

## When Synchrony Overtakes Diachrony: Perspectives on the Relationship between the Deuteronomic Code and the Holiness Code

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### ABSTRACT

*The review article offers a critique on the recent book by Benjamin Kilchör. I approach his work from the perspective of Leviticus and recent debates on this biblical book. I start by examining Kilchör's introduction and the methodology he selected, and then focus on Lev 19 and 25 and their diachronic relation to texts from Exodus and Deuteronomy. The article finds many of the arguments offered by Kilchör to be wanting.*

KEYWORDS: Deuteronomy; Holiness Code; Jubilee; Leviticus

### A INTRODUCTION

The book under discussion could be understood as the continuation of a trend in Pentateuch scholarship towards synchrony.<sup>1</sup> Part of this trend was already evident in studies by Warning and Ruwe, both published in 1999.<sup>2</sup> This does not mean that diachronic work has stopped. In the same year as Warning's and Ruwe's books appeared, a study by Grünwaldt was published; his work was still diachronic.<sup>3</sup> The book by Nihan also represents another side where historical-critical work continues, and the recent commentary by Hieke still takes historical-critical approaches seriously and actually draws a great deal on the work of Nihan – even if his own work is mostly synchronic, although not a-historical.<sup>4</sup> One could also add the commentary by Watts on Lev 1-10, which is also shows

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<sup>1</sup> Benjamin Kilchör, *Mosetora und Jahwetora: Das Verhältnis von Deuteronomium 12-26 zu Exodus, Levitikus und Numeri*, BZABR 21 (Wiesbaden: Harrassowitz, 2015).

<sup>2</sup> Wilfried Warning, *Literary Artistry in Leviticus*, BibInt 35 (Leiden: Brill, 1999); Andreas Ruwe, "Heiligkeitsgesetz" und "Priesterschrift": *Literaturgeschichtliche und rechtssystematische Untersuchungen zu Leviticus 17,1-26,2*, FAT 26 (Tübingen: Mohr Siebeck, 1999).

<sup>3</sup> Klaus Grünwaldt, *Das Heiligkeitsgesetz Leviticus 17-26: Ursprüngliche Gestalt, Tradition und Theologie*, BZAW 271 (Berlin: De Gruyter, 1999).

<sup>4</sup> Christophe Nihan, *From Priestly Torah to Pentateuch*, FAT II/25 (Tübingen: Mohr Siebeck, 2007); Thomas Hieke, *Levitikus 1-16*, HThKAT (Freiburg: Herder, 2014), and Thomas Hieke, *Levitikus 17-26*, HThKAT (Freiburg: Herder, 2014).

an interest in the historical context of the text.<sup>5</sup> Whereas Ruwe and Warning read the book of Leviticus (or in Ruwe's case actually only the Holiness Code) synchronically, Kilchör read the whole of the Pentateuch synchronically, but then basically argued that the synchronic order of the books (i.e. Deuteronomy last) should also be regarded as the diachronic order, which means that Deuteronomy is both the last book and the youngest.<sup>6</sup> The present review focuses on the work of Kilchör from the perspective of Leviticus and especially certain chapters in the Holiness Code. The reason for this focus on the perspective from Leviticus is that the diachronic order between Leviticus and Deuteronomy is probably the most controversial feature of Kilchör's book.

Kilchör never offers any dating of texts, but he is interested in the diachronic relationship between texts, which simply means ascertaining which text is younger or older than another.<sup>7</sup> For Kilchör, the issue is thus *only* the relative relationship between texts and, according to this author, this is the only "methodologically sound" (methodisch verantwortbar) way of working with texts. In other words, Kilchör never goes beyond establishing the diachronic relationship between texts in order to relate the intertextual allusions he identifies between texts to any historical context. His work is therefore consciously and strictly a-historical.

In his introduction, he engages with the now classic diachronic order of CC, D, P and then H by critiquing the work of scholars such as Cholewiński, Otto, Levinson, Stackert and Nihan.<sup>8</sup> For Kilchör, Cholewiński never really entertained the possibility that D is later than H, but simply proceeds in the light of his pre-conceived idea that H re-interprets D.<sup>9</sup> Levinson is more interested in the relation between the CC and D, and especially in the legal hermeneutics applicable. Like Cholewiński, Levinson presumes the diachronic relation and does not argue in favour of it again.<sup>10</sup> Kilchör is also very critical of the 1999 essay by Otto on the reinterpretation of Deuteronomy in Lev 17-26, and then asks how Lev 17-26 could be a *Fortschreibung* of Deuteronomy, while it is

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<sup>5</sup> James W. Watts, *Leviticus 1-10*, HCOT (Leuven: Peeters, 2014). See Esias E. Meyer "Two New Commentaries on Leviticus," *ZABR* 20 (2014): 267-280, which compares the commentaries of Watts and Hieke.

<sup>6</sup> Kilchör, *Mosetora und Jahwetora*, 3.

<sup>7</sup> Kilchör, *Mosetora und Jahwetora*, 3.

<sup>8</sup> Kilchör, *Mosetora und Jahwetora*, 12-21.

<sup>9</sup> Alfred Cholewinski, *Heiligkeitgesetz und Deuteronomium: Eine vergleichende Studie*, AnBib 66 (Rome: Biblical Institute Press, 1976).

<sup>10</sup> Bernhard M. Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation* (Oxford: Oxford University Press, 1997).

placed *before* Deuteronomy.<sup>11</sup> Otto never asked this question, but it is one of the central points of enquiry in Kilchör's introduction.

Kilchör is slightly more positive about Stackert, who at least allows for the possibility that the direction of dependence could also be the other way around, yet he still follows the more traditional diachronic order of CC, D, P and then H.<sup>12</sup> Kilchör is even more positive about Nihan, since Nihan seems to ask the question that everyone else (according to Kilchör) conveniently sidesteps.<sup>13</sup> As Kilchör puts it:<sup>14</sup>

Damit ist Nihan, so weit ich sehe, der Einzige, der sich dem Problem stellt, dass sich in den gängigen Erklärungsmodellen das synchrone und das diachrone Verhältnis der Pentateuchgesetze (namentlich H and D) diametral entgegenstehen.

The problem, simply put, is thus: How could the Holiness Code be younger than Deuteronomy if the current order of the books seems to imply that Deuteronomy is a re-interpretation of previous laws codes?

## B KILCHÖR'S CRITERIA

What are the author's criteria? Like many other scholars (the work of Tooman, Lyons and Carr on more than one occasion comes to mind) who engage with the issue of directionality, Kilchör distinguishes between criteria for determining some kind of intertextual relation or, as he puts it, "literarisches Abhängigkeitsverhältnis," and specific criteria used to determine which text was using the other one.<sup>15</sup> With regard to the former, Kilchör accepts the following:

- (i) He assumes that legal texts in the Pentateuch express an awareness of each other.<sup>16</sup> Some kind of literary dependence is thus always present. In this

<sup>11</sup> Eckart Otto, "Innerbiblische Exegese im Heiligkeitsgesetz Levitikus 17-26," in *Levitikus als Buch*, ed. Heinz-Josef Fabry and Hans-Winfried Jüngling, BBB 119 (Bonn: Philo, 1999), 125-196.

