LEGAL REVISION AND RELIGIOUS RENEWAL IN ANCIENT ISRAEL

This book examines the doctrine of transgenerational punishment found in the Decalogue—that is, the idea that God punishes sinners vicariously and extends the punishment due them to three or four generations of their progeny. Though it was "God-given" law, the unfairness of punishing innocent people merely for being the children or grandchildren of wrongdoers was clearly recognized in ancient Israel. A series of inner-biblical and post-biblical responses to the rule demonstrates that later writers were able to criticize, reject, and replace this problematic doctrine with the alternative notion of individual retribution. From this perspective, the formative canon is the source of its own renewal: it fosters critical reflection upon the textual tradition and sponsors intellectual freedom.

To support further study, this book includes a valuable bibliographical essay on the distinctive approach of inner-biblical exegesis showing the contributions of European, Israeli, and North American scholars. An earlier version of the volume appeared in French as *L'Herméneutique de l'innovation: Canon et exégèse dans l'Israël biblique*. This new Cambridge release represents a major revision and expansion of the French edition, nearly doubling its length with extensive new content. *Legal Revision and Religious Renewal in Ancient Israel* opens new perspectives on current debates within the humanities about canonicity, textual authority, and authorship.

Bernard M. Levinson holds the Berman Family Chair of Jewish Studies and Hebrew Bible at the University of Minnesota. He is author of *Deuteronomy and the Hermeneutics of Legal Innovation* (1997), which won the 1999 Salo W. Baron Award for Best First Book in Literature and Thought from the American Academy for Jewish Research. He is coeditor of four volumes, most recently *The Pentateuch as Torah: New Models for Understanding Its Promulgation and Acceptance* (2007), and the author of "*The Right Chorale*": *Studies in Biblical Law and Interpretation* (2008). The interdisciplinary significance of his work has been recognized with appointments to both the Institute for Advanced Study (Princeton) and the Wissenschaftskolleg zu Berlin/Berlin Institute for Advanced Study.

Legal Revision and Religious Renewal in Ancient Israel

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Contents

List of Figures page		e vii
For	eword, by Jean Louis Ska	ix
Pre	face	xiii
Abł	previations	xxi
1.	Biblical Studies as the Meeting Point of the	
	Humanities	1
2.	Rethinking the Relation between "Canon"	
	and "Exegesis"	12
3.	The Problem of Innovation within the	
	Formative Canon	22
	The Legacy of Cuneiform Law	23
	Legal History as a Literary Trope in Ruth	33
	The Impact of the Idea of Divine Revelation	45
4.	The Reworking of the Principle of	
	Transgenerational Punishment: Four Case Studies	57
	Critical Scrutiny of the Principle in Lamentations	57
	The Transformation of Divine Justice in Ezekiel	60
	The Homily on Divine Justice in Deuteronomy	72
	The Interpretation of Divine Justice in the	
	Targum	84

Cambridge University Press	
978-0-521-51344-9 - Legal Revision and Religious Renewal in Ancient Isra	ıel
Bernard M. Levinson	
Frontmatter	
More information	

vi CONTENTS		
5. The Canon as Sponsor of Innovation	89	
6. The Phenomenon of Rewriting within the Hebrew Bible: A Bibliographic Essay on Inner-Biblical Exegesis in the History of		
Scholarship	95	
Approaches to Exegesis in 1–2 Chronicles	176	
Author Index 1		
Subject Index		
Index of Scriptural and Other Sources		
Hebrew Bible/Old Testament	202	
Apocrypha	205	
New Testament	205	
Ancient Near Eastern Literature	205	
Septuagint	206	
Targumim	206	
Dead Sea Scrolls and Related Literature	206	
Rabbinic Sources	206	

List of Figures

1.	Ezekiel's Reapplication of the Principle of	
	Punishment in Criminal Law	page 64
2.	Lemmatic Reworking in Support of Doctrinal	
	Innovation (Deut 7:10)	75

Foreword

It gives me great pleasure to introduce a little masterpiece of exegesis. Focusing mainly upon a single sentence from the Decalogue (Exod 20:5-6), Legal Revision and Religious Renewal in Ancient Israel enables the reader to follow, through all their labyrinthine twists, the thought processes of the biblical authors in their constant rereading and revision of prior traditions. Bernard M. Levinson's hermeneutic decoding is fascinating for its unwillingness simply to highlight the unity of biblical passages, as proponents of synchronic biblical methods are fond of doing, or to identify the breaks and contradictions in these same passages, as advocated by practitioners of the classic diachronic modes of exegesis. Instead, Levinson's method demonstrates that in the Bible the present engages in a ceaseless discussion with the past, which it adapts, corrects, and even contradicts while claiming to transmit it with utmost respect. The exchanges between the present and past are courteous: they follow all the rules of etiquette cherished by the ancients. But behind the formulas of politeness there is often hidden a firm will to reclaim the venerable traditions

