

SHIMON GESUNDHEIT

Three Times a Year

*Forschungen
zum Alten Testament*

82

Mohr Siebeck

Forschungen zum Alten Testament

Herausgegeben von

Bernd Janowski (Tübingen) · Mark S. Smith (New York)

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82



Shimon Gesundheit

Three Times a Year

Studies on Festival Legislation
in the Pentateuch

Mohr Siebeck

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Shimon Gesundheit

Table of Contents

Acknowledgements	V
List of Abbreviations	XI
Introduction	1
The Subject of this Study	1
Methodology.....	4

Chapter 1

The Festival Calendars in Exod 23:14–19 and 34:18–26

1.1 The Problem	12
1.2 Additions in Exodus 34 as Compared with Exodus 23	17
1.2.1 The Law of the First-Born	17
1.2.2 The Cessation of Work on the Seventh Day	21
1.2.3 The Epithet “God of Israel”	22
1.2.4 Verse 24.....	23
1.3 Changes in Exodus 34 as Compared with Exodus 23	25
1.3.1 The Name לֶחֶם תִּבְעַר and the Designation “First-Fruits of the Wheat Harvest”...	25
1.3.2 The Date of the Festival of the Ingathering	26
1.3.3 The Replacement of זֶבֶח (“Sacrifice”) by טֶשֶׁחַת (“Slaughter”)	28
1.3.4 Designation of the Pesah Sacrifice as זֶבֶחַ הַפֶּסַח	28
1.4 Passages Lacking in Exod 34:18–26 as Compared with Exod 23:14–19	31
1.4.1 “On Three Occasions You Shall Feast to Me During the Year” (23:14)	31
1.4.2 The Festivals of the Harvest/Weeks and the Ingathering: Exod 34:22 versus Exod 23:16.....	35
1.5 Summary and Conclusions.....	36

Chapter 2

The Pesah and the Unleavened Bread in Exod 12:1–28

2.1 Introduction	44
2.2 The Structure of the Pesah Laws in Exod 12:1–11	46
2.3 The Origin of Exod 12:21–27	58
2.3.1 The Priestly Character of Exod 12:22–27a, 28	61
2.3.2 The Redactional Frame in vv. 21, 27b.....	66
2.3.3 The Revision of vv. 23 and 27 in vv. 11bβ–13	67
2.4 Schematic Summary of the Literary Layers in Exod 12:1–28.....	74
2.5 The Problem of the Combination of the Pesah and the Unleavened Bread Pericopes	76
2.5.1 Exod 12:14–17	79
2.5.2 Exod 12:18–20 and the Priestly Calendars	84
2.6 Summary and Conclusions.....	89
2.6.1 The Literary Complexity of the Pesah Pericope.....	89
2.6.2 The Programmatic Redaction in Exod 12:1–28.....	90
2.6.2.1 The Expansional Layer.....	91
2.6.2.2 Verses 14–17	92
2.6.2.3 Verses 18–20	93

Chapter 3

The Deuteronomic Festival Calendar (Deut 16:1–17)

3.1 Introduction	96
3.2 The Pesah and Unleavened Bread in the Deuteronomic Festival Calendar (Deut 16:1–8).....	96
3.2.1 The Difficulties in the Literary Flow of the Paragraph	98
3.2.2 The Text and its Parallels	99
3.2.3 The Original Deuteronomic Pesah Law Underlying the Paragraph.....	100
3.2.4 The Additions in Verses 1, 3–4, 8	106
3.2.4.1 Verses 3–4	106
3.2.4.1.1 Set B – The First Insertion: “You Shall Not Eat with It Leavened Food”; “And None of the Meat...Shall Remain Overnight till Morning”	111
3.2.4.1.2 “You Shall Not Sacrifice פֶּסַח” (Exod 23:18) → “You Shall Not Slaughter טָבַח” (Exod 34:25) → “You Shall Not Eat” (Deut 16:3).....	112
3.2.4.1.3 “My Festal Fat” (Exod 23:18) → “the Pesah-Festival Sacrifice” (Exod 34:25) → “of the Meat That You will Sacrifice in the Evening” (Deut 16:4).....	113
3.2.4.1.4 “That You will Sacrifice in the Evening” (Deut 16:4)....	114

3.2.4.2 Set C – The Second Insertion: “For Seven Days You Shall Eat with It Unleavened Bread”; “And Leaven Shall Not Be Detectable to You...for Seven Days”.....	115
3.2.4.2.1 “For Seven Days You Shall Eat with It Unleavened Bread” (Deut 16:3aß).....	115
3.2.4.2.2 “And Leaven Shall Not Be Detectable to You, Within Your Entire Territory, for Seven Days” (Deut 16:4a).....	118
3.2.4.3 Set D – The Third Insertion: “Meager Bread”; “Because You Left the Land of Egypt in Haste...All the Days of Your Life”.....	120
3.2.4.4 Verses 1 and 8.....	124
3.2.4.5 Verse 1.....	124
3.2.4.5.1 “Keep the Month of Abib”.....	125
3.2.4.5.2 “Because in the Month of Abib YHWH Your God Took You out of Egypt”.....	128
3.2.4.5.3 “And You Shall Perform חֹמֶשׁ the Pesah for YHWH Your God”.....	128
3.2.4.5.4 “Keep the Month of Abib...because in the Month of Abib...at Night”.....	129
3.2.4.5.5 The Original Frame of the Pesah Law.....	132
3.2.4.6 Verse 8.....	133
3.3 Summation.....	138
3.3.1 The Method of the Literary-Critical Analysis and Its Results.....	138
3.3.2 Implications of the Literary-Critical Analysis.....	144
3.3.2.1 The Alleged Replacement of the Festival of Unleavened Bread by the Pesah in Deuteronomy.....	144
3.3.2.2 Pesah and the Question of Literary Links between D and P.....	144
3.3.2.3 Did the Festival Calendar of Exodus 34 Have Any Impact on the Literary Development of the Deuteronomic Festival Calendar?.....	147
3.4 The Festivals of Weeks and Tabernacles in the Deuteronomic Festival Calendar (Deut 16:9–12, 13–15).....	150
3.4.1 The Festival of Weeks.....	152
3.4.2 The Festival of Tabernacles.....	154
3.5 The Literary Frame of the Deuteronomic Festival Calendar.....	157
3.6 The Presumed Development of the Deuteronomic Festival Calendar.....	162