<sup>12</sup> Jeffrey Stackert, *Rewriting the Torah*, FAT 52 (Tübingen: Mohr Siebeck, 2007).

<sup>13</sup> Nihan, *Priestly Torah*, 553 n. 614. Kilchör does not seem to be bothered by the fact that this question is only asked in a footnote.

<sup>14</sup> Kilchör, *Mosetora und Jahwetora*, 19.

<sup>15</sup> William A. Tooman, *Gog of Magog*, FAT II/52 (Tübingen: Mohr Siebeck, 2011). Michael A. Lyons, *From Law to Prophecy: Ezekiel's Use of the Holiness Code*, LHOTS 507 (London: T&T Clark, 2009). David M. Carr, "The Many Uses of Intertextuality in Biblical Studies: Actual and Potential," in *Congress Volume Helsinki 2010*, ed. Martti Nissinen, VTSup 148 (Leiden: Brill, 2012), 505-535. David M. Carr, "Method in Determination of Direction of Dependence: An Empirical Test of Criteria Applied to Exodus 34, 11-26 and its Parallels," in *Gottes Volk am Sinai: Untersuchungen zu Ex 32-34 und Dtn 9-10*, ed. Matthias Köckert and Erhard Blum (Gütersloh: Gütersloh Verlag, 2001), 107-140.

<sup>16</sup> Kilchör, *Mosetora und Jahwetora*, 31-32.

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regard, he is very critical of the work of Bergsma, who proposes very strict criteria, while agreeing with the arguments offered by Van Seters.<sup>17</sup> If legal texts were passed on ("tradieren") over decades or centuries, one can presume that younger texts "knew" about older ones;

- (ii) Furthermore, he makes use of seven criteria by the NT scholar Richard Hays which all point to literary dependence, criteria which I will not repeat here.<sup>18</sup>

More important criteria would be related to the question as to what the direction of dependence could be. Kilchör offers six:<sup>19</sup>

- (i) No Pentateuch model, especially one developed from narrative texts, should be used to determine the direction of legal texts.
- (ii) No theory of the history of religion of Ancient Israel should be presupposed. This criterion is obviously aimed at Wellhausen. In this regard, Kilchör quotes Stackert approvingly.<sup>20</sup>

He thus starts with two very negative criteria of what not to do, which is clearly intended to disqualify a great deal of work done before – work which was thoroughly diachronic and, one should add, which dominated a great deal of twentieth-century scholarship.

- (iii) The starting point should be the final text.
- (iv) All parallel texts should be explored, not only two. By this Kilchör means that one cannot, for instance, compare only the texts from Deuteronomy and the Covenant Code, but all other texts that deal with similar issues from the Holiness Code and the book of Numbers should be used. The puzzle should therefore be completed by using *all* the relevant pieces for the whole of the Pentateuch.
- (v) One should first determine the direction between the texts by means of a *linguistic* evaluation (sprachliche Evaluation) based on a synopsis. If one attempts to do this based on content, then these comparisons could usually go in either direction. However, what exactly is the difference between

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<sup>17</sup> John S. Bergsma, *The Jubilee from Leviticus to Qumran: A History of Interpretation*, VTSup 115 (Leiden: Brill, 2007). John van Seters, *The Life of Moses: The Yahwist as Historian in Exodus-Numbers* (Louisville: Westminster/John Knox, 1994).

<sup>18</sup> Kilchör, *Mosetora und Jahwetora*, 34.

<sup>19</sup> Kilchör, *Mosetora und Jahwetora*, 35-41.

<sup>20</sup> Kilchör approves of Stackert's statement that his "historical determinations, however, are based upon the *available* evidence, i.e., the texts themselves..." Stackert, *Rewriting the Torah*, 19.

*linguistic* and *content* (inhaltliche) evaluations? The answer to this question does not seem that clear. As part of this discussion, Kilchör points to the most notorious problem with determining literary dependence:<sup>21</sup>

Was in die eine Richtung als Ausweitung erscheint, kann in die andere als Vereinfachung oder Kürzung gelesen werden. Polemik in die eine Richtung kann Polemik in die andere sein.

This still does not really answer the question as to what the difference is between a linguistic evaluation and evaluation of the content. How does one decide in the first place that one should read certain texts together? One deals with texts that engage with the same issues, such as slave laws, or where to sacrifice, but is that initial judgement not based on the content? At this point, I go back to the criteria used to determine whether there is some allusion going on in the first place, which shows that even distinguishing between determining intertextuality first and then arguing for direction could at best be a rather artificial distinction. Kilchör's last criterion is as follows:

- (vi) The (broader) context must be observed in order to see whether the order of the texts could be explained by means of the order of other texts. This broader context obviously refers to the larger literary context of that particular text (and not its historical context).

After presenting these six criteria, Kilchör, like many other scholars, refers to the six criteria identified by Carr in 2001.<sup>22</sup> Kilchör clearly shows that at the heart of these criteria is the general principle that the shortest is the oldest and he propounds that that is probably true in most cases, but not always, since a later author could be abbreviating. I will revisit these questions when I look at concrete examples of what he does with different texts, but first I offer a few more comments on his introduction.

Like quite a number of other scholars, Kilchör believes that the structure of the content of the Deuteronomic Code was influenced by the Decalogue.<sup>23</sup> As I note below, Kilchör argues that Lev 19 played some kind of mediating role in this structuring. The rest of my review focuses on Kilchör's interpretation of Lev 19 and the notoriously complicated slave laws. As the English saying goes: "The proof of the pudding is in the eating." In the field of biblical criticism, the saying

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<sup>21</sup> Kilchör, *Mosetora und Jahwetora*, 38.

<sup>22</sup> Carr, "Method in Determination," 126. Kilchör, *Mosetora und Jahwetora*, 39. See discussion in Esias E. Meyer, "Leviticus 11, Deuteronomy 14 and Directionality," *JSem* 23/1 (2014): 73-74.

<sup>23</sup> Kilchör, *Mosetora und Jahwetora*, 42-52. For a very thorough and critical overview of this debate see especially Eckart Otto, *Deuteronomium 12,1-23,15*, HThKAT (Freiburg: Herder, 2016), 1088-1093 and 1108-1112. He discusses the contributions of all the important scholars such as Kaufman, Braulik, Fishbane, Olson, Finsterbusch, Rütterswörden and Veijola.

could be paraphrased as: "Criteria for directionality are only useful if they could be applied to actual texts."

