

ISRAELITE COVENANTS IN THE LIGHT OF ANCIENT NEAR EASTERN COVENANTS

(Part 1 of 2)

By René Lopez

Introduction

Biblical scholars now perceive that “the relationship between God and man is established by a covenant.”¹ Walther Eichrodt emphasizes the theme of covenants as the center in biblical studies.² Although scholars once characterized his covenantal focus as narrow,³ “it is now generally admitted that his emphasis is not at all out of step with the Ancient Near Eastern world.”⁴ A key scholar now admits his own failure to “recognize that the concept of ‘covenant’ dominates the entire religious life of Israel to such an extent that W. Eichrodt’s apparently extreme position is fully justified.”⁵

This is a welcome development, since skeptical higher critics have always rejected the historicity of the Israelite covenants. The Documentary Hypothesis⁶ late-dated the Old Testament covenants to the

¹ George E. Mendenhall, “Covenant Forms in Israelite Tradition,” *BA* 17 (September 1954): 50.

² Walther Eichrodt, *Theology of the Old Testament*, trans. J. A. Baker (Philadelphia: Westminster, 1961), 1:13–14.

³ Dennis J. McCarthy, *Treaty and Covenant: A Study in Form in the Ancient Oriental Documents and in the Old Testament*, 2d ed., *Analecta Biblica: Investigationes Scientifcae in Biblicas* (Rome: Biblical Institute Press, 1978), 3. Dennis J. McCarthy, *Old Testament Covenant: A Survey of Current Opinions* (Richmond, VA: Knox, 1972), 5–6, critiques Eichrodt’s emphasis of the covenant theme in the Old Testament. Dennis J. McCarthy, “Covenant in the Old Testament: the Present State of Inquiry,” *CBQ* 27 (October 1965): 219, concedes that Eichrodt develops a “very successful treatment of covenant.”

⁴ Cleon L. Rogers Jr., “The Covenant with Abraham and its Historical Setting,” *BSac* 127 (July–September 1970): 241, has an excellent discussion. Cf. David Noel Freedman, “Divine Commitment and Human Obligation,” *IBC* 18 (October 1964): 419.

⁵ William F. Albright, *From the Stone Age to Christianity: Monotheism and the Historical Process*, 2d ed. (Baltimore, MD: Johns Hopkins, 1940; reprint, Garden City, NY: Doubleday, 1957), 16, stresses, “We cannot understand Israelite religion, political organization, or the institution of the Prophets without recognizing the importance of the ‘covenant.’”

⁶ Julius Wellhausen, *Prolegomena to the History of Israel*, trans. J. S. Black and A. Menzies (Edinburgh: n.p., 1885), 417, claims that the theocratic covenant did

eighth or seventh centuries B.C.⁷ and rejected Mosaic authorship of the Pentateuch. These skeptics posited that modern interpreters could not understand supposedly non-historic Old Testament in historic terms.

Ample evidence shows that God communicated His divine plan through contemporary means. Israelite covenants resemble ancient Near Eastern covenants, so seeing biblical context in the context of the ancient world gives scholars an interpretive bridge.

Israelite Covenants in the Ancient Near Eastern Context

Many recent archaeological discoveries have clarified Scripture and contributed to biblical criticism, “not in the area of inspiration or revelation, but in historical accuracy and trustworthiness about the events that are recorded.”⁸ Albright correctly says, “Archaeological discoveries since 1925 have changed all this [skepticism over the patriarchal period]. Aside from a few die-hards among older scholars, there is scarcely a single biblical historian who has not been impressed by the rapid accumulation of data supporting the substantial historicity of patriarchal tradition.”⁹ Archaeological discoveries indicate that Israel’s covenants resemble ancient Near Eastern covenants.¹⁰ Hittite findings¹¹ clarify the elements of God’s major covenants with Israel.¹²

not exist in the time of Moses. Herbert M. Wolf, *An Introduction to the Old Testament Pentateuch* (Chicago: Moody, 1991), 66, notes how favorably and quickly Wellhausen’s theory was accepted within biblical scholarship. Some scholars favoring Wellhausen’s theory are H. Cornhill, C. Steuernagel, W. R. Smith, S. R. Driver, and C. A. Briggs. However, E. D. Hengstenberg, M. Drechsler, G. Vos, A. H. Sayce, and C. F. Keil rejected his theory.

⁷ Mendenhall, “Covenant Forms,” 50.

⁸ Joshua McDowell, *More Evidence that Demands a Verdict: Historical Evidences for the Christian Faith* (San Bernardino, CA: Here’s Life, 1975), 20.

⁹ William F. Albright, *The Biblical Period From Abraham to Ezra* (New York: Harper & Row, 1960), 1.

¹⁰ Eugene H. Merrill, “A Theology of the Pentateuch,” in *A Biblical Theology of the Old Testament*, ed. Eugene H. Merrill (Chicago: Moody, 1991), 26.

¹¹ The Hittites, a great power that confronted early Israel, were once thought to be a myth based on an “unreliable” Old Testament account, where the term *Hittites* appears 21 times (Gen. 15:20; Exod. 3:8,17; 13:5; 23:23; Num. 13:29; Deut. 7:1; Josh. 1:4; 3:10; 24:11; Judg. 1:26; 3:5; 1 Kings 9: 20; 10:29; 11:1; 2 Kings 7:6; 2 Chron. 1:17; 2 Chron. 8:7; Ezra 9:1; Neh. 9:8). Hence, the discovery that validates the existence of the Hittite people of necessity validates

The Meaning of Covenant

Defining *covenant* is requisite to discussing the different types of Near Eastern covenants found in Scripture. To that end, this section will develop the foundation (origins), form, function and terms related to *b^erît* (“covenant”).¹³

