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## ANOTHER LOOK AT THE TENTH COMMANDMENT

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His men, his house and his cattle,  
I'm tempted not, though all is great.  
But let's imagine that his maid  
Is beautiful... I've lost the battle!  
—Pushkin, *The Tenth Commandment*<sup>1</sup>

You may not *hand over* to a citizen of Kaniš or to a *ḥapirum* the home of a merchant's widow (literally, "of a merchant, a widow"). You may not covet the fine home, fine slave, fine handmaid, fine field, or fine orchard of any Assur citizen; you may not appropriate (it) by force or give (it) to your follower.<sup>2</sup>

These injunctions occur in an agreement that leaders at Assur wished to impose on the ruler of Kaniš where a large colony of Assyrian merchants kept families. They are written on a recently (2000) found Kültepe 1b tablet that dates to around 1800 B.C.E. (Middle Chronology). While the first clause exhibits difficulties, the second is rare among Near Eastern

1. Available (April 2008) at <http://www.electroniclibrary21.ru/literature/pushkin/en-01.shtml>.

Klaas R. Veenhof kindly allowed access to his study on the Old Assyrian treaties, for which I am very grateful. It is now available as Klaas R. Veenhof, "The Old Assyrian Period," in *Mesopotamia: The Old Assyrian Period* (ed. Markus Wäfler; Fribourg: Academic Press, 2008), 183–215.

2. *Ana bēt tamkarim almattim mer'e Kaniš u ḥapīram lā tuššuruni [tù-šu-ru-ni] ana bētīm damqim urdim damqim amtīm damiqtim eqlim damqim kirīm damqim ša mer'e Aššur šumšu ēnēka lā tanaššiuma ina emūqi lā tēṭṭerunima ana urdīka lā taddununi* (Kt 006/k6: 61–68, cited from C. Günbatti, "Two Treaties Texts Found at Kültepe," in *Assyria and Beyond: Studies Presented to Mogens Trolle Larsen* [ed. J. G. Dercksen; Leiden: The Netherlands Institute for the Near East, 2004], 252; see also Veysel Donbaz, "An Old Assyrian Treaty from Kültepe," *JCS* 57 [2005]: 65). For the difficult use of *waššurum* + *ana*, see Veenhof, "The Old Assyrian Period," 192–93. For the first phrase, see Donbaz, "An Old Assyrian Treaty," 65, who offers, "You shall not deliver a citizen of Kanesh or an outsider into the house of an (Assyrian) merchant or widow."

contractual agreements in matching the spirit and intent of the Tenth Commandment (hereafter “the C10”), forbidding coveting. Their language is equally categorical: in the use of prohibitives as verbal forms, in the inclusive coverage of objects that must not be desired, and in personalizing the potential target. This association is actually the gist of a study I am offering in full admiration and friendship to Doug Knight, a wonderful colleague and a connoisseur in all matters legal and ancient. The rest of the essay, as they say, is commentary. He need not accept its conclusion; but let me hope he will find it stimulating.

### *The Tenth Commandment*

It cannot be said that the C10, with its prohibition against coveting, has lacked scholarly attention.<sup>3</sup> Oddities make it stand out from the others. First, it is the only commandment that applies only to men; for whereas Hebrew women can despise God and parents, desecrate the Sabbath, murder, be adulterous, and likely also bear false witness, they cannot hope to own the property or the spouses of others.<sup>4</sup> Second, the C10 has come to us in two recensions with significant differences, as we shall see below. Third, when Jeremiah charges Israel with theft, murder, adultery, and perjury (7:9–10), he follows closely on the Decalogue but omits the C10, hinting that the C10 came late to the sequence.<sup>5</sup> Finally, the

3. Several monographs on the Decalogue are available, some veering readily into the hortatory. Among those I found the most useful are J. J. Stamm and M. E. Andrews, *The Ten Commandments in Recent Research* (SBT, 2d Series 2; Naperville, Ill.: Allenson, 1967), which has a good exposition of (mostly Christian) scholarship, and Anthony Phillips, *Ancient Israel's Criminal Law: A New Approach to the Decalogue* (New York: Schocken, 1970). Because this commandment is also unique among the others to duplicate the crucial verb either exactly (at Exod 20:17) or synonymously (at Deut 5:21), Syrian, Roman Catholics and Lutherans allocate the material to two separate injunctions. The scheme for having just ten injunctions is preserved by treating as the First Commandment material that Jews and most Protestants allocate to the First and Second. On the Syrian tradition, see M. D. Koster, “Numbering of the Ten Commandments,” *VT* 30 (1980): 469, 472. The Samaritans count it as the ninth commandment, the tenth having to do with setting up an altar on Mt Gerizim (Samaritan Exod 20:17; Deut 5:21).

4. Whereas throughout the verbs are couched in the second person masculine, there is nothing about the other commandments that cannot be applied by extension to women. The C10, however, addresses desire for spouses and property that in Israel's legal formulations (perhaps not as much in real life) can only be held by men.

5. Jer 7:9–10: “Will you steal (*gānōv*), murder (*raṣōah*), and commit adultery (*nā'ōf*) as well as swear falsely (*hiššāve'a'*), sacrifice to Baal, and follow other gods

prohibition seems to be about intent rather than undertaking, an issue we shall also soon discuss. For at least these reasons, there is a vast literature on translating its core verbs, on clarifying its goals, on judging its antiquity, and on locating it within Near Eastern legal or social traditions. These issues are rarely pursued independently from each other.