## C LEVITICUS 19

With regard to Lev 19, Kilchör portrays its structure as a kind of diptych, where the two halves mirror each other.<sup>24</sup> In the first half (vv. 3-18), regulations from the CC, P and H are linked to certain laws from the Decalogue. The second half functions like an interpretation of the first half, by which is meant that it adds further regulations informed by the Decalogue. Between the two halves v. 19a functions as a division between the two mirror images, and acts like a kind of a hinge. Similar arguments were presented by Otto, Nihan and more recently Hieke.<sup>25</sup> These two parts do not only have a structuring function, but also what Kilchör calls a "legal hermeneutic" function.<sup>26</sup> What does he mean by this concept? Basically, that Lev 19 quotes seven (depending on how one counts) of the Ten Commandments and then takes elements from the CC, P and H and organises them around these seven commandments.<sup>27</sup> He summarises this argument in the table below:<sup>28</sup>

Lev 19,2: Ihr sollt heilig sein, denn ich bin heilig, Jahwe, euer Gott	
<b>19,3-10</b> <b>Vater und Mutter fürchten</b> <b>Die Sabbate halten</b> <b>Kein Götzendienst</b> <b>Keine Götzenbilder</b> 5-8: Opferbestimmung 9f.: Sabbatbestimmung aus Lev 23,22	<b>19,19-36: Satzungen</b> 19-29: Keine heidnischen Rituale 30: Die Sabbate halten 31: Kein Götzendienst 32: Die Alten ehren
<b>19,11-16</b> <b>Nicht stehlen</b> <b>Nicht falsch zeugen</b> <b>Den Namen Gottes nicht missbrauchen</b> 13: Den Nächsten und den Tagelöhner nicht bedrücken und berauben 14: Den Tauben und den Blinden Nicht fluchen und behindern 15f.: Ehrlichkeit vor Gericht	33f.: Den Fremdling nicht bedrücken 35f.: Ehrlichkeit im Handel
<b>19,17f.</b> <b>Du sollst deinen Nächsten lieben wie dich selbst</b>	
Lev 19,36b: Ich bin Jahwe, euer Gott, der euch aus Ägyptenland geführt hat...	

The seven commandments are in bold in the table (in terms of the Reformed counting and not the Catholic/Lutheran way of counting usually used

<sup>24</sup> Kilchör, *Mosetora und Jahwetora*, 52.

<sup>25</sup> See discussion in Esias E. Meyer, "The Foreskinned Fruit of Leviticus 19," *Sem* 58 (2016): 102-106.

<sup>26</sup> Kilchör, *Mosetora und Jahwetora*, 53.

<sup>27</sup> See Kilchör's discussion of the different ways of counting found in different traditions in Kilchör, *Mosetora und Jahwetora*, 42-52. He opts for the Catholic/Lutheran counting.

<sup>28</sup> Kilchör, *Mosetora und Jahwetora*, 53.

by Kilchör); there are 1, 2, 4, 5 initially and then 3, 8 and 9 later. For Kilchör, everything in the rest of ch. 19 is linked to one of these seven. This may be a weakness in his argument, which seems rather forced. Thus, vv. 5-8 about when one should eat the *נֶבֶחַ שְׁלֵמִים*, are supposed to be related to the first commandment of not worshipping other gods.<sup>29</sup> This link seems contrived. One could rather argue, like Nihan for instance, that vv. 5-8 refer back to Lev 7:16-18 and thus P.<sup>30</sup> Kilchör acknowledges this link and then argues that since 7:12-18 is actually about worshipping God (Gottesdienst), these verses are about not worshipping other gods. It seems like a bit of stretch to link worship of other gods to eating the peace offering on the correct day.

Furthermore, how could all the rituals described in vv. 19-29 be located under the umbrella of "heathen rituals"? The latter is probably applicable to vv. 26-28, which include reference to witchcraft, cutting the flesh and tattoos, but how is a man sleeping with a betrothed slave guilty of a heathen ritual (vv. 20-22)? It seems to be more closely related to the command of not committing adultery, but that command does not appear in Lev 19, according to Kilchör. One could argue that vv. 20-22 are a reference to that command, but this would be contrary to Kilchör's idea that the commands are present only in the first half of the chapter and thus disregard his "hermeneutical key." The mistake made in vv. 20-22 is rectified by means of an *אָפָּן* and the man's sins are forgiven, which also takes us back to texts from the first half of Leviticus such as ch. 5 and the language of *כִּפָּר*, which is central to the sacrificial cult. Thus, with regard to Kilchör's understanding that the seven of the Ten Commandments referred to here have some structural role to play does not seem very convincing.

In my understanding of the strange mixture of laws in Lev 19, I found the argument by Hieke the most convincing:<sup>31</sup>

Die Gültigkeit des Dekalogs ist unumstritten vorausgesetzt – aber vielleicht soll durch diese Gestaltungsweise auch angedeutet werden, dass der Dekalog nicht alles ist. Der Alltag ist vielfältiger, und für "Heiligkeit" ist mehr gefordert als die Erfüllung eines Mindeststandards, wie ihn der Dekalog darstellt.

The point for Hieke is that Lev 19 aimed to add aspects to the Ten Commandments, since the latter are *insufficient*. For example, they do not adequately cover what is necessary to live a holy life. Leviticus 19 thus attempts to supplement these commandments with laws that have nothing to do with them, but that is the very point. Cultic laws, agricultural laws, laws against mixing, laws about the strangers, other vulnerable people, about practising the law in fairness, all had to be added. For Kilchör, the Decalogue is still central and everything is

<sup>29</sup> Kilchör, *Mosetora und Jahwetora*, 56.

<sup>30</sup> Nihan, *Priestly Torah*, 468-469.

<sup>31</sup> Hieke, *Levitikus 17-26*, 707.

somehow related to the commandments quoted. I would rather suggest that the authors wanted to add *unrelated* things, simply because the Decalogue lack in scope. The Decalogue is valid, as Hieke just pointed out, but not as central as Kilchör argues.<sup>32</sup>

Another question would also be that if the Decalogue still has to play a role, even only a structural one, but is somehow also at centre stage, why then leave out three of the commandments (or four, depending on how one counts)? The laws about not murdering, not committing adultery and not coveting are not part of Lev 19, although I showed that there might be a case for the law on adultery (vv. 20-22).

For Kilchör, the strategy of the authors was to somehow relate every added stipulation to the seven quoted commands. Kilchör argues that this strategy form some foundation on which the authors of Deuteronomy would later build:<sup>33</sup>

Was Lev 19 also im Kleinen tut, das tut das deuteronomische Gesetz im Grossen. Wenn Lev 19,32 das Gebot, die Eltern zu ehren, weiterführt zum Gebot, die Alten zu ehren, so geht Dtn 16,18-18,22 noch weiter, indem es der Elternehrung auch die verschiedenen Ämter und Institutionen beordnet (Gerichtswesen, Königtum, Klerus, Prophetenamt).

Thus, this strategy of the second half of Lev 19 which added regulations to the first half. This was informed by the Decalogue, and used by the authors of the Deuteronomic Code. Since Lev 19 takes the command to fear (אָרַע) your parents (v. 3) and elaborates on this by adding a regulation about respecting (רָדַף) elders (v. 32), Deut 16:18-18:22 takes these ideas even further by engaging with different officials such as judges, kings, priests and prophets. The relation between Deut 16-18 and the command to honour one's parents is thus construed by "authority." The texts proceed from parents (Lev 19:3) to old people (Lev 19:32), and to other people of authority (Deut 16-18). For Kilchör, this movement becomes the hermeneutic key towards understanding the reception of the Holiness Code in the Deuteronomic Code. In a sense, Lev 19:32 gave some kind of licence to take things further, something taken up by Deuteronomy. That is,

<sup>32</sup> One could also add that the authors of Lev 19 probably wanted to add a cultic perspective to the content of the Decalogue. I have argued this elsewhere. See, Esias E. Meyer, "The Reinterpretation of the Decalogue in Lev 19 and the Centrality of the Cult," *SJOT* 30/2 (2016): 198-214, especially 205-209. The cultic perspective can be seen in vv. 3 and 4 of Lev 19. For instance, v. 3 says that the addressees should fear (אָרַע) instead of honour (כָּבַד) your mother and your father. In the rest of Lev 17-26 the verb (אָרַע) is either used with YHWH as object or the sanctuary. Cholewiński thought that this was an attempt to bring profane parts of life into the sphere of the cult.