The Foundation of *b^erît*

The term *b^erît* has several uses,¹⁴ so no scholarly consensus over its root meaning and consequence exists.¹⁵ Nathanael Schmidt

the veracity and authenticity of biblical history. John Elder, *Prophets, Idols, and Diggers* (New York: Bobbs Merrill, 1960), 75, says, “One of the striking confirmations of the Bible history to come from science of archeology is the ‘recovery’ of the Hittite people and their empires. Here is a people whose name appears again and again in the Old Testament, but who in secular history had been completely forgotten and whose existence was considered to be extremely doubtful.” J. Barton Payne, “Hittites,” in *The Zondervan Pictorial Bible Dictionary*, ed. Tenney C. Merrill (Grand Rapids: Zondervan, 1963), 356, states that the existence of the Hittites was “first substantiated by the discoveries at Carchemish on the Euphrates in 1871 and totally vindicated by Hugo Winckler’s excavations at Khattusa (Boghazkoy) in Turkey, 1906–7. Ten thousand tablets from this ancient Hittite capital served to confirm Joshua’s description of the entire western Fertile Crescent as the ‘land of the Hittites.’” See also M. B. Stearns, “Biblical Archeology and the Higher Critics,” *BSac* 96 (July–September 1939): 307–18, Merrill F. Unger, “Archaeological Discoveries and Their Bearing on Old Testament,” *BSac* 112 (April–June 1955): 137–42, and Delbert R. Hillers, *Covenant: The History of a Biblical Idea* (Baltimore: Johns Hopkins Press, 1969), 23.

¹² Part two of this article will discuss using patterns like the fifteenth- and fourteenth-century Hittite model to formulate the biblical covenants.

¹³ This writer is indebted to Rogers, “Covenant with Abraham,” 244–50, for two parts (foundation and form) of the three-fold idea in the following section.

¹⁴ Klaus Baltzer, *The Covenant Formulary: In Old Testament, Jewish and Early Christian Writings*, trans. David E. Green (Philadelphia: Fortress, 1971), 1–8, presents concisely Wellhausen’s, Kraetzschmar’s and Begrich’s evolutionary late development view of the concept of *b^erît* (8th to 7th centuries). In contrast, Pedersen and Köhler argue for an early origin of the covenant concept of *b^erît*.

¹⁵ Rogers, “Covenant with Abraham,” 242–49. See George E. Mendenhall, “Covenant,” in *The Interpreter’s Dictionary of the Bible: An Illustrated Encyclopedia*, ed. George A. Buttrick (Nashville: Abingdon, 1962), 714–16;

interprets the origin and primary meaning as *fetter*, which leads to “‘binding ordinance,’ ‘sentence’” in a judicial sense.¹⁶ Mendenhall, admits that “the etymology of the term is uncertain,” but asserts that most accept the “derivation from Akkadian *birītu*, ‘fetter,’ or a cognate root.”¹⁷ Moshe Weinfeld concludes from ancient Near Eastern literature and the LXX equivalent term *diathēkē* that the Hebrew term *b^erīt* (like those of Israel’s ancient neighbors) means *bond*.¹⁸

Many derive *to cut a covenant* from the root *krt* (“to cut”) and emphasize the ceremonial sacrifice,¹⁹ while others maintain the definition *to cut a covenant* asserting that Old Testament stresses eating a meal over making a sacrifice.²⁰ F. Charles Fensham believes that using

Eichrodt, *Theology of the Old Testament*, 36–45; McCarthy, *Treaty and Covenant*, 17–24; Paul DeWitt Lowery, “Covenant Implication for Old Testament Exposition: An Overview of Some Pertinent Themes” (Ph.D. diss., Dallas Theological Seminary, 1979), 25–28.

¹⁶ Nathanael Schmidt, “Covenant,” in *Encyclopedia Biblica: A Critical Dictionary of the Literary Political and Religious History the Archaeology Geography and Natural History of the Bible*, ed. T. K. Cheyne and J. Sutherland Black (New York: Macmillan, 1899), 928–29.

¹⁷ Mendenhall, “Covenant,” 715.

¹⁸ Moshe Weinfeld, “Covenant Terminology in the Ancient Near East and its Influence on the West,” *JAOS* 90 (1970): 190, defines covenant as: “*riksu* equals Sumerian *k e s d a* (*MSL* I, 97) which also means binding in legal sense (*SAK* 52:28). The Hittite word for covenant is *ishiul* which means ‘bond’ and compare also Arabic ‘*qd* and the Latin *vinculum fidei*. Greek *synthēkē* and the words for covenant in Homer: *harmonia* (*harmonozein* = to bind) (*Il.* 22:255), *synthesia* (*Il.* 2:335), *synēmosynē* (*Il.* 22:261) also express binding and putting together. (The Septuagint uses *diathēkē* (will) for theological reasons). In view of all this it seems that Hebrew *b^erīt* also means ‘bond’ . . .”

¹⁹ J. Barton Payne, “Covenant (in the Old Testament),” in *The Zondervan Pictorial Encyclopedia of the Bible*, ed. Merrill C. Tenney (Grand Rapids: Zondervan, 1976), 1:1002; H. C. Leupold, *Exposition of Genesis* (Grand Rapids: Baker, 1942), 2:488; W. F. Albright, “The Hebrew Expression for ‘Making a Covenant’ in Pre-Israelite Documents,” *BASOR* 121 (February 1951): 22. See also Hillers, *Covenant*, 41; *idem*, *Treaty-Curses and the Old Testament Prophets*, *Biblica et Orientalia* (Rome: Pontifical Biblical Institute, 1964), 20.

²⁰ F. Charles Fensham, “Did a Treaty Between the Israelites and the Kenites Exist?” *BASOR* 175 (October 1964): 54. Albright, “Making a Covenant,” 22, mentions discovery of two enlightening extra-biblical tablets, which are “the

“part of the sacrificial animal for a communal meal” made the covenant “tangible.”²¹ Jesus may have followed an ancient Near Eastern pattern by instituting the New Covenant (Luke 22:19–20) with a meal and symbolic elements.²² After covenant ratification (Christ’s crucifixion), those entering the covenant solidified it by eating the sacrificial offering (elements) representing Christ’s body and blood as a meal. This act would imply entering into and continuing in a bond of fellowship.²³

Thus, the origins of *bêrît* are not clear, so scholars have reached an impasse. However, most agree that *bêrît* “came to signify a binding agreement between two parties”²⁴ at the very foundation of its meaning.

first published extra-biblical occurrence of the word [*bêrît*] from early times—not later than the first third of the fourteenth century.”