Chapter 4

The Laws of Unleavened Bread and the First-Born in Exod 13:1–16

4.1 Introduction.....	167
4.2 Survey of Literary-Critical Scholarship.....	168

4.3 The Law of the First-Born (Exod 13:11–16)	172
4.3.1 The Uniqueness of the Historical Rationale for the Law of the First-Born	172
4.3.2 The Law of the First-Born as an Alternative to the Apotropaic Cult of the Pesah	174
4.3.3 The Controversy Concerning the Pesah	177
4.3.4 The Literary Sources of the Law of the First-Born	178
4.3.4.1 “You Shall Transfer All Womb-Breachers to YHWH” (vv. 12–13, 15)	179
4.3.4.2 “From Human First-Born to Animal First-Born” (v. 15)	183
4.3.4.3 “YHWH Slew (לָקַחְתִּי) Every First-Born in the Land of Egypt” (v. 15)	186
4.3.4.4 “With Strength of Hand” (בְּקֹחַ שֹׁמֵר) and “With a Strong Hand” (בְּיָד חֲזָקָה) (vv. 3, 9, 14, 16)	188
4.3.4.5 “And It Shall Be a Sign on Your Hand and a Mark Between Your Eyes” (v. 16)	192
4.3.4.6 “When Pharaoh Stubbornly Refused to Let Us Go” (v. 15)	197
4.4 “Consecrate to Me Every First-Born” (vv. 1–2)	199
4.4.1 The Problem	199
4.4.2 A New Reading	201
4.5 The Unleavened Bread Section (vv. 3–10)	208
4.5.1 Literary Parallels and Motifs in Exod 12:25–27; 13:5–10, 11–16	209
4.5.2 A Diachronic Perspective on the Unleavened Bread Section (vv. 3–10)	212
4.5.2.1 The Pesah as a Commemoration of the Exodus from Egypt	213
4.5.2.2 The Integration of the Pesah with the Unleavened Bread	216
4.5.3 The Text in its Present Form	217
4.6 Summary and Conclusions (Exod 13:1–16)	222

Chapter 5

Summary and Conclusions

5.1 Results	223
5.2 Implications of the Methodological Approach for the Study of the Festivals	223
5.2.1 Exegetical Layer	229
5.2.2 Expansional and Supplementary Layer	230
5.2.3 Rewriting and Replacement	230
Bibliography	235
Index of Sources	253
Index of Modern Authors	264
Index of Subjects	269

List of Abbreviations

AB	The Anchor Bible, Garden City (New York)
AJSR	<i>Association for Jewish Studies Review</i> , Cambridge (Massachusetts)
AnBibl	Analecta Biblica, Roma
ANET	<i>Ancient Near Eastern Texts Relating to the Old Testament</i> , ed.: J. B. Pritchard, Princeton 1969 ³
AOAT	Alter Orient und Altes Testament, Neukirchen-Vluyn
AOS	American Oriental Series, New Haven
ARW	<i>Archiv für Religionswissenschaft</i> , Leipzig
ASTI	<i>Annual of the Swedish Theological Institute in Jerusalem</i> , Leiden
ATA	Alttestamentliche Abhandlungen, Münster
ATD	Das Alte Testament Deutsch, Göttingen
BA	<i>The Biblical Archaeologist</i> , New Haven
BB	Bonner Bibel: Die Heilige Schrift des Alten Testaments übersetzt und erklärt, Bonn
BBB	Bonner Biblische Beiträge, (Köln/Bonn; Frankfurt) Berlin/Bodenheim b. Mainz
BC	Biblischer Kommentar über das alte Testament, Leipzig
BDB	F. Brown – S. R. Driver – S. A. Briggs, <i>Hebrew and English Lexicon of the Old Testament</i> , Oxford 1907
BETL	Bibliotheca Ephemeridum Theologicarum Lovaniensium, Leuven
BJRL	<i>The Bulletin of the John Rylands Library</i> , Manchester
BK	Biblischer Kommentar zum Alten Testament, Neukirchen-Vluyn
BN	<i>Biblische Notizen</i> , Salzburg
BWANT	Beiträge zur Wissenschaft vom Alten und Neuen Testament, Stuttgart
BZ	<i>Biblische Zeitschrift</i> , (Freiburg im Breisgau) Paderborn
BZABR	Beihefte zur Zeitschrift für Altorientalische und Biblische Rechtsgeschichte, Wiesbaden
BZAW	Beihefte zur Zeitschrift für die alttestamentliche Wissenschaft, (Gießen) Berlin/New York
CB	The Cambridge Bible, Cambridge
CS	<i>Cahiers sioniens</i> , Paris
DBAT	<i>Dielheimer Blätter zum Alten Testament</i> , Dielheim
DBS	<i>Dictionnaire de la Bible – Supplément</i> , Paris
DJD	Discoveries in the Judaean Desert, Oxford
EJ	<i>Encyclopaedia Judaica</i> , Jerusalem
EM	<i>Encyclopaedia Biblica</i> = אנציקלופדיה מקראית, Jerusalem (Hebrew)
FAT	Forschungen zum Alten Testament, Tübingen
FRLANT	Forschungen zur Religion und Literatur des Alten und Neuen Testaments, Göttingen

<i>GKC</i>	A. E. Cowley, <i>Gesenius' Hebrew Grammar as Edited and Enlarged by the Late E. Kautzsch</i> , Oxford 1910 ²
<i>HALOT</i>	L. Koehler – W. Baumgartner – J. J. Stamm, <i>The Hebrew and Aramaic lexicon of the Old Testament</i> , translated and edited under the supervision of M. E. J. Richardson, Leiden 1994–2000
<i>HAT</i>	Handbuch zum Alten Testament, Tübingen
<i>HCOT</i>	Historical Commentary on the Old Testament, (Kampen) Leuven
<i>HDB</i>	<i>Dictionary of the Bible</i> , ed. by J. Hastings (rev. by F. C. Grant & H. H. Rowley), Edinburgh 1963 ²
<i>HKAT</i>	Göttinger Handkommentar zum Alten Testament, Göttingen
<i>HTR</i>	<i>Harvard Theological Review</i> , Cambridge (Massachusetts)
<i>HUCA</i>	<i>Hebrew Union College Annual</i> , Cincinnati
<i>IB</i>	The Interpreter's Bible, New York
<i>ICC</i>	The International Critical Commentary, Edinburgh
<i>IDB</i>	<i>The Interpreter's Dictionary of the Bible</i> , New York
<i>ILR</i>	<i>Israel Law Review</i> , Jerusalem
<i>JAOS</i>	<i>Journal of the American Oriental Society</i> , Ann Arbor (Michigan)
<i>JBL</i>	<i>Journal of Biblical Literature and Exegesis</i> , (New York/New Haven) Philadelphia
<i>JbTh</i>	<i>Jahrbuch für Biblische Theologie</i> , Neukirchen-Vluyn
<i>JpTh</i>	<i>Jahrbücher für protestantische Theologie</i> , Leipzig
<i>JSOT</i>	<i>Journal for the Study of the Old Testament</i> , Sheffield
<i>JSOTS</i>	Journal for the Study of the Old Testament. Supplement Series, Sheffield
<i>JSS</i>	<i>Journal of Semitic Studies</i> , Manchester
<i>JThS</i>	<i>Journal of Theological Studies</i> , Oxford
<i>KeH</i>	Kurzgefaßtes exegetisches Handbuch zum Alten Testament, Leipzig
<i>KHC</i>	Kurzer Hand-Commentar zum Alten Testament, Tübingen
<i>KuD</i>	<i>Kerygma und Dogma</i> , Göttingen
<i>LD</i>	Lectio Divina, Paris
<i>MGWJ</i>	<i>Monatsschrift für Geschichte und Wissenschaft des Judentums</i> , Frankfurt (Main)
<i>MVÄG</i>	Mitteilungen der Vorderasiatisch-Ägyptischen Gesellschaft, Leipzig
<i>NCBC</i>	The New Century Bible Commentary, London
<i>NJPS</i>	Tanakh – The Holy Scriptures: The New JPS Translation According to the Traditional Hebrew Text
<i>OBO</i>	Orbis Biblicus et Orientalis, Fribourg/Göttingen
<i>OTG</i>	Old Testament Guides, Sheffield
<i>OTL</i>	Old Testament Library, London
<i>OTS</i>	<i>Oudtestamentische Studiën</i> , Leiden
<i>RB</i>	<i>Revue Biblique</i> , Paris
<i>RechBib</i>	<i>Recherches Bibliques</i> , Brugge
<i>RivBib</i>	<i>Rivista Biblica</i> , Bologna
<i>RTL</i>	<i>Revue théologique de Louvain</i> , Louvain
<i>SBAB</i>	Stuttgarter biblische Aufsatzbände, Stuttgart
<i>SBL</i>	Society of Biblical Literature
<i>SBOT</i>	The Sacred Books of the Old Testament, Leipzig/Baltimore/London
<i>SH</i>	<i>Scripta Hierosolymitana</i> , Jerusalem
<i>SHVL</i>	Skrifter utgivna av Kungl. Humanistiska Vetenskapssamfundet i Lund, Lund
<i>StANT</i>	Studien zum Alten und Neuen Testament, München