*Two Recensions*

The Hebrew text of C10 is registered in two recensions, one in Exodus (Exod), the other in Deuteronomy (Deut). Moreover, each has two sets of Masoretic accents:<sup>6</sup>

*Exod 20:14*

לא תחמד בית רעך  
לא־תחמד אשת רעך ועבדו ואמתו  
ושורו וחמרו וכל אשר לרעך: פ

You must not covet (οὐκ ἐπιθυμήσεις) your neighbor’s house [LXX: wife]. You must not covet (οὐκ ἐπιθυμήσεις) your neighbor’s wife [LXX: house], or his male slave, or his female slave, or his ox, or his ass [LXX: or any of his cattle], or anything that is your neighbor’s.

*Deut 5:21*

ולא תחמד אשת רעך ס  
ולא תתאוה בית רעך שדהו ועבדו  
ואמתו שורו וחמרו וכל אשר לרעך: ס

You must also not covet (οὐκ ἐπιθυμήσεις) your neighbor’s wife [Samar.: house]. You must also not desire (οὐκ ἐπιθυμήσεις) your neighbor’s house [Samar.: wife]; his field, or his male slave, or his female slave; his ox, or his ass, [LXX: or any of his cattle], or anything that is your neighbor’s.

about whom you know nothing, but then come, stand before me in this temple that is consecrated to me to say, ‘We are safe, and so may continue to commit disgraces?’” The HB sequence is corrected in the LXX to match those in Exod and Deut: murder, adultery, theft, and swearing falsely. To a lesser extent, Hos 4:2 may also be relevant, giving the following sequence: imprecation, deception, murder, and theft. See Christopher Levin, “Der Dekalog am Sinai,” *VT* 35 (1985): 169–72. K.-D. Schunck, “Das 9. und 10. Gebot—jüngstes Glied des Dekalogs,” *ZAW* 96 (1984): 104–9, finds thematic correlation between prohibition of theft and coveting and suggests that they belong to the later stages of the Decalogue’s development.

6. Most HB editions display the “Lower Accent” tradition. Yet there exists also an “Upper Accent” trope that is used by most congregations only on Succoth; this has a disjunction under the negative adverb *lōʿ* in C9 and 10, but not in C6–8. The Zohar makes much of the difference; see Daniel C. Matt, *The Zohar: Pritzker Edition*, vol. 4 (Stanford: Stanford University Press, 2007), 533–34 and n. 607. Whether or not the reference to nations coveting Israel’s land in Exod 34:14 is a rehearsal of the C10 is not of immediate interest here. A list of variants is to be found in Moshe Weinfeld, *Deuteronomy 1–11: A New Translation with Introduction and Commentary* (AB 5; New York: Doubleday, 1991), 283–84.

In Exodus, *hāmad* is repeated twice, without a conjunction between the clauses, hinting that the neighbor's estate, *bayit*, in the first clause is developed in the second to include his wife, slaves, edible and draught animals.<sup>7</sup> Beginning with "You must not murder" (5:20) of the Hebrew (but not of the Greek) Decalogue in Deuteronomy, conjunctions link the prohibitions suggesting breaches of equal gravity. Again, in the Hebrew of the Deuteronomic edition (but not in any other recension, including Qumran's), two different verbs are at stake, *hāmad*, when the object specifically is a neighbor's wife, but *hit'avvê* (*hitpael* of *'āvā*) when it concerns his *bayit*, "estate," defined as in Exodus, but excluding the wife.<sup>8</sup> The two sequences are joined by a conjunction, strongly intimating that for the Deuteronomist the two prohibitions were separate.

The distinction between the two controlling verbs is subtle, and there are many opinions on their difference as well as on establishing precedence for one over the other.<sup>9</sup> Because several derivatives of the root *hmd* seem to describe qualities inherent to an object (flora, animals, persons) that makes it desirable, to "*hāmad*" something is taken to mean submission to base motivations, especially when the incitement for doing so is powerful.<sup>10</sup> The appeal is to self-control. In contrast, the drive that makes people *hit'avvê* something is normally internal to those individuals, the object of their desires not necessarily distinguished by intrinsic

7. This observation is noted in traditional Jewish exegesis, and picked up by many commentators. The argument of Phillips, *Ancient Israel's Criminal Law*, 149, that *bayit* cannot be a collective "for there is no mention of children, and animals can hardly be reckoned part of the household" is too ingenious. Worth noting is that the Greek version reverses the order, first forbidding the wanting of a neighbor's wife before coveting his house. This order is likely influenced by the sequence in the Deuteronomic recension. We notice that only movable property is cited in the Exodus version.

8. For a harmony of diverse readings, see Sidnie Ann White, "The All Souls Deuteronomy and the Decalogue," *JBL* 109 (1990): 203–6. White does not resist the urge to reconstruct the original of a segment of it.

9. A tight review is offered in Henri Cazelles, "Les Origines du Décalogue," in *W. F. Albright Volume* (Eretz Israel 9; Jerusalem: Jerusalem Exploration Society, 1969), 14–19.