<sup>33</sup> Kilchör, *Mosetora und Jahwetora*, 54.



of course, if one accepts that Deuteronomy needed some kind of example to do that. If one uses the Decalogue to structure a much longer legal collection, that presupposition is a given, meaning that it is obvious from the start that one will elaborate on these very commandments.<sup>34</sup> I am not sure why the authors of Deuteronomy needed Lev 19 to show the way, and obviously I question the very fact that Lev 19 indeed showed the way, since I do not think that the Decalogue played that much of a structuring role in Lev 19 itself. This does not mean that some of the laws in Lev 19 could, in fact, be linked to the Decalogue, but the latter did not play the structural role assigned to it by Kilchör.<sup>35</sup>

Kilchör also compares the different texts on holiness such as Exod 20:2; 22:30; Lev 11:44a; 19:2 and the two examples from Deut 14:2 and 21 which form a frame around Deuteronomy's chapter on right eating.<sup>36</sup>

Exod 20:2	אֲנֹכִי יְהוָה אֱלֹהֶיךָ	Exod 22,30	וְאִנְשֵׁי־קֹדֶשׁ תִּהְיוּ לִי
Lev 11:44a	כִּי קֹדֶשׁ אָנִי		כִּי אֲנִי יְהוָה אֱלֹהֵיכֶם וְהִתְקַדְּשִׁתֶם וְהִיִּיתֶם קֹדְשִׁים
Lev 19:2	כִּי קֹדֶשׁ אָנִי יְהוָה אֱלֹהֵיכֶם:		קֹדְשִׁים תִּהְיוּ
Deut 14:2	לִיהוָה אֱלֹהֶיךָ		קֹדֶשׁ אַתָּה                      כִּי עַם

The important question for Kilchör here is from where Lev 19:2 obtained the elements of holiness, on the one hand, and the self-presentation of YHWH, on the other? Kilchör then observes that there is nothing in Lev 19 about "clean food" (Reinheit von Speisen), and since Lev 19 seems to be more focused on the Decalogue, he does not see any reason to argue that the elements of holiness and self-presentation were taken from Deut 14, where a link is made between clean food and holiness.<sup>37</sup> For Kilchör, Lev 19 took the two elements from Exod 22:30 and the Decalogue.

To a certain extent one could agree with him. One could, for instance, argue that the kinds of holiness in Deut 14, on the one hand, and Exod 22, Lev 11 and 19, on the other, are different. In Exod 22:30 as in Lev 11 and 19, people are becoming holy and in Deut 14 they seem to be that already.<sup>38</sup> Thus, on a formal

<sup>34</sup> Once again, see the discussion by Otto, *Deuteronomium 12,1-23,15*, 1108-1112. Otto actually thinks the influence of the Decalogue lies more with a five point structure, a Pentalogue, which is found in the Ten Commandments. Otto, *Deuteronomium 12,1-23,15*, 1110, also questions the influence of the Decalogue on Deut 19:2-26:16 and thinks that the influence of the Covenant Code is more important on these chapters. He also regards the efforts of Kilchör in this regard as not convincing at all. In the light of the discussion above, Otto's scepticism is clearly justified.

<sup>35</sup> See Meyer, "Reinterpretation," 204-212.

<sup>36</sup> Kilchör, *Mosetora und Jahwetora*, 55. The table is unvocalised in Kilchör.

<sup>37</sup> Kilchör, *Mosetora und Jahwetora*, 55.

<sup>38</sup> I am simply referring to the grammar of the different expressions. In Deut 14:2 and 21 the holiness of the people is expressed by means of an adjective which attributively

level, Deut 14 seems to be the odd one out. It is also true that Exod 22:30 is about not eating certain things, similar to Deut 14 and Lev 11, and that Lev 19 does not mention right eating. In terms of the content of the chapters, Lev 19 then becomes the odd one out. I would thus agree with Kilchör that Lev 19 does not necessarily engage with Deut 14, but the opposite is also true and the most obvious intertextual link is between Deut 14 and Lev 11.<sup>39</sup>

Kilchör concludes his discussion by suggesting that Deut 14:2 does not add any meaning to Lev 19:2. That I can agree with, but could it not simply be the other way around? Could one not argue that Lev 19:2 wants to show that holiness is much more than just right eating? It argues this point over against *all* the other portrayals of holiness in the right-eating texts, Deut 14 included. This is in line with how one could understand the purpose of Lev 19 in general.<sup>40</sup> Leviticus 19 demonstrates that holiness has more implications than merely eating the correct diet. Thus Lev 19:2 could be adding to Deut 14:2 *and* Lev 11:44 *and* Exod 22:30 – and the point is that holiness is about much more than right eating and, as has already argued, about much more even than compliance with the Decalogue.<sup>41</sup>

Kilchör, obviously, does tend to argue that Lev 19 usually draws from texts such as the Covenant Code and the Decalogue (the Exodus version) and not from Deuteronomy.<sup>42</sup> As an example, one could mention Lev 19:13:

Exodus 22:13-14	Leviticus 19:13	Deuteronomy 24:14-15
13 וְכִי־יִשְׁאַל אִישׁ מֵעַם רֵעֵהוּ וְנִשְׁבַּר אוֹרֶמֶת בְּעֵלְיוֹ אִיר־עֲמֹן שְׁלָם יִשְׁלָם: 14 אִם־בְּעֵלְיוֹ עֲמֹן לֹא יִשְׁלָם אִם־ שֹׁכֵר הוּא בָּא בְּשֹׁכְרוֹ: ס	13 לֹא־תַעֲשֶׂק אֶת־רֵעֶךָ וְלֹא תִגְזֹל לֹא־תִלְוֶיךָ פְּעֻלַת שֹׁכֵר אֶתֶּךָ עַד־בִּקְרוֹ:	14 לֹא־תַעֲשֶׂק שֹׁכֵר עֲנִי וְאֶבְיוֹן מֵאֲחִידֶיךָ אוֹ מִגֵּרֶיךָ אֲשֶׁר בְּאַרְצְךָ בְּשֹׁעֲרֶיךָ: 15 בְּיוֹמוֹ תִתֵּן שֹׁכְרוֹ וְלֹא־תִבּוֹא עֲלָיו הַשְּׂמֶשׁ כִּי עֲנִי הוּא וְאֶלְוֵי הוּא נִשְׂאָ אֶת־נַפְשׁוֹ וְלֹא־יִקְרָא עֲלֵיךָ אֶל־ הַזֶּה וְהַזֶּה בְּךָ חֲטָא: ס

This is probably a good time to revisit Kilchör's fifth criterion. Kilchör argues that before one brings the content of two texts into play, one must somehow first perform a linguistic evaluation (*sprachliche Evaluation*), which should

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qualifies the noun. In all the other cases from Exodus and Leviticus there is always an imperfect of the verb היה.

