe the added payment with *talion* language, whereas LH 196–201 lead to the *talion* language in vv. 23b–25). Thus CC has resystematized the penalties for intentional and unintentional homicide and injury. This correlates with its resystematization of penalties in the ox laws (described below). CC’s system and intent can only be understood over against its source, LH. Otherwise interpretation is left rudderless. Editor’s note: for a related discussion of *talion*, see R. Westbrook’s article “Reflections on the Law of Homicide in the Ancient World” in this volume, esp. 161–163.

³⁹ That such declarations occurred at a temple is supported by LE 37, which requires an oath “at the gate [of the temple] of [the god] Tishpak.”

followed by invocation of the death penalty, which, in several cases, is expressed as “he shall be put to death” (*môt yûmat*). This suggests that CC used another source (written or oral) with short list of laws formulated in this manner.⁴⁰ We cannot arrive at this original source by merely extracting the participial laws in CC. CC no doubt altered this source as much as it altered LH. It is reasonable, however, to think that the participial source had a law on homicide, given the conceptual and social primacy of such a law. CC’s relocation of the homicide law, fundamentally inspired by LH 207, allowed ultimate freedom in its formulation and it used the participial source as a partial guide in this reformulation. Similar radical reformulation of laws whose order was altered from that found in LH occurred in the *talion* list in 21:23b–25. This is based primarily on the casuistic laws of LH 196–201. They were brought in, however, to form a replacement for the apodosis of LH 210 (= 21:23a). Thus they were reduced to a list.

After formulating the homicide law participially in 21:12, CC continued to use the participial form for the laws on child rebellion (21:15 // LH 195; 21:17 // LH 192–195) and kidnapping law (21:16 // LH 14). It is not clear if all of these laws were in the participial source, or if they only imitate the pattern of v. 12. In any case, when CC gets to v. 18, it returns to casuistic formulation. This is a signal of the conceptual primacy of LH 206–208 for CC’s various assault laws. That is, CC had to have had its revision of LH 206–208 already in mind before it could relocate and transform the homicide law into its unique participial formulation. When it got back to its version of LH 206 in 21:18–19 following the sequence of LH (see Table 1, below), it resumed the primary casuistic formulation.⁴¹

A third example of how CC revises its source is found in the ox laws, also discussed by Wells. My *ZABR* article (N 11) on the compositional logic of these laws goes far beyond Wells’s analysis and anticipates any objections that he raises in regard to the passage.⁴² An issue to stress in

⁴⁰ For the native participial source, see preliminarily Wright, “Compositional Logic” (N 11): 111–112 n. 42.

⁴¹ The deviant casuistic formulation in the subsidiary homicide laws in 21:13–14 can be seen as a function of employing the participial form in v. 12. CC could not write simple casuistic law in these verses. For a published discussion of some relevant issues, which reflect some of my conversations with the author, see Jeffrey Stackert, “Why Does Deuteronomy Legislate Cities of Refuge? Asylum in the Covenant Collection (Exodus 21:12–14) and Deuteronomy (19:1–13),” *JBL* 125 (2006): 36 n. 31.

⁴² One thing that I did not observe in my goring ox article (Wright, “Compositional Logic” [N 11]) is the *specific* motivation for the law about the child victim rule in 21:31. It is now obvious that this is based on the mention of a *mâr awilim* as the victim in LH 251, which is the basis of the rule in vv. 29–30, to which v. 31 is attached. Wells ([N 1]:

regard to the ox laws, however, is that the technique of cross-referencing allowed CC to bring in laws from other collections besides LH. Thus after using LH 250–252 for the creation of the primary goring laws in 21:28–32, CC added a law on an ox goring an ox in 21:35 from a law like LE 53. Two points should be observed. First, the position of v. 35 is partly a function of its derivation from a source other than LH. This law was appended at the end of the goring ox unit (21:28–36), much as the seduction law 22:15–16 (from laws like MAL A 55–56) was placed at the end of the whole casuistic collection.⁴³ Second, the reason why v. 35 appears to follow literally its cuneiform source (presumably similar to LE 53) is because that source provided the base-line for CC’s revised system of penalties for ox goring in vv. 28–32,35–36, including stoning the ox. According to LE 53 the owner of an ox killed by an act of *ad hoc* goring receives some economic benefit, but in LH 250 the kin of a victim killed by an act of *ad hoc* goring receives no benefit (“that case has no claim”). CC solved this inconsistency by requiring the ox to be stoned, which, as an expression of vengeance, provides at least psychological relief to the family.⁴⁴ Other penalties in CC’s goring ox laws were increased accordingly as part of this systematic revision.

Describing CC’s compositional logic is obviously a matter of interpretation and it involves some speculation. It takes as its start the two compared texts and supplies the conceptual and textual operations necessary to get from text A to text B. The reasonability of this endeavor

105 n. 52) notes Westbrook’s literal interpretation of this phrase as “a man’s son” (*Studies* [N 32]: 57–58). My goring ox article rejected this, favoring “a member of the *awilum* class” (see Wright, “Compositional Logic” [N 11]: 98 n. 10). The scholarly ambivalence and dispute about the term today apparently existed even in antiquity, and CC appears to have encoded this difficulty when it gives both a law pertaining to an adult followed by application to a child (vv. 29–30, then v. 31). On a related matter, I believe that CC rejected vicarious punishment as found in LH (cf. LH 116, 210, 230; see Wright, “Compositional Logic” [N 11]: 109–110). Verse 31 does not refer only to the ransom amount referred to by v. 30 (contra Westbrook, *Studies* [N 32]: 60–61, cf. p. 99; Wells [N 1]: 104 n. 51). Nor do I believe that *nqm* in the slave-homicide law (vv. 20–21) allows vicarious punishment, as argued by Westbrook (*Studies* [N 32]: 91, 99; followed by Schwienhorst-Schönberger (N 26): 71–74; rejected by Rothenbusch (N 19): 297, 319). In every case where CC could have expressly included a prescription of vicarious punishment based on its source laws in LH, it replaced the punishment or formulated it differently (21:20–21 versus LH 116; 21:23–25 versus LH 210). This, together with v. 31 (especially now when read as a manifestation of *mār awilim* in LH 251), can only mean that CC rejects vicarious punishment. Editor’s note: see also Westbrook, “Reflections” (N 38): in this volume.

⁴³ See Wright, “Compositional Logic” (N 11): 111–112 n. 42.

⁴⁴ Stoning of the ox is not done for ethical or theological reasons; see Wright, “Compositional Logic” (N 11): 137–138.

and the fact that it is getting near the textual-historical truth is seen in the overall plausibility of the reconstructions; their making sense of particular terms concepts, and structures of CC which otherwise have been points of dispute or ambiguity; the identification of similar compositional techniques in different laws (inversions in meaning and order, cross-referencing, systematization, generalization of specific content, or polemical response); and the general consistency of the reconstructions and compositional techniques with those operative in other biblical law texts (Deuteronomy and the Holiness Legislation).

Wells responds in brief to the possibility of textual revision in CC by saying:

It is certainly within the realm of possibility for direct dependence to exist even if all the connections are judged to have a low degree of closeness. The authors of CC could have relied on LH but drastically altered it. There is no available evidence that would allow us to know this, however.⁴⁵

I am not sure what evidence he would require or what could be advanced, other than strong similarities between texts with concomitant differences between those texts that can be explained as logical developments, as I have identified and explained above and in my published studies. The state of the evidence is essentially what we have in the case of Deuteronomy and CC, or, to take non-legal texts, between Chronicles and Samuel-Kings; there are similarities which show dependence, but differences can be explained as exegetical elaboration. Of course, the main difference is that these examples involve textual development in a single cultural and limited geographic sphere, whereas the intertextuality of CC and Akkadian sources is international. My article addressed this issue extensively by describing and documenting a Neo-Assyrian matrix for CC's creation.⁴⁶ For more on the availability of texts, see part III, below.

⁴⁵ Wells (N 1): 90.

⁴⁶ To this should be added the further considerations by Bernard M. Levinson, "Is the Covenant Code an Exilic Composition? A Response to John Van Seters," in *In Search of Pre-exilic Israel* (John Day, ed.; JSOTSup 406; London: T&T Clark, 2004): 288–297 (repr. in idem, *The Right Chorale: Studies in Biblical Law and Interpretation* [FAT; Tübingen: Mohr Siebeck, forthcoming 2007]). Levinson accepts my argument about source at least as far as the casuistic laws are concerned (my fuller explanation of the podictic laws, summarized below, had not yet been developed when he wrote).

