

**A Modern Perspective on the Gravity of the  
Golden Calf Offense in Deuteronomy**

**Rob Barrett**

**Dr. R. W. L. Moberly  
Department of Theology and Religion  
University of Durham**

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## INTRODUCTION

The golden calf incident is familiar to most modern Bible readers. Occurring twice (Exod 32-34 and Deut 9-10), it tells of Israel's turning away from YHWH shortly after hearing the Decalogue. While Moses is with YHWH on the mountain, receiving the stone tablets of the law, Israel breaks that law by fashioning a molten image. In his anger, YHWH determines to wipe out Israel and begin a new nation with Moses. Moses intercedes for Israel and convinces YHWH to continue his plan with disloyal Israel. YHWH agrees and Israel continues her<sup>1</sup> movement toward the promised land.

The story is of great theological significance. As Moberly notes, it raises and answers a critical question:

Israel has only just been constituted a people, God's chosen people, yet directly it has sinned and incurred Yahweh's wrath and judgment. ... How, before God, can a ... sinful people, even God's chosen people (in particular), exist without being destroyed? ... The answer is given that if the sin is answered solely by the judgment it deserves, then there is no hope. But in addition to the judgment there is also mercy, a mercy which depends entirely on the character of God and is given to an unchangingly sinful people.<sup>2</sup>

While the story is familiar and significant, upon reflection it grows odd and foreign to modern Western readers. For such readers, idolatry is an alien idea. What is the significance of Israel's idol worship? And why does it incur the violent threat of destruction from YHWH? It is fine to point out that Israel "has sinned" through the golden calf and further that she has "incurred Yahweh's wrath and judgment," but these categories are largely unavailable to modern Western readers. What is it about the golden calf that makes it the paradigmatic sin? Surely, one may say, other prohibited activities, such as murder, are more heinous and destructive than dancing around a statue. What is this "judgment [the sin] deserves" that leads to "no hope"? What is it about idolatry that so powerfully provokes YHWH to wrath?

Considering the purpose of this passage, von Rad writes, "The Israel which faces its God today with the same rebelliousness as it did then must learn from past events and become conscious of its own threatening situation."<sup>3</sup> But why was this situation so threatening? If a modern Western reader desires at any existential level to "become conscious" of the threat that Israel faced, then the nature of Israel's action and YHWH's reaction must be grasped.

This threat of obliteration—mass capital punishment—because of a cultic misdeed flies in the face of the tenet of religious toleration upon which modern Western society is built.<sup>4</sup> How can it be

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<sup>1</sup> In deference to English convention I use the feminine singular pronoun to refer to Israel, despite the Hebrew convention of using the masculine singular and plural.

<sup>2</sup> R. W. L. Moberly, *At the Mountain of God: Story and Theology in Exodus 32-34* (Sheffield: Sheffield Academic, 1983), 92.

<sup>3</sup> Gerhard von Rad, *Deuteronomy: A Commentary* (trans. Dorothea Barton; London: SCM, 1966), 77.

<sup>4</sup> Witness the scandal, contemporaneous with this writing, of the threat of the death penalty for Abdul Rahman in Afghanistan who is accused of converting from Islam to Christianity. For the Western countries who recently paid with their citizens' blood to move this nation from rule by the Taliban to a modern democracy, this apparent retrograde step away from freedom of religion is a deep embarrassment. American President Bush "has said he is

that YHWH is so unaware of the hard-won modern lesson of the destructiveness of religious intolerance and the glorious result of liberal government that allows each citizen the right to worship as seems personally right? Modern society peacefully celebrates the various spiritual ways of different people. YHWH readies divine fury for those of his people who choose any way but his. As Carroll observes, because of such gaps between the text and modern values “the Bible deconstructs itself for the modern reader.”<sup>5</sup> Are there any bridges that can enable a modern reader to explore the territory on the other side of the gap?

In this essay, I seek to build a bridge between this biblical story and the modern world. In particular, my goal is to suggest a way of understanding the story in modern categories that explores the question of why YHWH responds so dramatically to this idolatry. My focus is on the story as presented in Deuteronomy.<sup>6</sup> In order to address this question, I propose that a modern understanding of the golden calf incident as remembered in Deuteronomy can be aided by mapping its features into categories of the modern state. In particular, I argue that Moses presents his version of this story to Israel as a “national myth,” a formative story that establishes Israel’s identity as a nation under YHWH. Within these categories, Israel’s making of the golden calf amounts to treason against her sovereign. YHWH’s threat of destructive force against the idolaters can then be understood in terms of modern punishment for treasonous acts. Though problems still remain for modern readers, consideration of the story with its modern parallel of a state under threat allows significant progress in understanding, if not wholeheartedly condoning, YHWH’s response to Israel’s idolatry.

To begin this journey into the story, I first examine the biblical text in terms of context, structure and bounds, somewhat detailed exegesis, and its handling of core theological themes in the dynamic of Israel’s relationship with YHWH. I then explore the relationship between Deuteronomy’s Israel and the modern state, arguing that Deuteronomy should be seen as a nation-state document and the golden calf remembrance as a national myth. Finally, I address the question of YHWH’s response to Israel’s idolatry by drawing an analogy with treason within the modern state and responses to it.

#### DEUTERONOMY 9:7-10:11

##### Context

The remembrance of the golden calf in 9:7-10:11 is situated in the canon within several levels of context.<sup>7</sup> In its immediate context, it serves as an illustrative example for the sermonic warning of 9:1-

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‘deeply troubled’ by the case and expects Afghanistan to ‘honor the universal principle of freedom’” (CNN, “Top Muslim Clerics: Convert Must Die,” n.p. cited 24 Mar 2006. Online: <http://us.cnn.com/2006/WORLD/asiapcf/03/23/afghan.christian.ap/index.html>).

<sup>5</sup> Robert P. Carroll, *Wolf in the Sheepfold: The Bible as Problematic for Theology* (London: SCM, 1997), 86.

<sup>6</sup> My focus on the Deuteronomy version results from my larger interest in understanding YHWH’s violence against Israel in Deuteronomy.

<sup>7</sup> Von Rad correctly notes the change in genre between this historical recollection and the series of sermons preceding it. However, attempts to piece it together with the other historical sections of Deuteronomy (chs. 1-3;

6. In this sermon, Moses looks ahead to Israel crossing the Jordan and facing formidable enemies and defended cities. But she should not tremble at the saying, “Who can stand up to the Anakim?” (9:2),<sup>8</sup> for YHWH the devouring fire is crossing over before Israel and will quickly defeat them (9:3). The natural result of this supernatural victory will be for Israel to grow self-important, to consider herself the queen of all nations, the deserving recipient of the land flowing with milk and honey (9:4). Moses disagrees, asserting that there are two reasons for Israel taking possession of the land: the wickedness of the Canaanites and YHWH’s promise to the patriarchs (9:5). He makes no comparison between the wickedness of the dispossessed and possessing nations; he only asserts that the Canaanites are wicked and that Israel is not righteous (צדק). To clarify what he means by Israel being not righteous, Moses says, “you are a stubborn people” (עם־קשה־ערף אַתָּה; 9:6), which means that Israel refuses to be led by YHWH. Israel faces the call to bend to YHWH’s will. To refuse YHWH as Israel’s leader by disloyalty or disobedience is to be unfaithful to the covenant relationship. Unfortunately, Israel has a long history of such refusal, as the remembrance of the golden calf well illustrates.

In the larger context, the sermon of 9:1-10:11 is one of three sermons of warning to Israel. In ch. 7, Israel is commanded to devote the Canaanites to the ban (חַרֵּם), which might imply that she must be more powerful and more numerous than them (cf. 7:17). But Moses assures her that she is weak: “It was not because you were more numerous than any other people that the LORD set his heart on you and chose you—for you were the fewest of all peoples” (7:7). This is no problem, for YHWH is mighty, as he demonstrated in his triumph over Pharaoh (7:18-19). Israel must balance her self-weakness with the strength of YHWH. In the second sermon (ch. 8), Israel is urged to remember in her coming riches the lesson she learned in her wilderness poverty. The humbling in the wilderness taught her that true life is not to be measured in material prosperity alone. She learned that life includes dependence on YHWH in addition to dependence on bread (8:3). Now Moses celebrates with Israel: “The LORD your God is bringing you into a good land, a land with flowing streams, with springs and underground waters welling up in valleys and hills, a land of wheat and barley, of vines and fig trees and pomegranates, a land of olive trees and honey, a land where you may eat bread without scarcity, where you will lack nothing, a land whose stones are iron and from whose hills you may mine copper” (8:7-9). The question she faces is whether she will “bless the LORD your God for the good land that he has given you” (8:10), or say, “My power and the might of my own hand have gotten me this wealth” (8:17). Israel cannot live apart from YHWH: “If you do forget the LORD your God and follow other gods to serve and worship them, I solemnly warn you today that you shall surely perish” (8:19).

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4:10ff) lead to inconclusive results and are not particularly helpful for understanding the final form of the text (cf. von Rad, *Deuteronomy*, 77).

<sup>8</sup> All Bible quotations are taken from the *NRSV* 1989, unless otherwise noted.

In a wider context, Deut 6:1-10:11 is an exposition of the first commandment. What is meant by, “I am the LORD your God, who brought you out of the land of Egypt, out of the house of slavery; you shall have no other gods before me” (5:6-7)? How is Israel to remember that “the LORD is our God, the LORD alone” (6:4)? What does it mean to “love the LORD your God with all your heart, and with all your soul, and with all your might” (6:5)? The three sermons raise particular challenges Israel will face in offering undivided loyalty to YHWH as she crosses the Jordan.

The entire outer frame of the book of Deuteronomy wrestles with the problem of Israel’s faithlessness to her covenant commitment to YHWH. Chapter 1 shows YHWH faithfully multiplying Israel in numbers according to his promise (1:10-11) but Israel rebelling against his command to take the land (1:26). Chapters 2-3 show YHWH faithfully defeating Israel’s enemies before her (2:18-3:22) but Moses being refused entry into the land on account of faithlessness (3:23-26). The sermon of ch. 4 exhorts Israel to pure obedience (4:1-2) but ominously warns of the possibility of idolatry and exile in her future (4:25-28). As explained above, chs. 5-10 highlight the problems of Israel obeying the most important commandment, followed by a final exhortation in 10:12-11:32 that reaches its peak in the polarized choice between blessing and curse (11:26-28). After the law corpus of chs. 12-26, the choice between blessings and curses resumes in chs. 27-28. Moses’ third and final address brings together again the themes of covenant disobedience (29:18-29), restoration (30:1-10), and a summons to obedience (30:11-20). In a final appendix, Moses walks off the stage with YHWH faithfully appointing Joshua to succeed him (31:7-8, 14) and assuring Moses that Israel will be disloyal after his death (31:16). But she will be restored through the Song of Moses (31:19-22; 32). Within this larger context, it is the golden calf story that functions to focus on the problem of Israel’s covenant faithlessness, to assure her of YHWH’s commitment, and to balance these two opposing forces.

Finally, the largest literary context of the story is the canonical history—both antecedent and subsequent—of Israel. Earlier in the canonical story, the initial telling of the golden calf apostasy in Exod 32-34 is reshaped here for the purposes of Deuteronomy. But beyond this single incident, knowledge of the larger wilderness narrative is assumed, including most prominently the Kadesh rebellion (Num 13-14). Later in the canonical story, Jeroboam’s parallel fashioning of golden calves as objects of worship in the northern kingdom of Israel (1Kgs 12:28) leads inexorably to their destruction by Assyria (2Kgs 17:6-23). The combination of observing this downfall and recovering the admonitions of Deuteronomy<sup>9</sup> leads Josiah to his campaign of reformation against idolatry in the southern kingdom of Judah (2Kgs 23:1-20). Indeed, Judah’s precarious balance in Babylonian exile between life and death (2Kgs 25) seems to await a Mosaic intercessor to bring about renewed covenant between YHWH and his wayward people.

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<sup>9</sup> Based on its result, it is most likely that the book found by Hilkiyah in 2Kgs 22:8 bears a strong resemblance to portions of Deuteronomy.

### Structure and Bounds

What are the bounds of the text for consideration? The transition from sermon to story occurs with the imperative, “Remember” (9:7), which moves from the general idea of remembering Israel’s rebelliousness to the particular story of the golden calf (9:8). The transition back to sermonic material occurs in 10:12 with the inference-drawing adverb ועתה (“So now”),<sup>10</sup> the vocative “O Israel,” and the rhetorical question, “What does the LORD your God require of you?” (10:12). Thus I take the bounds of the story to be 9:7-10:11.

The structure of the golden calf remembrance varies considerably among commentators. The most promising structural markers are the five references to “forty days” (9:9, 11, 18, 25; 10:10), which guide Weinfeld (following Lohfink).<sup>11</sup> However, as McConville notes, this approach ignores significant portions of the text, and furthermore it is more appropriate to view the 9:11 occurrence as closing the first section than beginning the second.<sup>12</sup> Also problematic are the two “interludes” of 9:22-24 and 10:6-9. The former breaks the story of the golden calf to draw comparisons with other examples of Israel provoking YHWH. Many translators view the latter as extraneous enough to be rendered in parentheses.

My approach in this essay is to structure the text according to the dramatic movement of the story and its place within its sermonic context. I structure the story as:

- Summary (9:7-8)
- Covenant Established (9:9-11)
- Covenant Broken (9:12-17)
- Moses’ Intercession and Israel’s History of Rebellion (9:18-24)
- Moses’ Words of Intercession (9:25-29)
- Covenant Re-established (10:1-9)
- Conclusion (10:10-11)

### Exegesis

#### Summary (9:7-8)

The summary of the historical narrative is prefaced with the double imperative: “Remember and<sup>13</sup> do not forget” (זכר אל-תשכח) (9:7). This is no passing story among many others, but a foundational one. Neither is it for individuals to recall at convenient times, but for the formation of the entire nation across all time. The content of the memory has both a broad sweep and a focused example. At the

<sup>10</sup> “Drawing a conclusion, esp. ... a practical one, from what has been stated” (“עֵתָהּ,” BDB 774).

<sup>11</sup> Moshe Weinfeld, *Deuteronomy 1-11: A New Translation with Introduction and Commentary* (New York: Doubleday, 1991), 427.

<sup>12</sup> J. G. McConville, *Deuteronomy* (Leicester: Apollos, 2002), 180.

<sup>13</sup> The conjunction does not appear in the MT, but is present in the Samaritan Pentateuch, Syriac, Vulgate and Kennicott 69.

broad level, Israel's relationship with her God YHWH has been colored with her provoking him to wrath (קצף) from the first day to the present. The use of the participle with היה emphasizes the continuous nature of Israel's rebellion in the past (ממרים הייתם עם ייְהוָה).<sup>14</sup> While the prologue of 9:1-6 condemns Israel's stiff-necked character, the summary here is concerned with the effect of that stubbornness: YHWH's anger. This general statement is followed by the parade example: the golden calf at Horeb. The force of the conjunction seems to be "even at Horeb" (ובחרב).<sup>15</sup> The Horeb case is connected to the broad statement with the repeated verb "provoked to wrath" (קצף), but then continues from Israel's provocation to YHWH's actual anger (אנף) and the result for Israel: "to destroy you" (שמד, Hiphil). That Israel was not in fact destroyed is omitted from the summary (though of course Israel's presence before Moses at Moab makes the point obvious), but the lacuna carries tremendous rhetorical weight. It is exactly the narrow escape from destruction, the dynamics and reasons for that escape, and the inherent conflict between YHWH's demand for loyalty and Israel's deep faithlessness that makes the Horeb story formative for their ongoing covenantal relationship.<sup>16</sup>

#### Covenant Established (9:9-11)

The recounting of the Horeb event begins with Moses on the mountain with YHWH, receiving "the stone tablets, the tablets of the covenant" (לוּחַת הָאֲבָנִים לְוַחַת הַבְּרִית). These tablets play a central role in the story, symbolically representing in physical form both the terms and the reality of the covenant. They are mentioned fourteen times in the story<sup>17</sup> and highlight the covenant's establishment (9:9-11), dissolution (9:15-17), and re-establishment (10:1-5). The content of the tablets is the Decalogue (10:4; cf. 4:13), headed by the prohibitions against other gods and images (cf. 5:6-10), which Israel quickly violates. The presentation emphasizes that the content of the tablets is nothing new, but rather makes concrete the words YHWH has previously spoken to Israel (lit. "with you" [עִמָּכֶם], 9:10). Thus Israel's (coming) violation of the first commandments<sup>18</sup> is culpable—she is fully aware of the prohibition. The chiasmic repetition of the tablets and Moses' forty day and night sojourn

<sup>14</sup> GKC, §116r.