<sup>39</sup> See Meyer, "Leviticus 11," 74-78.

<sup>40</sup> See Meyer, "Foreskinned Fruit," 104-105.

<sup>41</sup> One should also add that strong arguments have been made that vv. 43-45 of Lev 11 were added later by the same people who created the Holiness Code. See Nihan, *Priestly Torah*, 299. Or Jacob Milgrom, *Leviticus 1-16: A New Translation with Introduction and Commentary*, AB 3 (New York: Doubleday, 1991 [repr. New Haven: Yale University Press, 2009]), 694.

<sup>42</sup> Kilchör, *Mosetora und Jahwetora*, 55-57.

be based on the creation of a synopsis.<sup>43</sup> With regard to these texts, Kilchör argues that although some would think that Lev 19:13 draws on Deut 24:14-15, he thinks that Lev 19 actually engages with the Exodus text.<sup>44</sup> He then mentions that one finds the combination of the nouns שְׂכִיר and רֶעַ in both Lev 19:13 and Exod 22:13-14, and this is true. The only other place where I found this combination of words was in Deut 24, where the two words occur about four verses apart.<sup>45</sup> Kilchör acknowledges that, in terms of content, the two texts deal with different issues. The Exodus text addresses lending and reparation of damages, while the Leviticus text is about holding back the wages of a day labourer. Then he argues that we should keep in mind that Lev 19:13 should be linked to the commandment not to steal, and then comes to the following conclusion:<sup>46</sup>

Wenn also Lev 19,13 dem dekalogischen Diebstahlverbot zugeordnet ist, so deutet das darauf hin, dass Lev 19,13 von Ex 22,13f. inspiriert das Recht des רֶעַ und des שְׂכִיר unter dem Aspekt des Diebstahlverbotes in seine Heiligkeitsparänese integriert.

Thus, because Lev 19:13 is linked to not stealing and Exod 22:13 could also be regarded as having to do with stealing, these two texts have some intertextual relationship, meaning that Lev 19:13 alludes to and reinterprets Exod 22:13. Again, one could partially agree that this is one of the cases where one could indeed find a link between a command from Lev 19 to one of the Ten Commandments. Leviticus 19:13 is clearly about stealing, but if Lev 19 engages with one of the Ten Commandments, this still not does mean that it reinterprets Exod 22:13. Kilchör seems to be ignoring his criterion 5, namely the linguistic synoptic evaluation. Exodus 22:13-14 and Lev 19:13 have only two nouns in common. On the other side, Lev 19:13 and Deut 24:14-15 have a verb and a noun in common, and both of them start with the same negative particle. Is that not a stronger overlap from a purely linguistic perspective? One could also add that שְׂכִיר in Exod 22:14 is usually translated as "hired animal," whereas in both Leviticus and Deuteronomy it refers to "hired labourer."<sup>47</sup> The two verses are simply not about the same thing and I do not find any convincing evidence of any kind of intertextuality between Lev 19:13 and Exod 22:13-14.

Initially, I understood Kilchör as arguing that there is no intertextual relationship between Lev 19:13 and Deut 24:14-15, but that is not the case, especially if one turns to the section where he actually discusses Deut 24:14-15.<sup>48</sup> What he wants to deny is that Lev 19:13 could have drawn on Deut 24:14-15, and somehow he thus needs to argue that Lev 19:13 alludes to another text – and

<sup>43</sup> Kilchör, *Mosetora und Jahwetora*, 38.

<sup>44</sup> Kilchör, *Mosetora und Jahwetora*, 56.

<sup>45</sup> See Deut 24:10 and 14.

<sup>46</sup> Kilchör, *Mosetora und Jahwetora*, 56.

<sup>47</sup> See "שְׂכִיר," *DCH* 8:149.

<sup>48</sup> Kilchör, *Mosetora und Jahwetora*, 284-285.

that is where Exod 22:13-14 comes in. Yet to argue this issue, he needs to argue for an intertextual link between Exod 22:13-14 and Lev 19:13, and he does this by suggesting a link via the Decalogue and the lexical overlap of *רָעַע* and *שָׁקַר*.

There is another inconsistency here pertaining to this linking-laws-to-the-Decalogue argument. In Lev 19, Kilchör wants to link v. 13 to v. 11a (the commandment that forbids stealing), and in this case, it sounds convincing. The more important argument is that just as Lev 19 was inspired by the Decalogue, eventually the authors of the Deuteronomistic Code took over this idea from the Decalogue as a kind of structuring mechanism. Thus, the Decalogue also played a role in the structuring of the whole Deuteronomistic Code (12-26). Yet, if one turns to a later section in the book (Deut 24:14-15) as part of a greater unit from 24:8 to 25:4, these verses are linked to the commandment not to bear false witness.<sup>49</sup> Why in Lev 19 is the commandment not to exploit the day labourer assigned to "not steal," but in Deuteronomy, the same idea of not keeping back the wages of the day labourer is assigned to "not bearing false witness"? Once again, such arguments seem rather forced.

It seems that apart from the criteria Kilchör proposed to apply, there is an even greater tool which he tends to use to identify allusion and indicate direction. That is what he calls the "hermeneutical key." This key entails that all laws must somehow be linked or attributed (however one translates *zuorden*) to the Decalogue. Leviticus 19 presumably links all its laws to the Decalogue, and the Deuteronomistic Code follows suit. Yet it seems that this hermeneutic key sometimes acts more like the very stumbling block (*מְכַשֵּׁל*) that v. 14 of Lev 19 warns against and leads him to arguments that are extremely forced.

This would be a good time to return to the previous table, but without the Exod 22 text.

## Leviticus 19:13

13 לֹא־תַעֲשֶׂה אֶת־גֵּרְעֶךָ וְלֹא תִגְזֹל לֹא־תִלְוֶיךָ  
פְּעֻלַת שֹׁכֵר אֶתֶּךָ עַד־בֹּקֶר:

## Deuteronomy 24:14-15

14 לֹא־תַעֲשֶׂה שֹׁכֵר עִנִּי וְאֶבְיֹן מֵאֲחֵיךָ אוֹ מִגֵּרְךָ אֲשֶׁר בְּאַרְצְךָ  
בְּשַׁעֲרֶיךָ:  
15 בְּיוֹמוֹ תִתֶּן שֹׁכְרוֹ וְלֹא־תִבּוֹא עָלָיו הַשְּׂמֶשׁ כִּי עִנִּי הוּא וְאֵלָיו  
הוּא נֹשֵׂא אֶת־נִפְשׁוֹ וְלֹא־יִקְרָא עָלָיִךָ אֱלֹהֵי־הַיָּהוָה וְהָיָה בְּךָ חָטָא: ט

Kilchör discusses the directionality between these texts much later in his study as part of the larger unit stretching from 24:8 to 25:4, which, as I note above, is appropriated to the command to "not bear false witness."<sup>50</sup> It seems rather obvious that there is some intertextual link between the two texts; if one were to apply most of the basic criteria traditionally used to determine directionality, most would point to the fact that Deut 24 reinterprets Lev 19. The former

<sup>49</sup> Kilchör, *Mosetora und Jahwetora*, 284-285.