II. SEQUENTIAL CORRELATIONS OF THE CASUISTIC LAWS

The goal of my previous *Maarav* study was primarily to describe hitherto unobserved evidence of CC's similarity to LH in its sharing a common sequence of laws in the casuistic portions of the text. I laid out fourteen points of sequential correspondence covering most of the casuistic laws. Wells provides his own list of the similarities between the collections that, he says, demonstrates that CC does not in fact follow the order of LH.⁴⁷ When he surveys his data, he observes that "CC appears to switch directions—moving either forward and then backward or vice versa—in its use [supposed by Wright] of the text of LH eleven times."⁴⁸

In my original study I did not claim that CC never deviated from the order of LH. Rather, my general observation was that despite deviation, "CC keeps touching on the path taken by LH."⁴⁹ My discussion of the casuistic laws referred several times to cases where material from outside the topical template of LH or even from other sources was brought in to supplement the basic outline of topics determined by the last half or so of the casuistic laws in LH.⁵⁰ But I bracketed off discussion of some of this material and did not integrate it fully or clearly into a discussion of the similarities in a similar sequence.⁵¹

The chief difficulty with Wells's analysis of the order of the laws is that it does not make a distinction between primary and auxiliary correlations. Primary correlations are those that follow the sequential template of LH. These determined the basic order and topics of the laws in CC. Auxiliary correlations involve material, from elsewhere in LH or

⁴⁷ His chart (Wells [N 1]: 113–114) is similar to those of earlier scholars which display no clear or extensive sequential correlations with LH. Cf. Alfred Jepsen, *Untersuchungen zum Bundesbuch* (Stuttgart: Kohlhammer, 1927): 58; Brevard Childs, *The Book of Exodus* (OTL; Philadelphia: Westminster, 1974): 462–463; John Van Seters, *A Law Book for the Diaspora: Revision in the Study of the Covenant Code* (Oxford: Oxford Univ., 2003): 97. Jepsen and Van Seters, however, do recognize some similarity in order and try to explain this genetically in various ways; see Wright, "Laws of Hammurabi" (N 1): 13 n. 5. For others who have recognized a similarity in order, see Wright, "Compositional Logic" (N 11): 93 n. 2. This notes that Chirichigno ([N 26]: 191–195) has recognized more of the ordered similarities than any scholar up to my *Maarav* study. However, Chirichigno's explanation of them is roughly akin to Wells's interpretation, though he refers to an unspecified *Schultradition* (largely oral?) that CC followed, which may even stem from the beginning of the second millennium B.C.E.

⁴⁸ Wells (N 1): 112.

⁴⁹ Wright, "Laws of Hammurabi" (N 1): 48.

⁵⁰ *Ibid.*, 21, 25, 28–29, 31–32.

⁵¹ *Ibid.*, 32–33.

from other sources, brought in to supplement and enlarge the topics based on the thematic sequence of LH. We have seen this already in the discussion of the debt-slave, homicide and goring ox laws, above. The first laws in the male and daughter debt-slave laws (i.e., v. 2 of Exod 21:2–6 and v. 7 of 21:7–11) were based on LH 117; material from other places in LH, even from the very end of LH (i.e., LH 282), was then brought in to provide the subcases in vv. 3–6 and 8–11. In the case of homicide and injury, LH 206–208 constituted the primary sequential source, but these were informed with material from LH 115–116 and presumably a native participial source. The basic goring ox laws were based on LH 250–252, but were supplemented with a law like LE 53.

I began to clarify the difference between primary and auxiliary correlations in my goring ox article. I provided there a table summarizing this phenomenon and noted by way of explanation that “[legal] topics [in CC’s casuistic laws] begin with material that correlates with LH or where the main structure of the section correlates with LH. Appended to or interwoven into this is other material from LH, other cuneiform collections, the author’s native sources or traditions, or the free creativity of the author.”⁵² I added: “the majority of cases shows that the tendency was for the author to initiate or ground a topic with material from LH, and then augment and supplement it in various ways. Furthermore, it must not be overlooked that all of the examples in table 1 [in the *ZABR* article, N 11] are part of the sequential use of LH.”⁵³

In view of the observations made in the goring ox article and in view of Wells’s critique, I provide here a new table showing the primary and auxiliary correlations (see Table 1, below). The column labeled “auxiliary correlations” also includes references to other cuneiform collections, the occasionally influential native participial source, and even material within CC itself that presumably influenced the formulation of other legislation in CC. The table takes into consideration Wells’s objections and brings in other correlations that I have observed since the publication of his and my *Maarav* and my *ZABR* articles. While space and time does not allow me to provide full commentary on the new table, one can see how it portrays the evidence by comparing how it summarizes the data from the discussions about the debt-slave and homicide-assault laws above.

⁵² Wright, “Compositional Logic” (N 11): 98–99.

⁵³ *Ibid.*, 102.

Table 1: Primary and secondary correlations in the order of the casuistic laws

	CC Topic	CC Passage	Primary correlations following the topical sequence of LH	Auxiliary correlations with LH and other sources
Family law: 21:2–11 // LH 115–119, 127–195	Male debt servitude	21:2 basic debt-slave law: male (son or father?) acquired, works six years, released seventh	LH 117 son sold as debt servant (father included if <i>ittandin</i> is N-stem), works three years; released fourth	
		21:3 wife accompanying	(LH 117 wife sold)	
		21:4 male slave (but freeable) + slave woman, children owned		LH 175 male slave + free woman, children free (CC inverts)
		21:5–6 slave accepts master (permanent servitude), verbal declaration, ear pierced		LH 282 slave rejects master; verbal declaration, ear cut off (CC inverts)
	Female (daughter) debt servitude	21:7 selling daughter	LH 117 daughter sold as debt servant	(MAL A55–56 sex with unbetrothed virgin requires marriage; see 22:15–16 below)
		21:8 displeasure (reason unspecified)		Cf. LH 148–149 implied displeasure because of disease
		21:9 designating slave woman as wife for son; “law pertaining to daughters”		LH 155–156 father selects bride for son; daughter-in-law incest penalized (daughter incest penalized in LH 154)
		21:10–11 taking a second wife and three means of support		LH 148–149 taking a second wife, requirement of support; LH 178 three means of support (verb <i>ittanaššiši</i> “he shall support her” in both 148, 178)

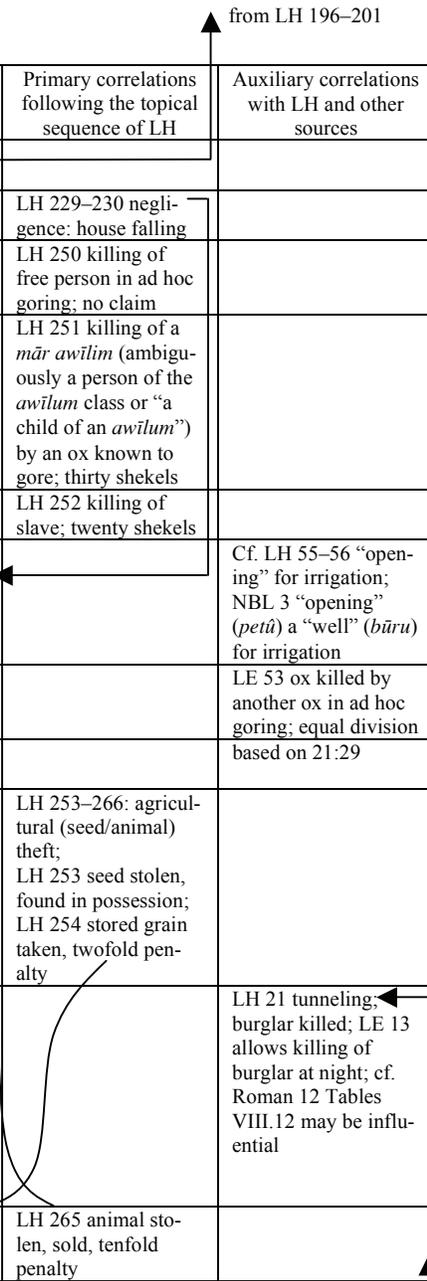
(Table 1 continued)

CC Topic	CC Passage	Primary correlations following the topical sequence of LH	Auxiliary correlations with LH and other sources
Homicide	21:12–14 striking, inadvertent killing; sanctuary adjudication		Perhaps influenced by a native participial source (also vv. 15–17?)
Child rebellion and kidnapping	21:15 striking parents; capital penalty	LH 192–193 verbal rejection/repudiation of foster parents; bodily mutilation	(Native participial source?)
	21:16 kidnapping; capital penalty	~LH 194 (wet nurse; bodily mutilation) <i>šibrum</i> “young child”	LH 14 kidnapping; capital penalty <i>šibrum</i> “young child” (native participial source?)
	21:17 cursing parents; capital penalty	LH 195 striking father; bodily mutilation	(Native participial source?)
		LH 196–201 talion: eye, bone, tooth of free person, commoner, slave	
Injury and homicide	21:18–19 fighting, striking injury, provide for cure (free person)	LH 206 fighting, striking, injury, pay physician (free person)	
		LH 207 striking, inadvertent killing, implicit temple oath	
	21:20 killing one of lower class (slave): capital liability	LH 208 killing one of a lower class (commoner); slaves in socially graded laws in nearby laws LH 196–205, 209–223)	LH 115 natural death of debt-servant: no liability
	21:20 killing one of lower class (slave): no liability		LH 116 beating death of debt-servant: capital liability
Miscarriage and talion	21:22 miscarriage: death of fetus	LH 209 miscarriage; death of fetus	
	21:23 miscarriage: death/injury of woman	LH 210 miscarriage; death of woman	
	21:23b–25 talion (general rule): eye, tooth, arm + leg (= bone), burn, wound, bruise		LH 206 <i>simmum</i> “wound” (also LH 215–220); talion in miscarriage MAL A 50, 52

(Table 1 continued)