<i>StTh</i>	<i>Studia Theologica, cura ordinum theologorum Scandinavicum edita, Lund/Aarhus</i>
SVT	Supplements to Vetus Testamentum, Leiden
<i>ThLZ</i>	<i>Theologische Literaturzeitung</i> , Leipzig/Berlin
<i>ThR</i>	<i>Theologische Rundschau</i> , Tübingen
<i>ThRv</i>	<i>Theologische Revue</i> , Münster
<i>ThSt</i>	<i>Theologische Studien</i> , Zollikon
<i>ThT</i>	<i>Theologisch Tijdschrift</i> , Leiden
<i>ThWAT</i>	<i>Theologisches Wörterbuch zum Alten Testament</i> , eds.: G. J. Botterweck – H. Ringgren – H.-J. Fabry, vols. 1–8, Stuttgart 1973–1995
<i>ThZ</i>	<i>Theologische Zeitschrift</i> , Basel
<i>TrThZ</i>	<i>Trierer Theologische Zeitschrift</i> , Trier
<i>VF</i>	<i>Verkündigung und Forschung: Theologischer Jahresbericht</i> , München
<i>VT</i>	<i>Vetus Testamentum</i> , Leiden
WBC	Word Biblical Commentary, Waco (Texas)
WC	The Westminster Commentaries, London
WMANT	Wissenschaftliche Monographien zum Alten und Neuen Testament, Neukirchen-Vluyn
WUNT	Wissenschaftliche Untersuchungen zum Neuen Testament, Tübingen
ZABR	<i>Zeitschrift für Altorientalische und Biblische Rechtsgeschichte</i> , Wiesbaden
ZAW	<i>Zeitschrift für die alttestamentliche Wissenschaft</i> , (Gießen) Berlin/New York
ZBK	Zürcher Bibelkommentare, Zürich
ZDPV	<i>Zeitschrift des Deutschen Palästina-Vereins</i> , (Leipzig/Stuttgart) Wiesbaden
<i>ZkTh</i>	<i>Zeitschrift für katholische Theologie</i> , Innsbruck
<i>ZThK</i>	<i>Zeitschrift für Theologie und Kirche</i> , Tübingen

Introduction

The Subject of this Study

Literary-critical study of the Bible originated with research into the festival laws. J. F. L. George's book on the festivals of Israel, published in 1835,¹ left a formative imprint on the subsequent development and crystallization of the classic approach to literary-historical study of the Pentateuch, as exemplified in J. Wellhausen's 1878 work *Prolegomena zur Geschichte Israels*.² Many of Wellhausen's conclusions concerning the religious and social history of Israel during the biblical period rely on his analysis of the festival laws found in the Pentateuch, in particular his comparison of the differences between them. Furthermore, the fundamental building blocks of the documentary hypothesis and the chronological relationship between the documents themselves were derived from variations in content and style among the Pentateuchal festival laws.

While the identification of Priestly material in the festival calendars found in Leviticus 23 and Numbers 28–29³ has gone unquestioned since Nöldeke's time,⁴ major problems regarding the literary-critical evaluation of the non-Priestly festival laws remain unanswered. In a lecture marking the hundredth anniversary of Wellhausen's publication of *Prolegomena zur Geschichte Israels*, M. Sæbø lamented the fact that since the appearance of Wellhausen's work, the festival laws and the relationship between them have failed to receive the scholarly attention they deserve.⁵ Under the

¹ J. F. L. George, *Die älteren Jüdischen Feste*, Berlin 1835. The bibliographical details of those studies explicitly mentioned in the body of this work will generally be cited in the footnotes in full.

² Wellhausen's book was only published under the title *Prolegomena zur Geschichte Israels* beginning with its second edition (Berlin 1883). Its first edition, published in 1878, was printed as the first volume of his *Geschichte Israels*.

³ With regard to the Priestly calendars, scholarship has focused on identifying their literary complexities within the Priestly literature; see the recent discussion by Nihan, "Festival Calendars", 177–231.

⁴ Nöldeke's delineation of the parameters of the Priestly corpus in the Pentateuch was accepted by most scholars; see T. Nöldeke, *Untersuchungen zur Kritik des Alten Testaments*, Kiel 1869, 1–144 (Teil 1: "Die sogenannte Grundschrift des Pentateuch").

⁵ Sæbø, "Priestertheologie und Priesterschrift", 369.

influence of the comparative study of ancient Near Eastern cultic institutions, scholarly interest has in fact focused more on the phenomenological study of the cultic aspects of the festivals than on literary-critical analysis of the texts that purportedly depict them. Sæbø⁶ remarked further on the strong resemblance between the various festival lists that the Graf-Wellhausen school classically assigned to separate and independent documents (Exod 34:18, 22–23 [J]; *ibid.*, 23:14–16 [E]; Deut 16:1–17 [D]). In his opinion, the extraordinary resemblance between the lists, on the one hand, and the clear differences between them, on the other, has yet to receive a satisfactory explanation. Indeed, it appears that while comprehensive theories have been offered to elucidate the cultic, theological, and social developments of the festival institutions, we still lack clarification regarding many of the difficulties arising from the text itself.

It is noteworthy in this regard that many literary-critical appraisals, such as the attribution of the description of the Pesah in Exod 12:21–23 to the classic J document originally were ventured merely as conjectures.⁷ Likewise, other dubious theories – such as the supposition that an ancient “ritual decalogue” exists in Exodus 34⁸ – had become axiomatic in the literature relating to the festival laws, thus forming the basis for many of the principles that underlay biblical studies in general⁹ and the study of the evolution of biblical law¹⁰ and Israel’s cult¹¹ and religion¹² in particular. A situation has consequently developed whereby many of the essential presuppositions pertaining to the very heart of biblical research and the cultic and religious development of historical Israel may be undermined by fresh literary-critical analyses of the Pentateuchal laws relating to the festivals.

Recent years, especially the last decade, have seen reinvigorated interest in the literary-historical research of the biblical festival calendars,¹³ and

⁶ *Ibid.*, 369–370.