<sup>50</sup> Kilchör, *Mosetora und Jahwetora*, 284-285.

is longer and more elaborate than the latter. One might even argue with Kilchör that whereas Lev 19 is rather vague about holding back wages until morning, Deut 24 is much more specific – before the sun sets, the day labourer must get his wages. There seems to be less manoeuvring room for an employer in the Deuteronomy text. There are, furthermore, quite a few pluses on the side of Deut 24. Yet, if one were to make use of Kilchör's sixth criterion of taking the broader literary context into account, one might make a different argument. For Lev 19:13, the broader literary context is obviously the whole of ch. 19.

If Lev 19:13 were abbreviating Deut 24:14-15, one would need to explain why. Why is there no mention of strangers or the poor in 19:13, or about the land, or the city gates? One could argue that Lev 19 already talks about the *עָרֵי* (Lev. never uses the term *אֶרֶץ*) along with the *גֵּר* in v. 10, where they receive the leftovers of the harvest. The *גֵּר* is also mentioned in vv. 33 and 34, where the addressees are asked to love them. Leviticus 19 also speaks of the land on other occasions, as in v. 23. In 19:15 one reads of fair justice (where a different another word for the poor is used) and, one could argue, that the reference to the city gates in Deut 24 actually implies some legal context. If these issues are addressed at other places in the chapter, it would make perfect sense to leave them out in this verse, if Lev 19:13 did in fact abbreviate Deut 24:14-15.

However, I think the strongest argument is predicated on the way that one could understand the broader purpose of Lev 19. Like Hieke and before him Wenham pointed out, Lev 19 addresses the notion that all facets of life, the strictures of the Decalogue included, should be appropriated to the quest for holiness. In that sense, the authors of Lev 19 basically do some "cherry picking".<sup>51</sup> It seems as if they take bits from different places to show that all of these issues belong to the sphere of holiness.

In the rest of the article I address the slave laws of the Pentateuch and discuss how Kilchör understands the relationship between these three.

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<sup>51</sup> Gordon J. Wenham, *The book of Leviticus* (Grand Rapids: Eerdmans, 1979), 265, who talks of "holiness in everyday life." Or, Hieke, *Levitikus 16-27*, 703, who refers to "Heiligkeit im Alltag."

## D THE SLAVE LAWS

Kilchör begins his discussion of the slave laws with the usual synoptic tables, first comparing Exod 21:2-4 with Lev 25:39-41, then Exod 21:2-6 with Deut 15:12-17, and eventually Lev 25:39-46 with Deut 15:12-18.<sup>52</sup> The outcome of these comparisons are not listed in detail here, but in each case Kilchör identifies linguistic similarities between these texts, which include the usual nouns, verbs and the like. Kilchör then sums up his findings:<sup>53</sup>

Nach diesem Überblick den literarischen Befund ist es auffällig, dass Dtn 15,12.16-17 Parallelen zu Ex 21,2-7 hat, Dtn 15,12.15.18 dagegen Parallelen zu Lev 25,39-42. Nur Dtn 15,12 hat also Übereinstimmungen mit beiden Paralleltexten, während die Übereinstimmungen ansonsten auf die beiden Paralleltexte verteilt sind.

He suggests that only Deut 15:12 overlaps with *both* other texts. This conclusion seems to be in stark contrast with a previous conclusion from an earlier article:<sup>54</sup>

Nun dürfte deutlich sein, dass zwischen den drei Texten eine Dreiecksbeziehung besteht. Je zwei haben unter sich Übereinstimmungen, die sie mit dem jeweils dritten Text nicht teilen.

If every (je) two texts show some overlaps between themselves and texts that are unique to each, how could Deut 15:12 be the only one that overlaps with both other texts? The crux of Kilchör's argument refers to Deut 15:12, apparently the only text that has elements in common with texts from both Exod 21 and Lev 25, which he presents as follows:

כי ימכר לך אחיך העברי או העבדיך **ועבדך** שש שנים וכשנה השביעה תשלהנו  
חפשי מעמך

Texts that are in bold are found in Deuteronomy, Leviticus and Exodus. Underlined words are found only in Deuteronomy and Exodus, and italics indicate common texts in Leviticus and Deuteronomy. For Kilchör, the verb *שלה* is unique to Deuteronomy. The overlap between all three texts clearly consists of the particle *כי* and the verb *עבד*, with the second person pronominal suffix added in Deuteronomy. The overlap between Deuteronomy and Exodus entails words such as *עברי*, *שש*, *שנים*, *השביעה* and *חפשי*. The overlap between Leviticus and Deuteronomy consists of *מכר* + *לך*, the singular of *שנה*, *אח* and *מכמך* in combination with a verb (either *שלה* in Dt. or *יצא* in Lev.). For Kilchör, these instances suggest only one conclusion, namely that Deut 15:12 references both other texts.

<sup>52</sup> Kilchör, *Mosetora und Jahwetora*, 137-140.

<sup>53</sup> Kilchör, *Mosetora und Jahwetora*, 140.

<sup>54</sup> Benjamin Kilchör, "Frei aber arm? Soziale Sicherheit als Schlüssel zum Verhältnis der Sklavenfreilassungsgesetze im Pentateuch," *VT* 62 (2012): 381-397.

It is not clear why Kilchör is so certain of this conclusion. All three texts have issues in common with each other. One could make the following presentation of Lev 25:39-41, also based in Kilchör's synoptic tables:

וְכִי־יָמוּךְ אֲחִיךָ עִמָּךְ וְנִמְכַרְתָּ לָּךְ לֹא־תֵעָבֵד בּוֹ עֲבָדַת עָבֵד:

כְּשִׂכָּר פְּחוּשָׁב יִהְיֶה עִמָּךְ עַד־שֵׁנַת הַיָּבֵל יֵעָבֵד עִמָּךְ:

וַיֵּצֵא מִצֵּמֶרֶךְ הוּא וּבְנָיו עִמּוֹ וְשָׁב אֶל־מִשְׁפַּחְתּוֹ וְאֶל־אֲחֵיכֶם אָבִיתִיו יָשׁוּב:

Once again, everything in bold is found in all three texts, and in these instances it also is the particle כִּי and the verb עָבַד. One should also add that Leviticus is unique by negating the latter verb (לֹא־תֵעָבֵד). Slavery is theoretically not an option in Lev 25. Leviticus shares the verb יָצָא (which is שָׁלַח in Deuteronomy) with Exod 21:2 as well as the noun עָבֵד, both of which are in italics. The underlined text (shared with Deuteronomy) is probably the most populated, with expressions such as מַכַּר + לָךְ, the singular of שָׁנָה, אָח and מִכְמָךְ in combination with a verb (either שָׁלַח or יָצָא). From the perspective of Lev 25:39-41, one could also make a case that the authors of these verses were familiar with the other two texts, even if Lev 25:39-41 has more in common with the text from Deuteronomy. Yet, Leviticus also has a great deal of its own unique vocabulary. It seems as if everything depends on the text *from* which one looks at the other texts.