²¹ Fensham, “Israelites and the Kenites Treaty,” 54. See also McCarthy, *Treaty and Covenant*, 253–54. Dennis J. McCarthy, “Three Covenants in Genesis,” *CBQ* 26 (April 1964): 184–85, links “covenant and sacrificial meal.” He notes Isaac feeding Abimelech in Genesis 26:30 and Jacob and Laban eating together in 31:46. McCarthy (*ibid.*, 185) says, “This custom of forming a union by taking bread together is widespread; doubtless it is based on the idea that it is the family group which eats together so that admission to the meal implies admission to the family. The practice is attested in ancient non-Biblical texts as well as among Semitic nomads.”

²² Christ’s use of a contemporary custom does not devalue the New Covenant, but rather enhances the seriousness of participation in it. 1 Corinthians 11:27–30 teaches that improper participation of the elements brings tangible consequences (physical death). Mendenhall, “Covenant,” 714, understands a verbal or symbolic oath as the element that solidifies and binds the covenant. He also says, “It is possible that other formal actions, such as a common meal, did not involve an appeal to the divine world to punish violation of the promise.”

²³ Paul Kalluveettil, *Declaration and Covenant: A Comprehensive Review of Covenant Formulae from the Old Testament and the Ancient Near East*, AnBib: Investigationes Scientifica in Biblicas (Rome: Biblical Institute Press, 1982), 89–90, understands that rejoicing before God almost always happens in connection with sacred meals (Cf. *ibid.*, 61, n. 191).

²⁴ Rogers, “Covenant with Abraham,” 243. McCarthy, *Treaty and Covenant*, 20, says further that *bêrît* “always involved bilateral obligations, whether these were stated or not.” Eichrodt, *Theology*, 37, states, “the use of the covenant concept in secular life argues that the religious *bêrît* too was always regarded as a bilateral relationship; for even though the burden is most unequally distributed between the two contracting parties, this makes no difference to the fact that the relationship is still essentially two-sided.” See also Elmer B.

The Form of *b^erî t*

One basic form (pattern) of *b^erî t* exists, with several nuances.²⁵ Some differentiate the form of Assyrian treaties of the first millennium from Hittite treaties of the second millennium B.C.²⁶ Others argue for their unity.²⁷ Although minor differences between the Hittite and Assyrian treaty forms exist, the first millennium treaty forms seem to continue the Hittite treaty tradition.²⁸ Thus, Rogers notes that both Baltzer and McCarthy acknowledge that one can “rightly speak of a set ‘form’ which was used in the ancient world.”²⁹ Despite differences between Assyrian, Syrian, and Hittite treaties,³⁰ McCarthy acknowledges one form, saying, “there was in fact one treaty form which was used for

Smick, “*b^erî t*,” in *Theological Wordbook of the Old Testament*, ed. R. Laird Harris, Gleason L. Archer, and Bruce K. Waltke (Chicago: Moody, 1980), 129–30; Gordon J. McConville, “*b^erî t*,” in *New International Dictionary of the Old Testament Theology & Exegesis*, ed. Willem A. VanGemeren (Grand Rapids: Zondervan, 1997), 1:747, 752. Moshe Weinfeld, “*b^erî t*,” in *Theological Dictionary of the Old Testament*, ed. G. Johannes Botterweck and Helmer Ringgren, trans. John T. Willis (Grand Rapids: Eerdmans, 1975), 2:255, says, “The original meaning of the Heb. *berith* . . . is not ‘agreement of settlement between two parties,’ as commonly argued. *berith* implies first and foremost the notion of ‘imposition,’ ‘liability,’ or ‘obligation,’ as might be learned from the ‘bond’ etymology. . . .” Weinfeld appears to confuse etymological meaning with how *b^erî t* came to be used by the Hebrew Scriptures. Its usage moved from the etymological meaning of a *bond* imposed on someone to a “covenant, agreement, or obligation between individuals (e.g., friends, spouses) or groups, ruler and subjects, deity and individual or people, etc.,” as David J. A. Clines, ed., *The Dictionary of Classical Hebrew* (Sheffield: Sheffield Academic Press, 1995), 2:264, correctly defines.

²⁵ McCarthy, *Old Testament Covenant*, 4, 41. See also Mendenhall, “Covenant,” 714; John Bright, *A History of Israel*, 4th ed. (Louisville, Kentucky: Westminster/Knox, 2000), 150–51.

²⁶ George E. Mendenhall, “Law and Covenant in Israel and Ancient Near East,” *BA* 17 (1954): 30; Albright, *Stone Age to Christianity*, 16.

²⁷ Weinfeld, “Covenant Terminology,” 93, 190–99. McCarthy, *Treaty and Covenant*, 122–40.

²⁸ Moshe Weinfeld, “Covenant Making in Anatolia and Mesopotamia,” *JANESCU* 22 (1993): 135. See also idem, *Deuteronomy and the Deuteronomistic School* (Oxford: Clarendon, 1972), 59–60.

²⁹ Rogers, “Covenant with Abraham,” 246.

³⁰ McCarthy, *Treaty and Covenant*, 141–53.

international agreements throughout most of the history of the pre-Hellenic near east.”³¹

One form with six generally accepted parts³² constituted the basic pattern of the ancient Near Eastern treaties. They are:³³ (1) The preamble, or introduction of the speaker,³⁴ (2) historical prologue, (3) stipulations, (4) the document,³⁵ (5) the gods as witnesses, and (6) curses and blessings. Part two of this article will amplify these six elements.

Another important issue is whether *covenant* and *contract* are synonyms. Gene M. Tucker distinguishes Old Testament covenant/oath

³¹ Ibid., 7. He continues, “Hence the occurrence of the form does not by itself offer an adequate criterion for dating a document or an event.” He probably rejects the presence of the Hittite treaty elements as proof that covenants in both Exodus and Deuteronomy follow Hittite formats. This would support an early date (no later than 1300) for both covenants and strengthen the case for Mosaic authorship of the Pentateuch. Part two of this article will disprove McCarthy’s point.

³² Erhard Gerstenberger, “Covenant and Commandment,” *JBL* 84 (March 1965): 45, sees covenants having three main elements with various expressions: (1) mutual agreement (declaration), (2) the stipulations, and (3) curse invocation.

³³ Viktor Korosec, *Hethitische Staatsverträge, ein Beitrag zu ihrer juristischen Wertung*, Leipziger rechtswissenschaftliche Studien, vol. 60 (Leipzig: Weicher, 1931), 12–14, was the first to present the six essentials. See also the following Baltzer, *Covenant Formulary*, 10; McCarthy, *Treaty and Covenant*, 1–2; Mendenhall, “Covenant,” 714–15. Baltzer, *Covenant Formulary*, 10.