10. Note Deut 7:25, "You shall consign the images of their gods to the fire; you shall not covet the silver and gold on them and keep it for yourselves, lest you be ensnared thereby; for that is abhorrent to the LORD your God." Weinfeld, *Deuteronomy*, 316–17, has a good discussion on the difference between *hāmad* and *hit'avvê*. Any good biblical dictionary will have a discussion on these terms, *sub voci*. See also Schunck, "Das 9. und 10. Gebot," 104–9, who does worry, however, that focusing the C10 only on intent may devalue healthy human drives, falsely assigning them to sinning.

merits, though there may indeed be many. The verbal form (*hitpael*) itself conveys a reflexive act, with the self (*nefeš*) often the subject. That act is not necessarily blameworthy and it is only the context that reveals whether those displaying this urge are commended (“Desire realized is sweet to the soul,” Prov 23:19) or disparaged (“Do not share the meal of an envious man or desire his dainties,” Prov 23:6).

The gist of this observation is that the C10 in Exodus is throughout warning against moral lapses and the collapse of discipline while that of Deuteronomy is doing the same only when there is lust for someone’s wife.<sup>11</sup> In its second exposition, the C10 of Deuteronomy is calling against the greed.<sup>12</sup>

### *Intent or Action?*

In traditional Jewish exegesis, however, the debate has not unduly centered on calibrating the distinction between the verbs; rather, it has focused on whether the offense of *ḥāmad* (and to lesser extent *hit’avvê*) is about intent, where no damaging wrong is necessarily at stake, or about commission, when offenses are carried out that might require legal redress.<sup>13</sup> The issue emerges naturally because the other nine prohibitions seem directed toward controlling undesirable actions rather than suppressing intention. This assessment applies even about positive instructions, such as on observing the Sabbath day or honoring parents; for proof of negligence can come from community reports and specific punishment can be inferred through legal analogy. It has not helped that the sixteen HB contexts in which *ḥāmad* occurs allow for opposite positions on the matter. In some passages (ours plus Exod 34:24; Ps 68:17), *ḥāmad* is the only verb controlling the action, so giving the impression

11. It is interesting that Philo treats the biblical dietary laws under the C10, because they urge self-restraint.

12. See already William L. Moran, “Conclusion of the Decalogue, Ex 20:17–Dt 5:21,” *CBL* 29 (1967): 548 n. 18.

13. The history of the debate has generated a large bibliography and I mention only recent studies that examine earlier opinions: for the rabbinic argumentation on either position, see Alexander Rofé, “The Tenth Commandment in the Light of Four Deuteronomic Laws,” and Moshe Greenberg, “The Decalogue Tradition Critically Examined” (especially 106–9), both appearing in Ben-Zion Segal, ed., *The Ten Commandments in History and Tradition* (Jerusalem: Magnes, 1990). Greenberg shows that contemporary scholarship unknowingly rehearses the same issues as raised in rabbinic and medieval literature. The debate within Western scholarship is covered in most responsible commentaries to Exodus and to Deuteronomy, often with bibliography.

that intent is what is faulted. In most other contexts, however, it is followed by mentions of taking, capturing, or the like, so shifting the offense to a concrete undertaking, such as stealing or abusing another person's property. Inspecting Semitic lexicons to pinpoint a meaning for the verb is not useful here, for none of the attestations of \**hmd* in Semitic languages expresses physical or injurious acts.<sup>14</sup> Also complicating the matter is that when intent is a prelude to a required act, Hebrew tends to describe it through activities, both negative and affirmative. The whole of Ps 15 has that tenor, but rehearsed succinctly in Ps 24:4, where the paired question "Who may ascend the mountain of the LORD? Who may stand in His holy place?" is answered "He who has clean hands and a pure heart, who has not taken a false oath by me or sworn deceitfully."<sup>15</sup>

### *Interpreting the C10*

How to tackle the problem of a commandment that would legislate intent has yielded a number of interpretive avenues, and I offer representative proposals for three positions:

(1) *The C10 is fundamentally about abuse of power.* For Phillips, among others, the Decalogue serves as a criminal code of sorts, so that any provision in it must be prosecutable.<sup>16</sup> Originally it was about the abuse of property, but due to the reform of Jehoshaphat (2 Chr 19:5), judges were made to replace local elders and the commandment became redundant "since it was not the purpose of the criminal law to protect property itself."<sup>17</sup> The commandment was nevertheless kept, spiritualized by substituting *hāmad* for a verb that originally denoted taking possession of a home. Rather than proposing a substitution of verbs, Nielsen simply claims that the verb *hāmad* does double-duty, with the intent of motivating action to fulfill a premeditated desire.<sup>18</sup> Somewhat similar is Aaron, who relies on accommodating translations of Deut 7:25 and Josh 7:21 to

14. Erhard Gerstenberger, "הַמַּד *hmd* begehren," *THAT* 1 (1971): 579–81.

15. Isa 33:14–16 and Mic 6:8 are often cited as additional illustrations.

16. Anthony Phillips, *Ancient Israel's Criminal Law: A New Approach to the Decalogue* (New York: Schocken, 1970), 149–52.

17. *Ibid.*, 151.