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FOREWORD

of the past to bestow their authority upon new formulations required by changing circumstances. In many cases, the discontinuity between the new formulation and the old tradition is obscured by an apparent desire for continuity. Thus, it takes a trained eye to detect, shrouded within the complexity of biblical texts, the subtle play that transforms the recourse to a hallowed past into a powerful means for justifying the innovations of the present. This exegetical method surely can enable us to resolve some of the interpretive cruxes that confront rigidly synchronic or diachronic approaches.

A second point about this book deserves our attention. Commentators often make too sharp a distinction between the composition of the canonical text and the post-biblical exegetical tradition, whether of the ancient rabbis or the church fathers. Legal Revision and Religious Renewal in Ancient Israel amply establishes that such a distinction does not stand up to a serious examination of the sources. The exegetical tradition that grew up subsequent to the closure of the canon sinks its roots deep into the biblical text itself. Texts imbued with great authority were reread and modified, sometimes profoundly, to respond to new questions and to legitimize new choices. The tradition could survive only by adapting itself to the present. Biblical authors therefore created a repertoire of tools and strategies that succeeded in transmitting the sacred text in its integrity while also giving it an acceptable turn. The schools of rabbinical exegesis merely received this heritage and developed, adjusted, and refined the instruments that biblical authors had forged long before.

Finally, Levinson teaches us something else that is absolutely essential for understanding the profession of an

FOREWORD

xi

interpreter at the dawn of the third millennium. His method, inherited from his masters, Michael Fishbane and James Kugel in particular, shows the extent to which an intelligent reading of the Bible is indispensable for understanding our Western culture and the richness of its contribution toward the construction of a more humane and just world. Others have shown that some of the fundamental values of Western law have biblical origins;1 that, although Herodotus is certainly the father of history, the "biblical historians" have also contributed to the formation of the historical and critical consciousness of our world;² and that the Western world's sense of reality owes as much to the Bible as to the classical literary inheritance of Athens and Rome.3 One should also mention here the obvious importance of the Bible for those who wish to understand art, whether painting, sculpture, architecture, or music.⁴

- ¹ To the biblical scholars cited by Levinson (J. J. Finkelstein, Moshe Greenberg, and Eckart Otto), we might add the work of the legal scholar Harold J. Berman, *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge, Mass.: Harvard University Press, 1983); and idem, *Law and Revolution II: The Impact of the Protestant Reformation on the Western Legal Tradition* (Cambridge, Mass.: Belknap Press, Harvard edition, 2003).
- ² In particular, I am thinking of Arnaldo Momigliano, *The Classical Foundations of Modern Historiography* (foreword by Riccardo Di Donanto; Sather Classical Lectures 54; Berkeley: University of California Press, 1990), especially the first chapter, "Persian Historiography, Greek Historiography, and Jewish Historiography," 5–28.
- ³ Erich Auerbach comes immediately to mind; see his *Mimesis: The Representation of Reality in Western Literature* (trans. Willard R. Trask; with an introduction by Edward Said; Fiftieth-Anniversary Edition; Princeton, N.J.: Princeton University Press, [1953], 2003).
- ⁴ On this topic, let us at least make note of Jean-Christophe Attias and Pierre Gisel, eds., *De la Bible à la littérature* (Religions en perspective 15; Geneva: Labor et Fides, 2003); Danielle Fouilloux et al., eds., *Dictionnaire culturel de la Bible* (2d ed.; Instruments bibliques;

xii

FOREWORD

Furthermore, Levinson reveals the Bible to be close to the modern world through its critical, creative, and innovative spirit. We must perforce admit that the modern spirit does not impose its revisionist interpretations as something external to these ancient texts but rather that the Bible itself introduced and developed the art of innovative reading of which we are the distant heirs. "Scriptura sacra sui ipsius interpres" (Sacred Scripture is its own interpreter), the leaders of the Reformation already proclaimed. This saying is true in at least two senses. To understand the Bible, we must first turn to the Bible itself; at the same time, the Bible provides us with adequate resources for its interpretation. In this sense, Scripture anticipates certain contemporary trends in hermeneutical theory, including Jacques Derrida's deconstruction. To be sure, it is necessary to qualify this assertion with important nuances. But it is astonishing to note the close kinship between certain currents of contemporary literary theory and the ways that biblical authors and editors fixed their gaze upon the past in order to size it up, to weigh it, and to deconstruct it before reconstructing it so that it could nourish the present.