⁷ Wellhausen (*Composition des Hexateuchs*, 75) and Kuenen (*Historisch-kritische Einleitung*, 162 [§ 9, n. 4d]) considered various literary-critical appraisals of Exod 12:21–23. In the end, they tended not to accept the position adopted by most biblical scholars; regarding this matter, see the second chapter of this work.

⁸ See Levinson, “Goethe’s Analysis of Exodus 34”, 212–223.

⁹ See, for example, Cazelles (“Pentateuque”, 800, 802, 806) on the “ritual decalogue”.

¹⁰ See, for example, Scharbert (“Jahwe im frühisraelitischen Recht”, 160–183) on Exod 34:11–26.

¹¹ See, for example, Ahuis (*Trägergruppen*, 44–66) on Exod 12:21–23.

¹² See, for example, Lohfink (“Monotheismus”, 24) on Exod 34:11–26.

¹³ See the history of research until 2003 in Berlejung, “Heilige Zeiten”, 3–61. See also the monographs of Körting, *Schall des Schofar*; Weyde, *Festivals*; Wagenaar, *Origin and Transformation*. Similarly, in the study of ancient Near Eastern cultures there is a growing interest in the calendars and festivals and in the problem of their relationship to Israel’s festivals; see e.g. Cohen, *Cultic Calendars*; Fleming, *Time at Emar*; see also van

new approaches have been formulated. In lectures delivered in 1995 and 1997, and in published form in 1998, I presented my argument that the festival calendar in Exodus 34 does not present a “ritual decalogue” or represent – as widely claimed in scholarship – Israel’s earliest legal collection, but rather a hermeneutically – “midrashically” – revised version of the festival calendar in Exodus 23.¹⁴ In those years, B. M. Levinson also began to think in a similar direction.¹⁵ In 1996, an article by E. Blum focused on the non-legal parts of the covenant-making in the text of Exodus 34, and assessed its date of composition to belong to early post-exilic Judah.¹⁶ In the years since, the line of argument of these studies dissociating the description of the covenant and the laws in Exodus 34 from their classic attribution to the J document progressively gained acceptance.¹⁷

Likewise, the passage in Exod 12:21–27 has been recognized in recent scholarship as a pivotal text in the literary history of the Pentateuch in general and the development of the Passover laws in particular. My thesis that this text is not based upon a pre-Priestly foundation, but rather marks the original continuation of a Priestly layer in vv. 1–13 – a secondary layer – was first published in brief form in 1995.¹⁸ Since then in scholarship on this central text too one sees productive ferment and the push to grapple with old conventions regarding Pentateuchal research.¹⁹

Already in the very first stages of biblical research, understanding the puzzling paragraph in Exod 13:1–16 was thought one of the insoluble problems of the literary-critical research into the Pentateuch.²⁰ My proposed analysis of this paragraph appears here for the first time.

In 1994, I published on the Deuteronomic festival calendar – which is replete with difficulties still debated by scholars – a concentrated form of my thesis, that originally Deuteronomy contained no calendar at all, only a law

der Toorn, “Babylonian New Year Festival”, 331–344; Fleming, “Israelite Festival Calendar”, 8–34; *idem*, “Festival Calendars”, 161–174.

¹⁴ My papers, delivered in Israel and Europe, about “The Festival Calendars in Exodus and the Documentary Hypothesis” appeared afterwards as an article in *Vetus Testamentum* 48 (1998), 161–195, under the title “The Festival Calendars in Exodus XXIII 14–19 and XXXIV 18–26”.

¹⁵ See the references in Carr, “Method”, 107–140, and Zahn, “Reexamining”, 36–55. Levinson presented his analysis in his lecture at the conference on “The Pentateuch: International Perspectives on Current Research (Zürich, January 10–12, 2010).

¹⁶ “Privilegrecht”, 347–366.

¹⁷ See the bibliography in chapter 0.

¹⁸ “Zur literarkritischen Analyse”, 18–30.

¹⁹ See e.g. Ahuis, *Trägergruppen*, 44–74; Weimar, “Zusatz nachdeuteronomistischer Provenienz”, 421–448; Gertz, *Exoduserzählung*, 38–56; Wagenaar, *Origin and Transformation*, 97; Blum, “Gespräch mit neueren Endredaktionshypothesen”, 135; and see already May, “Relation of the Passover”, 65–82; Van Seters, “Place of the Yahwist”, 167–182.

²⁰ See recently Zahn, “Remember”; *eadem*, “Reexamining”, 36–55.

adapting the Passover ritual to the principle of cultic centralization.²¹ The fuller, detailed analysis published here for the first time encompasses as well the laws of the Festival of Weeks and of the Festival of Tabernacles.

This volume was written from a literary-critical perspective, based upon a detailed analysis of the festival laws in the Pentateuch,²² and it will focus on texts which contain many unresolved difficulties: Exod 12:1–20, 21–28; 13:1–16; 23:14–19; 34:18–26; Deut 16:1–17.²³ The genre of these texts differs from that of the fully formed Priestly calendars in Leviticus 23 and Numbers 28–29.²⁴ In the course of this study, it will become clear that the choice of these specific texts and the analysis of the connections among them can cast new light on the laws they contain. Diverging from the prevailing view, the results of this literary-critical analysis will paint a different picture of the history of the literary crystallization of the Pentateuchal festival laws.

Methodology

*Wovon man nicht sprechen kann, darüber muss man schweigen.*²⁵
Ludwig Wittgenstein (*Tractatus logico-philosophicus*)

*Ich mißtraue allen Systematikern und gehe ihnen aus dem Weg.
Der Wille zum System ist ein Mangel an Rechtschaffenheit.*²⁶
Friedrich Nietzsche (*Götzen-Dämmerung*)

In the wake of a perceived crisis regarding Pentateuchal research, specifically, the documentary hypothesis, recent decades have seen the emergence of a wide variety of approaches to the Pentateuch, some defending the documentary hypothesis, and others proposing new, alternate models.²⁷ On the one hand, no consensus has formed around a single methodology or

²¹ Bar-On (Gesundheit), “The Festival Calendar in Deuteronomy”, 133–138.

²² Exod 12:1–28, 43–50; 13:1–16; 23:14–19; 34:18–26; Lev 16:1–34; 23:1–44; Num 9:1–14; 28:1–30:1; Deut 16:1–17.

²³ On Num 28:1–30:1, see Bar-On (Gesundheit), “Sacrifices”, 143–153. On Num 9:1–14, see Chavel, “Second Passover”.

²⁴ I have employed here the conventional term “calendar”, even though it may not be possible to count the non-Priestly texts as members of the “calendar” genre in the narrow meaning of the term; see Wagenaar, *Origin and Transformation*, 1.

²⁵ What one cannot speak about, one must pass over in silence.

²⁶ I mistrust all systematizers and avoid them. The will to a system is a lack of integrity.