In the rest of the discussion I first discuss Kilchör's portrayal of the relationship between Exod 21:1-11 and Lev 25:39-46 before looking at where Deut 15:12-18 fits in in relation to both other texts.

With regard to the slave laws, Kilchör argues that the synchronic order is the diachronic order.<sup>55</sup> Thus, the oldest text is Exod 21:2-4, with which most Pentateuch scholars (except Van Seters, of course) would agree.<sup>56</sup> The text is supplemented by Lev 25:39-41. Below, in 1a to 1c that text (Exod 21:2-4), is summed up with 1d presenting Lev 25:39-41, which then supposedly fills a gap left by 1a to 1c:<sup>57</sup>

## 1. Male slaves

- a. An unmarried male slave is set free after six years (Exod 21:3a);

<sup>55</sup> Kilchör, *Mosetora und Jahwetora*, 137-155.

<sup>56</sup> See especially John van Seters, "The Law of the Hebrew Slave," *ZAW* 108 (1996): 534-546. For a critical discussion of Van Seters, see Bernard M. Levinson, "The Manumission of Hermeneutics: The Slave Laws of the Pentateuch as a Challenge to Contemporary Pentateuchal Theories," in *Congress Volume Leiden 2004*, ed. André Lemaire, VTSup 109 (Leiden: Brill, 2006), 281-324, especially 290-291.

<sup>57</sup> Kilchör, *Mosetora und Jahwetora*, 143.

- b. A slave who is married but childless is freed after six years, with his wife (Exod 21:3b);
- c. A slave who is initially unmarried, but then marries a wife provided by his master, cannot leave after six years with his family, but must choose between freedom and family (Exod 21:4);
- d. A *paterfamilias* who becomes a slave is no slave, but rather a day labourer who must be freed after 50 years (Jubilee).

## 2. Female slave (Exod 21:7-11)

The issue that is thus supposedly left out of Exod 21:3-5 is the fate of a man who has a wife *and* children, a *paterfamilias*. In this regard, Kilchör uses the arguments of Adrian Schenker, who argues that Exod 21:3b is only concerned with the case of a man who becomes a slave, and who has a wife but no children.<sup>58</sup> Yet it is not clear why the possibility of children could not be included in v. 3b.<sup>59</sup> I would rather argue that in the logic of text, this issue does not have to be mentioned, because they do not belong to the master and are simply irrelevant. The slave brings his wife (their mother) with him. Children only become a bone of contention when their mother belongs to the master, and in that case the slave must choose after six years. The issue has to do with property. I am not convinced that Exod 21:2-6 needs any supplementation in this regard, since Exod 21:3b could already include this kind of scenario of a possible *paterfamilias* with a family.<sup>60</sup>

Schenker argues that supplementation is needed since the master in Lev 25 needs some compensation for the investment of taking care of the family of the "slave" in Lev 25, and hence the much longer period of service.<sup>61</sup> Less investment is expressed in Exod 21, where only the wife is present, but what happens if the couple in Exod 21 have children while the man is a slave? Will the Jubilee then suddenly set in with the slave now having to work until the next Jubilee? One should add that in Lev 25:39-41, the wife of the *paterfamilias* is not mentioned. Are we to presume that he has no wife, as Schenker and Kilchör presume the married slave in Exod 21:3b has no children, simply because the children are not mentioned? Furthermore, Kilchör himself argues that Lev 25:41 implies that the children of the man also lose their freedom, which presumably means that they are also working for the master. Yet then Schenker's argument

<sup>58</sup> Adrian Schenker, "The Biblical Legislation on the Release of Slaves: The Road from Exodus to Leviticus," *JSOT* 78 (1998): 23-41.

<sup>59</sup> Kilchör, *Mosetora und Jahwetora*, 144, refers to Lefebvre's criticism of Schenker, where Lefebvre rightly points out that parents *without* children were the exception rather than the rule.

<sup>60</sup> Contra Schenker, "Biblical Legislation," 32-33.

<sup>61</sup> Schenker, "Biblical Legislation," 33.



about "costs" to the master becomes void, since the master has the services of the father and the sons and presumably the unmentioned wife. One can also argue that in the case of Exod 21, the master has the services of the wife and possibly the unmentioned children, but the main point of the text is that he cannot hang onto them after six years. Thus, the fundamental difference between the Jubilee and Exod 21 still stands, namely six years of being a slave versus "serving" a fellow Israelite until the next Jubilee, and therefore the argument of supplementation of a specific case of a *paterfamilias* with children becomes unconvincing. However, from a diachronic perspective, few scholars (Van Seters excluded) would disagree with the fact that Lev 25:39-46 is later than Exod 21:1-11. Or, for that matter, they are unlikely to disagree with how Kilchör portrays the relationship between Exod 21:1-11 and Deut 15:12-18.

Kilchör begins his comparison of Exod 21:1-11 and Deut 15:12-18 with the acknowledgement that "Dtn 15,12-18 inhaltlich deutlich näher an der Regelung von BB als an der von H ist."<sup>62</sup> He then emphasises two important differences.<sup>63</sup> *First* in Deuteronomy whatever is applicable to men, now also becomes applicable to women. *Second* in Deuteronomy there is no mention of the specific location where the piercing of the slave's ear will take place if he decides to remain with the master. This issue has often been linked with debates about cult centralisation, but Kilchör shies away from this explanation and does not believe that one answer this question with much certainty. He may shy away because these debates could be linked to historical contexts.<sup>64</sup> Kilchör then adds a *third* aspect that he adopts from Levinson where Deuteronomy emphasises the "dignity and agency of the slave" compared to Exod 21:2-11.<sup>65</sup>

This brings us to the larger and far more important discussion of the diachronic relationship between Deut 15:12-18 and Lev 25, although Kilchör mostly talks about vv. 39-46 of Lev 25.<sup>66</sup> The discussion starts with a reference to Cardellini, who has argued that with regard to the diachronic relationship between H and CC/D, there is only one of two possibilities. Either H is younger than both, or older than both. The main reason for this is that the major difference between the texts has to do with time cycles. For H, the cycle is fifty years, and for the other two it is about a seven-year cycle. For Cardellini, there is a vast and radical difference between H and the other two. To this Kilchör responds:<sup>67</sup>

<sup>62</sup> Kilchör, *Mosetora und Jahwetora*, 147.

<sup>63</sup> Kilchör, *Mosetora und Jahwetora*, 147-149.

<sup>64</sup> Another possibility would be that he shies away from this debate because this would have Deuteronomy directly react to Exodus, which would not fit his larger argument.

<sup>65</sup> Kilchör, *Mosetora und Jahwetora*, 149. Levinson, "Manumission of Hermeneutics," 304.

<sup>66</sup> Kilchör, *Mosetora und Jahwetora*, 150-153.