The annotated bibliography that accompanies this volume reveals that modern scholarship from the dawn of historical-critical interpretation has been sensitive to the "phenomenon of rewriting at the heart of the Hebrew

Paris: Éditions du Cerf/Nathan, 1999); Olivier Millet and Philippe de Robert, *Culture biblique* (Premier cycle; Paris: Presses Universitaires de France, 2001); and Anne-Marie Pelletier, *Lectures bibliques: Aux sources de la culture occidentale* (2d ed.; Instruments bibliques; Paris: Éditions du Cerf/Nathan, 2001). Likewise, see André Wénin, "Des livres pour rendre la Bible à la culture," *RTL* 33 (2002): 408–13.

FOREWORD

xiii

Bible." From Wellhausen (1878) and Seeligmann (1948) to Veijola (2004) and Carr (2005), numerous authors have highlighted the presence of exegesis within the canon and have studied its chief characteristics. These pages on the history of research into this subject will provide interpreters with quite a useful map, enabling them to retrace the exact itinerary followed by specialists in this field. I wish readers as much pleasure in traveling through this book as I had myself.

> Jean Louis Ska, S. J. Professor of Old Testament Interpretation Pontifical Biblical Institute, Rome

Preface

I write this preface on a sunny afternoon in beautifully forested Grunewald, a western suburb of Berlin, on *der Tag der deutschen Einheit*, the Day of German Unity, which celebrates the country's reunification, sixteen years after the wall came down. A scant hundred and fifty yards down Königsallee, the street where I live, lies the spot where Walter Rathenau, then serving as foreign minister, was machine-gunned to death in his car on June 24, 1922. A gray stone memorial, erected in 1946, marks the location; this week a large wreath of flowers suddenly appeared there, placed by students and teachers from the local school named in his memory.

This volume, like this location, has a long history, and it embodies its intellectual project in several ways. I have long been concerned about the gap that divides academic Biblical Studies from the larger humanities, the more so because it was through the study of literature and intellectual history that I first became interested in the study of the Hebrew Bible and the ancient Near East. As I worked hard in graduate school to acquire the necessary philological competence, this perception of distance—"Mind the

xvi

PREFACE

gap!"—between the fields seemed to increase rather than to narrow.

The gap remains a concern. For all the clamor about scientific illiteracy, there is an equal degree of unfamiliarity with the perspectives, insights, and changed way of reading Scripture provided by academic Biblical Studies and Near Eastern studies. This has implications for matters of public policy. In the American context, the perception of religion in public discourse, whether from the right or from the left, tends to be one that sees the Bible in quite monolithic terms, as hierarchical and dogmatic, rather than as fostering critical thought and public debate. Some of the discussion about the role of the Supreme Court in relation to the interpretation of the Constitution-whether its job is to recover the original intent of the founders or to interpret and reapply the principles laid down in it to new contexts-seems to me to mirror the kind of debates about the relationship of a prestigious or authoritative text to later authors and communities that are identified in the current volume. Placing constitutional hermeneutics in the larger historical context might usefully complicate the current dichotomy between originalism (or original intent), on the one hand, and the living Constitution approach, on the other hand, as competing theories of interpretation. For such reasons, my goal in the current study is to help open a dialogue between academic Biblical Studies and the humanities. I hope to reach a broader readership of colleagues working in comparative literature, constitutional theory, and philosophical hermeneutics, as well as colleagues closer to home in Jewish Studies, Comparative Religion, and Biblical Studies.

PREFACE

xvii

This goal led to a series of choices about the structure and presentation of the argument. The study moves from the general to the particular, so as to work my way into the text and the specific thematic step-by-step. Chapter 1, "Biblical Studies as the Meeting Point of the Humanities," attempts to lay out the issues, recognizing the importance of canon theory to a number of different disciplines and noting canon as a promising point of intersection. I painted here in broad strokes, and I allow that contemporary theory is not as monolithic as I might imply and is itself often informed by close textual work. Chapter 2 takes the argument a step further. "Rethinking the Relation between Canon and Exegesis" tries to show the ways that academic Biblical Studies, and the approach of inner-biblical exegesis might contribute to ongoing work in comparative religions, where both canon and exegesis have received renewed attention.