<sup>15</sup> So NRSV and NASB.

<sup>16</sup> Most English translations seek to avoid an apparent contradiction by translating the destruction with an added modal modifier (e.g., "He would have destroyed you" [NASB], "he was ready to destroy you" [NRSV], "he was angry enough to destroy you" [NIV]).

<sup>17</sup> 9:9 (2x), 10, 11 (2x), 15, 17; 10:1, 2 (2x), 3 (2x), 4, 5.

<sup>18</sup> I use the shorthand "first commandments" to refer to both the prohibition against having other gods before YHWH (5:7) and against making an idol or likeness (5:8). Note that some interpretive traditions number these as the first and second commandments while others put them together as the first commandment. It is also difficult to determine whether the calf is a violation of both or just the second. Moberly is correct to observe that "although one might argue that Israel's sin was only against the second commandment, the prohibition of idolatry, it is likely that for the writer the first two commandments were regarded as in practice inseparable" (Moberly, *Mountain*, 49; cf. 166f).



with the symmetric taking (לָקַח) and giving (נָתַן) of the tablets brings the covenant establishment to a (brief) stable point (9:11).

#### Covenant Broken (9:12-17)

The covenant partners do not live in peace for long. YHWH immediately says to Moses, “Get up, go down quickly from here, for your people whom you have brought from Egypt have acted corruptly” (9:12). The people have corrupted (שָׁחַת, Piel) themselves, or possibly the covenant—the object is elided. This word is important for Deuteronomy’s logic of Israel’s destruction. It is used to warn Israel away from idolatry, twice in the sermon of Deut 4 (vv. 16, 25) and twice in the prologue to the Song of Moses (31:29). Later in the present passage Moses will plead with YHWH not to שָׁחַת (Hiphil) Israel (9:26). In both the sermon of ch. 4 and the present passage, Israel is assured that YHWH will not שָׁחַת (Hiphil) her (4:31; 10:10).<sup>19</sup> In distinction to the more common words for destruction in Deut (שָׂמַד, עָבַד), which refer more to the causing of pain and death, and the removal of power, שָׁחַת signifies a ruin that renders the object useless for its intended purpose. There is also a canonical resonance with the corruption of YHWH’s creation at the time of the Flood.<sup>20</sup> In the time of Noah, the earth became corrupt (וַתִּשְׁחַת הָאָרֶץ, Niphal, Gen 6:11; cf. 6:12) and God decided to destroy (וַיִּשְׁחַת, Hiphil, Gen 6:13; Piel, Gen 6:17) the earth and all breathing creatures. God then establishes his covenant never to destroy (וְלֹא-אֶשְׁחַת, Piel, Gen 9:11, 15) the earth and all flesh again. Given this context, the use of this word in our passage has YHWH charging Israel with the grave offense of idolatry (made explicit in the second half of the verse). The tension between wrath and mercy hangs in the air for the canonical reader because the utter destruction of creation—with a new start in Noah—was the outcome in Genesis. However, God has already voiced his reluctance to solve the problem of corruption with further corruption.

Moses must leave the presence of YHWH to rejoin his people. As mediator, when the bonds of loyalty are broken he must shuttle between the two parties of the disrupted relationship. His place is now with the corrupted, which is highlighted by YHWH identifying Israel as Moses’ people, not his own, and even more emphatically that Moses has brought them out of Egypt, not YHWH.<sup>21</sup> But before Moses departs, YHWH reveals his evaluation of Israel: they are a stubborn people (וְהָיָה הוּא עַם-קָשֶׁה-עֲרִף הוּא, 9:13). This is the description that Moses quotes in his introduction to this story: “You are a stubborn people” (עַם-קָשֶׁה-עֲרִף אַתָּה, 9:6). The general statement of the introduction is

<sup>19</sup> The only other two uses of שָׁחַת in Deut are in the forbidding of the destruction of trees during a siege (20:19-20). McConville takes a different view, identifying שָׁחַת particularly with perversion of true worship (McConville, *Deuteronomy*, 184).

<sup>20</sup> On the parallels between the golden calf and flood narratives, cf. Moberly, *Mountain*, 91-3.

<sup>21</sup> All eleven previous uses of יָצָא in the Hiphil in Deut concerning Israel’s exodus from Egypt have had YHWH as the subject (1:27; 4:20, 37; 5:6, 15; 6:12, 21, 23; 7:8, 19; 8:14), most importantly in the prologue to the Decalogue (5:6).

particularized in this recounting of Israel's past. YHWH then announces his intention: to destroy (שָׁמַד, Hiphil) Israel, blot out their name (מָחָה, Qal), and start over again with Moses to build a better nation (9:14). Blotting out Israel, essentially to undo his establishment of the nation, continues to echo the Flood for the canonical reader (cf. Gen 6:7; 7:4, 23). Starting over with Moses recapitulates Noah's role as the second progenitor, but this time as the head of the Israel project rather than all of creation. Interestingly, the word for destruction is changed from שָׁחַת to שָׁמַד, which is not used in the Flood narrative. Perhaps in the delicate balance of Israel on the brink of destruction, the more theologically loaded שָׁחַת is too strong a threat for the final canonical form, especially since YHWH's commitment to avoid that drastic step has been stated in the canonically prior Deut 4:31.

YHWH's announcement of his intention is prefaced with the imperative: "Let me alone" (הֲרַף מִמֶּנִּי). Not only does this imply that Moses has the ability to interfere with YHWH's plan through his intercession for Israel, but it counter-intuitively invites Moses to do so. "By telling Moses to leave Him, He implicitly presents Him [*sic*] with the option *not* to leave Him and to oppose the divine intention. ... In other words, YHWH makes Himself vulnerable to Moses' decision."<sup>22</sup> Israel now totters not only on the brink of YHWH's will, but on the brink of the will and efficacy of Moses, her leader and intercessor, not to mention on his temptation to patriarchal greatness and frustration with recalcitrant Israel.

Moses turns (פָּנָה)—away from YHWH and his fiery, holy mountain to face Israel—and proceeds down the mountain with the two tablets of the covenant in his hands (9:15). He looks upon Israel with his own eyes and announces his own evaluation: "you had indeed sinned against the LORD your God (חַטַּאתֶם לַיהוָה אֱלֹהֵיכֶם), by casting for yourselves an image of a calf" (9:16). Moses then reiterates YHWH's condemnation nearly verbatim. YHWH had said, סָרוּ מִן־הַדֶּרֶךְ אֲשֶׁר צִוִּיתֶם (9:12) and Moses says, סָרְתֶם מִן־הַדֶּרֶךְ אֲשֶׁר־צִוָּה יְהוָה אֶתְכֶם (9:16). Israel has turned (סָרָה) quickly, thus ignoring the divine command to turn neither to the right nor to the left (5:32). In the context of Deuteronomy, Israel is commanded to devote to the ban (חָרַם) the peoples of Canaan in order to prevent them turning (סָרָה) Israel from YHWH to other gods (7:4), but it is clear that Israel is fully capable of turning (סָרָה) herself with no outside influence. Moses has seen Israel's folly just as YHWH has, but what will he do? His immediate response is to throw down and break the tablets of the covenant (9:17), signifying the end of the covenant,<sup>23</sup> which could easily be preparation for Israel's destruction. Israel seems to have lost both YHWH and Moses, her only two defenders, and lies on the powder keg of her own self-corruption with the consuming fire of YHWH approaching.

<sup>22</sup> Michael Widmer, *Moses, God & the Dynamics of Intercessory Prayer: A Study of Exodus 32-34 & Numbers 13-14* (Tübingen: Paul Mohr, 2004), 101 (emphasis original).

<sup>23</sup> "Breaking a tablet" in the ancient Near Eastern tradition connoted cancellation of the validity of a document" (Weinfeld, *Deuteronomy 1-11*, 410).

## Moses' Intercession and Israel's History of Rebellion (9:18-24)

Moses the mediator now returns to YHWH and intercedes for the people (9:18). In a verbatim repetition of the forty day fast where he first received the covenant (9:9), Moses seeks its restoration. Israel has no role in the drama—neither suffering punishment nor offering repentance. But Moses' stance has changed from sitting (יָשָׁב, 9:9) before YHWH to helplessly falling (נָפַל, 9:18).<sup>24</sup> In explaining the motivation for his intercession, Moses describes Israel's failing in three parts: they have sinned (חַטַּאתְכֶם אֲשֶׁר חַטַּאתֶם), they have done evil in the sight of YHWH (לְעֵשׂוֹת הָרַע בְּעֵינֵי יְהוָה), and they have provoked him to anger (לְהַכְעִיֵּסוֹ). "Sin" (חַטָּא, חַטַּאת, חַטָּא) is an otherwise unusual word for the outer framework of Deut, occurring four times in this pericope (9:16, 18, 21, 27) but only once outside it (1:41). The second and third parts of Moses' indictment also occur together in his previous warning to Israel in 4:25 and YHWH's canonically later prediction of Israel's failure in 31:29, continuing the canonical linkage of the present passage to the sermon of ch. 4 and the song of chs. 31-32. Provocation to anger (כַּעַס) also plays a prominent role in the Song itself (32:16, 19, 21 [2x], 27). The careful canonical reader links Israel's past in this retelling to her perilous future. In the context of the book of Deuteronomy, Moses' presentation of Israel's history is no mere chronicle but a formative story. Moses testifies to Israel that her nature is to make idols, to be disloyal to YHWH, and to provoke him to anger. The golden calf incident provides a pattern for Israel's self identity.

Moses further emphasizes Israel's danger by adding his personal emotions: "I was afraid (יָגַד) that the anger that the LORD bore against you was so fierce that he would destroy (שָׁמַד) you" (9:19).<sup>25</sup> But in narrative time YHWH's wrath quickly dissipates: "But the LORD listened to me that time also."<sup>26</sup> Again, the difficult balance between destruction and peace swings back and forth. The text makes no apology for condemning Israel and justifying YHWH's anger, but it likewise recognizes that these crises have regularly been resolved in the past with Israel continuing on in covenant with YHWH.

Moses then mentions YHWH's anger against Aaron and his intercession for him. This comment interrupts the flow of the narrative but prepares for the later mention of Aaron in 10:6. Finally, Moses utterly destroys Israel's "sin" (חַטַּאתְכֶם) itself, the calf, with burning (שָׂרַף), crushing (כָּתַת), grinding to dust (טָחוֹן הֵיטֵב עַד אֲשֶׁר-דָּק לְעֶפֶר), and scattering (שָׁלַךְ) (9:21). The restoration of Israel to YHWH depends not on prayer alone, but on repudiating and eliminating the

<sup>24</sup> Cf. πῑπτω in Mk 14:35, though LXX renders נָפַל in 9:18 with δεομαῖ.

<sup>25</sup> More literally, "I was afraid before the anger and rage that YHWH was wrathful against you to destroy you" (יָגַדְתִּי מִפְּנֵי הָאֵף וְהַחֲמָה אֲשֶׁר קִצְף יְהוָה עֲלֵיכֶם לְהַשְׁמִיד אֶתְכֶם).

<sup>26</sup> It is unclear what previous incident "also" refers to, though it is most likely the later incidents of Num 11:2; 14:13-20; 21:7-9, which are anachronistically reordered because of the multiple viewpoints of the retelling of history. So also Jeffrey H. Tigay, *Deuteronomy: The Traditional Hebrew Text With the New JPS Translation* (Philadelphia: Jewish Publication Society of America, 1996), 101; S. R. Driver, *A Critical and Exegetical Commentary on Deuteronomy* (3rd ed.; Edinburgh: T&T Clark, 1902), 115. Alternatively, it could refer to the first intercession of Exod 32:11-14, which is omitted here (Weinfeld, *Deuteronomy 1-11*, 411).

offense. Moses' methods link to the ways reforming kings in other contexts would destroy the artifacts of idolatry.<sup>27</sup> Note that the destruction of the idol resembles the command for **חָרַם** in Deut 7:5, 25 with **שָׂרַף** also used in that connection. The pattern for eliminating offending idols is established.<sup>28</sup>

The story now pauses for a retrospective and generalizing interlude in 9:22-24, which will be paralleled by the prospective interlude in 10:6-9. With the dust of the calf flowing away from the mountain of YHWH, Moses points out that Israel provoked (**קִצְּפָה**) YHWH several times before: by complaining at Taberah (lit. "burning"; Num 11:1-3), by testing YHWH at Massah (lit. "place of testing"; Exod 17:2-7), by greediness for meat at Kibroth-hattaavah (lit. "the graves of desire"; Num 11:4-34), and—most infamously—by rebelling at Kadesh-barnea by both not taking the land and then attempting to take it wrongly (Num 13:1-14:45). The latter story is summarized, probably not only because of the severity of the rebellion but also because it is the second occasion for Moses' determinative intercession. Interestingly, though Moses describes Israel's action as provocation (**קִצְּפָה**), this key word does not appear in any of the original stories.<sup>29</sup> Instead, **קִצְּפָה** links this summary to the introduction for the present passage in 9:7-8. The opening objective statement, "You have been rebellious (**מָרָה**) against the LORD from the day you came out of the land of Egypt until you came to this place" (9:7) is here reiterated in Moses' own experience, "You have been rebellious (**מָרָה**) against the LORD from the day I knew<sup>30</sup> you" (9:24, NASB 1995). The repetition of **קִצְּפָה** and **מָרָה** form an *inclusio* around the rebellion portion of the story (9:7-24). This interlude emphasizes that the apostasy at Horeb was both typical of Israel's character and significant in its own right.

#### Moses' Words of Intercession (9:25-29)

The pivot point of the story is Moses' intercessory speech. Here YHWH's faithfulness to Israel and his frustrated demand for ultimate loyalty come together. This tension is not resolved by YHWH alone, within his own mind and words, but in conversation with Moses. He who commands to be left alone listens as Israel's representative and leader speaks on her behalf. Obviously Israel survived this encounter, but what is the logic? Moses responds to YHWH's announcement of his intent to destroy (**שָׂמַד**) Israel by prostrating himself for forty days (9:25). That this forty days resumes and extends the summary telling in of 9:18-20 is made clear by the presence of the definite article with "days" and

<sup>27</sup> **כָּתַת**: 2Kgs 18:4; **שָׂרַף**: 1Kgs 15:13; 2Kgs 10:26; 23:4, 6, 11, 15; **שָׂלַךְ**: 2Kgs 23:6, 12; **דָּקַק**: 2Kgs 23:6, 15; **עָפַר**: 2Kgs 23:4, 6, 12, 15. For a comparison with Ugaritic literature and the parallel Exodus passage, see Weinfeld, *Deuteronomy 1-11*, 411-4.

<sup>28</sup> Note that the trial of drinking the powdered solution in Exod 32:20 is omitted here in line with the general pattern of eliminating any punishment of Israel and focusing on Moses' intercession (McConville, *Deuteronomy*, 185).

<sup>29</sup> Though it does appear in the retelling of the Kadesh-barnea rebellion in Deut 1:34.

<sup>30</sup> The NRSV follows the LXX and Samaritan Pentateuch rather than the MT and translates "as long as he has known." The essence of Israel's continual rebellion is unaffected, though the *terminus a quo* for YHWH knowing Israel is certainly more ambiguous than for Moses. Deut 31:27 lends support to the MT (Weinfeld, *Deuteronomy 1-11*, 414). Others prefer the LXX reading (McConville, *Deuteronomy*, 177).

“nights” (את ארבעים היום ואת ארבעים הלילה), referring back to the previously mentioned days and nights of 9:18.<sup>31</sup> Moses declares his desire in imperative form: “Do not destroy (שחת) the people” (9:26). The change in the verb for destruction may be significant. The corrupting ruin of שחת is what Israel does to herself (4:16, 25; 9:12; 31:29; 32:5), but what YHWH explicitly does not do to her (4:31; 10:10 below). It is likely that Moses is less pleading that Israel not suffer for her disloyalty—which indeed she does in Exod 32:25-28 (cf. v. 34)—but that she not be utterly ruined as the people of YHWH.