CC Topic	CC Passage	Primary correlations following the topical sequence of LH	Auxiliary correlations with LH and other sources
	21:26–27 slave injury: eye, tooth		
		LH 229–230 negligence: house falling	
Ox goring a human	21:28 killing of free person in ad hoc goring; not liable	LH 250 killing of free person in ad hoc goring; no claim	
	21:29–31 killing of free person and child by an ox known to gore; capital penalty or indefinite ransom	LH 251 killing of a <i>mār awilim</i> (ambiguously a person of the <i>awilum</i> class or “a child of an <i>awilum</i> ”) by an ox known to gore; thirty shekels	
	21:32 killing of slave; thirty shekels	LH 252 killing of slave; twenty shekels	
Negligence	21:33–34 digging or opening (<i>pātal</i>) a pit (<i>bôr</i>) (for watering animals?); animal falls in		Cf. LH 55–56 “opening” for irrigation; NBL 3 “opening” (<i>petû</i>) a “well” (<i>būru</i>) for irrigation
Ox goring an ox	21:35 ox killed by another ox in ad hoc goring; equal division		LE 53 ox killed by another ox in ad hoc goring; equal division based on 21:29
	21:36 ox killed by an ox known to gore		
Animal theft and burglary	21:37 animal theft, animal sold/killed, five/fourfold penalty	LH 253–266: agricultural (seed/animal) theft; LH 253 seed stolen, found in possession; LH 254 stored grain taken, twofold penalty	
	22:1–2a burglary, tunneling, burglar may be killed at night without liability (conceptually, this burglary law fits better after 22:6; see the connection of 22:6 to LH 21, below)		LH 21 tunneling; burglar killed; LE 13 allows killing of burglar at night; cf. Roman 12 Tables VIII.12 may be influential
	22:2b–3 theft, animal found in possession, twofold penalty	LH 265 animal stolen, sold, tenfold penalty	

from LH 196–201



(Table 1 continued)

CC Topic	CC Passage	Primary correlations following the topical sequence of LH	Auxiliary correlations with LH and other sources
Grazing and fire in a field	22:4 grazing; possibly two cases: letting graze <i>or</i> (!) releasing animals to graze in another person's field		LH 57–58 grazing; two cases: letting animals graze and releasing animals to graze in another person's field
	22:5 fire destroying another person's crop		HittL 105–106 fire destroying another person's crop
Deposit (also generative context for burglary law in 22:1–2a)	22:6 safekeeping of silver or objects; theft; thief found; twofold penalty	LH 265–266 <i>anare ʾim nadānum</i> "to give for shepherding" →	LH 122–125 (120–126) <i>ana mašsarūtīm nadānum</i> "to give for safekeeping"; LH 122, 124 "silver, gold, or anything given for safekeeping"; LH 124, 126 twofold penalty; <i>pilšum</i> "tunneling" in LH 126 leads to <i>palāšum</i> "to tunnel" in LH 21; in contiguous LH 22 robber is seized
	22:7 thief not found; oath of innocence		LH 23 robber not seized; LH 120, 126 legal declarations of innocence (also LE 37)
	22:8 general rule about judicial declarations	LH 266 declaration	other declarations in LH 9, 23, 120, 126
Injury and death of animals	22:9–10 accidental animal death/loss; declaration to god; owner's acceptance	LH 266 animal killed by god or lion; declaration of innocence before god; owner's acceptance	(influence from context of safekeeping in vv. 6–8)
	22:11 animal stolen from shepherd; single repayment	cf. LH 267 shepherd negligent and animals perish; single repayment	
	22:12 animal preyed upon but carcass remains; produce evidence; no repayment	LH 266 predation, declaration of innocence	native influence? (cf. Amos 3:12; Gen 31:39) (cf. LH 244, 249)

(Table 1 continued)

CC Topic	CC Passage	Primary correlations following the topical sequence of LH	Auxiliary correlations with LH and other sources
Animal rental	22:13–14 borrowing and rental; two cases depending on the presence of owner, rental included	LH 268–271 animal rental (“If a man rents an ox...”), but these deal with rates of hire	LH 244–249 injury/death of rented animals
Seduction	22:15–16 seduction, unbetrothed maiden, marriage, bride price, possible father’s refusal (this law justifies daughter marriage in 21:7–11)		MAL A 55–56 rape/seduction, unbetrothed virgin, marriage, bride price, father’s refusal
Miscellaneous participial laws	22:17–19 sorcery, bestiality, sacrificing to other gods		(possible native participial source; see 21:12, 15–17)

Allow me here to provide commentary on one other passage, the deposit laws of Exod 22:6–8. This is perhaps the most complex example of the use of primary and auxiliary sources. It will further illustrate the innovative compositional logic of CC.⁵⁴ Where CC’s deposit law occurs in relationship to the sequential template of LH, Hammurabi’s text speaks of shepherding animals, not safekeeping (i.e., LH 264–265). However, the idiom “to give for shepherding” (*ana re ʾim nadānum*) in LH 264–265 is akin to the idiom “to give for safekeeping” (*ana mašsarūtīm nadānum*). The idiom of LH 264–265 thus provided a cross-reference to the deposit laws of LH 122–125 and a reason for introducing that subject into the text at this point in CC:

LH 264–265

²⁶⁴*šumma [rē ʾum] ša liātum ū lū šēnum ana re ʾim innadnūšum idīšu gamvātīm maḥir libbašu ʾāb liātīm uššaḥḥir šēnam uššaḥḥir tālittam umtaḥḥi ana pī riksātīšu tālittam u biltam inaddin*

²⁶⁵*šumma rē ʾum ša liātum ū lū šēnum ana re ʾim innadnūšum usarrirma šimtam uttakkir u ana kaspim ittadin ukannūšūma adi 10-šu ša išriqu liātīm u šēnam ana bēlišunu iriāb*

⁵⁴ This was briefly described in Wright, “Laws of Hammurabi” (N 1): 28–29.

²⁶⁴If a [shepherd] to whom cattle or flock animals are given for shepherding has received his full wages and he is satisfied, but he causes the cattle to decrease and the flock animals to decrease, and causes offspring to be reduced, he shall give offspring and yield according to his contract.

²⁶⁵If a shepherd to whom were given cattle or flock animals for shepherding acts deceitfully and alters the ownership mark and sells (them), they shall convict him, and he shall restore cattle and flock animals to the owner tenfold what he stole.

LH 122, 124, 125

¹²²*šumma awīlum ana awīlim kaspam ḥurāšam ū mimma šumšu ana maššarūtīm inaddin mimma mala inaddīnu šībī ukallam rik-sātīm išakkanma ana maššarūtīm inaddin*

¹²⁴*šumma awīlum ana awīlim kaspam ḥurāšam ū mimma šumšu maḥar šībī ana maššarūtīm iddinma ittakiršu awīlam šuāti ukan-nūšūma mimma ša ikkiru uštašannāma inaddin*

¹²⁵*šumma awīlum mimmāšu ana maššarūtīm iddinma ašar iddinu ū lū ina pilšim ū lū ina nabalkattim mimmūšu itti mime bēl bitim iḥtaliq bēl bitim ša īgūma mimma ša ana maššarūtīm id-dinūšumma uḥalliḳu ušallamma ana bēl makkūrīm irāb bēl bitim mimmāšu ḥalqam ištene ʾīma itti šarrāqānīšu ileqqe*

¹²²If a man gives to a man silver, gold, or anything before witnesses for safekeeping, whatever he gives he shall show to witnesses; he shall make a contract and shall (then) give for safekeeping

¹²⁴If a man gives to a man silver, gold, or anything before witnesses for safekeeping and (then) denies it, they shall convict that man. Whatever he denied he shall give twofold.

¹²⁵If a man gives his property over for safekeeping and either through break-in or wall-scaling his property along with the property of the house owner is lost, the house owner who was negligent shall restore whatever was given to him for safekeeping and was lost; he shall restore it to the property owner. The house owner can seek out his lost property and take it from the thief who stole it from him.

Exod 22:6–8

כִּי־יִתֵּן אִישׁ אֶל־רֵעֵהוּ כֶּסֶף אֹרְכָלִים לְשֹׁמֵר וְגַב מִבֵּית הָאִישׁ אִם־
 יִמָּצָא הַגָּנֵב יִשְׁלַם שְׁנַיִם אִם־לֹא יִמָּצָא הַגָּנֵב וְנִקְרַב בְּעַל־הַבַּיִת אֶל־
 הָאֱלֹהִים אִם־לֹא שָׁלַח יָדוֹ בְּמַלְאֲכַת רֵעֵהוּ⁸ עַל־כֹּל־דְּבַר־פֶּשַׁע עַל־
 שׁוֹר עַל־חֲמוֹר עַל־שֵׂה עַל־שְׁלֵמָה עַל־כֹּל־אֲבֹדָה אֲשֶׁר יֹאמֵר כִּי־הוּא
 זֶה עַד הָאֱלֹהִים יִבֹּא דְבַר־שְׁנֵיהֶם אֲשֶׁר יִרְשִׁיעַן אֱלֹהִים יִשְׁלַם שְׁנַיִם
 לְרֵעֵהוּ

⁶If a man gives to his fellow silver or articles for safekeeping, and it is stolen from the house of the man, if the thief is found, he shall repay double. ⁷If the thief is not found, the house owner shall approach the God (to determine that) he did not misappropriate the property of his fellow. ⁸In any case of a wrong, whether concerning an ox, ass, flock animal, garment, or anything lost, about which one might say, “This is it”—the claim of both of them shall come to the God. He whom God convicts shall pay twofold to his fellow.

Hammurabi’s deposit laws in turn provided a cross-reference to yet other laws. The term *pilšum* “breaking, digging in” in LH 125 led CC to the burglary law of LH 21, which uses the root *palāšum* “dig, tunnel in,” and, with this, to the contiguous robbery laws in LH 22–23:

²¹*šumma awīlum bītam ipluṣ ina pāni pilšim šuāti idukkūšūma iḥallalūšu*

²²*šumma awīlum ḥubtam iḥbutma ittaṣbat awīlum šū iddāk*

²³*šumma ḥabbātum lā ittaṣbat awīlum ḥabtum mimmašu ḥalqam maḥar ilim ubārma alum u rabiānum ša ina eršetišunu u paṭṭišunu ḥubtum iḥḥabtu mimmašu ḥalqam iriabbūšum*

^{LH 21}If a man digs into a house, they shall kill him in front of that breach and hang him up.