With Chapter 3, "The Problem of Innovation within the Formative Canon," the argument moves into the literature of the ancient Near East and ancient Israel. The goal here is to map the strategies employed by different cultures to handle the problem of legal change. Particular attention is paid to the case of ancient Israel where special constraints existed in the literary culture, given the idea of divine revelation, which then had an impact on how authors could deal with the problem of legal history. Singled out for examination is the problem of divine justice. "The Reworking of the Principle of Transgenerational Punishment," Chapter 4, examines Lamentations 5, Ezekiel 18, Deuteronomy 7, and the Targum of the Decalogue, to show various means of negotiating the problem

xviii

PREFACE

of legal change, both in the period prior to canonization and then, for comparative purposes, in the period after the closure of the canon. Seeking to highlight the literary sophistication and technical skill of the authors, I term the cluster of strategies that they employed "a rhetoric of concealment." Although this kind of active terminology carries the risk of being easily misconstrued, the greater risk, I feel, lies in "dumbing down" the text and overlooking the thought, effort, and skill evident in how ancient authors responded to the problem of transgenerational punishment. The biblical text preserves a powerful witness to their thought and engagement.

"In my end is my beginning," as Eliot, much quoted, wrote in "Four Quartets," itself, in so many ways, a poem that would not work but for the ways that it draws upon and interacts with the canons both of Scripture and secular literature. Chapter 5, "The Canon as Sponsor of Innovation," returns to the larger project, limning the implications of this project for a more robust understanding of the canon and the nature of the hermeneutics that it embeds.

Chapter 6 marks something of a new beginning and attempts to provide an intellectual genealogy of innerbiblical exegesis, placing it in the history of the discipline of Biblical Studies. "The Phenomenon of Rewriting within the Hebrew Bible," the title of the chapter, uses the term *rewriting* to reflect the French term, *relecture*, and the German, *Fortschreibung*; both scholarly communities have made essential contributions to what North Americans call inner-biblical exegesis. Particular attention is paid in this bibliographical essay to authors whose scholarship may be less well known to many English readers, and whose

PREFACE

xix

major work remains available only in the German, French, or Hebrew original, or to those whose work, because of its source-critical or text-critical focus, may not at first glance be associated with this approach. The goal of this chapter is not only to make the method more accessible but also to show how integral it is to the discipline of Biblical Studies, as inner-biblical exegesis contributes new ways to understand the compositional history of the Pentateuch, the redaction of the Prophets, and the reuse of sources in the Writings.

Many whose work is discussed in Chapter 6 are those to whom I owe personal debts of gratitude. Two decades ago at Brandeis University, Michael Fishbane introduced me to inner-biblical exegesis, directed my dissertation, and, most important, encouraged my independent path. His careful work on the formula for transgenerational punishment in Biblical Interpretation in Ancient Israel helped inspire the reflections here. During a previous year in Germany, in 1993, I was fortunate to be able to work with both Norbert Lohfink (Frankfurt) and Eckart Otto (then Mainz, now Munich), which helped the crucial world of German biblical scholarship come alive for me. In subsequent years, additional relationships have been forged and work exchanged with Reinhard Kratz (Göttingen) and Christoph Levin (Munich). Konrad Schmid (Zürich) generously reviewed the section on Odil Hannes Steck in this volume. An e-mail exchange with Adele Berlin (College Park) several years ago pushed me to rethink some of my assumptions about Ruth. (In March 2008, just as I was reviewing page proofs for this volume, she shared with me her fine study, "Legal Fiction: Torah Law in the

XX

PREFACE

Book of Ruth" [lecture for conference at Bar Ilan University, May 2008], which I regret not being able to take into account.) Anselm Hagedorn (Berlin) read an early version of the manuscript while completing his Habilitation and provided many helpful bibliographical suggestions. David Myers of UCLA provided helpful suggestions for my analysis of Simon Rawidowicz. Conversations with my departmental colleagues Jeffrey Stackert and Alex Jassen of the University of Minnesota (Minneapolis) were very helpful at a number of points. Several close colleagues in other departments provided valuable feedback, especially on the interdisciplinary dimensions of this project: John Watkins (English), Bruno Chaouat (French), and Leslie Morris (German/Jewish Studies). Subsequently, here in Berlin at the Institute for Advanced Studies, conversations with my new colleague Patricia Kitcher (New York) helped refine my discussion of Immanuel Kant.