He who speaks while face-down on the ground has nothing with which to bargain. Indeed, Moses has nothing positive to say about Israel. She has only stubbornness (קשי), wickedness (רשע), and sin (חטאת) on her balance sheet (9:27). Moses’ approach is unsurprising since it matches the introduction to the story where he has made clear that Israel is undeserving of the land she is about to possess. As in his introduction when he called Israel stubborn (קשה-עריף, 9:6) to her face, he speaks the same to YHWH. This is no mere rhetorical device but equally true in warning and in intercession. The charge of wickedness is even more ominous, for Moses has explained that it is exactly the wickedness (רשעה) of the Canaanites that explains their dispossession (9:4, 5). If Israel has proven as wicked as those she was to dispossess, how can she now enter the land? How can Moses argue for this people? He does not argue for the people, but for YHWH.

Moses first identifies Israel as YHWH’s people and possession (עמך ונחלתך, 9:26; *contra* YHWH’s word to Moses that they are “your people” [9:12]). There is a connection between the two parties of this dispute; they affect one another. Moses draws two lines from this starting point. First, YHWH should remember with favor the three patriarchs rather than the present nation of Israel (9:27).<sup>32</sup> Implicit in their memory are YHWH’s promises to them (as made explicit in Exod 32:13) and the solidarity of Israel across generations. The mention of their names recalls the introduction to the story where Moses tells Israel that she will gain the land “not because of your righteousness or the uprightness of your heart,” but “in order to fulfill the promise that the LORD made on oath to your ancestors, to Abraham, to Isaac, and to Jacob” (9:5). YHWH is obligated.

Moses’ second line of argument is based on the paradox that YHWH’s great act on behalf of needy Israel—his redemption of her (פדה, 9:26) by bringing her out of Egypt—has created a kind of dependence of *YHWH on Israel*, rather than the reverse. Not that YHWH himself depends on any contribution from Israel, but rather, having demonstrated to all observers his greatness (גדל) and mighty hand (יד חזקה) in this rescue (9:26), to let Israel fall subsequently would be to concede to Egypt either his inability to complete his publicly announced intention of bringing Israel into the land

<sup>31</sup> The chronological placement of the destruction of the idol (9:21) relative to Moses’ intercession (9:18-20, 25-29) and the re-establishment of the covenant (10:1-5, 10-11) is unclear.

<sup>32</sup> לֹא-זָכַר means “to think in favor of someone; cf. Ps 132:1; Jer 2:2; Pss 25:7; 136:23; 2 Chr 6:42” (Weinfeld, *Deuteronomy 1-11*, 415).

(מבלי יכלת יהוה להביאם אל־הארץ אשר־דבר להם) or that hatred has overcome his loyalty to Israel (ומשנאתו אותם) (9:28). As Tigay points out, “God is not indifferent to what humans think of Him. Moses knew that one of God’s motives in His actions against Egypt was to show His incomparable power to the world.”<sup>33</sup> Moses completes his plea with an *inclusio*, reiterating that Israel is YHWH’s own, formed as a nation by his greatness (9:29).

Is Moses’ argument answerable? It is true enough that Moses’ logic is not dissimilar to YHWH’s own argument in the Song of Moses that destroying Israel via human agents would open YHWH to the charge that these conquerors had triumphed over YHWH himself (32:27). But on the other hand, Israel’s disloyalty would seem to release YHWH from any self-imposed obligation toward her through promise to the patriarchs. Furthermore, as lord of all peoples of the world (cf. 4:19; 32:7-9), YHWH surely has other means available to display to Egypt his strength and lack of hatred for Israel. More convincing evidence for the weakness of Moses’ argument is the fact that it depends neither on the degree of Israel’s offense nor the completeness of her repentance. Thus the same logic could be used to force YHWH to bear with any amount of rebellion Israel could muster. So it seems YHWH has not been trapped by Moses’ rhetoric—Moses would probably be aware of its weaknesses himself!—but it is the best he has to offer.<sup>34</sup>

#### Covenant Re-established (10:1-9)

The reader is already aware that YHWH listened—presumably favorably—to Moses’ intercession (9:19). So in this expansion (9:25ff) of the summary version (9:18-20) of the story, one expects to hear YHWH’s response. Surprisingly, he neither agrees with Moses nor offers any counterargument. Striving with YHWH does not result in logical victory or defeat. Instead, YHWH simply begins again, rewinding the story to Moses’ first forty day fast, writing an unmodified covenant upon new tablets and entrusting them to the people in the ark (10:1-5; cf. v. 10). However the replay perfects the flawed original, for this time Moses finds no apostasy when he descends the mountain and the tablets are deposited undamaged into the ark.<sup>35</sup>

The story breaks for a second interlude (10:6-9; cf. 9:22-24). Unlike the first interlude, this one looks forward. Israel’s idolatry was placed within the context of continual past rebellion; YHWH’s recommitment to Israel is placed within the context of continued life together. The first part rehearses Israel’s itinerary, with two notable stops. At Moserah, Aaron dies<sup>36</sup> and is succeeded by his

<sup>33</sup> Cf. Exod. 9:14-16; 10:1-2; 14:4, 18 (Tigay, *Deuteronomy*, 103-4, 362 n. 32).

<sup>34</sup> “If the two branches of [Moses’] argument based on Yahweh’s reputation do not add up logically, this is due to its force as a rhetorical proposition, intended to move him by any means possible” (McConville, *Deuteronomy*, 186-7).

<sup>35</sup> The chronological problems of the account are often noted, but the rhetorical strength of successfully replaying the establishment of the covenant on the tablets requires ‘illogical’ additional trips up and down the mountain. On the chronological problems, cf. McConville, *Deuteronomy*, 179-80.

<sup>36</sup> Num 33:39 places this at Mount Hor. Numbers also rearranges the itinerary.

son Eleazar as priest. The reappearance of Aaron (cf. 9:20) demonstrates the success of Moses' intercession for him as Aaron continues his priesthood beyond the Horeb incident and indeed passes the service on to his descendant Eleazar.<sup>37</sup> However, the naming of the location of his death as a "place of chastening" (מוסרה) from יסר "to chasten") and locating it outside of Canaan seems to indicate some degree of punishment for his role in Israel's idolatry.<sup>38</sup> The continuing itinerary to Gudgodah and Jotbathah (10:7; cf. Num 33:33-34) provides a hint of the success of Israel's relationship with YHWH as the very name Jotbathah (יִטְבַּתְּהָ, "goodness" or "pleasantness," from יֵטֵב) and the description as "a land with flowing streams" (אֶרֶץ נַחֲלֵי מַיִם) points toward Canaan. "A land flowing with streams" has a unique verbal link to 8:7 where Canaan is referred to as "a land with flowing streams" (אֶרֶץ נַחֲלֵי מַיִם),<sup>39</sup> and where Canaan is also called a "good land" (אֶרֶץ טוֹבָה); note the similarity in Hebrew to "Jotbathah"). This wording seems to imply that YHWH is intent on blessing Israel with the good land, as before.

The second part of the interlude focuses on the tribe of Levi (10:8-9), Moses' own tribe, and particularly Levi's role in carrying the ark containing the tablets of the restored covenant. Levi is set apart "to stand before the LORD" (לְעֹמֵד לְפָנֵי יְהוָה), which recalls Moses' place where he "lay prostrate before the LORD" (וַאֲתַנְּפֵל לְפָנֵי יְהוָה) 9:18, 25), interceding for Israel.<sup>40</sup> While Israel's future with YHWH has been restored, future breaches are regrettably likely. But Israel will not be without a Mosaic intercessor who carries the covenant tablets as he did (9:15).<sup>41</sup> So while the interlude remains difficult in its context, Brueggemann correctly notes, "It is likely that the entire unit of verses 6-9 with its brief itinerary and report on Aaron, Eleazar, and Levi is not a mere historical note, but stakes an important interpretive claim about the ongoing authority of Moses through the Levites, a tradition in continuing tension with rival interpretive claims."<sup>42</sup>

#### Conclusion (10:10-11)

The story concludes with the re-completion of Moses' forty days on the mountain (10:10). He reiterates the success of his intercession: "And once again the LORD listened to me" (וַיִּשְׁמַע יְהוָה אֵלַי) (גַּם בַּפְּעַם הַהוּא; cf. 9:19). And finally Moses adds what may be taken as YHWH's answer to Moses' plea: "The LORD was unwilling to destroy you" (לֹא־אָבָה יְהוָה הַשְׁחִיתֶךָ). This sentiment has been implied up to this point, but is now explicit. The ruining of Israel has been averted—at least this time. The story concludes with YHWH commanding Moses and Israel to step out in their restored

<sup>37</sup> So also McConville, *Deuteronomy*, 189 *pace* Driver, *Deuteronomy*, 120.

<sup>38</sup> So Tigay, *Deuteronomy*, 105. If so interpreted, this would be the only indication of punishment for the incident in the Deuteronomy retelling of the story.

<sup>39</sup> Cf. also Jer 31:9.

<sup>40</sup> "To stand before" also refers to serving (Weinfeld, *Deuteronomy 1-11*, 421-2).

<sup>41</sup> Since Moses is of Levi, the choice of this tribe is appropriate. However, it is worth noting that Aaron, the leader of the Horeb rebellion, is also of Levi—even divinely appointed mediators cannot be trusted blindly.

<sup>42</sup> Walter Brueggemann, *Deuteronomy* (Nashville: Abingdon, 2001), 124.

relationship with him: “Get up, go on your journey at the head of the people, that they may go in and occupy the land that I swore to their ancestors to give them” (10:11).<sup>43</sup>

### Handling of Core Themes

As in the previous studies of the sermon in Deut 4 and the Song of Moses in Deut 32, I next consider the way this passage handles the core themes of the dynamic relationship between Israel and YHWH.<sup>44</sup>

#### YHWH’s Election of Israel and Kindness to Her

The golden calf story itself does not focus on YHWH’s election of and kindness to Israel, but depends on it for context. Moses refers to Israel as YHWH’s “very own possession” (וְנַחֲלָתֶךָ; 9:26; cf. 4:20), a reference to her election. Furthermore, YHWH has sworn to the patriarchs that their descendants will possess the land (1:8). Moses refers to this promise both in his words to Israel in the introduction (9:5) and to YHWH in his intercession (9:27). Furthermore, YHWH’s promise represents a special elective choice of Israel over other nations, not as a reward for proper behavior, as reflected by Israel displacing the Canaanites despite both being wicked (9:4-5, 27). Unlike Deut 4 and 32, where there are some indications of YHWH becoming Israel’s special god in the primordial past (32:8-9) when other nations were granted idols to worship (4:19), the present passage only looks as far back in history as the patriarchs.

YHWH’s kindness in the exodus from Egypt is also contextually important, being referred to three times. Moses points to the exodus as the beginning point of Israel’s rebellion (9:7), which makes the important point that Israel’s ingratitude began with YHWH’s first gift to the nation. YHWH dissociates himself from Israel by describing them as the people Moses has brought out from Egypt (9:12), which transfers the title of Israel’s benefactor to Moses. The great deed of the exodus is also important in Moses’ intercession, for if YHWH destroyed Israel, Egypt would have the opportunity to disparage his character (9:28).

YHWH’s kindness in the Horeb theophany is also present as context. Moses receives the two tablets containing “all the words that the LORD had spoken to you at the mountain out of the fire on the day of the assembly” (9:10; cf. 10:4). The covenant celebrates and codifies the relationship between YHWH and Israel, and though imposed to some degree upon Israel by the powerful YHWH, it is received by the people without reservation (5:27). It is the codification of YHWH’s words of covenant

<sup>43</sup> Note that the presence theme—whether YHWH or an angel will lead Israel—that is so prominent in the Exodus version, does not appear in the Deuteronomy account. Cf. Moberly, *Mountain*, 61ff.

<sup>44</sup> Rob Barrett, “Deuteronomy 4 and the Coercion of Israel,” n.p. cited 20 Sep 2005. Online: <http://coffeewithbarretts.com/writings/Deut4.pdf>; Rob Barrett, “The Song of Moses: Exploring the Lord’s Wrath Against Disloyal Israel,” n.p. cited Jun 30, 2005. Online: <http://coffeewithbarretts.com/writings/SongOfMoses.pdf>.



that forms the backbone of the present story. Moses is receiving the written covenant while Israel is violating its fundamental precept (9:12, 16-17).

The imminent possessing of Canaan is a prospective kindness that also shapes the story. Moses relates the story in Moab as Israel prepares to possess the land, which is almost taken as a *fait accompli*, though all of YHWH's promises have a measure of contingency in them. It is the occasion of Israel's imminent crossing of the Jordan into the land—described as “today” in 9:1—and the trustworthiness and power of YHWH that will enable it, that occasions the telling of the golden calf apostasy. YHWH's kindness to Israel in dispossessing the Canaanites before her must not be seen as a sign of Israel's moral superiority over them. The story proves that Israel's very existence depends upon YHWH's purposes and grace, and is nothing she deserves. Furthermore, the re-establishment of Israel's trek to Canaan reveals YHWH's continuing commitment to her in spite of her disloyalty (10:11).

#### YHWH's Commands

YHWH's commands and expectations for Israel are also contextually important for the story, though not explicit within it. The words written upon the tablets were “the ten commandments (הַדְּבָרִים) that the LORD had spoken to you on the mountain out of the fire on the day of the assembly” (10:4). At the top of the list is “You shall have no other gods before me. You shall not make for yourself an idol” (5:7-8), which Israel quickly disregards. YHWH indicts Israel to Moses with the words, “They have been quick to turn from the way that I commanded (צִוִּיתִי) them” (9:12), which depends on the reader understanding that it is the Decalogue that grounds the indictment. Thus the present story navigates a middle course between the sermon of Deut 4, which explicitly forbids and predicts Israel's idolatry, and the song of Deut 32, which has no explicit command for Israel to disobey.

#### Israel's Disloyalty and YHWH's Anger

Israel's disloyalty is characterized in various ways in the story. In the introduction, Moses refers to Israel receiving the land “not because of your righteousness or the uprightness of your heart” (9:5; לֹא בְצַדִּיקוֹתֶיךָ וּבִישֵׁר לְבַבְךָ). This is ambiguous in that it is unclear whether Israel *is* indeed righteous and upright but that this is not the reason for her receiving the land, or whether Israel *is neither* righteous *nor* upright. The thrust of the rest of the passage would make the latter more likely. A number of additional negative terms are associated with Israel's response to YHWH: stubborn (lit. “stiff necked”; קִשְׁיָהּ-עַרְףִי: 9:6; קִשְׁיָהּ: 9:27), provocative of YHWH to anger (קִצְפֵי: 9:7, 8, 22; כַּעַס: 9:18), rebellious (מַרְדָּה: 9:7, 23, 24), acting corruptly (שָׁחַת: 9:12, 26), quickly turning from the way YHWH commanded (סָרוּ מִן־הַדֶּרֶךְ אֲשֶׁר צִוִּיתָם: 9:12, cf. 16), sinning (חַטָּאת: 9:16, 18; חַטָּאת: 9:18, 21, 27), doing evil in the sight of YHWH (לַעֲשׂוֹת הָרַע בְּעֵינֵי יְהוָה: 9:18), neither trusting nor

obeying YHWH (ולא האמנתם לו ולא שמעתם בקלו: 9:23), and wicked (רשע: 9:27). Though some of these terms might be understood as objective (e.g. acting corruptly, wicked), the weight of the accusation is relational. In particular, YHWH has stipulated a way for Israel to go and she is noncompliant, as represented by such epithets as stubborn, rebellious, turning from the way YHWH commanded, sinning,<sup>45</sup> not trusting, and not obeying. Provoking YHWH to anger is quite similar but focuses on the resulting relational damage rather than on the offense itself. Doing evil in the sight of YHWH might be seen as objective if one focuses on the first part (“doing evil”) but becomes relational when YHWH’s eyes are invoked. So the focus of the story is on Israel’s offense as a violation of YHWH’s relational expectations. She refuses to take the relational role YHWH has created for her. Although this is a personal affront, it is also political because YHWH is Israel’s sovereign.

The response from YHWH, as expected from Israel’s action of provocation, is anger. “The LORD was *so* angry (אנף) with you *that he was ready* to destroy (שמד) you” (9:8).<sup>46</sup> In YHWH’s own words to Moses, “Let me alone that I may destroy (שמד) them and blot out (מחה) their name from under heaven; and I will make of you a nation mightier and more numerous than they” (9:14). Moses was fearful as he faced YHWH in this state: “I was afraid (יגר) that the anger (אף) that the LORD bore (קצף) against you was so fierce (חמה) that he would destroy (שמד) you” (9:19). The story also highlights YHWH’s anger toward Aaron (9:20). YHWH’s angry response is one of destruction. He envisions not simply cathartic or rehabilitative pain, but the utter erasure of Israel from memory. The suggestion of starting over with a new nation derived from Moses further emphasizes the point: YHWH’s anger means the end of Israel as his people so that the resulting void for YHWH can be filled by a subsequent nation from Moses. To put it bluntly, this single offense at the beginning of Israel’s trek with YHWH is bad enough for YHWH to terminate the project.