³⁴ McCarthy, *Treaty and Covenant*, 1. Part two of this article will amplify.

³⁵ Some scholars (Baltzer and Merrill) understand element three as general stipulations (as in Deuteronomy 5:1–11:32) and element four as specific stipulations (as in Deuteronomy 12:1–26:15). Others (Hillers, Kitchen, Kline, McCarthy, Mendenhall, Rogers, and Walton) couple general and specific stipulations under element three, while understanding element four as the “provisions for depositing the treaty in the temple and for public reading” (Mendenhall’s definition, in *Covenant Forms and Israelite Traditions*, 60). Kline and Rogers, while categorizing all of the stipulations under element three, see element four as covenant ratification. Although some unify general and specific stipulations under one category, others (like Kitchen, Mendenhall and Walton) do not distinguish general stipulations from specific ones.

forms from secular contract forms.³⁶ McCarthy now agrees: “Covenant is not a contract, it is a pledge, personal commitment.”³⁷

Tucker defends his thesis by first showing that *covenant* may be defined as an *oath*.³⁸ Second, since *covenant* and *oath* parallel, their forms parallel.³⁹ Third, he shows five essential elements of contracts: (1) names of both parties, (2) description of the transaction, (3) specification of property in case of transfer, (4) witnesses to the transaction, and (5) date of the transaction.⁴⁰ McCarthy lists four elements, omitting Tucker’s third element.⁴¹ Fourth, although Tucker recognizes that lack of evidence⁴² hinders reconstructing a clear contract model from the Old Testament, he nevertheless cites Jeremiah 32:10–12; Genesis 23; Ruth 4:9–11; 2 Samuel 24:18–25; and 1 Chronicles 21:18–27 as providing various elements of contracts. He says, “[The] evidence occurs in the form of allusions to contracts as assorted examples of various parts of the contract scattered throughout the OT.” Finally, he concludes by differentiating covenants from contracts.⁴³

Tucker’s “Fundamental Differences” section is the crux of the issue. First, *covenant* and *contract* differ in their formulae. Covenant is based on an oath pattern; a contract is not. Second, the covenant formula was observed by a conditional self-curse and did not require witnesses. Conversely, contracts were not made by oath, but by a document or oral agreement with witnesses.

Clearly, Tucker differentiates covenants from contracts, but he may overstate the case. The first objection comes by way of a definition. *Covenant* is parallel to *oath*—and often oaths serve in place of a covenant.⁴⁴ Then, if a covenant/oath is “a binding agreement between

³⁶ Gene M. Tucker, “Covenant Forms and Contract Forms,” *VT* 15 (October 1965): 487–503.

³⁷ McCarthy, *Treaty and Covenant*, 17.

³⁸ Tucker, “Covenant and Contract,” 488–92.

³⁹ *Ibid.*, 492–97.

⁴⁰ *Ibid.*, 497–99.

⁴¹ McCarthy, “Covenant in the OT,” 34.

⁴² Tucker, “Covenant and Contract,” 501.

⁴³ *Ibid.*, 500–3.

⁴⁴ *Ibid.*, 488–90.

two parties,”⁴⁵ how does it differ from a contract? All of Tucker’s biblical references involve two or more people binding themselves to an agreement, which parallels the ancient Near Eastern contracts he cites. Thus, if usage defines words, McCarthy has not differentiated meaning for these terms, because their usage is parallel. He recognizes the error of sharply distinguishing covenant and contract, “Of course, a treaty or a covenant must always be a contract in the generic sense of ‘a binding agreement between two or more parties.’”⁴⁶ Hesitantly, Tucker concedes: “Covenants and contracts thus have little in common beyond the very general fact that both are agreements.”⁴⁷

The second objection comes by way of form. Tucker objects to an oath activating oral Old Testament sale contracts. However, if oaths parallel oral covenants, what differentiates an oath from an “oral agreement,” which constitutes a contract? As an oath binds a sale (Genesis 25:29–34), oral agreements bind.⁴⁸ Tucker sees an oath as essential for sealing a covenant, but superfluous to a contract.⁴⁹ He says, “When parties swore in concluding a contract their oath supported a secondary clause of future non-interference; this oath was not intended to validate the contract itself.”⁵⁰ Then, if one party refuses to swear,

⁴⁵ See “The Foundation of *bʿrît*” (pp. 94–96), which establishes this definition. James B. Torrance, “Covenant or Contract? A Study of the Theological Background of Worship in Seventh-Century Scotland,” *SJT* 23 (February 1970): 54. Although still agreeing with Tucker that a covenant differs from a contract, Torrance offers this definition: “Theologically speaking a covenant is a promise binding two people or two parties to love one another *unconditional[ly]*” (italics his).

⁴⁶ McCarthy, *Old Testament Covenant*, 34.

⁴⁷ Tucker, “Covenant and Contract,” 501. Baltzer, *Covenant Formulary*, 4, acknowledges that Pedersen assumes even for the Babylonian and Assyrian material a definition approaching the modern meaning *treaty, contract*. See Johannes Pedersen, *Der Eid bei den Semiten in seinem Verhältnis zu verwandten Erscheinungen sowie die Stellung des Eides im Islam* (Strassburg: Trübner, 1914), 51.

⁴⁸ Tucker, “Covenant and Contract,” 501, acknowledges that Genesis 25:29–34 is an oath in a sale contract, yet adds that this is “hardly a typical contract.”

⁴⁹ Kalluveetil, *Declaration*, 5, 9–16, shows that an oath may remain implicit in a covenant. He also says (ibid., 9), “This may mean that oath is not always the *sine qua non* element of a pact, other acts could constitute a covenant.”

⁵⁰ Tucker, “Covenant and Contract,” 501. Interestingly, he acknowledges that “It has been seen that the oath is found in certain extra-biblical contracts (see also

would the contract still be operative? If not, swearing functions as a signature to a legal contract. Therefore, swearing seals a contract, and Tucker himself defines it as being a “promise with an oath”⁵¹ that is essential to a covenant. Furthermore, denying that an oath is essential to the form of a contract (some contracts lack oaths) may only show that some sale contracts did not need it. However, since some have it, Tucker bears the burden of proof.