18. Eduard Nielsen, *The Ten Commandments in New Perspective: A Tradition-historical Approach* (SBT 2d Series 7; Naperville, Ill.: A. R. Allenson, 1968), 101–5. Similarly, Ralph Marcus and I. J. Gelb, "The Phoenician Stele Inscription from Cilicia," *JNES* 8 (1949): 116–20, claim that the "covet" in the Phoenician inscription of Azatiwada needs to be translated, as in the Bible, "To lay covetous hands on [something/someone]."

suggest “confiscating” or “taking possession” for the C10 *hāmad* of Exodus, allegedly because biblical laws “do not relate to psychological states.”<sup>19</sup>

Essentially the same concretizing goal is reached by those proceeding with a new meaning for the verb *hāmad*. Lang proposes that the verb is about appropriating what is not one’s own.<sup>20</sup> For him, the C10 itself was meant to save wives from falling into the hands of others when their spouses were taken captive in wars. Weinberg has it both ways by stretching *hāmad* into two acts fused into one, “you shall not plan to appropriate.”<sup>21</sup> While a specific action is condemned, intent remains firmly fixed in the meaning of the verb. Long ago, Moran had objected to such approaches: “The mere fact that a verb like *hāmad* occasionally clearly implies some act of seizure or the like, is not to be understood in the sense that such an act belongs to its proper denotation: rather, such implications are shared by all verbs of desiring, which accordingly cannot be distinguished on the basis of ‘inferiority’.”<sup>22</sup>

(2) *The C10 explores issues that are internal to Israelite laws.* Coveting and its consequence are readily featured in biblical narratives where we read about Eve desiring the forbidden fruit, Achan coveting spoils of war, David lusting for Bathsheba, and Ahab craving Naboth’s vineyard. Jeremiah 35 (vv. 6–7) records how Rechabites explained their origins: an ancestor imposed a series of apodictically couched obligations such as the avoidance of wine, permanent housing, and agricultural pursuits.<sup>23</sup>

19. David H. Aaron, *Etched in Stone: The Emergence of the Decalogue* (New York: T&T Clark International, 2006), 306–12. By contrast, the Deuteronomist who “did entertain psychological categories” (ibid., 310), clarified an ambiguous law by using a form of a verb that is inherently psychological, *hit’avveh*. Aside from its light investment in philology, Aaron’s position assumes priority of Exod over Deut. The issue of priority is fearsomely debated and is beyond the present study’s main focus.

20. Bernhard Lang, “‘Du sollst nicht nach der Frau eines anderen verlangen’: eine neue Deutung des 9 und 10 Gebots,” *ZAW* 93 (1981): 216–24.

21. Weinfeld, *Deuteronomy 1–11*, 316. Similarly, in the notes to Exod 20:14 [= 20:17], *The Jewish Study Bible* (ed. Adele Berlin and Marc Zvi Brettler; Oxford: Oxford University Press, 2004), proposes “do not scheme to acquire (your neighbor’s house).”

22. Moran, “Conclusion of the Decalogue,” 548.

23. “We will not drink wine, for our ancestor, Jonadab son of Rechab, commanded us: ‘You shall never drink wine, either you or your children. Nor shall you build houses or sow fields or plant vineyards, nor shall you own such things; but you shall live in tents all your days, so that you may live long upon the land where you sojourn.’”

Gerstenberger has suggested that the terms of the Decalogue drew inspiration from tribal morality and wisdom.<sup>24</sup> Weinfeld has them based on sworn allegiances kings drew from their subjects.<sup>25</sup> Similarly, the C10 and other provisions in the Decalogue can be explained as acceptance among individuals of specific principles, divine formulations notwithstanding. Mowinckel imagined them declaimed periodically at cultic occasions.<sup>26</sup> For Weinfeld, however, the C10 was left up to God, because it was undetectable by humans, hence also unenforceable.<sup>27</sup>

More to the point, Cassuto thinks that in prohibiting the coveting of another person's spouse, the C10 actually creates a first defense against the seventh commandment not to commit adultery.<sup>28</sup> Rofé finds illustrative echoes of the Deut C10 in other statutes warning of trespass against a neighbor (Deut 19:14; 23:25–26; 24:10–11).<sup>29</sup> Matlock, inspired by Vasholz, thinks that the levirate laws of Deut 25:5–10 are exception to the C10 where a *levir* needs to desire a brother's widow to produce an heir, a rather modern application of what was meant to be a mechanical act.<sup>30</sup> There is also much discussion about the coveting of a dowry; yet dowry is never an issue in Hebrew laws.

(3) *The C10 in ancient Near Eastern contexts.* Law 25 in Hammurabi's collection stipulates on-site burning for those who steal property they covet when helping to extinguish a fire. The punishment is for committing the theft; yet the spontaneity with which justice is to be achieved suggests a linkage between coveting and the crime it prompted. There is

24. Erhard Gerstenberger, "Covenant and Commandment," *JBL* 84 (1965): 38–51.

25. Moshe Weinfeld, "The Origin of the Apodictic Law: An Overlooked Source," *VT* 23 (1973): 70–71. We now have many such examples in the Mari archives; see Jean-Marie Durand, "Précurseurs syriens aux protocoles néo-assyriens. Considérations sur la vie politique aux Bords-de-l'Euphrate," in *Marchands, Diplomates et Empereurs. Études sur la civilisation mésopotamienne offertes à Paul Garelli* (ed. D. Charpin and F. Joannès; Paris: Éditions Recherche sur les Civilisations, 1991), 13–72.