²⁷ See some of the most recent overviews: Nicholson, *Pentateuch*; Römer, “Pentateuchforschung”, 289–307; Dozeman – Schmid, *A Farewell to the Yahwist?*; Ska, *Introduction*, 127–164; Baden, *Pentateuch*, 45–98.

approach, but on the other, the fundamental principles of literary-critical analysis remain prevalent.²⁸ The status of the literary-critical approach has in fact been strengthened by empirical support gained from the study of ancient Near Eastern texts,²⁹ as well as by the findings of textual criticism, namely, the analysis of alternate textual witnesses and the study of the ancient biblical translations.³⁰

Indeed, the essence of the crisis in the literary-historical study of the Pentateuch does not stem from the undermining of the method of literary-critical analysis or from the very distinction made between Priestly literary layers and non-Priestly material, which is accepted by nearly all scholars. It stems from questions posed regarding the classic model for describing the composition of the Pentateuch, as has come to expression in the Graf-Wellhausen-Kuenen school. Most of the questions themselves are not new,³¹ but currently they are being formulated more forcefully and with the specific goal of refuting the classic model to replace it by an alternate one. In the last two decades, there are signs of certain shared presuppositions challenging the classic model having been formulated, but very large gaps remain between the new alternative models, and the number of new theories is almost the same as the number of scholars proposing them.³² There does indeed seem to be an excessive number of divisive suppositions and theories in the field today.³³ And yet, at the same time, there is a lack of solid literary-critical textual analyses.

²⁸ This conclusion emerges from a survey of most of the recent introductions. For a contrary argument, see e.g. R. N. Whybray, *Introduction*; Whybray adopts a synchronic approach, perceiving the Pentateuch as a single, uniform composition. He dates the Pentateuch to the postexilic period, maintaining that it was composed from earlier documents into a coherent work by one or more authors.

²⁹ See, for example, Tigay, "Stylistic Criterion of Source Criticism", 149–173; Eichler, "Laws of Eshnunna", 71–84; Yaron, "Hammurabi", 223–238; Otto, "Legal Reform and Reformulation", 160–196.

³⁰ See, for example, Tigay, "Empirical Basis for the Documentary Hypothesis", 329–342; Rofé, "Joshua 20: Historico-Literary Criticism Illustrated", 113–147; see also Tov's survey in *Textual Criticism*, 313–349.

³¹ See, for example, Gunneweg, "Anmerkungen und Anfragen zur neueren Pentateuchforschung", 107–131 (especially 121–125); B. Seidel, "Entwicklungslinien der neueren Pentateuchforschung", 476–485.

³² The number may even be larger, since due to the continuing critical discussion, scholars feel constrained fundamentally to change their opinions. See on this point in the concentrated summary of several of the new Pentateuchal models tested against the question of the composition of the Sinai pericope, in Konkel, *Sünde*, 13–26.

³³ Albertz (*Israelite Religion*, 7) referred to this phenomenon as "the sometimes boundless formation of hypotheses". Not a few of the new theories are really old ones resuscitated. See Lohfink, "Deutéronome et Pentateuque", 35; Houtman, *Pentateuch*, 244–246.

Likewise, it is difficult to deny the argument made by those scholars adhering to the classic model of the Pentateuch's creation, that the new theories comprise a large hypothetical element.³⁴ The present work does not aim to add yet another overarching theory to the mass of theories that exist in current scholarship on the history of the composition of the Pentateuch. Nor do the conclusions drawn in the present work depend on any particular theory of the Pentateuch's composition. Moreover, the diachronic perspective in it does not lead to an absolute chronology, but to a relative chronology and to the discernment of literary dependence between the different texts. Above all, the book aims to be persuasive about the accuracy of the literary analysis itself that is in it. Therefore, against the current scholarly trend,³⁵ more space will be given to the manner of analysis. At times the reader will have to draw a deep breath to read the many pages that lay out the process of literary-critical analysis, from identifying the difficulties in the text's coherence – without which literary-critical analysis has no justification whatsoever – to presenting the detailed arguments that strive to vindicate the need for diachronic distinctions within the text. For example, the need to distinguish within the Deuteronomic festival calendar – a relatively short passage – several different stages of composition and revision can only be made comprehensible by a detailed comparison of the inner-biblical parallels, elucidation of the text's thrust, and attention to every one of its details.

This work seeks to invite the reader to a multi-layered reading of the biblical texts, in an attempt to understand its current formulation in the light of its gradual development. For that reason, the first reading will always be a synchronic one of the present, final form of the text. This close reading will establish whether there exist real difficulties in the coherence of the passage, difficulties that call for an additional, diachronic reading, the purpose of which will be to attempt to identify separate compositional and editorial layers. The third reading will again be a synchronic one of the text's final form, but the purpose of this synchronic reading will be to reap the fruit of the labor of the diachronic analysis. For it will assist us to see

³⁴ See, for example, Seebass, "Zum Stand der Pentateuchforschung", 115: "Das seit 100 Jahren ständig überprüfte Modell ist zwar nichts als eine Hypothese zur Erschließung eines schwierigen Primärbefundes, aber immer noch die bei weitem einfachste und mit Abstand vollständigste." See also W. H. Schmidt, "Plädoyer für die Quellenscheidung", 1–14; L. Schmidt, "Im Dickicht der Pentateuchforschung", 400–420.

³⁵ See, for example, Veijola ("History of the Passover", 56): "How to explain the perplexing diversity existing in Deut 16,1–8 (17) is not an easy task. I shall spare the reader the trouble of following the route I have taken when attempting to find a proper place for every piece of this tricky puzzle. Instead I shall present only the result, i.e. a reconstruction of the four basic strata lying behind the final text" (cf. *idem*, *Studien*, 133 f.; *Deuteronomium*, 329).

the difficulties and anomalies of the text in a new light – no longer simply as interference in the flow, but as manifestations of innovative inner-biblical exegesis. This perspective should strengthen and confirm after the fact the insights gained during the literary-critical analysis of the second, diachronic reading.³⁶

In a time of a preponderance of new theories all struggling to solve the riddle of the formation of the Pentateuch, there exists the concern that sometimes the literary analysis serves to support a theory rather than the other way around. The overall view presses the scholar to see all the literary phenomena in the light of a single, reified theory, and the scholar stands to lose the flexibility required to adapt the theory to the text rather than force the conclusions of the textual analysis to fit the desired theory. In contrast to current convention, I have not desisted from employing varied types of literary analysis for the different passages. For the scholar must strive to build a set of tools for him- or herself by close engagement with the text itself, according to the needs of the specific text. Aside from the literary-historical criticism itself, based on evaluating the coherence of the text from the points of view of its content, context, style and syntax, the scholar must approach the text without assuming a particular theoretical model. The reader of the present book may be surprised to discover that each chapter works through a different literary-critical model, as suits the particular text being studied. It attempts to match the theory to the text and not the text to any preexisting theory. The first chapter compares the two similar festival calendars in Exodus 23 and 34, and proposes to demonstrate that the latter is in fact the hermeneutic, “midrashic” revision of the former. The second chapter works to show that Exod 12:1–28 comprises a primary layer into which were inserted, in a chiastic sequence, the exegetical comments of a secondary layer. Additionally, it highlights a passage attesting to an extra-temple apotropaic Passover rite established for all generations (vv. 22–27a), but which was severed from its original location in the text and thereby lost its validity over the course of the history of the cultic literature of the Bible. The third chapter lays out the argument that the Deuteronomistic festival calendar was not initially composed as such, but rather developed from a text originally centralizing the Passover rite. In successive stages, this law was supplemented by laws about sacrifice and about leaven and unleavened bread taken from passages in the book of Exodus. The fourth chapter treats the two legal paragraphs in Exodus 13 as counter-texts to the law of the extra-temple, apotropaic Passover rite. Each one of

³⁶ In this third reading, I gain much from the thoughtful work in Levinson, *Deuteronomy*. But, as opposed to Levinson, I do not sever the hermeneutics of legal innovation from literary-historical analysis, and certainly see no contradiction between them (*ibid.*, 56).

them constitutes an alternative to the problematic Passover. Whereas the first (vv. 3–10) took shape gradually, the second (vv. 11–16) was composed in its entirety in a single late stage. Significantly, the order of the chapters does not follow the order of the texts within the Torah or any another formal criterion, but the quality of the data and the substance of the argument, going from the most direct method of analysis to ever more complex.