#### Reconciliation between YHWH and Israel

The path from YHWH’s destructive anger to reconciliation between the covenant partners makes up the center portion of the story. YHWH invites Moses’ intervention into the crisis with the ironic “let me alone” (9:14). Moses responds by going down to Israel to observe her offense firsthand (9:15-16), symbolically smashing the tablets of the covenant (9:17), interceding for Israel before YHWH (9:18-20, 25-29), and destroying the idol (9:21). In the story, reconciliation depends upon Moses’ intervention: left to his own, YHWH is committed to Israel’s destruction. Reconciliation does not depend upon Israel’s repentance. Presumably, Moses wins her heart in some way in that she does not

<sup>45</sup> “The root *h̄t*’ frequently expresses the ethical failure of one person to perform a duty or common courtesy for another, as in the failure of a vassal to pay tribute to his overlord” (Robin C. Cover, “Sin, Sinners [OT],” *Anchor Bible Dictionary* VI:32). In 9:16 the accusation concerns sinning against YHWH (ליהוה). “When *h̄tā*’ is followed by *lē*, a failure to respect the full rights and interests of another person is involved” (G. Herbert Livingston, “חָטָא,” *TWOT* I:277).

<sup>46</sup> The italicized words are not in the Hebrew text.

persist in idol worship, argue with Moses, or prevent the destruction of the idol, but the story does not highlight these aspects. Furthermore, the destruction of the idol is prominent, even to the point of its crushed dust being washed away from the mountain of YHWH (9:21). But in the story Israel's sole role is to offend, as highlighted in the summaries of 9:6-7, 22-24, 27.

So while the removal of the idol seems necessary for reconciliation, it is not sufficient. It is Moses' words that avert disaster. His reminder of YHWH's promise to the patriarchs (9:27) and warning of Egypt's slander (9:28) predicates YHWH's change in direction. What would have happened without Moses' intervention? Hypothetical questions are rarely addressed by Hebrew narrative, but it seems that part of Moses' message is that apart from his intervention—and even possibly after his best attempt at intercession—Israel would have been destroyed. Israel's existence as the disloyal people of YHWH is precarious. Moses wins no argument against YHWH to force him to relent,<sup>47</sup> but he relents nonetheless. The fact that Israel survives the encounter is no guarantee for survival next time.

Perhaps surprisingly, only threatened and not actual destruction follows Israel's offense. While Moses' intercession bridges between offense and reconciliation here, actual destruction forms a significant part of the bridge in both the sermon of Deut 4 and the song of Deut 32 (cf. 4:27-30; 32:21-26). But the destructive force of YHWH only accomplishes part of the reconciliation in those cases. In the sermon, reconciliation also depends upon Israel turning back to YHWH (4:29-30). In the song, it also depends upon YHWH's concern for his reputation before the nations (32:26-27), in a way not too dissimilar to the present story. Since these other passages are both predictive (unlike the retrospective golden calf story), it may be that YHWH's threatened violence against Israel for idolatry might also be averted. However, the canonical history shows that this was not the case and that Israel suffered mightily for her apostasy in the Assyrian and Babylonian exiles. Of course, in the canonically earlier rendering of the golden calf story, much Israelite blood is spilt on the way to reconciliation with YHWH (Exod 32:27-28), but this part of the story is omitted in Deuteronomy.

#### DEUTERONOMY'S ISRAEL AND THE MODERN STATE

The foregoing examination of the golden calf remembrance in Deuteronomy makes clear that the relationship between Israel and YHWH involves a fundamental conflict between two powerful forces: YHWH's determination to have Israel relate to him as he sees fit and Israel's rebellious spirit that refuses to yield to YHWH's desires. It is the intensity of this conflict that drives the narrative and makes sense of the larger canonical story of YHWH and Israel. As noted in the introduction to this essay, both the importance of Israel's cultic choices and the vigor of YHWH's response can be

<sup>47</sup> It is interesting that the story does not signal YHWH relenting from his promised destruction with the usual term, *נָחַם*, though this does appear in the Exodus account (32:12, 14).

difficult for modern readers to understand. In this section, I attempt to illuminate the text for such readers by exploring the relationship between Deuteronomy's Israel and the modern state. I first argue that Deuteronomy's function can be well understood as a "nation-state document." I then compare Deuteronomy's Israel to a modern state and likewise consider the modern state as a quasi-religious construct. Finally, I explore the way the golden calf remembrance functions as a national myth for Israel with reference to the modern national mythical poem "In Flanders Fields."

### Deuteronomy as Nation-State Document

Commentators have much debated the overall character of the book of Deuteronomy. Although it incorporates a number of different recognizable literary forms from its ANE context, including law codes and suzerainty treaties, it currently remains a generic singularity: no extant ancient documents are of comparable overall genre.<sup>48</sup> As Patrick Miller<sup>49</sup> summarizes the debate, the choices fall into two broad categories: polity/constitution or instruction/teaching.<sup>50</sup> The primary distinction is whether the book's purpose is more to establish institutional structures and enforceable laws or to persuade its audience to accept its worldview and live by its standards.

McBride's famous essay argues the case for Deuteronomy as polity.<sup>51</sup> As he summarizes it, Deuteronomy is "the charter for a constitutional theocracy."<sup>52</sup> He criticizes the description of Deuteronomy as instruction or teaching because it promotes "a much too facile understanding of Deuteronomy itself as essentially a didactic, moralizing, or homiletical work."<sup>53</sup> Instead of mere sermon, "This Torah' is covenantal law, the divinely authorized social order that Israel must implement to secure its collective political existence as the people of God."<sup>54</sup> He supports this position by analyzing the function of each part of the book. 1:1-5 introduces Moses' memoir in 1:6-4:40. This memoir with its rehearsal of Israel's successes and failures provides a public memory that successes

<sup>48</sup> Dean McBride, "Polity of the Covenant People: The Book of Deuteronomy," *Int* 41 (1987): 236-7. He cites these incorporated genres: the "codes" of cuneiform law, the mešarum acts of Mesopotamian rulers, the loyalty oaths they imposed upon their subject and vassals, the apologies and protocols of Egyptian kings, and especially international treaties.

<sup>49</sup> Because I cite two authors with the surname "Miller" in this section, I include the first name with each citation.

<sup>50</sup> Patrick D. Miller, "Constitution or Instruction? The Purpose of Deuteronomy," in *Way of the Lord: Essays In Old Testament Theology* (Tübingen: Paul Mohr, 2004), 253. Advocates of instruction include Driver, who notes the three elements of history, law, and parenesis but argues that the first two play supportive roles to the third (Driver, *Deuteronomy*, xix), von Rad, who sees the central characteristic to be exhortation (von Rad, *Deuteronomy*, 19), and Olson who prefers the label "catechesis" (Dennis T. Olson, *Deuteronomy and the Death of Moses: A Theological Reading* [Minneapolis: Fortress, 1994], 10-14). The primary advocate of the constitution view is McBride (McBride, "Polity").

<sup>51</sup> McBride, "Polity."

<sup>52</sup> McBride, "Polity," 238. He quotes Josephus for this terminology: "Our lawgiver...gave to his constitution the form of what—if a forced expression be permitted—may be termed a "theocracy," placing all sovereignty and authority in the hands of God" (*Against Apion*, 2.165, *Josephus*, trans. H. St. J. Thackeray, LCL [Cambridge, Mass.: Harvard Univ., 1926], 9.359.)

<sup>53</sup> McBride, "Polity," 232.

<sup>54</sup> McBride, "Polity," 233.

follow from implementing YHWH's decrees (2:1-4:40) and failures from their rejection (1:19-46). The polity proper is introduced by the superscription of 4:44-49.<sup>55</sup> Chapter 5 presents the Decalogue. Chapters 6-11 illustrates, elaborates and motivates Israel's obedience to the first commandment of undivided allegiance to YHWH. The law code of 12:2-26:15 breaks down into five divisions.<sup>56</sup> First is the centralization of the sanctuary, which mitigates the threats to national cohesiveness of diversity (12:2-28). Second are the corporate institutions, rites, and judicial procedures that maintain national integrity (12:29-17:13). Third is the limitation of the power of kings and others who might claim political power or extra-constitutional authority (17:14-18:22). Fourth is the protection of individuals' lives and personhood (19:1-25:19). Fifth is the prescription of "two liturgical acts which identify personal well-being and shared prosperity as reciprocal objectives of covenantal politics" (26:1-15).<sup>57</sup> The law code is immediately followed by the constitutive act of mutually swearing oaths (26:16-19). Completing the law code is a two-part conclusion involving ceremonial reaffirmation of the polity (ch. 27) and an elaborate listing of sanctions in blessings and curses (ch. 28). In the final major section, the additional Moab covenant looks to life after Moses' death and the continued maintenance of the constituted nation through individual, tribal and national responsibility (29:1 [Heb. 28:69]-32:52). Chapters 33 and 34 are epilogue.

While McBride's analysis is exceedingly helpful, it seems clear that his characterization of Deuteronomy as "polity," which focuses on organizing a government or society, is too narrow. He as much admits this when he writes, "Whatever earlier or independent function the book's outer frame may once have had, it now serves admirably to highlight the character of the central document as constitution."<sup>58</sup> Indeed, the Decalogue and law code focus on organizing Israel. But the narratives of Israel's history (1:6-3:29), hortatory sermons (4:1-40; chs. 6-11), blessings and curses (28:1-68), preview of future apostasy (31:14-22), and so on are clearly not "polity" in any ordinary sense of that word.

Patrick Miller senses this weakness in McBride's characterization and addresses it. He supports McBride, particularly in pointing out that there is good reason to believe that under Josiah "the book actually functioned as a political and religious charter for ordering the life of the community."<sup>59</sup> He even sharpens McBride's argument by identifying a noteworthy correlation between Deuteronomy and modern governance: the Decalogue stands as a stable embodiment of fundamental principles like a modern constitution while the specific laws implementing those

<sup>55</sup> McBride refers to 4:41-43 as a "brief editorial supplement" (McBride, "Polity," 233).

<sup>56</sup> "This structure is indicated by the alternation of two temporal clauses: 'When Yahweh your God has extirpated the nations...' (12:29; 19:1); 'When you have invaded the Land...' (17:14; 26:1)" (McBride, "Polity," 239).

<sup>57</sup> McBride, "Polity," 243.

<sup>58</sup> McBride, "Polity," 235.

<sup>59</sup> Miller, "Constitution," 258.

principles vary with varying conditions, as Exodus' Book of the Covenant reflects the Decalogue differently than Deuteronomy's law code.<sup>60</sup> But Patrick Miller believes one must also acknowledge the importance of instruction within Deuteronomy: "Various and obvious dimensions of rhetoric and form confirm a preaching or hortatory dimension to this book that is fundamental to its character."<sup>61</sup> He goes on to list nine examples of form and rhetoric markers that confirm that instruction is fundamental to the book's character, such as frequent reference to "today," use of the pronouns "we" and "you," use of vocatives, summons to hearing, etc.

Patrick Miller sees room for a generative joining of the ideas of the book as polity and instruction. Specifically, in order to effect a national polity, Deuteronomy must "be taught and learned and pressed upon the people."<sup>62</sup> Though some ancients advocated rule by unexplained decree, Patrick Miller cites Plato's desire that law be implemented by both persuasion and coercive force. Patrick Miller writes, "Persuading the community to keep the social order in all its details as set forth in the laws and statutes is as much the aim of the legislator as setting forth the laws and statutes themselves."<sup>63</sup> He cites the need, even in modern society, for the training of both leaders and children in the polity details, story and basic tenets of the community's life. Thus, in Patrick Miller's view, Deuteronomy is both a prescriptive and persuasive legal framework.

In my view, Patrick Miller moves in the right direction but not far enough. I argue that Deuteronomy is a "nation-state document."<sup>64</sup> I hasten to add that I do not mean a *modern* nation-state, though I will make this comparison in the next section of this essay. As a nation-state document, Deuteronomy embodies the construction and maintenance of Israel as both a nation and a state. In some sense, "nation" refers to Patrick Miller's category of "instruction" and "state" to "constitution." Since the terms "nation" and "state" are often used interchangeably in informal conversation, I begin by differentiating them.<sup>65</sup> At a coarse level, a nation is a self-conception while a state is an institution. As David Miller describes the distinction, "Nation" refers "to a community of people with an aspiration to be politically self-determining," while "state" refers "to the set of political institutions that they may aspire to possess for themselves."<sup>66</sup> He provides helpful examples of the distinction: States can include multiple nationalities (e.g. the former Soviet Union); a single nation can be divided between two states (e.g. China between the mainland and Taiwan); and people of a single nationality

<sup>60</sup> Miller, "Constitution," 261.

<sup>61</sup> Miller, "Constitution," 262-3.

<sup>62</sup> Miller, "Constitution," 263.

<sup>63</sup> Miller, "Constitution," 265.

<sup>64</sup> It is an interesting exercise to seek a biblical Hebrew rendering of this designation. Possible components include such words as a סֵפֶר (book; 17:18; 31:24) of a בְּרִית (covenant; 5:2-3) or תּוֹרָה (*torah*; 1:5; 17:18; 31:24) that constitutes an עַם (people; 4:20).

<sup>65</sup> My discussion of the idea of nation (including its difference from the idea of a state) relies heavily upon David Miller, *On Nationality* (Oxford: Oxford University Press, 1995).

<sup>66</sup> Miller, *Nationality*, 19.

can be scattered across a number of states (e.g. the Kurds). Though consensus on the definitions of both nation and state is elusive, David Miller provides five elements that together define nationality:

1. Shared Belief in Nationality: Nations have “a shared belief that its members belong together, and a shared wish to continue their life in common.”<sup>67</sup>
2. Historical Continuity: Nations owe a debt both to the past toil and spilt blood of the forebears who built and defended the nation and the future descendants who will inherit the nation, which precludes the present generation renouncing the nation.
3. Activity: Nations do not move passively through time but “do things together, take decisions, achieve results, and so forth. . . . The nation becomes what it is by the decisions that it takes—some of which we may now regard as thoroughly bad, a cause of national shame.”<sup>68</sup>
4. Geographical Place: A nation’s actions “must include that of controlling a chunk of the earth’s surface,” which “helps to explain why a national community must be (in aspiration if not yet in fact) a political community.”<sup>69</sup>
5. Commonality: A nation’s people do not live together simply because they happened to collide with one another, but rather share some sort of commonality, whether ethnic heritage, language, culture, or other distinctive.

In summary, these elements describe a nation as a cohesive collection of people with shared beliefs, history, activity, place, and culture. It is noteworthy that a nation is not simply an ethnicity, though this may be one element of commonality that helps to form a nation.<sup>70</sup> My claim is that Deuteronomy—in particular, the teaching portions of the book—work to build the nation of Israel. I briefly illustrate each of David Miller’s five elements of nationality from Deuteronomy.

First, the book addresses Israel as a single people with no tribal divisions.<sup>71</sup> It refers to “all Israel” (כל ישראל) eleven times and makes a special point that the trans-Jordan tribes of Reuben and Gad belong to the one people and will fight with their brothers (3:18-20). The children of Israel belong together. Second, historical continuity is a prominent feature of the book, particularly in Moses’ striking presentation of the Decalogue to the second generation: “The LORD our God made a covenant with us at Horeb. Not with our ancestors did the LORD make this covenant, but with us, who are all of us here alive today. The LORD spoke with you face to face at the mountain, out of the fire.” (Deut.5:2-

<sup>67</sup> Miller, *Nationality*, 23.

<sup>68</sup> Miller, *Nationality*, 24.

<sup>69</sup> Miller, *Nationality*, 24-5.

<sup>70</sup> Cf. Miller, *Nationality*, 19-21.

<sup>71</sup> McConville notes Deuteronomy’s characteristic use of the term אחים (“brothers”) for fellow-Israelites, eliminating divisions and leveling status differences. Within Deuteronomy “there is a tendency to speak of Israel as a single whole, and what seems like a deliberate disregard for divisions within the people. This is true not only of tribal divisions but also in the realm of worship, where it is the people as an undifferentiated whole that is gathered for worship” (J. Gordon McConville, *Law and Theology in Deuteronomy* [Sheffield: JSOT Press, 1984], 19).