^{LH 22}If a man commits robbery and is seized, that man shall be put to death.

^{LH 23}If the robber is not seized, the robbed man shall declare his lost property before the god and the city and the governor in whose locale and district the robbery occurred shall replace for him his lost property.

The motif of the robber being seized or not being seized (*našbutum*) influenced the description of a thief being found or not found (*nimṣā*) in Exod 22:6–7. Claiming influence from LH 22–23 may seem a stretch until it is realized that the burglary law in LH 21 was influential in

CC's burglary law in 22:1–2a (see the biblical text below). Though CC's burglary law is influenced by other sources besides LH 21,⁵⁵ and though it is removed from the context of 22:6–8, that law appears to have been created, at least conceptually, in connection with the deposit laws. Exod 22:1–2a does not clearly fit the context of the animal theft laws which surround it (21:37 + 22:2b–3); the verses seem to have been inserted secondarily into that context. In contrast, vv. 1–2a fit rather well with vv. 6–8, specifically between vv. 6 and 7, even though they technically break the contrast between vv. 6b and 7:

⁶If a man gives to his fellow silver or objects to safeguard and it is stolen from the man's *house*,

if *the thief is found*, he shall pay twofold.

¹If *the thief is found* in the act of tunneling (into the *house*) and is struck and dies, there is no bloodguilt for him.

^{2a}If the sun has risen on him, there is bloodguilt for him.

⁷If *the thief is not found*, the owner of the house shall approach the God (saying that) he did not misappropriate the property of his fellow.

Not only does the thief of v. 1 relate referentially to the thief in v. 6, the tunneling of v. 1 makes sense in reference to the house of v. 6, and v. 1 speaks of the thief being found as does v. 6. At some point, either in the original process of CC's drafting or later, vv. 1–2a were relocated to their present position.⁵⁶

⁵⁵ The creation of the burglary law presumably involved cross-referencing to and inclusion of other burglary legislation, such as a law similar to LE 13. Evidence does not allow for an explanation of the similarity between the burglary law in the mid-fifth century B.C.E. Roman Twelve Tables (VIII 12–13) and Exod 22:1–2a. This may be coincidence. But it should be noted that Westbrook has argued for a genetic connection: "Furthermore, to the Ancient Near Eastern provisions we would add the XII Tables from early Roman law, which we have already suggested derives from the cuneiform schools tradition" (*Studies* [N 32]: 41; cf. 71–72). Jackson (N 19): 192 n. 109 allows this as a possibility but is less certain than Westbrook. For a critique and bibliography, cf. Otto, *Körperverletzungen* (N 9): 17–18 and n. 3. For a translation of the Roman laws, see Allan Chester Johnson, Paul Robinson Coleman-Norton, and Frank Card Bourne, *Ancient Roman Statutes* (Austin: Univ. of Texas, 1961): 11.

⁵⁶ Placing Exod 22:1–2a after 21:37 may be due to the architecture of an Israelite pillared house, which on its ground level floor and within the house structure contained stalls for one or two animals (on the house architecture, see Amihai Mazar, *Archaeology of the*

That CC's safekeeping law is tied to the sequential template of LH is clear in its return to the subject of animals in v. 8, the topic of LH 265–268, but not of LH 120–126 or 21–23. Verses 9–14 in CC continue with the topic of animal loss, death, and rental, according to the sequential template in LH 266–271.⁵⁷

III. SIMILARITIES TO TEXTS OTHER THAN LH

An objection that Wells makes in connection with assessing the degree of similarity of CC's laws with LH is the fact that CC has correlations with other texts and that some of these correlations are striking, perhaps even stronger than those found with Hammurabi's laws. In some cases he strengthens some of the observations about correlations that I made between CC and other texts, such as in the law about an ox goring an ox in 21:35 and LE 53 (see Part I, above).⁵⁸ He also refers to other texts, from Nuzi to Egypt to Rome, and from the third millennium to the late first millennium. The most notable of these texts, in my view, is the pledge-slave contract of Emar 6 16, which has a number of similarities to Exod 21:2–6.⁵⁹ For him, this evidence shows that the correla-

Land of the Bible [AB Reference Library; New York: Doubleday, 1990]: 485–489). For the phrase *šallēm yašallēm* “he shall pay” in 22:2b as a resumptive repetition incorporating the addition of vv. 1–2a, see Bernard M. Levinson, “The Case for Revision and Interpolation within the Biblical Legal Corpora,” in *Theory and Method* (N 9): 48–52.

⁵⁷ The ability of CC's author to cross reference and recombine various laws from LH related to the topic of deposit and theft is made more reasonable in view of a theory of combined textuality and orality (or more precisely, memorization) found in David Carr's *Writing on the Tablet of the Heart* (Oxford: Oxford Univ., 2005): esp. 3–173. He argues that new texts that transform sources may have been created from intimate knowledge or memorization of the source texts rather than from visual consultation of the texts themselves (cf. pp. 34–36, 40, 162). If this is how CC's author proceeded, at least in part, it is easy to see how he might combine laws on similar topics from various points in LH. It should be noted that the orality that Carr speaks about is integrally tied to text. It does not provide a model for the pure oral transmission of LH over centuries, from the Late Bronze Age to the Iron Age, to be eventually encoded in CC.

⁵⁸ See Wells (N 1): 106.

⁵⁹ Wells (N 1): 96. Emar 6 16 has the following elements in common with vv. 2–6 (this is my estimate): servitude is on the basis of a debt; the creditor gives a wife to the person serving as a pledge (= debt-slave; cf. v. 4); servitude is for life (cf. vv. 5–6); verbal declarations establish legal relationships (cf. v. 5); the declaration “I will not serve you, . . .” by the pledge/debt-slave, is nearly the inverse of that in v. 5; and the debt-servant's children are required to stay with the creditor in certain circumstances (cf. v. 4). A major difference is that Bazila, the servant, is in permanent servitude (for the lifetime of his creditor); early release is the exception. One must explore the whole text, of course, rather than just a list of similarities. Wells gives a translation and discusses this text in his

tions between CC and LH are really to be explained by CC's drawing on a general stream of legal tradition, not a specific text like LH.

He makes his point almost syllogistically:

Data from other law collections and from legal documents of practice (e.g., contracts and trial records) show that CC contains connections to [i.e., similarities/correspondences with] legal material other than LH—connections that are often equally as strong as, and sometimes stronger than, those between CC and LH. These connections would seem to require the following conclusion: if CC directly depends on LH, then it is just as likely that CC directly depends on those other sources. Since it is unlikely, given the available evidence at this point, that CC directly depends on such a broad range of material, it is also unlikely that direct dependence exists with LH.⁶⁰

This argument involves unnecessary constraint that supposes that if a law in CC looks like a particular non-Hammurabi text, it can only be dependent on *that known text* if one is going to conclude that there is a literary connection. This idea is expressed elsewhere in his review:

In fact, the remarkable degree of closeness between LE 53 and Exod 21:35 may tip the scales in favor of LE [i.e., in favor of CC's dependence on LE rather than LH]. Few would argue for direct dependence of CC on LE, however. Given their wide separation in both chronological and geographical terms, it is hard to imagine how that might have taken place, even in light of the near perfect match between two of their provisions. Nevertheless, when one takes the goring ox laws on their own, it would stand to reason that if one argues for direct dependence between CC and LH, one must also argue for it between CC and LE.⁶¹

The fact is, however, that I never argue that laws in CC that are similar to non-Hammurabi texts are dependent specifically on those texts. I am always on my guard to say that CC has used laws *similar to* the laws attested in those texts.⁶²

The precise point of criticism that Wells seems to be hovering over is my speculation that at the time that CC used LH to create its collec-

2004 SBL Law Section paper "The Law as Law: Biblical Law and Ancient Near Eastern Practice" available at http://www.law2.byu.edu/Biblical_Law/index.htm.

⁶⁰ Wells, "Covenant Code" (N 1): 86–87.

⁶¹ *Ibid.*, 22.

⁶² See my caution in Wright, "Laws of Hammurabi" (N 1): 53.

tion—during the Neo-Assyrian period and specifically between 740–640 B.C.E., when the cultural contacts with Assyria were the greatest and when, next to the Old Babylonian period, the most copies of LH were extant—there were other miscellaneous legal collections which contained laws similar to those found in common between CC and texts such as LE, MAL A, and HittL. What I wrote in the goring ox article in *ZABR* (N 11) addresses this evidentiary and methodological issue. I first laid out evidential considerations:

Other examples [in addition to 21:35 and LE 53] of close similarity to laws in cuneiform collections other than LH include the law about burning a neighbor's field (Ex 22:5 // HittL 105–106) and seducing a virgin (Ex 22:15–16 // MAL A 55–56 . . .). It is extremely unlikely that CC's author knew HittL, and no copies of LE are known from the NA period. There is, however, an NA fragment that contains some of the first laws of MAL A.⁶³ There is also a neo-Babylonian law tablet (from Sippar; the NBL) from the early seventh century B.C.E. (within the window I have proposed for CC), which appears to be drawn from other sources and which indicates that there was a larger tradition of law collecting in this period which archaeology has not fully documented.⁶⁴ Given the clear literary connections [of CC] with LH, the abundant attestation of LH in the NA period, the existence in the Iron Age of some law collections other than LH, and the incompleteness of the archaeological record, it is not out of order to presume that some other law texts existed in addition to LH and which CC's author used in the NA period. Unfortunately we cannot specify what those texts may have been.⁶⁵

Then I addressed methodological matters:

Denials of cuneiform influence on CC in the NA period because some of the texts brought forward for comparison are attested only or mainly in the second millennium (LE, HittL, MAL)⁶⁶ run the risk of methodological contradiction when they freely assume

⁶³ See Martha Roth, *Law Collections from Mesopotamia and Asia Minor* (2nd ed.; SBLWAW; Atlanta: Scholars, 1997): 153–154. See the new datum about MAL A in N 70, below.