Tucker states that the “closest parallel between the contract formulae and the covenant forms is the similarity between the witnesses formulae in the former and calling of God as witness in the latter.”⁵² Akkadian or Old Babylonian contracts are strikingly similar to the covenant form.⁵³

Different nuances in some aspects do exist between covenants and contracts (e.g., names, operative parts, and dates). However, just as contracts have names and dates, the prologue and the historical section of a covenant contain names and dates. The Abrahamic, Mosaic, and Davidic covenants mention the names of both parties of the covenant (Genesis 12:1–3; 15:1–18; Exodus 19:1–10; 2 Samuel 7:8–18) and the date either of present establishment or future fulfillment (Exodus 19:1; 2 Samuel 7:8–18; 2 Kings 11:4; 17:1).

Obviously, a father-son relationship (as between Yahweh and Israel) is not the same as a legal relationship between two strangers bound by a contract.⁵⁴ However, kind and degree relationship distinctions do not change the essential definition of covenants and contracts. The relationships are not of the same kind (father-son versus two strangers); so the degree of warmth will differ. Yet, both

p. 490), but there is a basic difference between such oaths and the covenant oath. The difference is that the oath was essential to the covenant and the oath form was the heart of the covenant form.”

⁵¹ *Ibid.*, 491.

⁵² *Ibid.*, 501.

⁵³ *Ibid.*, 497–99.

⁵⁴ McCarthy, “Covenant in the OT,” 33, sees this as a basic analogy of God’s relationship with Israel, “This is not, of course, a contractual relationship in nature.” However, he views the father-son relationship of God and Israel as adoptive in nature, not organic: “Such an adoptive sense of the father-son relationship is essentially a contractual idea.” Lowery, “Covenant Implication,” 215–16, sees this as a “covenant relationship between Israel and Yahweh.”

relationships by definition are covenants, because the two parties are bound (definition) by certain conditions (form), whether of loyal or legal origin, whether by filial or formal relationships. Both relationships expect reciprocation for the benefit of the other conditioned on a faithful response.⁵⁵

Often, scholars stress distinctions, but overlook similarities. However, more similarities in form exist between covenants and contracts than differences.

⁵⁵ Meredith G. Kline, "Law Covenant," *WTJ* 27 (May 1965): 1, critiques the Lutheran view of law: "Covenant law as well as gospel has a vivifying use, since election to covenant privilege carries demand to service with it." Torrance, "Covenant or Contract?" 54–55, maintains the obvious obligations inherent in both unconditional and conditional covenants through a paradox. He says, "Two things must be held together on this understanding of grace in worship. (i) It is *unconditioned*—by any consideration of worth in man, i.e., it is *free*. (ii) It is *unconditional* in the claims it makes upon us, i.e., it is *costly*. No doubt Lutheranism stressed free grace, and puritan Calvinism stressed the costly claims of grace. But something goes wrong if we stress one at the expense of another" (italics his). He believes both covenants have obligations (e.g., not costly to Christ, but to us). He seems to believe (*ibid.*, 56) that God's grace comes first, leading to an obedient response. Thus, Torrance accuses Judaism of turning the covenant into a contract, because "God's grace [was] made conditional on man's obedience." He sees several Mosaic obedience-conditioned stipulations turning a covenant into a contract. Judaism may have corrupted the intent of the Law, but that does not prove that covenants are not like contracts. Torrance may misunderstand the demands of initial grace on man to enter a relationship (by faith alone) versus demands for those in the covenant to maintain an intimate and obedient fellowship stemming from grace. The former has faith alone as the sole condition established by God who initiates a grace relationship; the latter has an existing grace relationship conditioned upon many demands for maintaining a vibrant fellowship of grace (see Deut. 28–30; John 15:10; 1 John 1:8–10). The latter does not turn the covenant of grace into a contract, although it makes a covenant resemble a contract. For example, usually, one party (God) makes an unconditional free choice to initiate a conditional covenant/contract. However, keeping the contract active is usually based on both parties making mutually binding agreements.

The Function of *b^erî^t* and Related Terms

The function of *b^erî^t* in the Bible is complex.⁵⁶ When between men, it could mean *treaty* (as with Jacob and Laban in Genesis 31:44), *constitution* between official and subject (as with David and Abner in 2 Samuel 3:12–13, 21), *pledge* (as with Jehoiada and captains in 2 Kings 11:4), *alliance of friendship* (as with David and Jonathan in 1 Samuel 18:3), *alliance of marriage* (as in Malachi 2:14). When between God and man, it could mean *alliance of friendship* (as in Psalm 25:14) or *covenant* as a divine constitution or ordinance with signs or pledges (as in Genesis 9:9–17; Exodus 19:5).⁵⁷ Sometimes God even makes a *b^erî^t* with stones, beasts of the field (Job 5:23), and Leviathan (40:28). And Isaiah speaks of a *b^erî^t* Israelites made with death.⁵⁸

The term *b^erî^t* occurs 289 times,⁵⁹ but both Mendenhall and Kalluveettil recognize existence of a covenant, even where the word does not appear.⁶⁰ Kalluveettil demonstrates that ancient Near Easterners employ synonyms where the technical word for treaty is expected. It is necessary to understand the two semantic fields of the technical terms for treaty: they are “covenant-enacting rites and stipulations which are the outcome or effect of treaty.”⁶¹ He explains that the expression *rikiltu/riksu u mâmîtu* (*bond and oath*) is the standard Akkadian technical phrase for treaty. However, if each word is used alone, it

⁵⁶ Kalluveettil, *Declaration*, 7–8.

⁵⁷ Francis Brown, S. R. Driver and Charles A. Briggs, *A Hebrew and English Lexicon of the Old Testament with an Appendix Containing the Biblical Aramaic* (Oxford: Clarendon, 1907), 136. There are also important phrases to consider: for example, *kr̄t b^erî^t* (make or cut a covenant, as in Genesis 15:18), *qwm b^erî^t* (establish a covenant, as in Exodus 6:4), *n̄tn b^erî^t* (confirm a covenant, as in Genesis 17:2), *nsr b^erî^t* (keeping a covenant, as in Deuteronomy 33:9) on the part of man, *zkr b^erî^t* (keeping a covenant, as in Exodus 2:24) on the part of God, and *br b^erî^t* (covenant violation, as in Deuteronomy 17:2).