4; cf. 11:2-9). As Weinfeld comments, “Israel throughout its generations is thus presented in Deuteronomy as one body, a corporate personality.”<sup>72</sup> Most importantly, the book looks back to YHWH’s promises to the patriarchs and folds each succeeding generation into those promises (1:8; 6:10; 29:10-13; 30:19-20). The book is also concerned with future generations, commanding that the book be taught to the children (4:9; 6:2, 7, 20-25; 7:3-4; etc.). Each generation bears the responsibility of carrying the *torah* of YHWH forward. Third, Deuteronomy’s Israel has been an active people both in the shame of rejecting YHWH (1:19-46; 9:1-10:11) and in the glory of obedience and conquest (2:1-3:29). These narratives of remembrance give the people a shared sense of action. Through the stories, each generation faces the same challenges as their ancestors, suffers the same defeats and celebrates the same victories. Fourth and most obviously, Deuteronomy looks forward to settled life in the promised geography of Canaan. The entire book is anticipatory: Israel’s “history as a territorial state, surrounded by other nations, is about to begin.”<sup>73</sup> Fifth, what is the distinctive peculiarity that Deuteronomy emphasizes as Israel’s national identity? Patrick Miller correctly points to the “ultimate goal” of Deuteronomy’s teaching: Israel is to “learn to fear the LORD your God” (31:12, 13; cf. 4:10; 14:23; 17:19; 31:12, 13). The book has “this large goal, the inculcation, the training in the fear of the Lord.”<sup>74</sup> YHWH is Israel’s distinctive commonality. Israel is the chosen covenant partner of YHWH, the recipient of YHWH’s promises and law, unique across all other nations (4:19-20; 32:6-9). Her association with YHWH is the focus of her national identity. All five of these aspects of nationality for Israel are inseparably tied to her relationship with YHWH.

Thus it is clear that Deuteronomy seeks to shape a nation: as David Miller put it, “a community of people with an aspiration to be politically self-determining.” While the idea of “self-determining” needs some nuance to indicate a community under YHWH, the fact that Deuteronomy points Israel to an aspiration for its own political state should be undisputed. Interestingly, David Miller indicates the need for mass communication for the development of a nation.<sup>75</sup> Because nations depend on a shared imagination that is beyond the scale of face-to-face relationships, they depend on cultural artifacts that can transmit those beliefs across the entire nation. He writes, “How do I know what it means to be British, what the British nation is supposed to be like? I find out from newspaper editorials, or history books, or films, or songs—and I take it for granted that what I am ingesting is also being ingested by millions of other Britons whom I will never meet. So nations cannot exist unless there are available the means of communication to make such collective imagining feasible.”<sup>76</sup> For Israel, Deuteronomy and its associated institutions and rituals, is precisely the medium of that

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<sup>72</sup> Weinfeld, *Deuteronomy 1-11*, 238.

<sup>73</sup> McBride, “Polity,” 236.

<sup>74</sup> Miller, “Constitution,” 266.

<sup>75</sup> I disagree with his argument that the requirement for mass communication implies that nationality is a distinctively modern phenomenon (Miller, *Nationality*, 31).

<sup>76</sup> Miller, *Nationality*, 32.



communication. As McBride observes, Deuteronomy's "most striking mark of distinction" is its claim to "embody as its central segment (4:44-28:68) a *written* deposition of the authoritative Torah mediated through Moses to Israel," which leads to its other unique claim "as the only individual book of Scripture whose text is expressly referred to elsewhere within the Hebrew Bible itself."<sup>77</sup>

Deuteronomy is the prime cultural artifact that shapes Israel's national identity and the object of mass communication.

That Deuteronomy is also a state document is even clearer—this is what McBride means by "polity." The book establishes institutions of power and law, with executive, judicial and cultic authorities, all under the ultimate authority of YHWH himself. As McBride puts it, Deuteronomy crosses "the political distance between a fledgling community of liberated slaves and an institutionally structured society, responsible for maintenance of civil order, economic well-being, and human rights for all of its citizens."<sup>78</sup> Patrick Miller concludes, "The constitutional character of the book as a charter for the divinely appointed socio-political order of Israel seems very clear."<sup>79</sup>

In summary, Deuteronomy's implied purpose<sup>80</sup> is to create and maintain the nation-state of Israel under YHWH in the territory of Canaan. This purpose requires both the building of the nation (the cohesive people who belong together) and the state (the institutional structures that allow the people to live and prosper through both internal and external conflict). The complex of Deuteronomy's narratives, historical remembrances, hortatory sermons, laws, promises, warnings, ceremonies of reaffirmation, etc. all work together for this purpose.

### **The Modern State and YHWH: Sovereignty and Religion**

Describing Deuteronomy as a "nation-state document," immediately raises the question of how Israel in Deuteronomy relates to the *modern* state.<sup>81</sup> Indeed, this question will become important in the later discussion of how modern readers of Deuteronomy—who are almost all citizens of some sort of modern state<sup>82</sup>—are to understand the violence of YHWH in the book. The complex relationship

<sup>77</sup> McBride, "Polity," 231-2 (emphasis original). He cites the following as unambiguous references to the Mosaic polity as represented in Deuteronomy: Josh 1:7, 8; 8:31, 32, 34; 22:5; 23:6; 1Kgs 2:3; 2Kgs 14:6 (cf. 2Chr 25:4); 22:8, 11; 23:24, 25 (cf. also 23:2, 3); Mal 4:4 [Heb. 3:22].

<sup>78</sup> McBride, "Polity," 236.

<sup>79</sup> Miller, "Constitution," 262.

<sup>80</sup> I add the term "implied" to avoid complex historical questions about how the text in various forms actually functioned in the history of Israel. As placed on the plains of Moab, Deuteronomy speaks about the establishment of Israel in Canaan. As a voice speaking from a vantage point in the future (e.g. 4:25; 8:12-13; 31:20-21), Deuteronomy is concerned with maintaining Israel as YHWH's people through temptation, apostasy, and restoration.

<sup>81</sup> I drop the modifier "nation" from the more complete description "modern nation-state" in deference to what seems most common in discussions of political philosophy. That the modern state includes many features of nationality and overlaps with the idea of nation should be clear in the following discussion.

<sup>82</sup> Exceptions include those who have been stripped of their citizenship of birth without gaining another, those born without fulfilling the requirements of citizenship of any state, some refugees, and victims of state reorganization. The problem of stateless persons is of some current concern to the United Nations.

between the sovereignty of the modern state—which wields considerable violence and is often defined in terms of holding a monopoly over the legitimate use of violence within a territory—and the sovereignty of YHWH—who can also be violent—must be considered.

### The Modern State

The modern state has developed in the Western world over roughly the past 400 years through the breakdown of papal authority, the so-called “religious wars,” and the political-philosophical writings of Hobbes, Locke, and Rousseau. The modern state model has come to dominate the entire globe. On a political map most every patch of land is marked with the color of one state or another. Most every person is the citizen of exactly one of these states.<sup>83</sup> Interestingly, even the Roman Catholic Church—which sees itself as fundamentally global—has had to incorporate itself into the global state system by having Vatican City be seen as a modern state, at least for purposes of internet, mail and telephone communications, international relations, and citizenship rules. It is almost literally impossible for someone to escape the modern state in our world.

The modern state is difficult to characterize and theoreticians argue over which features are most significant. There is a persistent tendency to refer to Weber’s influential statement as the fundamental definition of the modern state: “A state is a human community that (successfully) claims the *monopoly of the legitimate use of physical force* within a given territory.”<sup>84</sup> However, territory and coercion are not the only features of interest. Morris proposes five characteristics of the modern state that describe this relatively new and complex form of political organization: continuity in time and space, transcendence, political organization, authority, and allegiance. He expands on each of these characteristics:

1. Continuity in time and space. The modern state is a form of political organization whose institutions endure over time; in particular, they survive changes in leadership or government. It is the form of political organization of a definite and distinct territory.
2. Transcendence. The modern state is a particular form of political organization that constitutes a unitary public order distinct from and superior to both ruled and rulers, one capable of agency. The institutions that are associated with modern states—in particular, the government, the judiciary, the bureaucracy, standing armies—do not themselves constitute the state; they are its agents.
3. Political organization. The institutions through which the state acts—in particular, the government, the judiciary, the bureaucracy, the police—are differentiated from other political organizations and associations; they are formally coordinated one with another, and they are relatively centralized. Relations of authority are hierarchical. Rule is direct and territorial; it is relatively pervasive and penetrates society legally and administratively.

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<sup>83</sup> In addition to the case of statelessness (cf. n. 82), some people have obligations to multiple states. Multiple citizenship is an interesting though rare feature of the system, one notably discouraged by America and other states.

<sup>84</sup> Max Weber, “Politics as a Vocation,” in *From Max Weber: Essays in Sociology* (ed. H. H. Gerth and C. Wright Mills; Abingdon: Routledge, 1991), 78 (emphasis original).

4. Authority. The state is sovereign, that is, the ultimate source of political authority in its territory, and it claims a monopoly on the use of legitimate force within its territory. The jurisdiction of its institutions extends directly to all residents or members of that territory. In its relations to other public orders, the state is autonomous.

5. Allegiance. The state expects and receives the loyalty of its members and of the permanent inhabitants of its territory. The loyalty that it typically expects and receives assumes precedence over that loyalty formerly owed to family, clan, commune, lord, bishop, pope, or emperor. Members of a state are the primary subjects of its laws and have a general obligation to obey by virtue of their membership.<sup>85</sup>

As a step in orienting the modern person with the text of Deuteronomy, I briefly consider these five characteristics and the way they are expressed in the two worldviews. For the modern worldview, I refer to the American example.

#### The Modern State and Deuteronomy's Israel

First, the continuity in time and space for Deuteronomy's Israel has been discussed above. She has a history with YHWH that begins with his covenant with the patriarchs, continues through her sojourn in Egypt, emerges in power in the exodus, is codified at Sinai, looks forward to the conquest and settlement in Canaan, and continues with the training of each new generation into the tradition. In space, her hopes are pinned to the promised land of Canaan, which YHWH promised in the original covenants and, for Deuteronomy's story, lies just over the horizon. For America, continuity in time is maintained through stories and institutions, among other things. The story is told of people coming to the New World for a new start, battling the oppressive tyranny of colonial rule, forming a new system of government through wise and creative founders, and establishing a land of freedom where everyone is granted an opportunity for "life, liberty, and the pursuit of happiness." The story continues into the future with subsequent generations depending upon the sacrifices of the present generation to continue the fight against new oppressors and haters of freedom since freedom is never free. The Constitution is the centerpiece of American institutional continuity as it remains a guardian of the institutions and practices devised by the founders. In space, America's territory is bounded by oceans to the east and west and by friendly borders to the north and south.

Second, Morris uses "transcendence" to mean that the modern state's political order is superior to both the ruler and the ruled. America is an entity that is more than the president, congressional representatives, and judges currently holding office. America continues on after they die, are impeached, or are replaced by election and appointment. America is also more than the populace, for although it is governed "by the people," the state continues as the populace changes. The leaders are not the state but are both the agents and servants of the state. The people are not the state but are both the subjects and ultimate rulers of the state. America is more than both of them. Likewise

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<sup>85</sup> Christopher W. Morris, *An Essay on the Modern State* (Cambridge: Cambridge University Press, 1998), 45-6 (emphasis original).

and much more obviously in Deuteronomy, the nation-state of Israel is more than both the people and the human leaders. It is transcendent YHWH who defines Israel, creates Israel, maintains Israel, commits himself to Israel, and judges Israel.

Third, the modern state is politically organized through the establishment of institutions that are coordinated and centralized, pervasively penetrating society. In America the basic institutions are the three branches of government: executive, legislative, and judicial. These are separated but coordinated through a carefully controlled system of checks and balances. The massive civil service supports these institutions and connects all citizens and many aspects of life to the state. The American military forces are led by the civilian president under legislative controls. In Deuteronomy, the institutions of the state are largely eclipsed by the Decalogue and law codes, which pervade all society. These instruments of government come from YHWH—both directly and through mediation—and are implemented by the judges and officials (16:18-20), and in time the king (17:18-20). The institution of priestly cult also serves to connect all citizens to YHWH.

Fourth, the modern state is sovereign and the ultimate authority within its territory, claiming a monopoly on the use of legitimate coercive force within that territory. While America is a democracy, with sovereignty in a sense ultimately resting on the people, the transcendent state has complete authority over each and every citizen. Those who have never been threatened by the state may not recognize this fact and may rest upon constitutional and legislative guarantees and the ability to control the state through voting. However, those who have experienced it know that the American state is overwhelmingly powerful and that accusation of a crime renders an individual completely subordinate to the decisions of the state. This centralized and absolute power (constitutional limits notwithstanding) importantly differentiates the modern state from its feudal predecessor, where people lived within complex networks of relationships and authorities. A single person might have disparate responsibilities to trade guilds, the church, the prince, various lords, etc.<sup>86</sup> These multiple and competing authorities each wielded coercive force, resulting in a complex web of authority. The modern state subsumes all power within a territory under itself. Citizens can certainly have contractual and legal obligations to many other people and institutions, but it is the state that acts as the central and ultimate authority and arbiter. It is also notable that in the classical modern state, the state has no

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<sup>86</sup> One example is John of Toul, who had allegiance to four lords in the thirteenth century:

I, John of Toul, make it known that I am the liege man of Lady Beatrice, countess of Troyes and of her dearest son, my dearest lord count Thibault of Champgne, against all persons, living or dead, except for the liege homage I have done to lord Enguerran of Coucy, lord John of Arcis, and the count of Grandpré. If it should happen that the count of Grandpré should be at war with the countess and count of Champgne for his own personal grievances, I will personally go to the assistance of the count of Grandpré and will send to the countess and count of Champgne, if they summon me, the knights I owe for the fief which I hold of them. But if the count of Grandpré shall make war on the countess and count of Champagne on behalf of his friends and not for his own personal grievances, I shall serve in person with the countess and count of Champagne and I will send one knight to the count of Grandpré to give the service owed from the fief which I hold of him. But I will not myself invade the territory of the count of Grandpré (Morris, *Essay*, 34).

authority outside of its territory, and likewise no outside state has authority over it. France cannot tell America what to do and neither can America rule over France.<sup>87</sup> Within Deuteronomy's Israel, the state likewise exercises ultimate authority over its people. In Deuteronomy the centralized state institutions are the designated arbiter for Israelites. Non-Israelites do not have authority within Israel (cf. 23:3-4). YHWH is of course the ultimate authority and sovereign and his personality is beyond any state institution. He acts according to his will, for his reasons, and is only answerable to his own purposes. He can choose to remain hidden or to appear with mighty word and deed. YHWH is in no sense "institutional." Because YHWH is the sovereign over the whole earth, he rules over all peoples and not just Israel. Thus he can intervene in non-Israelite affairs, whether that means freeing Israel from Egyptian bondage, giving the Canaanite peoples over to defeat before Israel, bringing other nations against Israel as punishment, or rescuing Israel from her exile. Thus YHWH is not limited by Israel's territory. Furthermore, YHWH is sovereign over Israelites even when they are not dwelling in the territory of Israel. An Israelite is bound to YHWH even in a far off land, regardless of any local authority, as demonstrated in both exile and dispersion.

Finally, modern states demand the allegiance of their citizens. As Morris writes, "The loyalty that it typically expects and receives assumes precedence over that loyalty formerly owed to family, clan, commune, lord, bishop, pope, or emperor."<sup>88</sup> America can compel its citizens to fight and die for the interests of the state while forbidding that they fight and die for any other interests. Dual citizenship, while permitted, is discouraged because it implies divided loyalty. Americans can lose their citizenship by demonstrating loyalty to another state through serving in high government office or as a military officer of another state. The problem of religious loyalty competing with state loyalty was considered by the early philosophers of the modern state. Hobbes solves the problem by demanding that there be one state religion with the sovereign as its head, thus consolidating loyalty to state and religion. Rousseau argues for toleration of religious pluralism, but only insofar as the state remains the ultimate authority: "Tolerance should be given to all religions that tolerate others, so long as their dogmas contain nothing contrary to the duties of citizenship."<sup>89</sup> For Rousseau, true religion is private and does not interfere with citizenship duties. So for both Hobbes and Rousseau the state demands supremacy over religion. In particular, trans-state churches that seek the loyalty of their faithful are deeply suspect because they take away from the state's monopoly on loyalty. In Deuteronomy's Israel, YHWH is the uncontested sovereign. While political institutions of prophet, priest and king operate and rule under YHWH, everything is contingent because of his uncontrollable

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<sup>87</sup> The relatively new phenomena of globalization and multi-national power structures (e.g. United Nations, European Union, World Bank) have modified this situation to a substantial degree. Whether globalization is seen as a competitor to the modern state system or its ultimate fulfillment is a matter of disagreement.