Archaeological and agricultural data, parallel materials from the ancient Near East, and ancient post-biblical interpretation can all help only to the degree that they illuminate or buttress conclusions drawn from the biblical text itself. Again, in contrast to the prevalent scholarly trend, I will attempt to resist as much as possible interpreting a biblical passage or expression in the light of extra-biblical information if a strong pull towards it is not present in the text itself. For however attractive a particular scholarly theory or hypothesis might be, the decisive gauge must always be the biblical text itself. For instance, in both old and new studies, the calendrical meaning of the unique term “Festival of the Harvest” (חַג הַקִּצִּיר), which only appears in the festival calendar of Exodus 23 (v. 16), is considered identical to the term “Festival of Weeks” (חַג שָׁבֻעוֹת) that appears in the other calendars in the Pentateuch and all the other festival references in the Bible. This assumption may seem reasonable in the light of extra-biblical sources like the Gezer calendar, but it ignores the literary phenomenon of the Bible, that the term חַג הַקִּצִּיר is a *hapax legomenon* yet its meaning is perfectly clear in its context. By contrast, the other biblical festival calendars contain deliberate, tendentious revisions that fill the term חַג הַקִּצִּיר with new significance, alter its date, and recast it as a “Festival of Weeks”. In the face of the authority of the statement of the biblical text, even material knowledge of festival rites in the ancient Near East and of ancient agriculture is only a second-order source.

The common approach of interpreting verses in the light of extra-biblical parallels while overlooking unique literary aspects of the biblical text itself derives from the tacit assumption that it is perfectly obvious that the festival calendars in the Pentateuch record reality as it occurred. However, one must bear in mind that this assumption enjoys no support from the early biblical literature, which describes an “annual Festival of YHWH in Shiloh” (Judg 21:19) or a חַג הַלֵּלִים “wine celebration” (Judg 9:27) or the like, but never a thrice-annual pilgrimage festival. Therefore, one should resist projecting from the text onto reality, then from the speculated reality – on the grounds of extra-biblical parallels – back onto the text, and interpreting the text in the light of material data, without the data having a strong foothold already within the text. Until proven otherwise, one should relate to the literary texts about the festivals as literature, and attempt to trace the legislative, cultic and theological ends of the different festival calendars.

The preference for interpreting the text by means of the text and not by way of prior assumptions prescribes also a certain restraint in the interpretive implications that stem from the broader context of the passage, such as the so-called Book of the Covenant, in which is found the festival calendar in Exodus 23. In the light of the plethora of theories that exists about the literary history of the gradual shape taken by the Book of the Covenant, one should resist approaching the festival calendar in Exodus 23 from the point of view of prior scholarly assumptions that derive from such theories rather than from the festival calendar itself. One should first interpret the text of the calendar on its own terms, and only draw secondarily upon the broader context to the degree that it will illuminate the comprehension of the festival calendar passage.

The desire for a comprehensive solution to the literary complexity of the biblical text often leads scholars to omit performing detailed literary-critical analyses in favor of immersing themselves in theory and phenomenology.³⁷ This shift in scholarly emphasis even creates the impression that often, textual study is no longer the goal of the research, but rather the means to an end, the true purpose being to discover a theoretical solution for explaining the historical evolution of the text to its present form.

This work was written based upon the assumption that the primary purpose of biblical study is to arrive at an understanding of the text in its present literary form. Engaging in the theoretical question of the text's creation is only justified in so far as it serves this true purpose. By restraining the impulse to engage in theoretical, speculative forays, an attempt is made to minimize the danger of an undue bias prejudicing the characterization of the texts under discussion. For the weight of the fundamental theoretical assumptions may create the demand for a certain reading – that is to say, a misreading – of the text. A. Toeg said it well, in a similar methodological context: “There is a methodological justification, indeed, obligation, to concentrate almost exclusively on literary analysis. The more strictly discussion is confined to this area, the less likely it is to fall prey to the danger of leaving the facts behind and sailing off into the seas of pure speculation. For...in the realm of facts there lies nothing but the literary phenomenon itself.”³⁸ Furthermore, immersion in the realm of the facts, that is to say, in pure literary-critical analysis – which ignores general theoretical considerations in the first stage – stands, at the end of the day, both to produce a theory more in keeping with the text itself and to provide

³⁷ In contrast to this tendency, before publishing his phenomenological work *Prolegomena zur Geschichte Israels* Wellhausen engaged in detailed literary analyses of the Pentateuch and the Early Prophets (*Die Composition des Hexateuchs und der historischen Bücher des Alten Testaments*), which were first published in 1876–1877.

³⁸ Toeg, *Lawgiving*, 4.

a stronger foundation for historical research into the cultic evolution of the festivals. Above all, this work wishes to persuade readers of the vital necessity of adopting the literary-critical approach in order to reach an understanding of the text in its present literary form.

The literary-critical analysis undertaken here is not based exclusively upon stylistic markers but upon a cross-section of literary-critical criteria. The most crucial of these arise from the difficulties present in the content, structure, context, and syntax of the passages under discussion. Likewise, extensive use will be made of the comparative literary analysis of parallel passages. The very existence of stylistic and substantive parallels allows us to ground our literary-critical analysis upon a factual, that is, a textual basis. In many cases a genetic relationship, that is to say, a substantive and literary dependence, can be discerned between the parallel passages. In this way, external data is adduced to support diachronic conclusions reached through an analysis of the text's internal data. Consequently, this approach challenges a tendency, particularly common among those engaged in tradition history, to adopt an *a priori* supposition that two parallel texts have a common third source, and that both texts are actually independent literary crystallizations deriving from this common hypothetical source.³⁹ Clearly, such a theoretical and speculative approach does not advance the cause of the text's literary analysis; indeed, all it offers is a restatement of the theory itself. Therefore, such an assumption does not seem to have any methodological justification unless it is impossible to establish any genetic relationship between two parallel passages. It is vital to analyze the facts presenting themselves, instead of immediately entertaining speculative assumptions, which, before any analysis has even begun, bar the scholar's path to an unbiased analysis of the biblical text. Instead of assuming a hypothetical text, which exists only in his imagination, the scholar should direct his attention to analyzing the text before his very eyes.