⁶⁴ Roth (N 63): 143–144; J. Oelsner, B. Wells, and C. Wunsch, “Neo-Babylonian Period,” in *A History of Ancient Near Eastern Law* (2 vols.; R. Westbrook, ed.; HOS HO 1/72/2; Leiden: Brill): 2.912.

⁶⁵ Wright, “Compositional Logic” (N 11): 122–123.

⁶⁶ Cf. Eckart Otto in his review of Van Seters (N 47) in *RBL* 7 (2004): http://www.bookreviews.org/pdf/3929_3801.pdf.

the existence of laws similar to various cuneiform collections in the oral and even literary traditions of the west when there is no specific empirical evidence for such. If one can make such assumptions about legal traditions and sources in Syria-Canaan in the LB and early Iron Age, one should be able to make similar assumptions for legal traditions and sources in Mesopotamia (the homeland of these laws!) in the NA period.⁶⁷

To put it another way, Wells's argument is much more speculative than my argument. He has to assume the existence of cultural and oral tradition for *the whole content* of CC that matches anything found in Near Eastern law, which is really the whole of the casuistic collection, as Wells recognizes.⁶⁸ My argument explains a majority of what is seen to be similar with Near Eastern law through the use of a well-known canonical-scribal text attested in the Neo-Assyrian period.⁶⁹ My theory has to speculate only about the existence of one or two other sources for a few laws. And especially since MAL A is attested in a Neo-Assyrian context,⁷⁰ I need to hypothesize about sources for only the

⁶⁷ Wright, "Compositional Logic" (N 11): 123.

⁶⁸ Wells, "Covenant Code" (N 1): 118: "What Wright has accomplished is to show how extensively CC reflects longstanding ancient Near Eastern legal traditions. He cannot be far off the mark when he states that 'every law or at least aspects of every law in the CCL of CC (Exod 21:2–22:16) have a counterpart in cuneiform law'."

⁶⁹ Wells's objection ("Covenant Code" [N 1]: 87, 115) that, since LH is so extensive one would expect to find a number of correlations with it by pure chance, loses force in view of the common order of the laws and themes in the casuistic *and* apodictic sections. Moreover, if the size of LH were responsible for similarity, one would expect to find the same quantity, pervasiveness, and quality of correspondences with Deuteronomy 12–26, which is not the case. One can begin to explore the nature of the few similarities that exist between Deuteronomy and LH by following up the list of references to LH in the index of Richard Nelson, *Deuteronomy* (OTL; Louisville: Westminster John Knox, 2002): 419.

⁷⁰ Not only is there a NA fragment of MAL A (see N 63, above), the main tablet of MAL A was found in a NA find-site. Eckart Otto, "Rechtsreformen in Deuteronomium XII–XXVI und im Mittelassyrischen Kodex der Tafel A (KAV 1)," in *Congress Volume Paris 1992* (J. A. Emerton, ed.; VTSup 61; Leiden: Brill, 1995): 242, specifically notes: "Die Parallelen zwischen Dtn. und mass. K.A. [= MAL A] erhalten weiteres Gewicht durch die Fundumstände des mass. K.A. Aus einer mittelassyrischen Bibliothek, möglicherweise der Schreiberfamilie des Ninurta-Uballitsu stammend, wurde die Tafel A in neuassyrischem Kontext einer Toranlage in Assur zwischen dem Alten Palast und dem Anu-Adad-Tempel gefunden, die keinerlei fortifikatorische Funktion hatte, wohl aber als Gerichtsort gedient haben kann." See Otto for bibliography. MAL A could thus provide sources for the seduction law (22:15–16; cf. MAL A 55–56) and, if deemed necessary, for the principle of *talion* in the context of miscarriage (21:22–25; cf. MAL A 50, 52). But see also the next note. See also the recent critique of Otto by William Morrow, "Cuneiform Literacy and Deuteronomic Composition," *BO* 62 (2005): 204–213, relevant also

laws about an ox goring an ox (21:35; cf. LE 53), burning a field (22:5; cf. HittL 105–106), and additional influences for the burglary law beyond LH 21 (22:1–2a; cf. LE 13 and Roman XII Tables VIII 12–13).⁷¹

to the note that follows. Morrow attempts to throw doubt on Akkadian literacy in Judah in the seventh century B.C.E.

⁷¹ The fact that Deuteronomy uses sources for its composition, some of them Neo-Assyrian sources, lends support to the claim that CC also used sources, including cuneiform sources from the Neo-Assyrian period. Deuteronomy's sources include:

(1) CC itself. This is clear from scholarship in general; see Levinson, *Deuteronomy* (N 8) and the arguments made and literature cited throughout; Otto, "Aspects of Legal Reforms" (N 9): 192–196.

(2) Neo-Assyrian treaty material in Deut 13:1–19 (cf. 17:2–7 but see Levinson, *Deuteronomy* [N 8]: 98–143) and 28:20–44. It is not clear if Deuteronomy used an Akkadian text or an Aramaic (or even Hebrew) translation, though some of Otto's arguments (see the literature that follows) tie phraseology in these passages closely to the Akkadian. See Bernard M. Levinson, "Textual Criticism, Assyriology, and the History of Interpretation: Deuteronomy 13:7a as a Test Case in Method," *JBL* 120 (2001): 236–237 (repr. in idem, "The Right Chorale" [N 46]); idem, "The Reconceptualization of Kingship in Deuteronomy and the Deuteronomistic History's Transformation of Torah," *VT* 51 (2001): 527–528; idem, "'But You Shall Surely Kill Him!' The Text Critical and Neo-Assyrian Evidence for MT Deuteronomy 13:10," in *Bundesdokument und Gesetz* (Georg Braulik, ed.; Freiburg: Herder, 1995): 38, 40, 54–62 (repr. in idem, "The Right Chorale" [N 46]); idem, "The Neo-Assyrian Origins of the Canon Formula in Deuteronomy 13:1" (forthcoming, 2008); Eckart Otto, "Treueid und Gesetz: Die Ursprünge des Deuteronomiums im Horizont neuassyrischen Vertragsrechts," *ZABR* 2 (1996): 1–52 (he identifies a pre-Deuteronomic, Deuteronomic, and two Deuteronomistic layers in chapter 13 and sees the curses found in chapter 28, inspired by Assyrian treaty, as directly following the foundational stipulations of chapter 13); idem, "Rechtsreformen" (N 70): 239–243, 273; idem, "Gesetzesfortschreibung und Pentateuchredaktion," *ZAW* 107 (1995): 379–380; idem, "False Weights" (N 24): 130, 133–134; R. Frankena, "The Vassal-Treaties of Esarhaddon and the Dating of Deuteronomy," *OTS* 14 (1965): 122–154.

(3) A casuistic corpus of family law. Otto identifies a coherent group of laws dealing with sex and family matters in 21:15–21; 22:13–21a,22a,23,24a,25,27,28–29; 24:1–4aa,5; 25:5–10 (see Otto, "Rechtsreformen" [N 70]: 257–261; idem, "False Weights" [N 24]: 131–132; idem, "Aspects of Legal Reforms," [N 9]: 189–192; idem, "Gesetzesfortschreibung" [N 71]: 379; in Otto, *Körperverletzungen* [N 8]: 141 and n. 2 where he says that Deuteronomy used a pre-D law source and identifies some of it as Deut 21:18,19abα[β],20,21aa—a third person casuistic law). Alexander Rofé has observed a larger but overlapping body of casuistic and family laws ("Family and Sex Laws in Deuteronomy and the Book of Covenant," *Henoah* 9 [1987]: 131–132): 21:15–17,18–21; 22:13–21,22,23–27,28–29; 24:1–4; 25:5–10,11–12. My research independently identified a still slightly larger but overlapping group of laws formulated casuistically in the third person: 21:1–9 (possibly), 15–17,18–21,22–23; 22:13–21,22,23–27,28–29; 24:1–4,5,7; 25:1–3,5–10,11–12. When this third person casuistic material is extracted from Deuteronomy 21–25, the remaining apodictic laws display a rather coherent development of themes that complements the thematic development of chapters 12–20 (i.e., war/killing: 21:10–14 [connected in theme to chs. 19:1–21:9]; ethical laws: 22:1–4,5,6–7,8,9–12; 23:1; access laws: 23:2–9,10–15,16–17,18–19; ethical-economic laws: 23:20–21,22–

IV. META-TRADITIONS

Wells even admits that after his critical analysis of CC and LH it is clear that CC still has a number of similarities with LH which demand explanation.⁷² He responds with the theory of “meta-traditions.” He describes what he means by using the miscarriage laws of Exod 21:22–25 as an example:

The larger and more basic idea that forms the common denominator among all the rules, say, on the issue of striking a pregnant woman, could well have been a meta-tradition that pervaded the legal thinking of ancient Near Eastern societies. The more specific tradition of a given society is not identical, of course, to that of

25:25–26; 24:6,10–13,14–15,16,17–18,19–22; 25:4,13–16). The third person casuistic material also coheres thematically; almost all of these laws deal with family matters in some way. The group of third person casuistic laws is similar therefore to MAL A but clearly distinct from it. Moreover, in most cases, the individual laws of the third person casuistic material topically relate in some way to the apodictic laws near to which they stand. These various data make it appear that Deuteronomy has used a corpus of casuistic family law (but not MAL A) to supplement a basic apodictic text. The individual laws from this casuistic family law corpus have been inserted at topically appropriate points in the underlying apodictic laws. This produced a final text whose order does not appear to have a clear rationale. If this observation is essentially correct, it still remains to determine whether the casuistic family law corpus was an Akkadian source or a native source that mediated between MAL A and Deuteronomy. It also may be wondered if this source was known to the author of CC and may have contained the laws that CC has in common with MAL A (i.e., Exod 22:15–16 and MAL A 55–56; 21:22–25 and MAL A 50, 52; Rofé [op. cit., pp. 134–135] speculates that the Deuteronomy’s family laws and Exod 22:15–16 (seduction) and 21:22–25 (miscarriage/*talion*) were part of a common source).