⁵⁸ Kalluveettil, *Declaration*, 7–16. See also William R. Smith, *The Religion of the Semites: The Fundamental Institution* (New York: Schocken, 1972; reprint, of *Lectures on the Religion of the Semites* (n.p.: 1894), 314, 316, who discusses extra-biblical covenants between men and animals.

⁵⁹ Mendenhall, “Covenant,” 715, counts 286 times.

⁶⁰ Kalluveettil, *Declaration*, 20–56. Mendenhall, “Covenant,” 715.

⁶¹ Kalluveettil, *Declaration*, 17.

“could mean treaty and is often used in that sense.” For example, *riksu*⁶² can stand in place of the combined technical phrase for treaty by the principle of metonymy (the effect stands for the cause; i.e., stipulations are outcomes of a treaty but can represent the agreement itself).⁶³

In the ancient Near Eastern context, other related terms for covenant stand for treaty⁶⁴ by synecdoche (i.e., a part stands for the whole).⁶⁵ Likewise, the Old Testament uses related to *bêrî t* terms to stand for treaty, which closely parallels ancient Near Eastern texts.

Two brief examples⁶⁶ show that related terms for *bêrî t* evolved along the same lines as the ANE terms for treaty. A phrase “descriptive of covenant-making acts” is *give the hand*. Six of its eight Old Testament occurrences have covenant implications.⁶⁷ In Lamentations 5:6, this

⁶² Ibid. Although *riksu* means *binding*, Kalluveetil recognizes that “In treaty literature this general meaning gets concretized or restricted to a particular sphere, where it refers to stipulations.”

⁶³ Ibid.

⁶⁴ Other pact-ratifying rites which indicate a treaty include: *napistam lapâtum* (“to touch the throat”), *hayaran qatalum* (“to kill an ass”), *sissiktam rakâsum* (“to bind the hem of the garment”). Kalluveetil, *Declaration*, 17–56, lists other terms.

⁶⁵ For example, *nîsum* (“curse” or “imprecation”) is part of a treaty that can stand for the whole treaty. Kalluveetil, *Declaration*, 18, says, “Literally it means curse, imprecation and refers to covenant-making rite. Since it is the oath or curse that founds the treaty, the agreement itself came to be called after the covenant-enacting rite. . . . Indeed, this is a common phenomenon in Mari texts.”

⁶⁶ Taken from *ibid.*, 19. The four categories with their respective Hebrew phrases that evolved as synonyms of *bêrî t* are: “(a) Phrases descriptive of covenant-making acts: *n̄tn yâd*, *ḥzq b̄kn̄p*, *massêkâ*, *šh b̄râkâ*. (b) Phrases for stipulations: *ʿad & ʿdût*, *hōzeh & hâzût*, *nâhah*, *dâbâr*, *smd*. (c) Phrases related to stipulations: *sâlôm*, *tôb*, *hesed*, *ʿmnh*. To these three types of synonyms which have parallels in treaty literature, are to be added: (d) Phrases denoting union: *hbr*, *yhd*.” See also William L. Moran, “Note on the Treaty Terminology of the Sefire Stelas,” *JNES* 22 (July 1963): 173–76.

⁶⁷ Gen. 38:28; 2 Kings 10:15; Jer. 50:15; Ezek. 17:18; Lam. 5:6; Ezra 10:19; 1 Chron. 29:24; 2 Chron. 30:8. Kalluveetil, *Declaration*, 23, n. 28, offers seven instances where *n̄tn yâd* occurs. In Gen. 38:28, Esau put out his hand when coming out of the womb; however, that does not signify a covenant. In Jer. 50:15, Jerusalem’s giving of her hand refers to surrendering.

phrase is used as a synonym for treaty: *We have given our hand [ntrn yd] to the Egyptians and the Assyrians, to be satisfied with bread.*⁶⁸ In an Akkadian letter to Gezer, a vassal informs his lord that his youngest brother has entered into a treaty with Muhhazu by having “given his two hands to the chief of the ‘Apiru.”⁶⁹

Another term that stands for *b^erît* is *hhzyqw bknp*, translated “take hold of the robe,”⁷⁰ appears twice in the Old Testament.⁷¹ In Zechariah 8:23, Gentile men began to make covenants by taking *firm hold of one Jew by the hem of his robe* (NIV), because their privileged position given by God assured safe pilgrimage to Jerusalem.⁷² An ancient Near Eastern phrase analogous to *hhzyqw bknp* is “*qaran subât . . . subâtum* = ‘to seize the hem of the garment.’”⁷³ Kalluveettil cites a text where Arisen, the ruler of Burundu, “seized the hem of the garment of Zimri-Lim (king of Mari) . . . the town of Burundu has become the town of Zimri-Lim and Arisen his son.” Grabbing the hem means *to make a pact*, the “gesture performed at the conclusion of a treaty.”⁷⁴

Moshe Weinfeld recognizes that “covenantal relationship in Mesopotamia had been expressed by idioms expressing ‘peace,’ ‘brotherhood,’ ‘love,’ and ‘friendship.’”⁷⁵

⁶⁸ All Scripture quotations are taken from the *New King James Version* (Nashville: Nelson, 1982), unless otherwise indicated.

⁶⁹ James B. Pritchard, ed., *Ancient Near Eastern Texts Relating to the Old Testament (ANET)*, 3d ed. (New Jersey: Princeton University Press, 1969), 490.

⁷⁰ Kalluveettil’s translation, in *Declaration*, 26.

⁷¹ 1 Sam. 15:27 and Zech. 8:23. After Samuel exposed Saul’s sin and left, Saul *caught hold of the hem of his robe* (1 Sam. 15:27, NIV) and it tore. Thus, God took away from Saul the covenant that He had made with him by anointing him king and gave it to a *better man* (v. 28). Saul still wanted to lay hold of the covenant, but it left him. Kalluveettil rightly sees this phrase as a synonym for *covenant*.

⁷² Kalluveettil, *Declaration*, 27.

⁷³ *Ibid.*, 26. Cf. the Assyrian king’s letter about a disloyal vassal, “Twice he swore an oath to me. From the time he took the hem of my garment . . .” (Pritchard, *ANET*, 628). “Hem of my garment” is a covenant term.

⁷⁴ *Ibid.*, 26–27.