26. Sigmund Mowinckel, "Zur Geschichte der Dekaloge," *ZAW* 55 (1937): 218–35.

27. Weinfeld, *Deuteronomy 1–11*, 248–49.

28. U. Cassuto, *A Commentary on the Book of Exodus* (Jerusalem: Magnes, 1967), 248–49.

29. Rofé, "The Tenth Commandment."

30. Michael D. Matlock, "The Tenth Commandment," *JSOT* 31 (2007): 295–310; R. Ivan Vasholz, "You Shall Not Covet Your Neighbor's Wife," *WTJ* 49 (1987): 397–403.

also implication that the fire was set to give occasion for the theft.<sup>31</sup> Beyond this case, however, coveting is missing from ancient Near Eastern legal collections—so much so, that the offense is not cited in Westbrook’s fine recent handbook on the subject.<sup>32</sup>

Failing to locate Mesopotamian analogues for the C10, a reasonable alternative has been to locate manifestation of this most human of traits in other documents. In wisdom literature, there are a fair amount of references to it as a moral or ethical lapse, and especially so in confessional statements.<sup>33</sup> Some ancient myths, among them Ugarit’s Aqhat, shape plots around it, with Anat strongly desiring Aqhat’s bow, concretely or metaphorically. In fact, Cyrus Gordon once suggested that the C10 was formulated to reject Canaanite ideology because in a major myth Baal is said to covet (*hmd*) a field.<sup>34</sup> More intriguing is the *qal*

31. “If a fire breaks out at a freeman’s home and a man striving to extinguish it covets furnishings belonging to the homeowner then takes them, that man will be cast into that very fire.”

32. Raymond Westbrook, ed., *A History of Ancient Near Eastern Law* (2 vols.; Leiden: Brill, 2003).

33. Among many examples from Egypt, see H. W. Fairman, “Worship and Festivals in an Egyptian Temple,” *BJRL* 37 (1954): 201; Nili Shupak, “A New Source for the Study of the Judiciary and Law of Ancient Egypt: ‘The Tale of the Eloquent Peasant,’” *JNES* 51 (1992): 15; and P. Walcot, “Hesiod and the Instructions of Onchsheshonqy,” *JNES* 21 (1962): 217. The Book of the Dead is an especially rich thesaurus for self-reproach that includes wanton desire. For Mesopotamia, see Wilfred G. Lambert, “dingir.šà.dib.ba Incantations,” *JNES* 33 (1974): 283–85: “I coveted your abundant property (*ana makkūrīka rapši attaši pānīya*),” says a king, “my desire was for your precious silver (*ana kaspīka šūquri lalūwa illiku*)” (lines 141–42), as well as Lambert, *Babylonian Wisdom Literature* (Oxford: Clarendon, 1960), 102:86, 130:88, 146:1. In scholarship, ancient Near Eastern evocations of the C10 multiply when *hāmad* is said to reflect an abusive act rather than an intent to potentially commit a crime, with scholars citing such texts as Šurpu ii:47–48 (“He entered his neighbor’s house; he approached his colleague’s wife”; see Erica Reiner, *Šurpu: A Collection of Sumerian and Akkadian Incantations* [AfO 11; Graz: Im Selbstverlage des Herausgebers, 1958], 14) and the oath the rebel Tefnakht took in allegiance to Pharaoh Piy(ankhy) (“I will not disobey the King’s command. I will not trust aside his majesty’s words. I will not do wrong to count without your knowledge...” Miriam Lichtheim, *Ancient Egyptian Literature*. Vol. 3, *The Late Period* [Berkeley: University of California Press, 1980], 79–80). On all this, see Cazelles, “Les Origines du Décalogue.”

34. C. H. Gordon, “A Note on the Tenth Commandment,” *JBR* 31 (1963): 208–9. Stamm and Andrews, *Ten Commandments*, 106–7, offer mild objections (what if C10 originated in nomadic times?) to Gordon’s thesis. While dismissive, George Wesley Buchanan, “The ‘Spiritual’ Commandment,” *JAAR* 36 (1968): 126–27, bizarrely proposes that the commandment stopped guests from abusing the wife of a host obligated to be obliging.

*vaḥōmer* (*a fortiori*) lesson Suppiluliumas constructs for a crude brother-in-law, King Haqqana of Hayasa. Mariya, one of Haqqana's relatives, was executed for casting a glance at the maid of an elite palace woman. How more readily would Haqqana face death should he desire a sister, a sister-in-law, or a cousin?<sup>35</sup> Mariya's punishment is for infringement of a sexual taboo; but the crime is a lust that ignores boundaries. This little illustration is itself embedded within the terms of a treaty between Hatti and Hayasa and it is the cue for me to turn to this material.

In political documents and diplomatic letters there are plenty of charges against rulers who covet the territory of others.<sup>36</sup> Some years ago, attention was quickened by the recovery and publication of protocols in which rulers from the ancient Near East forced a palette of commitments on their clients, threatening earthly and divine retaliation upon infraction of loyalty.<sup>37</sup> The Bronze Age Hittite treaties proved

35. Text in Gary Beckman, *Hittite Diplomatic Texts* (SBLWAW 7; Atlanta: Scholars Press, 1999): 31–32. On these prohibitions, see Michel Mazoyer, "Sexualité et Barbarie chez les Hittites," in *Barbares et civilisés dans L'antiquité* (ed. Patrick Guelpa; Paris: L'harmattan, 2005), and C. Karasu, "Some Observations on the Women in the Hittite Texts," in *Anatolia Antica. Studi in memoria di Fiorella Imparati* (ed. S. de Martino and F. Pecchioli Daddi; Eothen 1; Florence: LoGisma, 2000), 419–24. The setting must be the Hittite court where (unmarried?) palace women and their women were sheltered. Tudḫaliyas III himself is said to have caught the libidinous Mariya as he looked out of his window.