(4) MAL A? See Otto, “Rechtsreformen” (N 70) and his works cited above in this note. Otto does not claim expressly that Deuteronomy is directly dependent on MAL A. He argues rather than that Deuteronomy reflects the same sorts of organizational techniques as MAL A (in “Aspects of Legal Reforms” [N 9]: 191, he says: “the redactional techniques of cuneiform law were also known in Judean scholarship,” referring to common redactional structure in MAL A and Deuteronomy’s family laws). Some of his structural analysis may be critiqued using the cautions raised in my article on chiasmus (cf. Wright, “Fallacies of Chiasmus” [N 11]). But he also notes some close legal and phraseological similarities with MAL A (Otto, “Rechtsreformen” [N 70]: 241–242). These features may be explainable by the theory of a third person casuistic corpus of family law similar to MAL A (item 3, above).

The study of sources for CC will certainly suggest new ways of approaching the development of Deuteronomy and also explaining the variety of styles found in the text. It should be noted that while the study of sources in CC indicates that it is an essential unity (see N 92, below), the supposed use of a third person casuistic corpus of family law in Deuteronomy demonstrates redactional growth.

⁷² Wells, “Covenant Code” (N 1): 116.

another society, but the core often remains essentially the same. The precise way in which these legal meta-traditions became fixed in place is not clear.⁷³

He adds a footnote on marriage traditions, which provides a further example of what he means:

For example, an apparent meta-tradition with respect to marriage is evident in ancient Near Eastern societies. Very similar customs were followed in both Mesopotamia and Israel: the groom's family paid a bride-price; there was a period of betrothal; the bride's family often granted a dowry; the bride typically moved into the house of her father-in-law; the bride and groom consummated the relationship sexually and were considered fully married.⁷⁴

Wells also refers in passing to meta-traditions lying behind "religious conceptions, not to mention other cultural features and institutions."⁷⁵

The notion of meta-traditions on the surface looks like a reasonable way of explaining many of the similarities that are found in law, religion, and other cultural-institutional spheres, mainly because it is so comprehensive in its applicability. But it is too much of an abstraction to have specific explanatory force. Where there are similarities between phenomena in different Near Eastern societies, and where independent genesis of similar ideas and institutions can be excluded, be these marriage customs or religious conceptions, one can and ultimately must ask specific questions about transmission or diffusion. It may be that the present evidence is insufficient to make a conclusion. It is in these cases that one turns to an explanation by meta- or oral tradition. But such an explanation is provisional, a place-holder until further evidence becomes apparent. A meta-traditional explanation may appear to have substantial empirical foundation because it allows for the study of a variety of texts and takes account of all phenomena of a similar nature. But knowledge of all comparable phenomena in a particular subject area and supposing from this that traditions circulated and were diffused in some general way cannot be taken as a specific explanation for a point of similarity or a group of related similarities in a text. Wells admits the lack of specificity inherent in an explanation by way of meta-traditions. In one place he says: "The most that can be said at this point is that CC, too, reflects many of those traditions. The precise reason that it does is not entirely

⁷³ *Ibid.*, 116–117.

⁷⁴ *Ibid.*, 117 n. 89.

⁷⁵ *Ibid.*, 117.

clear.”⁷⁶ In another place he says: “Questions related to CC’s compositional history must remain open for the time being.”⁷⁷ His comment on the miscarriage laws, cited above, says that “the precise way in which these legal meta-traditions became fixed in place is not clear.”

To be sure, there is no fault in claiming ignorance or the inability to explain similarities in view of sparse data. If the data were as Wells describes them, I too would subscribe to his view. But the data are not as ambiguous or vague as he claims. Many of the differences between CC and LH can be explained, and the common order between the casuistic laws in the two collections is still visible. The connection of the texts is made all the more certain by examining the apodictic laws.

V. THE APODICTIC LAWS

In his response, Wells limited himself to a critique of my observations about the casuistic laws of CC (Exod 21:2–22:19), and not my accompanying claim that the sections of apodictic law (20:23–26 plus the introduction in 21:1 and 22:20–23:19) were also dependent on LH.⁷⁸ This was a reasonable decision on his part since the correlations that I identified between the apodictic laws of CC and the prologue and epilogue of LH, though significant, were less conclusive.⁷⁹ If the correlations between the casuistic laws of CC and LH could be undermined, then the correlations observed in the apodictic laws, which were less definitive, might well be ignored.

The evidential picture has now radically changed. I have now been able to make more complete sense of the correlations between the apodictic laws and LH. In terms of probative value, this evidence catches up to—in some respects, leapfrogs over—the evidence presented for the casuistic laws. Taken with the evidence for the casuistic laws these new facts make the conclusion about the dependence of CC on LH definitive in my view. The evidence presented here is not something of which Wells should have been aware. It is presented, rather, to

⁷⁶ *Ibid.*, 111.

⁷⁷ *Ibid.*, 118.

⁷⁸ *Ibid.*, 87.

⁷⁹ Cf. Wright, “Laws of Hammurabi” (N 1): 35–47. My refined comments on the apodictic laws in Wright, “Compositional Logic” (N 11): 94–95 n. 3 are also to be considered preliminary. These discussions can still provide insights if filtered through the corrective of the present discussion.

indicate that an explanation of the similarities between CC and LH by meta-traditions is extremely difficult to maintain.

The key to understanding the correlations between the apodictic laws and LH is recognizing that the final apodictic laws of CC (22:20–23:19) contain parallel passages with four corresponding themes or elements (Exod 22:20–30 // 23:9–19; see Table 2). For abbreviated reference I refer to these passages as string I and string II.⁸⁰

Table 2: Parallel passages (“strings”) of the final apodictic laws of CC

	Topic	String I (Exod 22:20–30)	String II (Exod 23:9–19)
1.	general law about the poor	22:20–23: three classes—immigrant, widow, orphan—not to be oppressed; Egypt rationale.	23:9: immigrant not to be oppressed; Egypt rationale.
2.	two specific laws benefiting the poor	22:24: interest not to be taken from poor; 22:25–26: garment pledge not to be retained.	23:10–11: poor eat from produce of seventh-year field; 23:12: dependent classes to rest on seventh-day.
3.	two short laws about speaking about sovereigns	22:27: God not to be cursed; “chieftain” (= king) not to be cursed.	23:13b: names of other gods not to be memorialized; name of these gods not to be heard on lips.
4.	cultic laws	22:28–30: miscellaneous cultic rules: <i>first produce</i> (wine/oil) to be offered, first born humans to be dedicated, <i>first born</i> animals to be offered after remaining with <i>mother</i> a week, carrion not to be eaten because people are holy. The offerings here would be offered mainly on festivals.	22:17–19: three annual festivals to be observed where people appear before the deity; miscellaneous cultic rules: leaven with sacrificial blood not to be offered, festival offering not to remain till morning, <i>first fruits</i> to be offered, kid not to be boiled in <i>mother’s</i> milk.

⁸⁰ I recognized this structure independently before I found that Calum Carmichael had described it (“A Singular Method of Codification of Law in the *Mishpatim*,” ZAW 84 [1972]: 19–25), followed by Jackson (N 19): 457–458. Carmichael and Jackson do not, however, draw a connection to LH. Carmichael, in fact, is left to wonder: “How the laws there [in string I] came into their present order I do not know. For example, I do not know why a law on reviling God and cursing a ruler should follow a law on lending and pledging.” Now we know; see below, pp. 250–253.

These strings are set around and augment a chiasmic core of laws dealing with justice and judicial propriety in 23:1–8:⁸¹

- (a) ¹Do not promote a *false report*. Do not conspire with an *evil person* to be a witness that causes *violence*.
- (b) ²Do not follow the majority to do evil. Do not testify in a dispute to *perversely follow* the majority to *pervert* (justice). ³*Do not show deference to the poor in his dispute*.
- (c) ⁴*When you encounter the ox or ass of your adversary wandering, return it to him*.
- (c') ⁵*When you see the ass of your foe suffering under its burden and you would hesitate raising it, you must raise it*.
- (b') ⁶Do not *pervert* the case of your *impoverished* in his dispute.
- (a') ⁷Keep yourself away from a *lying word*. Do not *kill* the *innocent and blameless*, for I will not exonerate an *evil person*.
- (x) ⁸Do not take a bribe, because a bribe blinds the clear-sighted and distorts the words of the innocent.⁸²

The whole of the final apodictic laws is thus a carefully calculated structure.