⁷⁵ Weinfeld, “Covenant Terminology,” 191. See also Moran, “Treaty Terminology,” 174.

So, does a common definition of *covenant* exist? Moshe Weinfeld sees four essential elements in the ancient Near Eastern *covenant*: “oath and commitment” and “grace and friendship.”⁷⁶ Weinfeld clarifies the hendiadys:⁷⁷ “any settlement between two parties must be based on: (1) some kind of mutual understanding which enables the conclusion of an agreement, (2) a pledge or formal commitment to keep the agreement.”⁷⁸ The words *covenant* and *oath* (*bʿrît* and *ʾalah*) in Deuteronomy 29:11, 13 express the commitment implied by the term *bond*.

In conclusion, three elements delineate a covenant: “(1) an agreement which binds the two together; (2) the form or component parts of the agreement; (3) the concluding ceremony.”⁷⁹

Two Types of Covenants

Two types of ancient Near Eastern covenants parallel those of the Old Testament:⁸⁰ promissory and obligatory. Weinfeld acknowledges this: “The obligatory type reflected in the Covenant of God with Israel [the Mosaic Covenant] and the promissory type reflected in the Abrahamic and Davidic covenants.”⁸¹

Promissory (Unconditional) Covenants

Promissory covenants are unconditional and exactly opposite to obligatory covenants.⁸² Part two of this article will develop the promissory covenant form described in “The Form of *bʿrît*” section.⁸³ Weinfeld shows similarities between modern and patriarchal covenants⁸⁴

⁷⁶ Weinfeld, “Covenant Terminology,” 190.

⁷⁷ A hendiadys expresses one idea by two nouns connected by *and*.

⁷⁸ Weinfeld, “Covenant Terminology,” 190.

⁷⁹ Rogers, “Covenant with Abraham,” 244, joins Pedersen and Buhl’s definitions with works of Mendenhall, Baltzer, and McCarthy to yield the above definition.

⁸⁰ Moshe Weinfeld, “The Covenant of Grant in the Old Testament and the Ancient Near East,” *JAOS* 90 (1970): 185.

⁸¹ *Ibid.*, 184.

⁸² Mendenhall, “Covenant Forms,” 62. Disobedience cannot dissolve this covenant. See also McCarthy, “Covenant in the OT,” 54, 58.

⁸³ Cf. pp. 97-106.

⁸⁴ Weinfeld, “Covenant of Grant,” 184, states, “The present study suggests a new way of understanding the character of the Abrahamic-Davidic covenants

and clarifies the elements of these covenants. Two versions of promissory covenants exist: grant and patron covenants.⁸⁵

Grants in Relation to Promissory Covenants. The grant version of the promissory covenant is “an obligation of the master [suzerain] to his servant [vassal].”⁸⁶ Although some equate *grant* and *promissory* covenants as unconditional, grant covenants are a subset of *promissory* (unconditional) covenants.⁸⁷

The Abrahamic and Davidic are *grant*, not vassal, covenants. God bestowed them on Abraham and David as gifts. However, blessings came because they were found faithfully serving after the making of the the covenant. Thus, Abraham was awarded the blessing of the land (Genesis 22:16, 18; 26:5) and David the benefit and grace of participating in an everlasting dynasty (2 Samuel 7:8–18; 1 Kings 3:6; 9:4; 11:4, 6; 14:8; 15:3). An unconditional covenant with blessings conditioned on obedience is not contradictory.⁸⁸

The same grant patterns appear in non-biblical covenants. The treaty of Hattušiliš III with Ulmi-Tešup of Dataša gives land and the house (dynasty) as unconditional gifts:

and this means of typological and functional comparison with the grant formulae in the Ancient Near East.”

⁸⁵ Similarities between *patron* and *grant* covenants may explain the neglect of the former. Scholars may view it as a fictitious subset, since Kalluveettil, *Declaration*, alone mentions it as a real category.

⁸⁶ Weinfeld, “Covenant of Grant,” 185.

⁸⁷ One should not overstate the case. For example, Kalluveettil, *Declaration*, 8, does not use *promissory* as a major category but as a subset applicable to all four categories of covenants (suzerainty, parity, patron, and promissory).

⁸⁸ J. Dwight Pentecost, *Thy Kingdom Come: Tracing God’s Kingdom Program and Covenant Promises Through History* (Grand Rapids: Kregel, 1995), 59, explains: “. . . an unconditional covenant, which binds the one making the covenant to a certain course of action, may have blessings attached to it that are conditioned on the response of the recipient. Though these blessings grow out of the original covenant, they do not change the unconditional character of the covenant. If we fail to recognize that an unconditional covenant may have certain conditional blessings attached to it, we might mistakenly think that conditioned blessings necessitate a conditional covenant, which could pervert our understanding of the nature of Israel’s determinative covenants.”

After you, your son and grandson will possess it, nobody will take it away from them. If one of your descendents sin (uastai) the king will prosecute him at his court. Then when he is found guilty . . . if he deserves death he will die. But nobody will take away from the descendant of Ulmi-Tešup *either his house or his land* in order to give it to a descendant of somebody else.⁸⁹

Regardless of the sin that may have endangered the covenant, the grant was still operative. Ancient Near Eastern grant covenants clearly parallel the grant covenants that God made with Abraham and David.

Patron Covenants in Relation to Promissory Covenants. Some equate *patron* with *promissory* covenants since both are unconditional. However, *patron* covenants are a sub-category of *promissory* covenants.

Kalluveettil defines the patron covenant thus: “The party in superior position binds himself to some obligation for the benefit of an inferior: Is 28:15.”⁹⁰ Mendenhall says, “Surprisingly little evidence exists for this type other than the covenant tradition that bound Yahweh.”⁹¹

The Abrahamic and Davidic covenants may well belong to this type.⁹² The difference between grant and patron covenants concerns which person binds himself. The patron covenant always has a superior binding himself for the inferior’s benefit. The grant covenant can have an inferior binding himself for the superior’s benefit (e.g., 2 Kings 23:3; Ezra 10:3; this is not essential: cf. Jeremiah 34:8).

Obligatory (Conditional) Covenants

The obligatory covenant is conditional and the exact opposite of the promissory covenant. Part two of this article will develop the

⁸⁹ Weinfeld, “Covenant of Grant,” 189.