<sup>88</sup> Morris, *Essay*, 45.

<sup>89</sup> Jean-Jacques Rousseau, *The Social Contract* (trans. G.D.H. Cole; London: J.M. Dent & Sons, 1961), 115.

will. YHWH demands ultimate allegiance from every Israelite, with harsh penalties for rebellion (Deut 13). In some sense, Israel is a Hobbesian state because the head of state and the head of religion is the same: YHWH.

The considerable similarity between Deuteronomy's Israel and the modern state suggests that difficult aspects of Deuteronomy might be illuminated by comparison with the modern state. Continuity, transcendence, political organization, authority and allegiance all show strong resonances. However, the differences should not be underestimated, especially when the particular form of the modern state as constitutional democracy is considered. Of particular interest is the difference between the modern state's fundamental anthropology of all human beings being autonomous and equal. The state moderates this autonomy in order to bring about the commonly agreed-upon good of peace (cf. the discussion of Hobbes' model below). YHWH, on the other hand, has chosen Israel out of all peoples to be different and his own possession. He acts not according to their will but his own.<sup>90</sup> Also, in a constitutional democracy the people ultimately construct and critique the state, limiting its power through constitutional constraints. YHWH acts out of his own interests and constructs the state according to his own desire with no external constraint controlling him, though with the mediatorial role of Moses also playing its part.

#### The Modern State as Religion

As outlined in the previous section, a modern understanding of Deuteronomy's Israel can be aided by its resonance with a modern state. But one can also better understand the modern state by observing its resonances with what is conventionally understood as religion.<sup>91</sup> It may be surprising to think of one's modern state as a religion, but it should not be so. Like a religion, the state is based on a certain myth of human origins and the nature of human conflict, and offers itself as the protector of its people. It tells its own stories of its origin and enlivens the imagination with visions of the future. The modern state relates an eschatological vision of peace, prosperity and greatness for itself and its citizens.

As discussed above, the modern state is interested in its citizens' ultimate allegiance. Many people might discount the strength of this allegiance, but it is a rare person who would attempt to avoid paying taxes to support the state and there is almost no other cause than the preservation of the state for which a modern Westerner will choose to die or kill.<sup>92</sup> Religious tolerance is one of the hallmarks of the modern state, but any religion that claims an allegiance beyond the state and in

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<sup>90</sup> Although an absolute sovereign, YHWH is by no means unresponsive to his people's will (e.g. Moses' intercession in the present passage).

<sup>91</sup> This brief outline is informed by William T. Cavanaugh, "The City: Beyond Secular Parodies," in *Radical Orthodoxy: A New Theology* (ed. John Milbank, Catherine Pickstock and Graham Ward; New York: Routledge, 1999) and Carlton Joseph Huntley Hayes, *Nationalism: A Religion* (New York: Macmillan, 1960), ch. XII.

<sup>92</sup> Criminals are the exception, for they place themselves above the societal mandates.

defiance of the state is not to be tolerated (further discussed below). The modern state asserts itself as its citizens' "ultimate concern" (cf. Paul Tillich), though by no means their only concern.

Instead of shrines, temples and icons, the state inspires with "holy" places of state function (the presidential residence, the legislative buildings, the courthouses), monuments to great leaders and events, and images and flags that represent the presence of the state in physical form. Instead of holy books, the state is ruled by the inviolable constitution and laws, to which a considerable number of practitioners devote themselves for interpretation, historical study, and application.

While only a brief sketch, I suggest that the modern state's use of myth, demand for ultimate allegiance by its citizens, and reverence for symbols of the state all inform an understanding of the modern state as having religious characteristics. It is this connection between the modern state and Deuteronomy's Israel that I hope to use to build a bridge between the modern Western reader, who is deeply—though perhaps less than consciously—familiar with the modern state and the distant text of the golden calf remembrance in Deuteronomy.

### **The Golden Calf Incident as National Myth**

Having considered Deuteronomy in general as a nation-state document, I now turn to the golden calf remembrance of Deut 9-10 in particular as an example of national myth. In his study of social function of myths, Doty refers to such shared stories as both the "cement" and "charter" for a people.<sup>93</sup> As cement, myths bring individuals together by expressing the core ideas behind the society in which the individual participates. "Myths and rituals have importance in large measure because they represent corporate significances, meanings that transcend individual needs, desires, and values. They provide a mechanism for enabling holistic interaction between individuals who otherwise might remain independent and disengaged."<sup>94</sup> As charter, myths communicate the way the society is committed to functioning in the world. In its early stages, the story speaks as a "primary myth." "This is the period of compelling commitment, the time when the appeal of the myth is precisely its newly discerned ability to explain how the world got the way it is and how the parts of the experienced universe fit together."<sup>95</sup> As such, myths communicate truths within the social group, not so much disinterested, objective facts, but value-laden lessons that aim to maintain the society. Doty writes, "Mythological statements do convey a certain kind of knowledge but not so much the knowledge of the scientific laboratory as the knowledge of communal, even racial, experience that has proved itself useful and healthy."<sup>96</sup> Clearly, "useful" and "healthy" are subjective term, the content of which varies with each society.

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<sup>93</sup> William G. Doty, *Mythography: The Study of Myths and Rituals* (University, Ala.: University of Alabama Press, 1986), 42.

<sup>94</sup> Doty, *Mythography*, 49.

<sup>95</sup> Doty, *Mythography*, 50.

<sup>96</sup> Doty, *Mythography*, 61-2.

Within national societies, collections of myths function as cement and charter within the national citizenry. For example, in Canada (and beyond), the poem “In Flanders Fields” functions as a national myth:

In Flanders fields the poppies blow  
Between the crosses, row on row,  
That mark our place; and in the sky  
The larks, still bravely singing, fly,  
Scarce heard amid the guns below.

We are the Dead. Short days ago  
We lived, felt dawn, saw sunset glow,  
Loved, and were loved, and now we lie,  
In Flanders fields.

Take up our quarrel with the foe:  
To you from failing hands we throw  
The torch; be yours to hold it high.  
If ye break faith with us who die  
We shall not sleep, though poppies grow  
In Flanders fields.<sup>97</sup>

The poem voices the imperative from fallen soldiers in World War I to those still living to “take up our quarrel with the foe.” As the poppies are displayed on Remembrance Day, citizens recall those who have sacrificed themselves for the maintenance of freedom and consider anew their own personal obligation to continue the struggle against those who seek to oppress. This is the power of national myth: stories of the past that call for present and future action. Individuals who may value their lives more than national causes hear a powerful summons to join those willing to put themselves at risk because of the need of the nation. The national health depends upon citizens being willing to subordinate their own personal health. In the famous essay, “What is a Nation?,” Renan writes, “To have common glories in the past and to have a common will in the present; to have performed great deeds together, to wish to perform still more—these are the essential conditions for being a people.”<sup>98</sup> The golden calf incident, while certainly not a “common glory in the past,” is a collective memory for Israel. Renan has some idea of this: “Where national memories are concerned, griefs are of more value than triumphs, for they impose duties, and require a common effort.”<sup>99</sup> But the golden calf is no mere grief, no common suffering, but proclaims a community of failure, embarrassment, and moral weakness.

Yet this failure is only the threat in the story, not the resolution. The golden calf remembrance indeed emphasizes Israel’s failure, but the story ends with hope for gaining the promised land: “The LORD said to me, ‘Get up, go on your journey at the head of the people, that they may go in and

<sup>97</sup> John McCrae, “In Flanders Fields,” n.p. cited 24 Mar 2006. Online: <http://www.greatwar.nl/poppies/handwritten.html>.

<sup>98</sup> Ernest Renan, “What is a Nation?” n.p. cited 24 Feb 2006. Online: <http://www.nationalismproject.org/what/renan.htm>.

<sup>99</sup> Renan, “What.”



occupy the land that I swore to their ancestors to give them” (10:11). The poem “In Flanders Fields” likewise reflects on the fate of those who have fought against oppressive powers and died as a result—a failure. But the poem as national myth remembers that the story did not end with the slain soldiers, but with victory in World War I. It celebrates and commands dogged determination to keep on fighting despite personal and collective loss. It holds out hope that ultimately victory will be the result. The golden calf remembrance likewise reflects on Israel’s struggle with YHWH, but with the odd twist that YHWH is not Israel’s foe. Israel with her inherent disloyalty is her own enemy. YHWH is the usually benevolent power who enables them to defeat, subdue, dispossess and destroy the Anakim of the land (9:3). Moses is the devoted intercessor who brings unworthy Israel back into YHWH’s plan. But it is YHWH who ultimately enables disloyal Israel to continue on—Moses’ argument in Israel’s favor is no winning stroke. If “In Flanders Fields” celebrates determined fighting in the face of loss, the golden calf remembrance celebrates determined intercession and divine grace in the face of disqualifying disloyalty.<sup>100</sup> The poem mourns the necessary sacrifices of war, while the remembrance mourns Israel’s inability to live up to YHWH’s expectations. The poppies signify the hope that all foes will be defeated if their message continues to ring, while the embarrassment of the golden calf brings hope that Israel’s failure is not necessarily the final word with YHWH.

But in each case the reality of the hope depends upon focusing on the real danger that the society faces. For the potential soldier, the personal danger of dying in battle must be discounted against the societal danger of the enemy threat. For Israel, complacent self-righteousness threatens the remembrance of the real danger of YHWH’s wrath. The voice from Flanders urges that the danger to society must be given priority over personal danger. This position is backed by the testimony from beyond the grave. The fallen soldier, like the reader, had enjoyed love, sunrise and sunset, but found it fit to go to war; he had lived both parts—while the reader only knows the former—and testifies that he made the right choice. The testimony from the golden calf remembrance is that YHWH’s wrath is not to be underestimated and neither is Israel’s ability to forget the danger of her God, the consuming fire. The choice of the former generation to seek a different sovereign god nearly led to the tragic end of the nation. Each new generation is reminded by the myth to keep both YHWH’s danger and her own blindness to her unrighteousness in view. Both myths are about focusing on the true danger. It is exactly the temptation to choose short-term pleasantness over the long-term need of the national society that the national myth addresses with the persuasive power of story.

There can be little doubt that the preeminent national myth for Israel is YHWH’s covenant with Abraham (Gen 12:1-3 and its reiterations and developments). Deuteronomy assumes this

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<sup>100</sup> It is important to remember that a particular myth only captures one aspect of the larger story. Israel’s relationship with YHWH is certainly not solely characterized by disloyalty, though this is the emphasis in this particular myth.

patriarchal story as background and supplements it with memories of the wilderness (chs. 1-3), the Horeb theophany (4:10-14; 5:2-31), and the golden calf (chs. 9-10). The tension between Israel's obligation to YHWH and her ability to deliver on it has been present in these other recollections, but the retelling of the golden calf incident sharply focuses the problem, its solution so far, and the resulting call for the future. The highlighted aspect of the problem is that Israel will be tempted to forget how undeserved her place in the land is (9:4-6). But at its root, the problem lies with Israel's infidelity to YHWH, dramatically illustrated by her immediate idolatry even while Moses is on the mountain receiving the law as written on stone by the finger of YHWH. Israel's national myth of the golden calf focuses on no external enemy, but the problem of herself. She only exists as a nation because of YHWH; she only occupies the land because of YHWH; she is predisposed to rejecting YHWH. This story demands Israel's humility. Does it also demand that she live in dread of the day when she will push YHWH too far and lose everything? Perhaps. But it is exactly the reality of the threat that makes the myth urgent. "In Flanders Fields" assumes the reality of the foe's threat and the possibility that those who sacrificed their lives may have died in vain. "If ye break faith with us who die / We shall not sleep." But as dogged determination and self-sacrifice offer hope for a future beyond the Flanders graveyard, humility, commitment to obedience, and the continuing Levite presence before YHWH to intervene when necessary point to the possibility of a continued life for Israel with YHWH. There will be more soldiers' graves with poppies growing on them, and there will be future brokenness between Israel and YHWH, but hope follows from the remembered story.

#### THE GOLDEN CALF IN MODERN PERSPECTIVE

I now return to the opening question of this essay: what is it about the golden calf offense that so powerfully provokes YHWH to wrath? Given the preceding discussions, I now explore the gravity of the offense and seek a modern analogy for it. Arguing from the connection between Deuteronomy's Israel and the modern state, and the gravity of the offense, I conclude that treason against the state provides an appropriate pathway for a modern understanding of the remembrance. By juxtaposing YHWH's response to the offense and examples from American history of responses to threats against the state, I suggest this comparison illuminates the biblical text for the modern Western reader.

#### **Idolatry as Treason**

##### Gravity of the Golden Calf Offense

The modern reader faces a difficult problem in understanding Israel's offense in the golden calf remembrance. That the offense is grave can be seen from the history of interpretation of the passage in at least three ways. First, the final form of the biblical witness attests to it through its repetition in Exodus and Deuteronomy, its placement within the context of Moses' sermon about Israel's

unrighteousness, and the severity of YHWH's response in threatening to destroy Israel and begin again with a nation from Moses. Tigay comments, "Although the golden calf incident was not the first of Israel's provocations, . . . it was the most outrageous. If there was one place above all others where the people should have been faithful, it was Horeb, where they had encountered God personally, had seen that He alone is God, and were commanded to worship no other gods."<sup>101</sup> Second, the early Christian history of interpretation is (sadly) filled with polemics against Jews who were seen to have forfeited their place in YHWH's covenant because of this particular offense, leaving space for Christian supersessionism. For example, Tertullian writes that Israel abandoned the Deity through the idolatry that began with the golden calf, which led to her divorce from YHWH, leaving the Gentile, who quit their idols, to overcome Israel.<sup>102</sup> Third, rabbinic interpreters defended themselves against these polemics not so much by downplaying the severity of the offense but by introducing mitigating circumstances.<sup>103</sup> The rabbis understood Israel's future misfortunes to be results of this incident: "Even the greatest national disasters were laid at the door of the golden calf. The Israelite priesthood and the monarchy had been abolished, the temple destroyed, Jerusalem condemned to bitter tears, and Israel exiled as a direct result of the worship of the golden calf (Lam. Rabbah Proem 12; I:2, 23: I:3, 28; I:22, 57)."<sup>104</sup>

#### Modern Analogy for Golden Calf Offense

For present purposes, YHWH's threat to "destroy them and blot out their name from under heaven" (9:14) is evidence enough that Israel's offense is grave. However, modern readers often have difficulty comprehending the importance of idolatry—a largely alien category. Discovering a modern analogy for the offense is difficult. Because it is a "religious" offense—though the separation of the religious and the secular is itself a modern dichotomy—the most obvious place to look would be a modern religious offense. However, to look for such an analogy is a fool's mission because by definition within the modern state, no deviation within a valid religion can warrant a violent response. As noted above in Rousseau's writing, a valid religion must tolerate other valid religions and must not command anything contrary to good citizenship. Further, since the state holds a monopoly on legitimate violence and only bad citizenship (i.e. disobedience to the civil laws) leads to the use of that violence, no religious offense can lead to a valid violent response. In other words, religious matters in Rousseau's model, which has had considerable influence in the modern Western world, are of little

<sup>101</sup> Tigay, *Deuteronomy*, 98.

<sup>102</sup> Tertullian, *Against the Jews*, ch. I.

<sup>103</sup> "The strict covenantal *quid pro quo* relationship with God, unambiguously expressed throughout the bible, and carried over into rabbinic literature, left no choice but to admit that Israel had indeed committed an offense of the utmost gravity" (Leivy Smolar and Moshe Aberbach, "The Golden Calf Episode in Postbiblical Literature," *HUCA* 39 [1968]: 101).

<sup>104</sup> Smolar and Aberbach, "Golden," 107.

interest to the state and cannot be of the gravity to call down a violent response by the state. However, if a “religious” action is found to be illegitimate—in other words, not merely a private religious affair at all, but a threat to civil affairs—it must be treated as the civil offense that it is.