The chief comparative point to note is that the final apodictic laws and also the apodictic laws at the beginning of CC (20:23–26) replicate *in exact sequence* the themes of what may be termed the *exhortatory block* of the epilogue of LH (columns 47:59–49:17). These correlations are summarized in Table 3.

⁸¹ In my critique of chiasmus in analyses of CC, the only structure that I allowed as having been intended by the author was that in 23:1–8 (Wright, “Fallacies of Chiasmus” [N 11]: 156–158). I made this judgment prior to recognizing the evidence presented here about the structure of the final apodictic laws.

⁸² The x-member may be considered secondary, or may augment the structure to provide closure.

Table 3: Correlations between the apodictic laws and the exhortatory block

<p>Initial Apodictic Laws (Exod 20:23–26)</p>	<p>Exhortatory Block of the Epilogue of LH (columns 47:59–49:17)</p>	<p>String I of Final Apodictic Laws + Judicial Core (Exod 22:20–23:8)</p>	<p>String II of Final Apodictic Laws (Exod 23:9–19)</p>
<p></p>	<p><i>Three</i> individuals (the “weak,” orphan girl, widow) not to be oppressed, to be treated justly. (47:59–73)</p>	<p><i>Three</i> individuals (immigrant, widow, orphan) not to be oppressed. (22:20–23). (String I includes two topically related laws benefiting the poor; 22:24–26; Table 2.)</p>	<p>Immigrant not to be oppressed. (23:9) (String II includes two topically related laws benefiting poor; 23:10–12; Table 2.)</p>
<p>Images of (other) gods not to be made. Instead, an altar (symbol of the divine sovereign) is to be made. (20:23)</p>	<p>Hammurabi’s image set up in the Esagil temple. His law stele is set up before this image. (47:75–78)</p>	<p></p>	<p></p>
<p>Yāhweh memorializes (<i>zkr</i>) his name (“my name”; <i>šmy</i>) in the cult place. (20:24a)</p>	<p>Hammurabi’s name (“my name” <i>šumrī</i>) is to be memorialized (<i>zkr</i>) in the Esagil temple. No other king like Hammurabi. (47:93–48:2)</p>	<p>God and the people’s chieftain (= king) are not to be cursed. (22:27)</p>	<p>Names (<i>šm</i>) of other gods not to be mentioned (<i>zkr</i>). (23:13)</p>

Initial Apodictic Laws (Exod 20:23–26)	Exhortatory Block of the Epilogue of LH (columns 47:59–49:17)	String I of Final Apodictic Laws + Judicial Core (Exod 22:20–23:8)	String II of Final Apodictic Laws (Exod 23:9–19)
Yahweh comes (<i>br' ʾ</i>) to the cult place and blesses (<i>br'k</i>) the people. (20:24b) (Laws added on the materials used for the altar and starts in 25–26, connected to materials mentioned in 20:23–24a).	Wronged man to visit the temple for judicial clarification. He appears before Hammurabi's statue and siele. His prayer/praise of Hammurabi to Marduk and Zarpanitu. King and gods are called "lords" (<i>bēlum/bēlūm</i>). (48:3–58)	Sacrificial and cultic prescriptions (most of these have a connection with the sanctuary and altar and would be observed on festivals). (22:28–30) [Primarily a counterpart to the corresponding element in string II.]	Every male to appear before (or "see") Yahweh at the sanctuary for pilgrimage festivals. Yahweh called "Lord" (<i>ʾdh</i>). Offerings to the deity. (23:14–19) [End of CC]
Yahweh comes (<i>br' ʾ</i>) to the cult place and blesses (<i>br'k</i>) the people. (20:24b) (Laws added on the materials used for the altar and starts in 25–26, connected to materials mentioned in 20:23–24a).	End of prayer of praise says Hammurabi provided well-being (= blessing; <i>širām ābām . . . išīm</i>) for the people. Summary statement "may he (the wronged-man) pray/bless me" (<i>likrubam</i>). Gods that "enter (<i>erēbum</i>) the Esagil temple" (cf. 20:24b) provide good omens (<i>lidammīqū</i>). (48:34–58)	Laws ensuring justice. Justice not to be perverted. The wicked and innocent. Full-blown chiasmic structure. (23:1–8)	
	Admonition to the future king to ensure justice. Laws not to be altered. Eradicate wicked. Partial chiasmic structure. (48:59–49:17)		

The correspondences between the apodictic laws and the exhortatory block become particularly visible once it is realized that CC has replaced Hammurabi and the Mesopotamian gods with Yahweh.⁸³ The biblical deity is now law author and revealer. His cult symbol, the altar, replaces Hammurabi's temple statue. While the exhortatory block would have Hammurabi's name memorialized at a cult site ("May my [*šumī*] name be remembered [*lizzakīr*] in the Esagil temple favorably forever"), CC has Yahweh's name memorialized at a cult site ("In every place where I cause my name [*šēmī*] to be recalled [*'azkīr*']") and prohibits memorializing other gods ("you shall not mention" [*lō' taz-kīrū*] their name [*šēm*']). CC extends and transforms the motif of name memorialization into a prohibition not to curse the deity and the native "chieftain" (i.e., the king). The coming of a wronged man before Hammurabi's statue and stele at the Esagil temple is replaced with the annual visit of male pilgrims for the festivals (e.g., "three times a year may every male among you appear before [emended: 'see'] the Lord, Yahweh" *šālōš pə'āmīm baššānā yērā'eh* [*yir'eh*] *kol-zəkūrākā 'el* [*'et*] *pənē hā'ādōn Yhwh*). The deity of CC provides blessing to the people just as Hammurabi provides well-being to his people. Hammurabi also speaks of the wronged man praising or blessing the king, using the verb *karābum*, conceptually and phonologically similar to Hebrew *bāarak*. Yahweh even comes to the cult site, phenomenologically comparable to the gods who "enter" (*erēbum*) the Esagil temple, though Yahweh appears in theophany, not in what LH apparently assumes to be a ritual procession.⁸⁴

⁸³ A similar replacement occurs in Deuteronomy's use of Assyrian treaty material (see N 71). See Levinson, "Textual Criticism" (N 71): 236–241; idem, "Recovering the Lost Original Meaning of וְלֹא תִכְסֶּה עֲלֶיךָ (Deuteronomy 13:9)," *JBL* 115 (1996): 614–617; idem, "The First Constitution: Rethinking the Origins of Rule of Law and Separation of Powers in Light of Deuteronomy," *Cardozo Law Review* 27 (2006): 1863. At this last reference he says that Israelite writers "drew upon the Mesopotamian concept of a royal proponent of law but also radically transformed it in light of their own cultural and religious priorities. They transformed precedent by making the royal legislator of biblical law the nation's divine monarch, Yahweh. In that way, the ancient Babylonian generic convention of the royal voicing of law ironically provides an important legal and intellectual source for the distinctively Israelite concept of divine revelation."

⁸⁴ The only element of the final apodictic laws that is unaccounted for in terms of the string structure and sequential thematic correspondences with the exhortatory block is the very short general command in 23:13a: "Be observant with regard to all that I have said to you." This nonetheless corresponds with a general command to the future king in the exhortatory block: "Let him be obedient to the words that I inscribed on my stele" (*ana awātīm ša ina nariya ašṭuru liqūlma*).

Other correlations may be noted. While the prologue and epilogue of LH have an overall style entirely different from the apodictic laws of CC, it is precisely in the exhortatory block where apodictic-related forms appear (commands and prohibitions). CC has let the style of the exhortatory block inform its choice of genre for the apodictic laws. Furthermore, the chiastic core in 23:1–8 is similar to a partial chiastic structure visible in the future king passage of the exhortatory block (“[a] may he not alter . . . [b] may he not remove . . . [c] let him give heed to my words that I have written on my stele . . . [c'] If that man gives heed to my words that I wrote on my stele [b'] and he does not remove . . . [a'] he does not alter”).⁸⁵ This apparently provided a stimulus for CC to create a full-blown chiastic structure in 23:1–8 with the elaboration of the strings around this core. The transitional introduction to the casuistic laws in 21:1 (“These are the laws that you shall set before them”) correlates with the transitional introduction at the end of the prologue and just before the casuistic laws (“I placed truth and justice in the mouth of the land”). CC’s transitional introduction also correlates in content with the transition out of the casuistic laws into the epilogue (“[These are] the just laws that Hammurabi, the capable king, established”).⁸⁶ Lastly the placement of the apodictic sections around the casuistic laws matches the overall A-B-A structure of LH with its prologue-casuistic laws-epilogue.

It should not be missed that the exhortatory block, which correlates with the thematic substance of the apodictic laws, appears near the beginning of the epilogue and close to the last correspondences in the casuistic laws of the two collections (e.g., animal rental, 21:13–14 and LH 268–271). The apodictic laws of 22:20–23:19 thus contextually continue the fourteen points of sequential correlation identified in the casuistic laws in my *Maarav* article (and see Table 1, above). This means that CC’s main attention, at least for its topical outline, was specifically on the middle of LH through the first half or so of the epilogue.

⁸⁵ The chiastic form of this section of the exhortatory block was also observed independently by Victor Avigdor Hurowitz, *Inu Anum šīrum: Literary Structures in the Non-Juridical Sections of Codex Hammurabi* (Occasional Publications of the Samuel Noah Kramer Fund 15: Philadelphia: Occasional Publication, 1994): 38–39. His verbal description is not entirely clear. Nonetheless he says of col. 48:59–49:17 (which he entitles “The Blessings”): “There is therefore an inclusio framing the benediction section as well as an over all chiastic ab // b'a' structure to this section” (p. 39). He also notes through boldface type the chiastic relationship of “**aj unakkir . . . aj ušassik . . .**” and “**lā ušassik . . . lā unakkir.**”

⁸⁶ See Hurowitz, *Inu Anum šīrum* (N 85): 46, 90–91 for the implied deictic pronoun.