<sup>67</sup> Kilchör, *Mosetora und Jahwetora*, 150. The last half of this sentence sounds as if it contradicts the basic argument of Kilchör by presenting Lev 25 as complementary to

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Doch diese allzu vereinfachende Sichtweise wird hinfällig, wenn, wie oben argumentiert, Lev 25,39-46 komplementär zu Ex 21,2-11 zu verstehen ist und somit auch komplementär zu Dtn 15,12-18.

Kilchör's response to Cardellini is the argument above that Lev 25:39-46 supplemented the Exodus text with regard to the problem of a *paterfamilias*. I demonstrated above that this argument does not hold water, but later Kilchör sets out to explain Deut 15:12-18 as a further supplement to the presentation discussed above consisting of 1a to 1d.<sup>68</sup> Thus, for Kilchör, Deut 15 presumes the "Bruderverarmungsgesetze" of Lev 25:25-55 as some kind of ideal. The authors of the Deuteronomy text were confronted with the reality of slavery in Exod 21 and the case of the poor *paterfamilias* in Lev 25:39-46, and they then set out to present a better solution for this *paterfamilias* - better in the sense that he does not have to wait until the Jubilee. The solution appears in vv. 13 to 14 of Deut 15, which orders the master to provide the slave with food and wine when he leaves to return to his freedom. Deuteronomy 15 thus attempts to put a stop to these practices that would eventually result the Jubilee. One wonders why there is not explicit mention of the Jubilee if Deut 15 was meant as a supplement to Lev 25. To read Deut 15 like this can only mean that it rejects Lev 25 entirely, making Kilchör's argument that the ideas of Lev 25 could still remain as some kind of ideal seems very strained. Why is there no mention in Deut 15 of the Sabbath year at least, if Lev 25 still represents some kind of ideal in the background? Instead, Deut 15 uses the term  $\eta\tau\mu\psi$ .<sup>69</sup>

It seems that the greatest weakness in Kilchör's larger argument is what one could call the "ghost of Cardellini". This refers to the point that what Lev 25 proposes is vastly different from what either Exod 21 or Deut 15 proposes. The latter two work with cycles of seven years, and the Jubilee with a much longer cycle. Leviticus 25 talks of the seven-year cycle, but does not link it to the problem of slavery. Kilchör acknowledges that, in terms of content, Exod 21 and Deut 15 have much more in common, but his response would probably be that "linguistically" there is more overlap between Deut 15 and Lev 25, and he would then provide a list of terms supplied by his synoptic tables. One wonders, though, whether the mention of six/seven-year cycles compared to 50 years would fall under a linguistic or content criterion. They do feature in Kilchör's synoptic

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Deut 15. I presume Kilchör simply made a mistake here. In the sentence following this one he spells it out again that Deut 15 is complimentary to Lev 25.

<sup>68</sup> Kilchör, *Mosetora und Jahwetora*, 150-151.

<sup>69</sup> The argument is forcefully made by Stackert, *Rewriting the Torah*, 125-126. It should also be noted that, as far as I can see, Kilchör never engages with this part of Stackert's argument. Stackert links the usage of this term to Exod 23:10-11, where the basic meaning is "stripping/dropping/releasing." Deuteronomy 15 takes an agricultural term and applies it to "debt release." Stackert also shows how  $\ast\eta\tau\mu\psi$  is changed to  $\ast\eta\tau\mu\psi$  in Lev 25 whereby "an agricultural concept" is infused with "the ideology of Sabbath."

tables.<sup>70</sup> I would suggest that arguments presented by scholars such as Levinson and Stackert retain their validity despite Kilchör's opposition to them.<sup>71</sup> Also the arguments put forward by Stackert and Levinson help to explain why Lev 25 is so different, and why it changes the cycle of seven years to 50 years. This change represents a break from the other two texts, which, as most scholars would argue, are earlier.

## E CONCLUSION

In this review I set out to show that despite Kilchör's claim that the only "methodologically sound" way of determining directionality between two texts is to compare them in the light of his six criteria. I demonstrated that many of his arguments pertaining to Lev 19 and the Decalogue are simply mistaken. I have also shown that one could use his criteria (especially number 6) to argue the opposite of what he claims and to reveal a different diachronic relationship, especially with regard to Lev 19:13 and Deut 24:14-15. I have further shown that with regard to the slave laws, the "ghost of Cardellini" still haunts Kilchör. He cannot explain in a satisfactory manner why Lev 25 is so vastly different from Exod 21 and Deut 15. His best argument seems to be denying this difference, but this denial does not hold water.

I should add that there should be no doubt that what Kilchör presents is indeed a challenge to Pentateuch scholarship. His readings of all of these texts are careful and thorough. The only problem is that Kilchör only sees what his model allows him to see. What is his model? "Synchrony" is his model. He presumes that the final form of the text also presents the diachronic order of the texts. The real question that one should explore further is why Kilchör shies away from asking historical questions, and why he insists that sound methodology is by definition a-historical?

A brief historical perspective on the study of the OT might be useful here. The terms "synchrony" and "diachrony" are very recent concepts in the study of the OT. Ferdinand de Saussure already used the terms in 1922, but they became widely used in OT criticism only from the 1960s onwards and probably even later.<sup>72</sup> Older Pentateuch scholars such as Abraham Kuenen, or Julius Wellhausen, as well as Wilhelm de Wette, to mention a few (the very scholars whose contributions are swept off the table by Kilchör's first two criteria) did not have

<sup>70</sup> Kilchör, *Mosetora und Jahwetora*, 138.

<sup>71</sup> See Stackert, *Rewriting the Torah*, 125-127 and Levinson, "Manumission of Hermeneutics," 316-319. See Kilchör's response in Kilchör, *Mosetora und Jahwetora*, 151-153, and earlier in Kilchör, "Frei aber arm," 387-393.

<sup>72</sup> See discussion in Ferdinand E. Deist, *The Material Culture of the Bible: An Introduction*, BibSem 70 (Sheffield: Sheffield Academic Press, 2000), 33-39.

the concept of synchrony at their disposal as a possible model or an "interpretive construct," as Levinson would put it:<sup>73</sup>

Both synchrony or diachrony, finally, are interpretive constructs. The only question is, which better explains the textual phenomena?

Yet the fact that they (Kuenen *et al.*) linked certain texts to particular historical events or time periods explains many of the textual phenomena found in the Pentateuch. Many of these explanations have been found wanting, but others are still standing. What I set out to show is that the model of synchrony proposed by Kilchör also fails to explain certain textual phenomena. However the main problem with Kilchör remains: there is no historical context. Would historical context not have helped to interpret the laws on slaves? Was a great deal of historical context not in any event presumed in those arguments? Why not present more explicit arguments? As Ferdinand Deist once argued:<sup>74</sup>

There is no way in which an appeal to a synchronic approach can become an excuse for not *dating* a text in question or ignoring its social setting. Synchrony, in its strict as well as its more generic sense, demands a statement on the date of the "textual state" under investigation. But to date a text is to speak about it in relation to other texts of the particular community, that is, to imply diachronic and social information.

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<sup>73</sup> Bernard M. Levinson, "The Right Chorale": *Studies in Biblical Law and Interpretation*, FAT 54 (Tübingen: Mohr Siebeck, 2008), 203.

<sup>74</sup> Deist, *The material culture*, 37.

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