Presuppositions that proceed from tradition-historical research should fructify and enrich the understanding of the text, but they must be weighed against the text itself. Since the study of tradition history deals with the pre-literary stage, for which we have no evidence, it is of necessity speculative. Hence the great importance of subordinating tradition-historical research to literary-critical analysis. One should forbear from determining on the basis of considerations derived from tradition history what is early and late in a text comprising different layers. After all, even an element issuing from an early tradition can appear in the text as a late, secondary addition to it. This, for example, is the essence of the literary-critical

³⁹ M. Greenberg (*Ezekiel*, 469) writes in respect to such presuppositions: "Such a possibility cannot be denied, but is it more likely than the assumption of borrowing?" See also Greenberg, "Valid Criteria", 132.

debate continuing for some hundred years about the proper assessment of the complex pericope of the Passover and unleavened bread in Deut 16:1–8. It is clear that the conception of the unleavened bread in its literary form in the Book of the Covenant precedes the configuration of the Passover sacrifice in the Deuteronomic source. But, in contradistinction to the approach often taken in current scholarship, this theoretical consideration cannot be allowed to decide the diachronic analysis while dissociating philological and literary-critical considerations that proceed from the text being analyzed.

In this spirit, the order of the chapters in this book does not express the chronological arrangement learned from the diachronic analysis of the texts treated. Rather, as noted above, it aims to assist the reader to follow the different kinds of literary analyses required by the different kinds of textual data available in each case, beginning with a case that combines the most concrete data and the most straightforward analysis and progressing through increasingly complex data and analyses.

Chapter 1

The Festival Calendars in Exod 23:14–19 and 34:18–26

1.1 The Problem

Classic criticism assigns the festival calendar found in Exod 34:18–26 to J, presumed to be the earliest of the Pentateuchal sources, and its counterpart in Exod 23:14–19 to E.¹ This determination is inextricably linked with the prevailing view which regards the Book of the Covenant (Exod 20:22–23:33) as the law-book of the Elohist document and the “Minor Book of the Covenant” (Exod 34:10–26) as that of the Yahwistic source.² Even scholars who diverge from this traditional method of correlating the non-Priestly law-codes with the narrative sources, acknowledging that there are literary and redactional relationships between the two festival calendars, adhere for the most part to the basic assumption that the earliest kernel of Israel’s calendar of sacred feasts is to be sought in the substratum of the text of Exod 34:18–26.³

¹ Unless stated otherwise, “festival calendar” includes the laws in Exod 23:18–19 and 34:25–26, in addition to the provisions pertaining to the three pilgrimage festivals.

² See, for instance, Dillmann – Ryssel, *Exodus*, 370–371; Cornill, *Einleitung*, 28–29; McNeile, *Exodus*, 140–143, 220; Driver, *Exodus*, 242–246, 370–374; Kittel, *Geschichte*, 493; Anderson, *Introduction*, 31, 35, 50; McCarthy, *Treaty and Covenant*, 165; Haran, “Book of the Covenant”, 1090.

³ This is held to be the case by most adherents of the theory that the festival calendar in Exodus 34 is part of a “ritual decalogue” (34:14–26), believed to be earlier than both the “ethical decalogue” (Exod 20:1–17) and the Book of the Covenant (Exod 20:22–23:33). The “ritual decalogue” hypothesis took shape in light of the view that the terms of the covenant made in Exodus 34 are identical with the “ten words” written on the two stone tablets (Exod 34:28). This understanding of the text is actually known from the writings of a fifth-century Alexandrian theologian (see Nestle, “Ein Vorgänger Goethe’s”, 134–135), and was revived in an anonymous essay by the young poet Goethe in 1773 (“Zwo wichtige bisher unerörterte biblische Fragen: Zum erstenmal gründlich beantwortet von einem Landgeistlichen in Schwaben”; see Levinson, “Goethe’s Analysis of Exodus 34”, 212–223). Such Darwinistic attribution of greater antiquity to cultic law than ethical law is typical of the Graf and Wellhausenian view of the evolution of Israel’s religion, and Wellhausen in fact adopted Goethe’s suggestion; see Wellhausen, *Composition des Hexateuchs*, 84–85. (In this he was preceded by Hitzig, *Ostern und Pfingsten*, 42; Bertheau, *Die sieben Gruppen mosaischer Gesetze*, 90–93; Ewald, *Geschichte*, II, 238.)

In the following study I shall attempt to refute this reigning consensus and to suggest an alternative view of the festival calendar in Exod 34:18–26 and its relationship to the parallel passage in Exod 23:14–19.⁴ The parameters of the discussion will be confined to literary analysis, in the hope that, by setting aside considerations of a more general nature concerning the

Wellhausen later defended the theory against Kuenen's attack (*ibid.*, 329–335). The number of suggestions as to how one can locate a decalogue in this text is embarrassingly large; for a catalogue of 36 different attempts see Wilms, *Jahwistisches Bundesbuch*, 200–206. This fact has not, however, deterred numerous scholars from embracing the theory of the "ritual decalogue". See, for instance, the commentaries of Holzinger, *Exodus*, 96, 119–120; Baentsch, *Exodus*, xlvī–xlvīi; Beer – Gallig, *Exodus*, 163–164; as well as: Budde, "Gesetzgebung der mittleren Bücher", 220; Erbt, *Monotheismus*, 117; Marti, *Geschichte der israelitischen Religion*, 126; Eissfeldt, *Hexateuch-Synopse*, II, 274–275; Morgenstern, "Oldest Document of the Hexateuch", 2 and *passim*; Cazelles, "Pentateuque", 800, 802, 806; Rowley, "Moses", 91; Fohrer, *Überlieferung und Geschichte*, 68, 71; Richter, *Recht und Ethos*, 126; Gese, "Dekalog als Ganzheit", 130–131.

Even scholars who reject the "ritual decalogue" hypothesis generally view Exod 34:18–26 as an extremely ancient legal document or even as the oldest document in the Pentateuch; see the following studies: Paton, "Book of the Covenant", 90–95; W. Baudissin, *Einleitung*, 132; Steuernagel, *Einleitung*, 154–155; Großmann, *Mose*, 477; H. Schmidt, "Mose", 100–103; Jepsen, *Bundesbuch*, 90–95; Eberharder, "Zwei Rezensionen", 159; Hofbauer, "Komposition", 521–526; M. Buber, *Moses*, 141–142; Beyerlin, *Sinaitraditionen*, 96–102; Kraus, *Gottesdienst*, 42–44; Kosmala, "So-Called Ritual Decalogue", 51; Lohfink, "Bundesurkunde", 488; Weiser, *Einleitung*, 99; Horn, "Traditionsschichten", 209–211; Wilms, *Jahwistisches Bundesbuch*, 208–213; Halbe, *Privilegiert*, 256–315 (286); Hossfeld, *Dekalog*, 211–212.

A number of scholars even suppose that the festival calendar of Exodus 23 is literarily dependent upon the original form of the so-called Minor Book of the Covenant; see the commentaries of Baentsch, *Exodus*, xlviii; Holzinger, *Exodus*, 99; Beer – Gallig, *Exodus*, 119; as well as: Graf, *Untersuchungen*, 28–29; Wellhausen, *Composition des Hexateuchs*, 90; Kuenen, *Historisch-kritische Einleitung*, 232 (§ 13, n. 19), compare 151 (§ 8, n. 18 end); Jülicher, "Quellen von Exodus", 300–301; Budde, "Gesetzgebung der mittleren Bücher", 217–219; Bacon, *Triple Tradition*, 124, note; Staerk, *Deuteronomium*, 32; Smend, *Erzählung des Hexateuch*, 180, 182; Berry, "Ritual Decalogue", 41–42; Cazelles, *Code de l'Alliance*, 97–102, 108, 183; Eissfeldt, *Einleitung*, 285–287; Fohrer, "Das sogenannte apodiktisch formulierte Recht", 71; Gerstenberger, *Wesen und Herkunft*, 59 n. 2; Otto, *Mazzotfest in Gilgal*, 241 ff.; Laaf, *Pascha-Feier*, 48 ff.; *idem*, "Wochenfest", 171.