The use of the exhortatory block for the apodictic laws also explains one of the larger mysteries about CC's table of contents: Why do the casuistic laws begin with the topic of debt-slavery (Exod 21:2–11)? It is because socio-economic impoverishment and subordination is a primary theme of CC.⁸⁷ This topic begins the two strings of the final apodictic laws, thus also constituting the initial topic of the final apodictic laws. Its appearance there is partly determined by the exhortatory block, which begins with three underprivileged members of society: the weak person (*enšum*), the orphan girl and the widow. CC copies this list, replacing the “weak person” with the “immigrant” (*gēr*).

CC exhibits two other main themes. One is cultic performance. This in part explains why the image and altar laws appear at the very beginning of the collection in the initial apodictic laws. The appearance of this theme there is also partly determined by the cultic themes that occupy the majority of the prologue. Cultic laws are again emphasized in their appearance as the last members of the two strings of the final apodictic laws, and with this, at the very end of the collection. Their appearance at the beginning and end of the whole collections thus frames the work. The other primary theme in CC is the pursuit of justice, featured in the core chiasmic structure of the final apodictic laws in 23:1–8.

The foregoing evidence about the apodictic laws undermines the contention that CC relates to LH only indirectly through meta-traditions. It is doubtful that the elements of the exhortatory block of LH, the A-B-A structure of LH, the content of the casuistic laws, and the order of the casuistic laws were all part of a stream of legal tradition to be picked up by CC and reconstituted into a form that happens to be close to LH. Only a textual model explains the relationship of the apodictic laws to LH, and specifically a model of direct textual dependence, because it is doubtful that LH would have been translated and transmitted in a West Semitic language for the eventual use of Israelite/Judean writers.

⁸⁷ Thus the explanation that I gave in Wright, “Laws of Hammurabi” (N 1): 47–48 n. 42 may be essentially ignored, though some of the details about CC's selectivity in representing the laws of CC still apply.

VI. CONCLUSIONS

One of the clear implications of my analysis is that the laws in CC are not primarily a report or repository of real Israelite/Judean legal practices. Wells senses this when he writes:

In Wright's discussion, no real consideration is given to this possibility—that the authors of CC relied to some degree on the law that was operative in their society or in neighboring societies with which they were familiar. In other words, with virtually every connection that CC possesses with laws or legal practices that are mentioned in cuneiform sources, Wright seems to assume that some type of textual dependence has caused it. . . . What may lie behind some of these laws in CC is not an undiscovered written source but legal rules and customs that were in effect and had been practiced for some time.⁸⁸

Of course CC does contain some native traditions and materials. The native participial source, described above, is one of these. Furthermore, Israelite/Judean customs or interests appear throughout the collection, especially in the apodictic laws. But CC, especially in the casuistic laws, is primarily an academic product arising from the reworking of LH along with some miscellaneous Akkadian laws.

This suggests that the purpose of CC is something other than an encoding and prescription of law.⁸⁹ Given its changes in the political landscape of LH, on exhibition particularly in the prologue and epilogue of LH, it may be that CC is a symbolic response to Assyrian hegemony. It adopted the culturally prestigious genre of the Mesopotamian law code yet modified this to reflect native nationalistic interests. It eliminated the Mesopotamian king and replaced him with the native deity. It also downplayed the position of the native king (cf. 22:27). It, too, replaced the “weak” person at the beginning of the exhortatory block with the immigrant (*gēr*), accompanied by the national memory of being immigrants in Egypt. This nationalistic perspective in regard to the disadvantaged was underscored by treating “Hebrew”

⁸⁸ Wells, “Covenant Code” (N 1): 97.

⁸⁹ Levinson describes a twofold character or purpose to Deuteronomy's centralization laws: “Cultic centralization and local secularization were essential to the success of the Deuteronomic program. That program was simultaneously legal, striving to transform social reality [i.e., prescribe law], and hermeneutical, striving to transform prior textual authority and to justify innovation” (*Deuteronomy* [N 8]: 93, cf. 51–52). CC may distinguish itself from Deuteronomy in not intending to be prescriptive; the limited number of its laws suggests that this may not be its primary intent.

slaves at the beginning of the casuistic laws.⁹⁰ In addition, the systematic revisions that CC made in the casuistic laws may not have been mere ethereal academic formulations, but calculated to create a “better” system of laws compared to LH. I am not making the questionable claim that CC’s laws are in fact *theologically and ethically better* than those of LH.⁹¹ Rather, I am suggesting as a *historical* observation that from its compositional perspective, CC revised LH and other cuneiform law with a goal of producing a corpus that was more coherent legislatively by solving problems and questions in its sources, similar to how Deuteronomy and the Holiness Legislation later sought to improve on their sources, including CC.⁹²

⁹⁰ The nationalistic interest of the text must have something to do with the conflation of debt- and chattel-slaves, noted in Part I, above. The problem is that by such a conflation (and also by lengthening debt-slavery from three to six years; cf. LH 117), CC has worsened the situation of the native debt-slave yet has improved the situation of the chattel-slave (usually a foreigner) over against what is found in LH. One might expect it to improve the situation of the native debt-slave.

⁹¹ See Wright, “Compositional Logic” [N 11]: 105 and n. 25; 137–138, for a critique of ethical interpretations of the laws of CC.

⁹² I tend to think that CC was composed as a supplement to a preexisting basic narrative in Exodus 19, 20, and 24 and in view of a “JE” narrative describing national servitude in and escape from Egypt (cf. Wright, “Compositional Logic” [N 11]: 141 n. 117; contra Wright, “Laws of Hammurabi” [N 1]: 56–57). I do not believe it was written as an original part of the narrative (contra, for example, Van Seters [N 47]) or that an original version of CC consisting of just casuistic laws existed independently of the narrative and was later inserted. Both the casuistic and apodictic laws appear to have been created at the same time, inasmuch as it is unlikely that successive editors/redactors would each have access to LH, to expand CC following the content and order of LH. Everything in CC that correlates with the content and structure of LH must come from the same compositional horizon. Inconsistencies that have been taken as evidence of redactional growth are explained as coming from the combining and revision of sources (see Wright, “Compositional Logic” [N 11]: *passim*; see Levinson’s similar solution of inconsistencies in Deut 16:3–4 in *Deuteronomy* [N 8]: 85–89 and note the observation on p. 85 that the “insertion [of vv. 3aβ–4a] is not diachronically ‘secondary’; rather the text is itself an original redactional composition”). This may include the exceptional second person plural forms in the apodictic laws; these appear to come from contextualizing CC in the national narrative (e.g., 20:23; 22:20,23; 23:9,13a), attraction to preceding plural forms (22:21,30b), grammatical necessity from nominal choice (22:30a), or perhaps from the influence of other sources (22:23; one senses a treaty curse here; see the Vassal Treaties of Esarhaddon for second plural formulation of curses). (22:24b may be an addition.) Alternatively, the second person plural phrases may all have been added in a revision of CC, still following LH and made under the auspices of (i.e., within the same generation as) the individual or group that used LH as a template for the basic composition. One of the reasons why, according to the evidence that I offer, that CC actually reflects little growth is that its date is close to Deuteronomy and its updating is actually in Deuteronomy (cf. Levinson, *Deuteronomy* [N 8]: 146–147).

The later text of Deuteronomy 4:8, speaking of the laws of Deuteronomy, reflects nationalistic pride in Israelite/Judean legislation: “What great nation has just prescriptions and laws like all of this instruction which I am placing before you today?” (*mî gôy gādôl ’ăšer lô huqqîm ûmîšpaṭîm šaddiqîm kəkôl hattôrâ hazzô ’t ’ăšer ’ânôkî nôtēn lipnêkem hayyôm*). M. Weinfeld and V. A. Hurowitz have suggested that this may reflect knowledge of foreign law collections such as LH.⁹³ This is a reasonable conclusion in view of what can now be said about the sources of biblical law. But whether this is so or not, my argument is that this sort of judgment, to the extent that it might be applied to CC, is not an after the fact comparative evaluation, but is part of the compositional intention of CC.⁹⁴

⁹³ Victor Avigdor Hurowitz, “Hammurabi in Mesopotamian Tradition,” in *An Experienced Scribe Who Neglects Nothing: Ancient Near Eastern Studies in Honor of Jacob Klein* (Yitschak Sefati, Pinhas Artzi, Chaim Cohen et al., eds.; Bethesda: CDL, 2005): 517–518; Hurowitz, *Inu Anum širum* (N 85): 62–63 n. 70; Moshe Weinfeld, *Deuteronomy and the Deuteronomistic School* (Oxford: Oxford Clarendon, 1972): 150–151. For other passages such as Deut 4:8, which portray the distinctiveness of Israel, see Peter Machinist, “The Question of Distinctiveness in Ancient Israel: An Essay,” in *Ah, Assyria . . .: Studies in Assyrian History and Ancient Near Eastern Historiography Presented to Hayim Tadmor* (Mordechai Cogan and Israel Eph’al, eds.; Scripta Hierosolymitana 33; Jerusalem: Magnes, 1991): 196–212.

⁹⁴ I thank Bernard M. Levinson for a critique of an earlier draft of this review and sharing some of his work in progress. The arguments and views here, however, are my own.