

A. Actuality of covenant. A number of tales in scripture are just that: inspiring or hortatory narratives that make no pretense of historical verisimilitude. The book of Job is one example. A righteous man who suffers grievously yet endures is a story for every place and time. It is an archetype of which there is an indefinite number of tokens. That is not, however, the way Israel recounts its covenantal origins. Rather, the event is specified as to year and month of its occurrence, the particular mountain in the particular wilderness where it is initiated, and the parties to it —identified en masse (the “house of Jacob,” the “seventy elders”) and, for the central figures, by name and title (Moses; Aaron the priest; “the LORD your God who brought you out of Egypt, out of the land of slavery”). That it is truly a covenant rather than a unilateral command by a sovereign authority (who is, after all, irresistible) is underscored by the explicit statement that the people one and all freely agree to accept the law that is on offer to them. They have good reason to do so, because of the enormous benefits that are consequent on taking it up. These are spelled out most eloquently in the “blessings” specified in Deuteronomy 28:1–14. These are not to be regarded, however, as unconditional gifts. Deuteronomy 28 goes on to specify in horrific accents the penalties that will befall Israel if it fails to uphold its obligations. The relationship, then, is held to be genuinely mutual, incorporating specific performances from both parties. Moreover, in the immediate aftermath of the initial giving of the law, an example is related (Exodus 32) of a particular transgression by Israel (the molding of the Golden Calf) and the concomitant penalty (three thousand wrongdoers executed).

This could, of course, be a fiction replete with realistic details. It is not my intention here to argue on behalf of the historicity of the scriptural account—orto argue against it.

Rather, my intention is to suggest that the biblical authors have little truck with what might be called Hypothetical Covenant Theory. The authority ascribed to the covenant at Sinai is the authority stemming from an actual undertaking by just those parties who are specified in the account and no others. Unlike the contracts of liberal theory, it is not indefinitely repeatable. If it did not happen as related, then no substitute covenant is on offer. The question can legitimately be raised concerning just how voluntary an agreement can be with a deity who has just shown his power by drowning the Egyptian hosts under a wall of water. Indeed, the rabbis themselves raise it in the Babylonian Talmud (Tractate Shabbat 88a), where they play on the wording of Exodus 19:17 so as to read it as “Israel stood under the mountain,” i.e., God suspended the mountain over their heads and then “offered” them the covenant. Strictly, the covenantal terms are not presented as being revealed all at once at Sinai but are instead handed down throughout Israel’s extended sojourn in the wilderness. “Covenant at Sinai” is a synecdoche. I owe this reminder to Noah Greenfield.

B. Terms of covenant. No one can complain that Torah lacks specificity with regard to the provisions of Israel’s covenant with God. The edicts are spelled out in mind-numbing—others would say mind-elevating—detail throughout the remainder of Exodus and on into Leviticus and Numbers. Just in case that might not provide quite enough information, Deuteronomy repeats the instructions while providing further bits and pieces. The best known of the covenantal requirements are those stipulated in the Ten Commandments, but these do not come close to exhausting the obligations taken on by Israel. The latter are traditionally numbered as 613 distinct laws,¹⁸ but this is somewhat arbitrary as provisions incorporate subprovisions which themselves breed an indefinite range of rules of application.

Nor are the injunctions all of the simple “thou shalt” and “thou shalt not” variety. Rather, some are constitutive of offices and practices that are meant to carry authority in the ongoing political and