⁹⁰ Kalluveettil, *Declaration*, 8.

⁹¹ Mendenhall, “Covenant,” 715, says, “The curious and difficult passage of Isa. 28:15 (the covenant with death) seems to fall into this category, for only ‘death’ seems to be bound not to touch those in the covenant; one suspects that this is a prophetic satire of some sort, ridiculing religious covenant concepts derived from the Abraham-David tradition.”

⁹² *Ibid.*

obligatory covenant form described in “The Form of *berî t* section.”⁹³ Two sub-categories of obligatory (conditional) covenants exist: the *treaty* and the *parity*⁹⁴ covenant.

Treaties in Relation to Obligatory Covenants. The “suzerainty treaty by which a great king bound his vassals to faithfulness and obedience to himself”⁹⁵ defines obligatory covenants. Such covenants bound the “inferior to certain obligations defined by the superior”⁹⁶ (e.g., 1 Samuel 11:1; Ezekiel 17:13). Some equate *treaty* with *obligatory*, since both are conditional. However, *treaties* are a subset within the larger category of *obligatory* covenants.

The ancient Near Eastern suzerainty treaty included conditional elements: the vassal was obligated to respond to the suzerain’s demands in order to qualify for the suzerain’s benefits.⁹⁷

However, the suzerainty treaty primarily established a solid mutual relationship between parties, “especially military support.”⁹⁸ That is, the

⁹³ Cf. pp. 97-106.

⁹⁴ Lowery, “Covenant Implication,” 23, seems to contrast parity and suzerainty covenants and put them in different classes. Even so, he says, “The structure of a Parity treaty follows closely that of the suzerain vassal treaty with a few differences.” G. Herbert Livingston, *The Pentateuch in its Cultural Environment*, 2d ed. (Grand Rapids: Baker, 1974), 156, also notes the similarity between parity and suzerainty treaty forms.

⁹⁵ Mendenhall, “Covenant Forms,” 52. One may call this a suzerainty covenant, as does Kalluveettil, *Declaration*, 8. See also Mendenhall, “Covenant Forms,” 55.

⁹⁶ Kalluveettil, *Declaration*, 8.

⁹⁷ Mendenhall, “Covenant Forms,” 56. He says (*ibid.*, 52) regarding obligatory covenants, “No society compels its members to keep every promise they may make. At the same time the good of society itself demands that certain promises must be followed by performance, and it perfects forms and procedures by which it can guarantee those promises. Those procedures are in the beginnings of law most closely connected with religion, and are known as *oaths*. As time passes, the oath which is a conditional self-cursing, an appeal to the gods to punish the promiser if he defaults, tends to become merely the constitutive legal form which makes the promise binding.”

⁹⁸ The suzerain’s benefits were military in nature. Yahweh’s (the suzerain’s) military campaign on behalf of Israel (the vassal) comprises much of His support. In Num. 10:9; Deut. 20:4; 33:29; and Josh. 10:6, the LORD saves Israel in battle, but His military support is not unconditional. Israel must obey, as Josh. 7:1–13 and 22:22 suggest. See Mendenhall, “Covenant Forms,” 56.

treaty's unilateral stipulations only bound the vassal, since only the vassal swore obedience.⁹⁹ This constituted a suzerainty treaty.

Parity in Relation to Obligatory Covenants

Parity treaties are a sub-category of obligatory covenants. In these, "both parties are bound to obey identical stipulations," while in "*suzerainty* treaties . . . only the inferior [as already mentioned] is bound by an oath—the vassal is obligated to obey the commands stipulated by the Hittite king."¹⁰⁰

Besides binding themselves to stipulations, both parties "commit themselves by oath to the covenant."¹⁰¹ This contrasts with covenants that are contingent on a unilateral response from the suzerain or the vassal. Mendenhall thinks that parity treaties can be "further subdivided, as it was done by Thucydides long ago, into two classes: those in which specific obligations are imposed, and those which impose no obligation but to preserve the peace between two parties."¹⁰² Several examples of the latter type of covenant are seen between Abraham and Abimelech (21:21–32) and between Isaac and Abimelech (26:27–31). Examples of the former are the treaties Israelite kings made with foreigners beginning from the time of Solomon (1 Kings 5:12; 15:19; 20:34).¹⁰³ This type of subdivision may be superficial because, upon further reflection, keeping the peace, even if it is a passive act with no other stipulations attached to it, is still an obligation that both parties must actively implement if a desire for retaliation arises. Thus, whether or not one accepts Thucydides' subdivisions advocated by Mendenhall, the substance of a parity treaty is still the same: both parties are bound to obey identical conditions.

⁹⁹ Ibid.

¹⁰⁰ Mendenhall, "Covenant Forms," 55. Both represent the suzerainty form of treaty, "since the parity treaties are in effect two treaties in opposite directions, i.e., each king binds the other to identical obligations. The famous treaty between the Hittites and Egypt during the reign of Rameses II is the classical example" (ibid., 55–56).

¹⁰¹ Kalluveetil, *Declaration*, 8.

¹⁰² Mendenhall, "Covenant," 716. (See McCarthy, "Covenant in the OT," 59–60, for a summary of E. Kutsch's study of covenants.) Mendenhall finds three basic types of covenants, categorizing parity as a separate type.

¹⁰³ Mendenhall, "Covenant," 716–17.

Summary

Two centuries of archeological discoveries have revolutionized the understanding of biblical covenants. Thus, after defining covenants in light of the ancient Near Eastern context, one can see the close parallels that Israelite covenants share with their ancient Near Eastern neighbors. Hence, one can better interpret and understand the distinctions exhibited by promissory (Abrahamic and Davidic) and obligatory (suzerainty and vassal) covenants. Of course, God is free to use the two types of covenants found in the ancient Near East to create the Israelite covenants.¹⁰⁴ The next article will develop in more detail the historical implications and parallels between ancient Near Eastern and Old Testament covenant settings.

—End—

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¹⁰⁴ Kline, “Law Covenant,” 6, says: “Now since in certain notable instances, particularly but not exclusively in the Mosaic covenants, it pleased the Lord of Israel to describe his covenant relationship to his people according to the pattern of these vassal treaties, no other conclusion is warranted than that ‘covenant’ in these instances denoted *at the formal level* the same kind of relationship as did the vassal covenants on which they were modeled.”