Hobbes’ model points in a similar direction. In his approach the sovereign is the head of both civil and religious society, so any deviation from legitimate religious action is also a deviation against the civil code of law. Thus, religious practice is either within the sphere of civil legality or not. If an analogy to the golden calf offense is to be found in a Hobbesian state, it must be a civil offense—and a grave one.

Both of these political philosophies suggest that a modern analogy for understanding the golden calf offense should be found in modern civil—rather than religious—life. One interpretive possibility with ancient precedent is adultery.<sup>105</sup> However, this analogy is inadequate because of modern views of adultery. First, adultery itself is no longer a crime in most modern Western states, so a violent response by the sovereign would be illegitimate. Furthermore, the most obviously injured party in adultery is the spouse of the adulterer, who may be understandably enraged by such infidelity, yet to be jealous enough to seek to punish the offender would likely be seen as an inappropriate, even immature, response. Marriage commitments are often seen as provisional and therefore open to renegotiation and dissolution. To become violent in response to the violation of the marriage vows would not only be prohibited by the state because of its monopoly on legitimate violence, but an improper personal response to what amounts to violation of a contract, which should be resolved by the state’s courts appropriately rectifying financial and other injuries.

In my estimation, the best modern analogy for the golden calf offense is treason against the state. Treason is a sort of unfaithfulness—like adultery—but it offends a party who has the right to coerce loyalty with violence: the state. Treason is an act of subversion against the state’s sovereignty, an effort to replace the ruling social order with an alternative. In democratic states where citizens generally have the right—even the responsibility—to speak out against their governments and replace them through the electoral process when they are seen to be doing wrong, the line between proper citizenship and treason might seem blurry. I offer modern examples below that should clarify the difference. But I suggest that Israel’s breaking of the first commandments through the golden calf was an attempt so fundamentally to reconstitute Israel’s society by creating an unauthorized image of the society’s founder and keeper, YHWH, that treason is the most suitable category for a modern reader to understand the incident.

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<sup>105</sup> In the rabbinic literature, “Israel was compared to ‘a shameless bride who plays the harlot within her bridal canopy’” (T. B Shabbath 88b; Gittin 36b). “In fact, Moses had made the Israelites drink of the water in which the powder of the golden calf had been strewn (Exod. 33:20) in order to test them like women suspected of adultery (T.B. Avodah Zarah 44a)” (Smolar and Aberbach, “Golden,” 102-3).

## Response to Treason

If the analogy of the golden calf to treason is accepted, how can a modern Western reader then understand YHWH's violent response to Israel's act? YHWH says to Moses, "Let me alone that I may destroy them and blot out their name from under heaven" (9:14). How does YHWH's response compare to modern cases of treason? To answer this question, I first examine Hobbes' political philosophy, particularly his understanding of sovereignty and treason. I then reflect on modern American examples of disloyalty. Finally, I consider YHWH's response to the golden calf in light of these considerations.

### Hobbes and Treason

Thomas Hobbes laid a foundation stone for the edifice of the modern state in his book *Leviathan*. Horrified by the English Civil War, he sought to provide the philosophical underpinnings for the state so that such rebellion against the sovereign national power would be understood as undeniably unreasonable. Though Hobbes' demand for absolute sovereignty has been significantly softened by the later work of Locke and Rousseau, his basic framework and careful logic still exerts significant influence on modern political thought.

Hobbes begins with an imagined past where humankind dwells in a state of nature where individuals freely act as each thinks best. In this state of nature, no action is evil, for each individual lives without constraint and in total freedom to pursue whatever various aims seem most desirable. Problems arise because people do not, in fact, live in isolation from one another, and when sharing the world together, conflicts between individual desires are the natural result. Since, in this view, there are no moral constraints on individuals, in the state of nature everyone is at war with everyone else. For if one should build a fine house and another should want it, there is nothing to prevent the one killing the other in order to take the house. Thus, everyone lives in fear of everyone else and society devolves into chaos. As Hobbes famously puts it,

In such condition, there is no place for Industry; because the fruit thereof is uncertain: and consequently no Culture of the Earth; no Navigation, nor use of the commodities that may be imported by Sea; no commodious Building; no Instruments of moving, and removing such things as require much force; no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continuall feare, and danger of violent death; And the life of man, solitary, poore, nasty, brutish, and short.<sup>106</sup>

The problem of all at war with all demands the establishment of a common power who can justly compel all of the individuals to live together in harmony. But from where should such a power come? Hobbes solves the problem by envisioning the people in this brutish existence gathering together and joining in a brilliant covenant for their own preservation and contented life. Hobbes' solution deserves quotation in full:

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<sup>106</sup> Thomas Hobbes, *Leviathan* (ed. Francis B. Randall; New York: Washington Square, 1964), 84-5.

The only way to erect such a Common Power, as may be able to defend them from the invasion of Forraigners, and the injuries of one another, and thereby to secure them in such sort, as that by their owne industrie, and by the fruites of the Earth, they may nourish themselves and live contentedly; is to conferre all their power and strength upon one Man, or upon one Assembly of men, that may reduce all their Wills, by plurality of voices, unto one Will: which is as much as to say, to appoint one Man, or Assembly of men, to beare their Person; and every one to owne, and acknowledge himselfe to be Author of whatsoever he that so beareth their Person, shall Act, or cause to be Acted, in those things which concerne the Common Peace and Safetie; and therein to submit their Wills, every one to his Will, and their Judgements, to his Judgment. This is more than Consent, or Concord; it is a reall Unitie of them all, in one and the same Person, made by Covenant of every man with every man, in such manner, as if every man should say to every man, *I Authorise and give up my Right of Governing my selfe, to this Man, or this Assembly of men, on this condition, that thou give up thy Right to him, and Authorise all his Actions in like manner.* This done, the Multitude so united in one Person, is called a COMMON-WEALTH, in latine CIVITAS. This is the Generation of that great LEVIATHAN, or rather (to speake more reverently) of that *Mortall God*, to which wee owe under the *Immortall God*, our peace and defence. For by this authoritie, given him by every particular man in the Common-Wealth, he hath the use of so much Power and Strength conferred on him, that by terror thereof, he is inabled to forme the wills of them all, to Peace at home, and mutuall ayd against their enemies abroad. And in him consisteth the Essence of the Common-wealth; which (to define it,) is *One Person, of whose Acts a great Multitude, by mutuall Covenants one with another, have made themselves every one the Author, to the end he may use the strength and means of them all, as he shall think expedient, for their Peace and Common Defence.*<sup>107</sup>

In summary, the goal of peaceful society is attained by the mutual relinquishing of rights by all citizens. All agree to submit to whatever the sovereign (be it a person or some assembly of people) may require of them. As a consequence, they agree to confer all power upon the sovereign to enforce these sovereign choices by means of force, as needed. This program only functions as long as every citizen without exception agrees to it. Anyone who chooses to resist the sovereign is not so much offending the sovereign (with whom none of the citizens has actually made any covenant) as offending the rest of the citizenry who are maintaining their commitment to obedience.

Within the Hobbesian model, the only barrier between peaceful and productive society and a descent into chaos is the mutual agreement to obedience to the sovereign. Therefore it is clear that treason against the sovereign is not only irrational but deeply destructive. A citizen may rationally decide to break a law if it seems to produce a better personal outcome than obedience—modern civil disobedience provides many examples of such choices. But to work toward the upsetting of the agreed-upon sovereignty is a crime against every other citizen and a move back toward the “solitary, poore, nasty, brutish, and short” existence that governed the state of nature where each acted individually. Hobbes writes, “Facts of hostility against the present state of the Common-wealth, are greater Crimes, than the same acts done to private men: For the dammage extends it selfe to all.”<sup>108</sup> Hobbes gives examples of such as aiding an enemy of the commonwealth, making an attempt upon the life of a representative of the commonwealth, or seeking to undermine the authority of the sovereign.

<sup>107</sup> Hobbes, *Leviathan*, 118-9 (emphasis original).

<sup>108</sup> Hobbes, *Leviathan*, 219.

Such a destructive act as treason calls for a most severe punishment. But Hobbes goes even further. Punishment is for one who breaks the law of the commonwealth. Treason is a rejection of the system of law itself, which moves the act from the realm of crime to that of hostility and the perpetrator from the realm of criminal to that of enemy. Hobbes writes:

If a subject shall by fact, or word, wittingly, and deliberately deny the authority of the Representative of the Common-wealth, (whatsoever penalty hath been formerly ordained for Treason,) he may lawfully be made to suffer whatsoever the Representative will: For in denying subjection, he denies such Punishment as by the Law hath been ordained; and therefore suffers as an enemy of the Common-wealth; that is, according to the will of the Representative. For the Punishments set down in the Law, are to Subjects, not to Enemies; such as are they, that having been by their own act Subjects, deliberately revolting, deny the Sovereign Power.<sup>109</sup>

The sovereign is free to do anything to such an enemy; no law constrains the response; any reprisal the sovereign may choose is completely moral.

#### Modern Examples of Responses to Treason

I now turn to modern—even contemporary—responses to treason. Hobbes' approach may seem remote and overly severe—more suited for the violent days of previous centuries than for present peace-loving people. However, one of Hobbes' modern editors cautions that warm feelings of tolerance can abate when one feels real fear and faces real threats:

We constantly proclaim that individual liberty, the right to dissent from other people and from the government, is the sweetest and most valuable thing in our lives. We are thinking of silly, harmless religious sects and radical groups, and of people who wear outlandish clothes; we fear nothing from them. For Hobbes, dissent meant the religious strife that was tearing his England and his Europe apart. Many of the Catholic and Protestant groups of his day were well-organized, well-armed political parties that aimed at absolute domination of their countries and were more than eager to bring on civil war to win their aims. ... When we *do* fear religious sects (such [as] the Mormons in the nineteenth century) or radical groups (such as the Communists) or people who wear outlandish clothes (such as transvestite homosexuals), our Jeffersonian government turns quite Hobbesian.<sup>110</sup>

What evidence is there that the governments of modern states can respond as Leviathan to treason? I present several examples from American history, not necessarily because they are the most convincing, but because it is my own culture and therefore the one with which I am most familiar.

#### *The War on Terrorism: John Walker Lindh, "American Taliban"*

I begin with the most recent example: John Walker Lindh, the "American Taliban."<sup>111</sup> Raised in an affluent American family, he embraced Islam as a teenager and enrolled in an Islamic school in Pakistan in February 2000. He then joined the Taliban movement and went to Afghanistan where he

<sup>109</sup> Hobbes, *Leviathan*, 224.

<sup>110</sup> Francis B. Randall, introduction to *Leviathan*, by Thomas Hobbes (ed. Francis B. Randall; New York: Washington Square, 1964), xviii-xix (emphasis original).

<sup>111</sup> For a summary of the basic facts of the case, see CNN, "John Walker Lindh: Profile," n.p. cited 17 Feb 2006. Online: <http://www.cnn.com/CNN/Programs/people/shows/walker/profile.html>.

was trained in the use of weapons and fought for the Taliban against the Northern Alliance. After the September 11, 2001 terrorist attack, the American military moved against the Taliban in Afghanistan in partnership with the Northern Alliance. Lindh was now caught up in fighting against the country of his citizenship. Faced with an overwhelming military force, he fled and was taken prisoner along with thousands of other Taliban soldiers. He was placed in a military prison but was again thrust into action when a prison revolt broke out, which was put down by Northern Alliance troops with the aid of American warplanes. An American intelligence officer was killed in the prison revolt. Lindh was brought back to America to stand trial and was indicted on ten criminal counts, with the most serious being conspiracy to murder U.S. nationals (both military and civilian) and aiding terrorist organizations (al Qaeda and the Taliban).<sup>112</sup> In a plea bargain arrangement, Lindh confessed to the two lesser counts of serving in the Taliban army and carrying weapons. He was sentenced to twenty years in federal prison with no chance for parole.

Lindh's story illustrates how an American cannot easily discard the responsibilities of citizenship. As with Hobbes' analysis, a primary responsibility is to support—or at least not subvert—the sovereign power of the American government. While the degree to which his support for the Taliban and other Islamic causes implied any anti-American sentiment is unclear, once he was brought back to America for trial, it became important for him to portray himself as one following a religious conviction without any intent of harming his nation. His lawyer said, "He was a soldier in the Taliban. He did it for religious reasons. He did it as a Muslim, and history overcame him."<sup>113</sup> His father said, "John loves America. And we love America. God bless America."<sup>114</sup> But the American government was intent that he be understood as a traitor to his country. John Ashcroft, the attorney general, put his case within this frame: "I would say very clearly that history has not looked kindly upon those that have forsaken their countries to go and fight against their countries."<sup>115</sup> His father portrayed events in a different light: "He didn't go there to wage war against the United States. The United States got involved in the situation in Afghanistan, as we all know, in October after the terrible events of September. John got caught up in that. He was in the wrong place at the wrong time."<sup>116</sup> A law professor, upon being asked if treason would be an appropriate charge for the case, replied, "Well, it's technically applicable, that is so say would (*sic*) consist of taking up arms against the United States. . . . It is probably the most serious charge that can be brought against a citizen, and one that's quite, quite

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<sup>112</sup> Paul J. McNulty, "United States of America v. John Phillip Walker Lindh," n.p. cited 5 Mar 2006. Online: <http://www.usdoj.gov/ag/2ndindictment.htm>.

<sup>113</sup> CNN, "Lindh."

<sup>114</sup> CNN, "Lindh."

<sup>115</sup> Gwen Ifill, Eugene Fidell and Mary Cheh, "American Taliban," n.p. cited 12 Dec 2001. Online: [http://www.pbs.org/newshour/bb/military/july-dec01/walker\\_12-12.html](http://www.pbs.org/newshour/bb/military/july-dec01/walker_12-12.html).

<sup>116</sup> Ifill, Fidell and Cheh, "Taliban."



difficult to prove. But on the superficial facts that we know, it's possible to bring that charge against him if he was in fact taking up arms against the United States, and proof could be made out."<sup>117</sup>

Also of interest is the case of Yaser Hamdi, another American citizen captured in the fighting in Afghanistan.<sup>118</sup> Hamdi was born in America but held dual citizenship with Saudi Arabia. After being held as an enemy combatant in the Guantanamo Bay prison for several months, his American citizenship was verified and he was transferred to a military prison in America. The Supreme Court eventually ruled that, as an American citizen, he could not be held indefinitely without charge. As part of a negotiated settlement, Hamdi renounced his American citizenship<sup>119</sup> and was released to Saudi Arabia, subject to certain restrictions.

Without weighing the merits of these cases,<sup>120</sup> the first point is that American law takes an attack against its government by a citizen extremely seriously. The first crime in Lindh's indictment, "Conspiracy to Murder U.S. Nationals," is part of the terrorism act and carries a maximum penalty of death.<sup>121</sup> While modern democratic states tolerate and even foster free speech that is critical of the existing government, once a citizen goes beyond the open space provided for such by the law actually to threaten the sovereign power, the state allows the most severe penalties. It is suggested in the release of Hamdi, especially in the requirement that he renounce his American citizenship, that non-citizens are not viewed in the same way. In Hobbes' model, people in the state of nature are expected to be always at war with one another—this is not considered at all immoral but an exercise of righteous freedom. Likewise, it is assumed that nations and their various citizens are naturally all at war with one another.<sup>122</sup> Therefore, Hamdi was in some sense acting justly as a citizen of another nation. And because it is in the interest of the American government not to offend the Saudi government, it is reasonable to treat him as a prisoner of war who can be returned to his country as long as he is no longer a military threat. Thus the different treatment of Lindh and Hamdi may be justified because treachery against one's own state is a worse offense than waging war from a position

<sup>117</sup> Ifill, Fidell and Cheh, "Taliban."

<sup>118</sup> CNN, "Hamdi Voices Innocence, Joy about Reunion," n.p. cited 7 Mar 2006. Online: <http://www.cnn.com/2004/WORLD/meast/10/14/hamdi/>.

<sup>119</sup> American law allows but does not encourage multiple citizenship. "The U.S. Government recognizes that dual nationality exists but does not encourage it as a matter of policy because of the problems it may cause.... Dual nationals owe allegiance to both the United States and the foreign country" (United States Department of State, "Dual Nationality," n.p. cited 24 Mar 2006. Online: [http://travel.state.gov/travel/cis\\_pa\\_tw/cis/cis\\_1753.html](http://travel.state.gov/travel/cis_pa_tw/cis/cis_1753.html)). The primary concern seems to be claims that the other country may make on an American citizen, however the reverse might also be in view.