36. Most often used someone raises (*našûm*) an organ toward something: if it is the eye or face, the idiom is mostly about greed; if the heart, it is about sexual desire; see CAD N/2, 104–5. Variations include reference to *itaplusum*, "To gaze, stare, at something" (CAD P, 58), and to *ana* [something] *lalûm alākum*, "following one's desire for something" (CAD L, 49). In Mari documents alone, aside from numerous mentions of the same idiom when desiring land, sheep, households, and the like, I have met with *appam šakānum* (ARM 28 100: 10, "a city") and *inān eli [X] danānum* (A.134 = MARI 8 [1997], 355: 11–12, [Charpin MARI 8 5], "belongings").

37. The venerable study by McCarthy is now superseded but can still be read with profit, *Treaty and Covenant: A Study in Form in the Ancient Oriental Documents and in the Old Testament* (Analecta Biblica 21; Rome: Pontifical Biblical Institute, 1963). Relevant are several chapters in Raymond Westbrook, *A History of Ancient Near Eastern Law* (2 vols.; Handbuch der Orientalistik 72; Leiden: E. J. Brill, 2003). Relevant are the following chapters: J. Cooper's treatment of international law of the Third Millennium (241–54); J. Eidem's study of law in the Old Babylonian period (745–52), G. Beckman's review of Late Bronze age law (753–74) and S. Parpola's overview of Neo-Assyrian laws (1047–66). Old Babylonian covenants are surveyed in B. Lafont's "Relations internationales, alliances et diplomatie au temps des royaumes amorrites. Essai de synthèse," *Amurru* 2 (2001); but see also Durand "Précurseurs syriens." For Hittite treaties, see Beckman, *Hittite Diplomatic Texts*. A fine edition of the Assyrian loyalty agreements is Simo Parpola

especially attractive because their structure reminded some scholars of biblical covenants, with God and Israel as the contracting parties. They thus allowed setting into the Late Bronze Age the Sinai covenant, in which the Decalogue was embedded. The comparison, however, was always tentative. The focus in the ancient Near Eastern material was on political infraction, including disloyalty, rebellion, abuse against other clients, or interference in commerce.<sup>38</sup> Gods were there to punish infraction when kings could not.<sup>39</sup> The biblical context, however, when featuring crimes against individuals, invited communal resolution. The Hebrew God was there as inspiration, but not actively to arbitrate.

(4) *The Old Assyrian agreements.*<sup>40</sup> These inconsistencies have led me to inspect newly published agreements found at Kültepe because they offer promising departures from the Late Bronze treaties, from which they differ in gravitating toward commercial goals. We have four such documents so far, although references in letters make it clear that there were many more.<sup>41</sup> As all but one agreement from the Middle Bronze Age, they are one-sided in that they contain terms that the Assyrians wished their Anatolian hosts to pledge.<sup>42</sup> What to make of finding them in the

and Kazuko Watanabe, eds., *Neo-Assyrian Treaties and Loyalty Oaths* (Helsinki: Helsinki University Press, 1988).

38. Henri Cazelles, "Ten Commandments," in *IDBSup*, 876.

39. A major goal for the comparison was to establish, through parallels, a second-millennium context for the Sinai covenant.

40. For an overview on Old Assyrian trading outposts in Anatolia, see Klaas R. Veenhof, "Kanesh: An Assyrian Trading Colony in Anatolia," in *Civilizations of the Ancient Near East* (ed. J. M. Sasson et al.; New York: Scribner, 1995), 859–71, and, in much more depth, Veenhof, "The Old Assyrian Period."

41. See Veenhof, "The Old Assyrian Period," 183–200, with bibliography.

42. The early eighteenth-century *šimdatum* (binding agreement) between Šadlaš and Nērebtum (where it was found) is necessarily bilateral as it seeks to solve post-war issues, such as release and compensation of prisoners, and to set measures for preventing future hostilities. See No. 326, published in Samuel Greengus, *Old Babylonian Tablets from Ishchali and Vicinity* (Uitgaven van het Nederlands Historisch-Archaeologisch Instituut te Istanbul 44; Leiden: Nederlands Historisch-Archaeologisch Instituut, 1979), 74–77. The text is widely discussed, among others in F. R. Kraus, *Königliche verfügungen in altbabylonischer Zeit* (Studia et Documenta ad Jura Orientis Antiqui Pertinentia 11; Leiden: Brill, 1984), 90–93; Yuhong Wu, *A Political History of Eshnunna, Mari and Assyria During the Early Old Babylonian Period: From the End of Ur III to the Death of Šamši-Adad* (Changchun, China: Institute of History of Ancient Civilizations, Northeast Normal University, 1994), 53–56; and Lafont, "Relations internationales," 288. Mari documents show that oppositions to proposed terms were not infrequent.

*kārum* is an issue. They may have been copies, drafts, memoranda, or even rejected proposals.