The present volume extensively revises and expands an earlier French version, *L'Herméneutique de l'innovation: Canon et exégèse dans l'Israël biblique* (Le livre et le rouleau 24; Brussels: Éditions Lessius, 2005). The first section of that volume was a translation of my article, "You Must Not Add Anything to What I Command You': Paradoxes of Canon and Authorship in Ancient Israel," *Numen: International Review for the History of Religions* 50 (2003): 1–51. Jean-Pierre Sonnet, the academic director of Éditions Lessius and himself a scholar of Deuteronomy and innerbiblical exegesis, first proposed that the French volume include a bibliographical essay on inner-biblical exegesis. He made valuable comments and was a constant source of encouragement. It came as a great honor when I learned

PREFACE

xxi

that Jean Louis Ska (Rome) agreed to provide the avantpropos for that French volume. His remarks have been translated here to serve as the foreword to this volume, although they have not been adjusted to the larger format. I am indebted to Professor Ska and Éditions Lessius for this courtesy.

Literary reworking is not only the subject but also the means of Legal Revision and Religious Renewal in Ancient Israel. This volume is twice the length of the previous French one; significant new material has been added throughout, and a number of positions (especially in the case of Ruth) have been substantially rethought. Some colleagues' published responses to the French volume have also been taken into account. The manuscript has, accordingly, gone through many drafts. In the process, I have received welcome comments and editing help from Julie Plaut (Minneapolis/Providence). Elliot Rabin (New York) prepared the translation of the foreword and helped with editing. Hanne Løland (Oslo) provided thoughtful commentary on several sections as the manuscript drew to a close. My capable research assistants, Karen L. O'Brien (B.A., M.L.I.S.) and Michael Bartos (M.A.), maintained their sense of humor as electronic files, filled with multicolored comments and tracked changes in Word, crossed the Atlantic multiple times per day. Michael also prepared the extensive indexes for the volume. Anoop Chaturvedi, project manager at Aptara, Cambridge's typesetting group in New Delhi, set a high standard for both accuracy and customer service. It was a pleasure to work with him and his team. Finally, it was an honor to have this book approved for publication by the Syndics of

xxii

PREFACE

Cambridge University Press, and I would like to thank Andy Beck, as religion editor, for his encouragement, as well as the two anonymous referees for their constructive reports.

I would be happy if, in commemoration of this German holiday, this volume might help stimulate some greater reintegration between Biblical Studies and the humanities, as well as greater integration of the methods used by fellow Bible scholars.

Grunewald, Wissenschaftskolleg zu Berlin B.M.L. October 3, 2007

Abbreviations

TEXTS AND EDITIONS

<i>b</i> .	Babli: Talmudic tractate cited in the version of the
	Babylonian Talmud
Ber.	Berakot
NJPS	Tanakh: The Holy Scriptures. The New JPS Translation
	according to the Traditional Hebrew Text
т.	mishnah
Mak.	Makkot
MT	Masoretic Text (of the ot)
NRSV	New Revised Standard Version
Sanh.	Sanhedrin
Šebu.	Šebu 'ot
Tg. Onq.	Targum Onqelos

PERIODICALS, REFERENCE WORKS, AND SERIALS

AB AcT AnBib AS ATD ATM BaghMB	Anchor Bible <i>Acta theologica</i> Analecta biblica Assyriological Studies Das Alte Testament Deutsch Altes Testament und Moderne Baghdader Mitteilungen: Beiheft
e	6
BBB	Bonner biblische Beiträge

xxiii

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xxiv	ABBREVIATIONS
BEATAJ	Beiträge zur Erforschung des Alten Testaments und des antiken Judentums
BETL	Bibliotheca ephemeridum theologicarum lovaniensium
Bib	Biblica
BJS	Brown Judaic Studies
BN	Biblische Notizen
BO	Bibliotheca orientalis
BThSt	Biblisch-theologische Studien
BWA(N)T	Beiträge zur Wissenschaft vom Alten (und Neuen) Testament
BZ	Biblische Zeitschrift
BZAR	Beihefte zur Zeitschrift für Altorientalische und Biblische Rechtsgeschichte
BZAW	Beihefte zur Zeitschrift für die alttestamentliche Wissenschaft
CBQ	Catholic Biblical Quarterly
CBQMS	Catholic Biblical Quarterly Monograph Series
ConBOT	Coniectanea biblica: Old Testament Series
CRINT	Compendia rerum iudaicarum ad Novum Testa- mentum
CSHJ	Chicago Studies in the History of Judaism
DJD	Discoveries in the Judean Desert
DMOA	Documenta et Monumenta Orientis Antiqui
DSD	Dead Sea Discoveries: A Journal of Current Research on the Scrolls and Related Literature
EgT	Église et théologie
ErJb	Eranos-Jahrbuch
FAT	Forschungen zum Alten Testament
FRLANT	Forschungen zur Religion und Literatur des Alten und Neuen Testaments
Greg	Gregorianum
GTA	Göttinger theologischer Arbeiten
HBS	Herders biblische Studien
HSM	Harvard Semitic Monographs
HSS	Harvard Semitic Studies
HThKAT	Herders theologischer Kommentar zum Alten Tes- tament
ICC	International Critical Commentary
JAOS	Journal of the American Oriental Society
JBL	Journal of Biblical Literature