<sup>120</sup> There is obviously much controversy about the facts and ethics of these cases. On the Lindh case, see recent extended polarized statements by his father (Frank Lindh, "The Real Story of John Walker Lindh," n.p. cited 7 Mar 2006. Online: <http://www.alternet.org/story/31211/>) and the CNN reporter who interviewed him after his capture (Robert Young Pelton, "The Truth about John Walker Lindh," n.p. cited 7 Mar 2006. Online: [http://www.kathryncramer.com/kathryn\\_cramer/2006/01/the\\_truth\\_about.html](http://www.kathryncramer.com/kathryn_cramer/2006/01/the_truth_about.html)).

<sup>121</sup> 18 United States Code § 2332(b).

<sup>122</sup> This model has been substantially modified with the rise of globalization and the United Nations where supranational organizations become partially equivalent to a single global state.

within one's own foreign state. My primary point is that the perceived danger that terrorism is able to upset the stability of American sovereignty causes that sovereignty to bring substantial threats of violence against any citizen who contributes to that perceived danger.

*The War on Drugs: The Tragic Downing of the Wrong Airplane*

The United States has a long history of policies to curb the use of certain drugs within its sovereignty that are seen to be harmful to its society. The language of these policies was intensified with the coining of the term "War on Drugs" and the creation of a centralized Office of National Drug Control Policy in 1988, whose director is referred to as the "Drug Czar." While the language of "war" might seem to be merely rhetorical, the shift in mindset and legal framework from controlling crime to fighting a war is significant. In a war, the normal legal controls and protection for innocent people are loosened in order to allow for the effective use of force against an enemy who realistically threatens the state. The drug abuse problem in America is seen to be such a threat.

While "fighting drug abuse" and such language may have seemed merely metaphorical, the tragic 2001 downing of an unarmed missionary airplane in the Amazon Basin by the Peruvian Air Force with the active assistance of the United States military, the serious wounding of the pilot and the killing of the missionary's wife and daughter made it clear that such language was very real. Rather than the usual constitutional guarantees of presumption of innocence, jury trial and punishment commensurate with the crime, under such wartime conditions pilots in this region of the world are subject to lethal force on grounds of suspicion of drug trafficking. American law states that assistance to foreign governments for the "interdiction" (which includes the shooting down) of suspected aircraft is permitted under two conditions:

1. the aircraft is reasonably suspected to be primarily engaged in illicit drug trafficking; and
2. the President of the United States has determined that (a) interdiction is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that foreign country, and (b) the country has appropriate procedures in place to protect against, innocent loss of life in the air or on the ground in connection with interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force directed against the aircraft.<sup>123</sup>

Although the conditions refer to the "extraordinary threat posed by illicit drug trafficking to the national security of *that* foreign country" (emphasis added), clearly the national security of the United States is at least equally in view.

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<sup>123</sup> Bureau for International Narcotics and Law Enforcement Affairs, "Peru Investigation Report: The April 20, 2001 Peruvian Shootdown Accident," n.p. cited 7 Mar 2006. Online: <http://web.archive.org/web/20010912013128/http://www.state.gov/g/inl/rls/rpt/pir/index.cfm?docid=4397>. Note the corrections and clarifications to the official report as presented by the missionary organization who sponsored the attacked missionaries: Association of Baptists for World Evangelism, "Comments on the Commission Report on the Peru Incident," n.p. cited 8 Mar 2006. Online: [http://web.archive.org/web/20011123205123/http://www.abwe.org/family/peru-report\\_comments.htm](http://web.archive.org/web/20011123205123/http://www.abwe.org/family/peru-report_comments.htm).

In the ensuing controversy over the taking of these innocent lives, most of the discussion in the media revolved around the mistake of shooting down an airplane that was in fact unrelated to the drug trade. The ethics of using military might to kill true drug traffickers was little discussed.<sup>124</sup> The sovereign's fear of drug abuse destabilizing the state leads to the use of significant military violence against those involved without the protections normally afforded ordinary criminals. This example demonstrates that a modern Western state is fully willing to unleash powerful violence against those who are subverting the state, even if this is only a side-effect of their activity and not their aim. In the modern Western world, the threats against states are broader than directly treacherous actions.

*The Cold War: Spying for the Soviet Union*

The Cold War between America and the Soviet Union from the 1950's through the 1980's was a time of high tension throughout the world as the two nuclear superpowers maneuvered in a complex choreography of diplomacy, indirect war, weapons development, and civil defense. Two great American concerns during the early stages of the Cold War were communist infiltration of American society and maintaining nuclear superiority. The fear of the Soviet Union fueled Senator Joseph McCarthy's suspicion that many Americans were seeking to undermine the nation because of communist sympathies. The surprisingly quick Soviet development of advanced nuclear weapon capabilities shocked America and raised questions of espionage. It was in this context in 1950 that Julius and Ethel Rosenberg were discovered to have provided nuclear secrets to the Soviet Union during World War II. They were convicted of conspiracy to commit espionage, and were both executed on June 19, 1953.<sup>125</sup>

The Rosenbergs' activities were uncovered as a result of the British espionage confession of Klaus Fuchs, a physicist on the American Manhattan Project. Upon conviction in Britain, Fuchs was sentenced to the maximum prison term allowable by British law, fourteen years. The brevity of his sentence was a result of the Soviet Union being an ally of Britain at the time of Fuchs' espionage, limiting the maximum sentence. The Rosenbergs also did their espionage while the Soviet Union was an ally of America, but the political situation had changed so dramatically after the end of World War II that the idea of American citizens aiding this (now) formidable enemy was outrageous. So although their supporters still claim that their goal was to aid the Soviet Union against Nazi Germany rather than to aid an enemy state, the setting of their trial within the Cold War context and the lack of a distinction in American law between providing classified national defense information to friendly and enemy nations meant that their activities were determined to be capital crimes.

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<sup>124</sup> A counterexample is Dave Kopel, "License to Kill: The (Drug) War on Civilians in Peru," n.p. cited 7 Mar 2006. Online: <http://www.nationalreview.com/kopel/kopel081601.shtml>.

<sup>125</sup> Walter Schneir and Miriam Schneir, *Invitation to an Inquest* (London: W.H. Allen, 1966), 1-5.

Judge Irving Kaufman's statement upon sentencing the Rosenbergs to death reveals the issues thought to be at stake in their case. The critical issue for him was not so much that the Rosenbergs thought they were doing good, or helping the communist cause that they supported, but the resulting fact that they directly disobeyed their sovereign power and that the result was an undermining of their sovereign's security. He holds them responsible not just for contributing to the Cold War risk to America, but for the currently hot Korean War. Judge Kaufman's words deserve quotation at some length:

The issue of punishment in this case is presented in a unique framework of history. It is so difficult to make people realize that this country is engaged in a life and death struggle with a completely different system.... I believe that never at any time in our history were we ever confronted to the same degree that we are today with such a challenge to our very existence....

The competitive advantage held by the United States in super-weapons has put a premium on the services of a new school of spies—the homegrown variety that places allegiance to a foreign power before loyalty to the United States. The punishment to be meted out in this case must therefore serve the maximum interest for the preservation of our society against these traitors in our midst....

I consider your crime worse than murder. Plain deliberate contemplated murder is dwarfed in magnitude by comparison with the crime you have committed. In committing the act of murder, the criminal kills only his victim. The immediate family is brought to grief and when justice is meted out the chapter is closed. But in your case, I believe your conduct in putting into the hands of the Russians the A-bomb years before our best scientists predicted Russia would perfect the bomb has already caused, in my opinion, the Communist aggression in Korea, with the resultant casualties exceeding 50,000 and who knows but that millions more of innocent people may pay the price of your treason. Indeed, by your betrayal you undoubtedly have altered the course of history to the disadvantage of our country....

In the light of the circumstances, I feel that I must pass such sentence upon the principals in this diabolical conspiracy to destroy a God-fearing nation, which will demonstrate with finality that this nation's security must remain inviolate; that traffic in military secrets, whether promoted by slavish devotion to a foreign ideology or by a desire for monetary gains must cease....

I have searched the records—I have searched my conscience—to find some reason for mercy—for it is only human to be merciful and it is natural to try to spare lives. I am convinced, however, that I would violate the solemn and sacred trust that the people of this land have placed in my hands were I to show leniency to the defendants Rosenberg.

It is not in my power, Julius and Ethel Rosenberg, to forgive you. Only the Lord can find mercy for what you have done.

The sentence of the Court... is, for the crime for which you have been convicted, you are hereby sentenced to the punishment of death, and it is ordered... you shall be executed according to law.<sup>126</sup>

As Kaufman perceives, the problem with treason is that the victims of the crime extend far beyond the locus of its action. The state provides security for millions of people who are at serious risk apart from its protection. In the case of global nuclear security, it might be that all of humanity is at risk. The connection to Hobbes is obvious. The Rosenbergs were put to death as an example because the

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<sup>126</sup> Schneir and Schneir, *Invitation*, 169-71.

sovereign must not allow its rule to be violated. A crime against a state is at the same time a crime against all of its citizens.

### YHWH's Response to Treason

These modern cases of government response to grave societal threat illuminate YHWH's response to the golden calf apostasy. When Israel refused his sovereignty, his response was to threaten to destroy her and start anew. While the analogy with modern states' vigorous response to treason should be clear, two notable differences deserve comment.

First, YHWH's sovereignty over Israel is not of the same origin as Hobbes presents for Leviathan. In Hobbes' primary model, it is the citizens' mutual fear of one another that leads them collectively to institute Leviathan as a means of protection from one another (as well as from external enemies). Israel's story is obviously different, as she has not summoned YHWH to be her God in order to resolve interpersonal conflict.<sup>127</sup> Rather, YHWH has brought himself to Israel, both in the original call to Abraham and the subsequent call to Moses, defeat of Egypt, and formation of the nation of Israel. This is not to deny that Israel agrees to YHWH's sovereignty, but to say that his sovereignty does not originate at her behest.

Hobbes is aware of the reality that some sovereigns impose themselves upon their subjects and is anxious to avoid any questions about the legitimacy of a sovereign because of the origin of its rule. He differentiates between a "common-wealth by institution" (his primary case) and one "by acquisition" by the sovereign. He writes, "*A Common-wealth by Acquisition*, is that, where the Sovereign Power is acquired by Force; And it is acquired by force, when men singly, or many together by plurality of voyces, for fear of death, or bonds, do authorise all the actions of that Man, or Assembly, that hath their lives and liberty in his Power."<sup>128</sup> He then asserts, "And this kind of Dominion, or Sovereignty, differeth from Sovereignty by Institution, onely in this, That men who choose their Sovereign, do it for fear of one another, and not of him whom they Institute: But in this case, they subject themselves, to him they are afraid of. . . . But the Rights, and Consequences of Sovereignty, are the same in both."<sup>129</sup> The common point in both cases is that the sovereign rules by fear. When instituted, the fear is between subjects. When acquired, the subjects fear the sovereign. Hobbes does not elaborate on the difference that this makes, but it seems reasonable in the case of acquisition that the subjects all have an additional contract—beyond the subjects' mutual contract to one another to surrender their will to the sovereign—with the sovereign, agreeing to obey his will in exchange for their lives.<sup>130</sup> Thus rebellion against the sovereign is a personal offense against *both* the

<sup>127</sup> Though it could be argued that her cry under Egyptian slavery, which rose up to God (Exod 2:23), was a request for aid from YHWH against an external enemy.

<sup>128</sup> Hobbes, *Leviathan*, 139 (emphasis original).

<sup>129</sup> Hobbes, *Leviathan*, 139.

<sup>130</sup> Note that this was not the case for the case of institution, since the only contract is between the subjects.

sovereign and against one's fellow subjects. Since the sovereign is responsible for peace and security in both cases, treason is always an offense against the other subjects because of its threat to the stability of the societal order.<sup>131</sup> Thus Israel's offense in the golden calf is both against YHWH, her sovereign, and against the entire nation.

The second significant difference between the golden calf incident and a typical case of treason is that the golden calf, as portrayed in Deuteronomy, involved the entire nation of Israel (apart from Moses) rather than a small subversive element. Typically treason against the state does not involve the entire citizenry, or even a substantial fraction of it.<sup>132</sup> While I have noted that modern treason can be considered a capital offense when committed by an individual, does it make any sense to extend this to being a capital offense by an entire population? For a modern state, it would make no sense for a sovereign—who has personal interests as well as state interests—to punish all of the state's subjects with death. Such an action would destroy the state by sovereign act rather than by popular treason. Practically, it would reduce the sovereign to being an ordinary person and leave no defense against foreign powers. But YHWH, ruler over all nations of the world (cf. 4:19), fears neither being reduced to ordinariness nor being subject to foreign nations. Thus he is not obligated to strive with the people who presently constitute his nation. YHWH is determined to be the sovereign over *some* particular people (with obvious preference to the descendants of Abraham). When he threatens to destroy unsuitable Israel, he couples the threat with his intention to create a replacement people from Moses (9:14). It is crucial at this point to remember that Deuteronomy's Israel, like a modern state, is transcendent. Israel is more than her present population. Her extent is greater than her current population. When the generation at Horeb proved disloyal to YHWH, her offense was not only against YHWH, but against transcendent Israel, the entity that extends beyond the people who embody her at any moment in time. If YHWH condemned every member of that generation (except Moses) and began again with Moses, he would certainly have raised the sovereign's violence against a substantial number of traitors, but not against "all Israel" in the transcendent sense. He would not have extinguished Israel, for she is made up of both previous and future generations, institutions, laws, stories, actions in history, and—most importantly—the common identity as the people of YHWH.

No doubt YHWH's threat against the entire population is extreme, but it is not different in kind than a punishment of mass treachery for the preservation of a threatened state. While a Hobbesian sovereign may punish treasonous individuals in order to protect the rest of the subjects and to maintain his sovereignty, YHWH is concerned with establishing and maintaining a nation, descended from Abraham, that will live in proper relationship with him and according to his vision for her. If the

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<sup>131</sup> A more detailed comparison of YHWH's sovereignty and that of Hobbes' Leviathan would be instructive but is beyond the scope of this essay.

<sup>132</sup> Since the state depends upon loyal citizenry to defend the state against internal opposition, a substantial part of the population turning against the sovereign would shift the category from treason to civil war or revolution.

present population of Israel is unwilling to be this nation, he seems willing to begin again with Israel redux.

It could be argued that he should instead simply set Israel free to live apart from him rather than actively destroy her. Two responses to this suggestion can be made. First, it may very well be that such a passive destruction of the population is exactly what he has in mind.<sup>133</sup> As has been emphasized, Israel is defenseless against her external enemies without YHWH's aid (e.g. 9:1-2). But second and more importantly, Israel cannot be "set free" and yet remain Israel. Her primary identity is that she is the people of YHWH. The present population could be "set free" to choose an alternative identity, but then those people would no longer be Israel.

It should also be noted that YHWH does not in fact carry out his threat to utterly destroy Israel and begin again. In fact, the Deuteronomy account portrays no real violence against Israel whatsoever, only threats of it. In contrast, the Exodus account emphasizes that the individuals who are guilty of subverting YHWH's sovereignty will receive their just punishment (Exod 32:33).<sup>134</sup>

In summary, YHWH's threatened violence in the golden calf remembrance is part of the foundational national myth of Israel, a call for Israel to remember the continual risk she runs by being YHWH's special possession. As Hobbes teaches, subjects of ordinary nations live in fear of their fellow-subjects and foreign powers, but as Moses teaches, Israel's special vocation is to fear YHWH. In both cases, the fear is not primarily one of existential terror, but of formative knowledge that shapes critical decisions for shaping both individual and society. While modern Western readers may reject YHWH's coercive violence against Israel as portrayed in the remembrance, when contextualized within the reality of modern violence against those who contribute, even unwittingly, to the destabilization of the present societal order, YHWH's threatened violence becomes considerably more conceivable, and perhaps even reasonable.

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<sup>133</sup> Cf. the mixture of passive and active destruction in 32:19-25.

<sup>134</sup> The Levites' execution of three thousand Israelites (Exod 32:28) probably reflects the killing of the most prominent offenders, though likely with the imprecision demanded by war-like rather than police-like violence. Janzen suggests that the Exodus account portrays the execution of approximately 0.5% of the population—a small minority, but every death without exception should be considered of deep importance (Waldemar Janzen, *Exodus* [Waterloo, Ont.: Herald, 2000], 390).

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