The earliest of these agreements comes from level II. It opens so abruptly that we may have the second “page” of terms Kaniš is imposing on an Anatolian prince, guaranteeing recuperation of their losses, their exclusivity of trade, and limitation on taxation. A remarkable clause forbids allowing Akkadians to trade; any that come there must be handed over to die. To judge from the final lines that record a colorful symbolic act accompanying the prince’s oath, we may be dealing with a report on how the oath was transacted.<sup>43</sup>

The latest of these documents comes from post-Hammurabi Tell Leilan and is labeled a *nīš ilim*, “an oath on a god” (iii: 11–12, 14).<sup>44</sup> The format is close to what we find in Zimri-Lim’s archives.<sup>45</sup> With it, the city of Assur wished Til-Abnum of Apum to guarantee the welfare of its merchants as they made their way to and from Kaniš. While badly preserved, this large text (about 220 lines) opens on Til-Abnum swearing on a stack of gods and ends on pledges to turn back entreaty of other rulers, presumably hostile to Assur. Curses, if any, are not preserved.

Of more interest to us are two accords Assur drafted with two Anatolian towns that had *kārum* settlements, up to half a century earlier when the region experienced mercantile and security insecurities. One was with Kaniš (hereafter K) at modern Kültepe, the second with Ḫaḫḫum (hereafter H), on the caravan route close to where the Euphrates was crossed.<sup>46</sup> Both texts have pockets of damage and each has features that discourage grouping them into accommodating category. Unusual for

43. Latest translations are in Cécile Michel, *Correspondance des marchands de Kaniš au début du IIe millénaire avant J.-C.* (Paris: Cerf, 2001), [LAPO 19 87] 150–51, and by K. R. Veenhof, apud Günbatti, “Two Treaties Texts,” 250 n. 8. The final lines read, “[The prince] raised his hand (swearing) by Assur, the Storm-god, the Netherworld, and the spirit of his father. He turned over his table and seat; he filled, then emptied, a pot<sup>7</sup> and his cup. The prince said, [unclear]. [The Assyrians] said, should we reject your [the Anatolians’] oath, may our blood be spilled like (from) a cup.” Alternate ending: “[His officers] said, should we reject your [the Assyrians’] oath, may our blood be spilled like (from) a cup.”

44. Jesper Eidem, “An Old Assyrian Treaty from Tell Leilan,” in Charpin and Joannès, eds., *Marchands, Diplomates*, 185–207.

45. On the treaty between Mari and Ešnunna, see Dominique Charpin, “Un traité entre Zimri Lim de Mari et Ibâl-pî-El II d’Ešnunna,” in Charpin and Joannès, eds., *Marchands, Diplomates*, 139–66.

46. For Ḫaḫḫum, see Khaled Nashef, *Die Orts- und Gewässernamen der altassyrischen Zeit* (Répertoire géographique des Textes cuneiforms 4; Beihefte zum Tübinger Atlas des Vorderen Orients, Reihe B, Geisteswissenschaften 7; Weisbaden: Reichert, 1991), 46–47.

Old Assyrian tablets, H is double-columned and at least twice as long as K; but strategic breaks compromise the thread of argument to the extent that Veenhof proposes reversing the sides that Günbattı sets in his original edition. K accents Assyrian privileges; H gravitates towards Anatolian prerogatives. K speaks directly to the ruler; H addresses an oligarchy, with special focus on three officials with rights to skim garments and money from Assyrian caravans. K likely opens on the naming of gods, but they are not there for invocation. K lacks curses, but it does end by warning the ruler, that “these gods, lords of your oath, are watching you (*ilū annī’ūtum bēl māmītika idaggalūka*). H seems to forego both the conjuring of gods and the curses, no matter which face is read first. In Günbattı’s treatment of it, the final column urges against secret dealings, “from now on and as long as you live”;<sup>47</sup> but its significance is difficult to assess.

The import of all this is that we are dealing with protocols with ad-hoc stipulations rather than treaties with pre-shaped patterns. The conditions then current at Ḫaḫḫum and Kaniš controlled the terms; but because of their bad preservation, it is difficult to judge why each gravitates toward different formulations. H is a rich concatenation of apodictic requests, couched as prohibitives (*lā* and a second person imperfect), on which are built asseveratives (*lū* and a second person imperfect). For example, in one column (either the second or the third), a series of them imposes fair administration of justice:

You may not side<sup>48</sup> with your followers, your handmaids, your slaves, or a Ḫaḫḫum citizen (on) any decision regarding any Assur citizen or member of the *kārum*. You may not give a ruling on the basis of (imposed) contracts; but must do so fairly in accordance with (traditional) Ḫaḫḫum law. You must come fairly to a verdict regarding any Assur citizen, whether handmaid, slave or member of the Ḫaḫḫum *kārum*. (ii [iii]:1–10)

Prohibitions that follow on circumstances or hypothetical contexts and are introduced by *šumma* or *inūmi* do occur as well; but in K they are in preponderance. For example, at lines 39–44 we find, “Should there be shedding of Assyrian blood in your town or land, incurring loss, you then must pay (the standard) blood reparation and we will kill (the murderer). You must not give us a substitute.”<sup>49</sup> A dozen circumstantial

47. Günbattı, “Two Treaties Texts,” col. *iv*: 23.

48. See Veenhof, “The Old Assyrian Period,” 203 n. 857.

49. The last clause is wishful, for the Assyrians may not have the facilities to identify the murderer. There is a delicious story from the Mari archives in which Samsi-Addu receives and executes a person other than the one he was pursuing. No doubt the unlucky victim was badly handicapped. On this matter, see Jack M.

constructions occur in K; but there is just one that is clearly apodictic and it deals with coveting. I have quoted it in the introduction and I repeat here: “You may not *hand over* to a citizen of Kaniš or to a *ḥapirum* the home of a merchant’s widow. You may not covet the fine home, fine slave, fine handmaid, fine field, or fine orchard of any Assur citizen; you may not appropriate (it) by force or give (it) to your follower.”