⁴ Despite methodological and substantive differences, important precursors of the approach advanced here are not lacking; they are: George, *Feste*, 110 ff.; Klostermann, *Pentateuch*, 527 ff.; Šanda, *Moses und der Pentateuch*, 185–187; Heinisch, *Exodus*, 243; Alt, "Die Ursprünge des israelitischen Rechts", I, 317 n. 1; Fishbane, *Biblical Interpretation*, 194–197; Rofé, *Introduction to Deuteronomy*, 38 n. 1; Aurelius, *Fürbitter Israels*, 116–121; Achenbach, *Israel*, 275–283. To this list may be added all those who detect Deuteronomic redaction in Exodus 34; see below, p. 41 and n. 76.

Pentateuchal law-codes and conducting an unbiased literary investigation, one may arrive at a more objective understanding of the specific matter at hand.

The key to understanding the festival calendar in Exodus 34 would seem to lie in a detailed comparison with the parallel text in Exodus 23. The following diagram provides the full text of each calendar, and highlights the full extent of the common material while distinguishing the material that is different in them:

Exod 23:14–19	Exod 34:18–26
v. 14 שְׁלֹשׁ רִגְלִים תַּחֲגֹ לִי בַשָּׁנָה	v. 18 אֵת חַג הַמִּצּוֹת תִּשְׁמֹר
v. 15 אֵת חַג הַמִּצּוֹת תִּשְׁמֹר	שִׁבְעַת יָמִים תֹּאכַל מִצּוֹת
שִׁבְעַת יָמִים תֹּאכַל מִצּוֹת	אֲשֶׁר צִוִּיתָךְ
כְּאֲשֶׁר צִוִּיתָךְ	לְמוֹעֵד חֹדֶשׁ הָאָבִיב
לְמוֹעֵד חֹדֶשׁ הָאָבִיב	כִּי בּוֹ יֵצְאֶת מִמִּצְרָיִם
כִּי בּוֹ יֵצְאֶת מִמִּצְרָיִם	v. 19 כָּל פֶּטֶר רֶחֶם לִי
	וְכָל מִקְנֶךָ תִּזְכֹּר פֶּטֶר שׁוֹר וְנֶשֶׂה
	v. 20 וּפֶטֶר חֲמֹר תִּפְדֶּה בְּשָׂה
	וְאִם לֹא תִפְדֶּה נִעְרְפָתוֹ
	כָּל בְּכוֹר בְּנֶיךָ תִּפְדֶּה
	וְלֹא יֵרָאוּ פָנַי רִיקָם
	v. 21 שִׁשַּׁת יָמִים תַּעֲבֹד וּבַיּוֹם הַשְּׁבִיעִי
	תִּשְׁבֹּת בְּחֹרֶשׁ וּבִקְצִיר תִּשְׁבֹּת
	v. 22 וְחַג שִׁבְעַת תַּעֲשֶׂה לָּךְ
v. 16 וְחַג הַקִּצִּיר	בְּכוֹרֵי קִצִּיר חֲטִים
בְּכוֹרֵי מַעֲשִׂיךָ אֲשֶׁר תִּזְרַע בַּשָּׂדֶה	וְחַג הָאָסִיף תִּקְיֹפֶת הַשָּׂנָה
וְחַג הָאָסִיף בְּצֵאת הַשָּׂנָה	v. 23 שְׁלֹשׁ פַּעְמִים בַּשָּׁנָה
בְּאָסְפָךָ אֵת מַעֲשִׂיךָ מִן הַשָּׂדֶה	יֵרָאֶה כָּל זְכוּרְךָ אֵת פָּנָיו הָאֵדֹן ה'
v. 17 שְׁלֹשׁ פַּעְמִים בַּשָּׁנָה	אֱלֹהֵי יִשְׂרָאֵל
יֵרָאֶה כָּל זְכוּרְךָ אֵת פָּנָיו הָאֵדֹן ה'	v. 24 כִּי אוֹרִישׁ גּוֹיִם מִפָּנֶיךָ וְהִרְחַבְתִּי אֵת
	גְּבֻלְךָ וְלֹא יִחְמַד אִישׁ אֵת אֲרָצְךָ
	בַּעֲלֹתְךָ לִרְאוֹת אֵת פָּנָיו ה' אֱלֹהֶיךָ
	שְׁלֹשׁ פַּעְמִים בַּשָּׁנָה
	v. 25 לֹא תִשְׁחַט עַל חֶמֶץ דָּם זִבְחִי
v. 18 לֹא תִזְבַּח עַל חֶמֶץ דָּם זִבְחִי	וְלֹא יִלִּין לִבְקָר זֶבַח חַג הַפֶּסַח
וְלֹא יִלִּין לִבְקָר חֲגִי עַד בִּקְרָא	v. 26 רֵאשִׁית בְּכוֹרֵי אֲדָמָתְךָ תָּבִיא בֵּית ה'
v. 19 רֵאשִׁית בְּכוֹרֵי אֲדָמָתְךָ תָּבִיא בֵּית ה'	אֱלֹהֶיךָ לֹא תִבְשֹׁל גְּדִי בַחֲלֵב אִמּוֹ
אֱלֹהֶיךָ לֹא תִבְשֹׁל גְּדִי בַחֲלֵב אִמּוֹ	

Exod 23:14–19

v. 14 On three occasions you shall feast to Me during the year.

v. 15 The Festival of Unleavened Bread you shall keep – for seven days you shall eat unleavened bread, as I commanded you – at the time of the month of Abib, because in it you left Egypt.

And My face shall not be seen empty-handed.

v. 16 And the Festival of the Harvest: the first-fruits of your produce that you sow in the field. And the Festival of the Ingathering, at the end of the year, when you ingather your produce from the field.

v. 17 Three times during the year all your males shall appear before (יְהוָה לְפָנֶיךָ) the Lord, YHWH.

Exod 34:18–26

v. 18 The Festival of Unleavened Bread you shall keep – for seven days you shall eat unleavened bread, which I commanded you – at the time of the month of Abib, because in the month of Abib you left Egypt.

v. 19 All womb-breachers are Mine (lit. to Me). And all your herds – [you shall give the males of?] the ox- and sheep-breachers.

v. 20 But a donkey-breacher you shall redeem with a sheep, and if you do not (so) redeem, then you must break its neck. All the first-borns of your sons you shall redeem.

And My face shall not be seen empty-handed.

v. 21 Six days you will work and on the seventh day you shall cease work; in plowing season and harvest season you shall cease work.

v. 22 And a Festival of Weeks you shall do: the first-fruits of wheat harvest.

And the Festival of the Ingathering, the turn of the year.

v. 23 Three times during the year all your males shall appear before (יְהוָה לְפָנֶיךָ) the Lord, YHWH the God of Israel.