ABBREVIATIONS

XXV

JHS	Journal of Hebrew Scriptures
	[http://www.jhsonline.org]
JJS	Journal of Jewish Studies
JQR	Jewish Quarterly Review
JR	Journal of Religion
JSOT	Journal for the Study of the Old Testament
JSOTSup	Journal for the Study of the Old Testament Supple-
,	ment Series
JSQ	Jewish Studies Quarterly
JSS	Journal of Semitic Studies
KAT	Kommentar zum Alten Testament
Maarav	Maarav: A Journal for the Study of the Northwest
	Semitic Languages and Literatures
MBPF	Münchener Beiträge zur Papyrusforschung und
	antiken Rechtsgeschichte
NCB	New Century Bible
NEchtB	Neue Echter Bibel
NICOT	New International Commentary on the Old Testa-
	ment
Numen	Numen: International Review for the History of Reli-
	gions
OBO	Orbis biblicus et orientalis
ÖBS	Österreichische biblische Studien
OTL	Old Testament Library
OTS	Old Testament Studies
PAAJR	Proceedings of the American Academy of Jewish
	Research
Proof	Prooftexts: A Journal of Jewish Literary History
QD	Quaestiones disputatae
RB	Revue biblique
RBL	Review of Biblical Literature
	[http://www.bookreviews.org/]
RevQ	Revue de Qumrân
RIDA	Revue internationale des droits de l'antiquité
RSR	Recherches de science religieuse
RTL	Revue théologique de Louvain
SAA	State Archives of Assyria
SBAB	Stuttgarter biblische Aufsatzbände
SBLBMI	Society of Biblical Literature The Bible and Its Mod-
	ern Interpreters
SBLDS	Society of Biblical Literature Dissertation Series

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Bernard M. Levinson
Frontmatter
More information

xxvi	ABBREVIATIONS
SBLMS SBLSCS	Society of Biblical Literature Monograph Series Society of Biblical Literature Septuagint and Cog- nate Studies
SBLSymS SBLWAW	Society of Biblical Literature Symposium Series Society of Biblical Literature Writings from the Ancient World
SBS ScrHier	Stuttgarter Bibelstudien Scripta hierosolymitana
SHR	Studies in the History of Religions (supplement to <i>Numen</i>)
SJLA STDJ	Studies in Judaism in Late Antiquity Studies on the Texts of the Desert of Judah
<i>Tarbiz</i> TB	<i>Tarbiz: A Quarterly for Jewish Studies</i> Theologische Bücherei: Neudrucke und Berichte aus dem 20. Jahrhundert
Textus ThWAT	<i>Textus: Annual of the Hebrew University Bible Project</i> <i>Theologisches Wörterbuch zum Alten Testament.</i> Edited by G. Johannes Botterweck, Heinz-Josef Fabry, and Helmer Ringgren. 10 vols. Stuttgart:
TLZ	Kohlhammer, 1970–. Theologische Literaturzeitung
TRu	Theologische Rundschau
TZ	Theologische Zeitschrift
UTB VT	Uni-Taschenbücher Vetus Testamentum
VTSup	Vetus Testamentum Vetus Testamentum Supplements
VWGTh	Veröffentlichungen der Wissenschaftlichen Gesellschaft für Theologie
WMANT	Wissenschaftliche Monographien zum Alten und Neuen Testament
WUNT	Wissenschaftliche Untersuchungen zum Neuen Testament
ZABR	Zeitschrift für Altorientalische und Biblische Rechts- geschichte
ZAW	Zeitschrift für die alttestamentliche Wissenschaft
ZBKAT <i>ZTK</i>	Zürcher Bibelkommentare: Altes Testament Zeitschrift für Theologie und Kirche