While the terms of this injunction also strive to limit Anatolian abuse of Assyrians, it differs from the others in moving beyond immediate causes to focus on injustice, its nature and application: By targeting widows, it sharpens the crime’s iniquity; by involving vagrant *ḥapirū* no less than local citizens, it broadens its instruments of offense; by focusing on the covetousness of leaders, it isolates its inspiration; by including people and property as objects of desire, it deepens its rapacity; and by allowing servants of leaders as ultimate beneficiaries, it intensifies its arbitrariness and frivolity. While the onus remains on the ruler of Kaniš, involving his servants and his citizens in the prospective misdeed gives the injunction a communal if not also paradigmatic quality. It also invests it with intimacy in personalizing the source of the injustice. Still it differs from the Hebraic formulation of C10 in that its obligations are not internal to a community but are imposed across ethnic identities. There is no sense that the coveting by Anatolians is at all likely to infect the Assyrians living within a *kārum*.<sup>50</sup>

### *Coveting in Israel*

The distance between Anatolia and Israel is vast, geographically, temporally, and culturally, so for me the issue is hardly about borrowing or of even indirect linkage. I think it was useful to bring this material to the discussion on the C10; but let me end on two increasingly speculative suggestions.

First, I note that K confirms previous suggestions that the C10 belongs to a diplomatic rather than a legislative framework. Yet, because in K the injunction is embedded in a one-sided libretto of potential oaths, it

Sasson, “Scruples: Extradition in the Mari Archives,” in *Festschrift für Hermann Hunger, zum 65. Geburtstag gewidmet von seinen Freunden, Kollegen, und Schülern* (ed. Gisela Procházka-Eisl; Vienna: Institut für Orientalistik, 2007), 457–58.

50. Veenhof (“The Old Assyrian Period,” 204) has this to say on the stipulation: “[It] reminds the ruler himself of the fact that he shall not covet and seize possessions of the Assyrians..., presumably not as an act of simple greediness, but rather as a way of obtaining what he likes by punishing them or demanding compensation if they misbehave or default.”

bears different implication than if it had been found in a Late Bronze treaty or a Neo-Assyrian loyalty-oath. There, stipulations determined the boundary of unacceptable behavior, with gods activating curses against offenders. While gods may not exact punishment speedily or thoroughly enough, by itself the breaking of oaths is sufficient justification for launching hostilities swiftly, unexpectedly, and guiltlessly. As an example, we have Hammurabi of Babylon's rationalization for attacking Larsa because it "scorned the oaths of Šamaš and Marduk."<sup>51</sup>

The Kültepe situation was different. Assyria was distant, militarily undistinguished, and only in fantasy did Sargon punish Purušhanda. Betraying the weakness of their position, the merchants put the local princes under oaths periodically, placing their hope in the offer of taxes and bribes, and in their acceptance of shakedowns. (Think of Jews in Medieval Europe.) Violations of terms, however, were dealt with individually, with more success when the issues could be solved internally. Here I draw an analogy with the Decalogue. Yahweh's authorship notwithstanding, to me it reads like an invitation to accept unilaterally a list of stipulations, stated as injunctions but bearing on infractions, such as false testimony, stealing, and murdering, that had to find legal resolution elsewhere.

Secondly, I observe that K did not just proscribe coveting, but attached to it a clarification: there must be no consequential gain, privately by the ruler or distributed to his followers. The absence of such a logical amplification is striking in C10 and it should warn us not to stretch *hāmad* so elastically as to meld intent and action by offering such translations as "do not scheme to acquire (your neighbor's house)."<sup>52</sup>

But once these observations are made, a most reasonable question remains: "why would such a powerful series of injunctions end on intent rather than action?" I speculate that the verb, with its plunge into the consciousness of the Hebrew, actually cycles us back to the beginning of the Decalogue where the choice of the Hebrew God, while it can be compelled, must be intentional. The Hebrew is expected to reflect on what is available, but still decide in favor of a God that he cannot see, one without the proven accomplishment of the gods in neighboring lands.

There is a telling verse about all this and it occurs in Deut 7:25. God promises victory to his people when faithful. They are to consign the

51. See ARM 26 385: 16'-20'.

52. We may notice too that in contrast with Exodus, where *hāmad* occurs twice, Deuteronomy uses two verbs with synonymous meanings, when the choice of another verb could have moved the meaning toward action. The Greek simply repeats the same verb (ἐπιθυμέω) in all four contexts.

images of false gods to the fire and are not to covet (*ḥāmad*) the gold and the silver mounted on them. The fear was contagion, for coveting the body of a foreign god may lead to grasping it; and in doing so there is potential ensnarement (*pen tivvāqēš bô*) and a weakening attachment to the demanding God Israel accepted at Sinai. Coveting, whether from each other or from others, is the test to overcome; perhaps not by Pushkin or by us, but certainly by the ancient Hebrews.