

# Watch Your Step! Excrement and Governmentality in Deuteronomy

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## Abstract

Governmental action through centralized institutions is widely recognized, whereas how such action is effected in individual's lives is less so. Effective government depends on the ability to shape the mundane activities of life in ways that serve larger objectives. Scholarship on Deuteronomy attends well to the centralized actions, but not the individual ones. Deuteronomy 23:13-15 (ET 12-14) instructs soldiers how to defecate while serving in ancient Israel's army, a rather mundane behavior for a book widely recognized as concerned with governing Israel. Governmentality provides a means of understanding how these instructions for defecation become part of the book's larger objective of creating Israel as a proper vassal.

## Keywords

governmentality – Foucault – Deuteronomy – monitored power – suzerainty – purity

As many in the United States are aware, there were a host of political surprises in 2016, including the controversy over bathrooms and access to them. On 23 March 2016, North Carolina (NC) Governor Pat McCrory signed into law House Bill 2 (HB 2), the "Public Facilities Privacy & Security Act."<sup>1</sup> Among other things,

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<sup>1</sup> "Public Facilities Privacy & Security Act," (*North Carolina House of Representatives*, 2016), <<http://www.ncga.state.nc.us/sessions/2015e2/bills/house/pdf/h2v4.pdf>>. The bill addressed several sections of the North Carolina General Statutes. Passage of this bill received wide-spread coverage in the US media, both locally (e.g., Michael Gordon, Mark S. Price, and Katie Peralta, "Understanding HB2: North Carolina's new law solidifies state's role in defining discrimination," April 11, 2016, <<http://www.charlotteobserver.com/news/politics-govern>

this bill overturned the actions of the Charlotte (NC) City Council taken on 22 February 2016, expanding the city's non-discrimination ordinance to prohibit businesses from discriminating against LGBTQ customers. Most controversial was allowing transgender individuals to use either men's or women's bathrooms, depending on the gender with which the individual identified.<sup>2</sup> In response, HB 2 banned individuals statewide from using public facilities differing from their biological gender as indicated on their birth certificates.<sup>3</sup> It also restricted the right to legislate non-discrimination policies to the North Carolina state government. The governor's signing of HB 2 set off a firestorm of local and national protests and legal suits. Advocates of LGBTQ rights decried the bill as discriminatory, on a par with Jim Crow laws of the past, while proponents of HB 2 defended it as expanding non-discrimination in the state and also protecting the privacy of individuals and protecting women and children who use public facilities from aggression by men.<sup>4</sup>

Legislative action by a state government establishing a new law for the citizens of that state likely would rank near the top of what many in the United States consider a governmental action. A centralized institution, in this case the North Carolina legislature, created a bill limiting the civil rights of certain

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ment/article68401147.html>) and nationally (e.g., Dave Philipps, "North Carolina Bans Local Anti-Discrimination Policies," March 23, 2016, <<http://www.nytimes.com/2016/03/24/us/north-carolina-to-limit-bathroom-use-by-birth-gender.html>>; Motoko Rich, "North Carolina Gay Bias Law Draws a Sharp Backlash," *The New York Times*, March 24, 2016, <<http://www.nytimes.com/2016/03/25/us/north-carolina-law-antidiscrimination-pat-mccrory.html>>).

- 2 Steve Harrison, "Charlotte City Council approves LGBT protections in 7-4 vote," *The Charlotte Observer*, April 5, 2016, <<http://www.charlotteobserver.com/news/politics-government/article61786967.html>>. For the text of the revised ordinance, see Bob Hagemann, "Non-Discrimination," Pages 4[–20], Charlotte, NC: Charlotte City Council Agenda.
- 3 Despite the confidence lawmakers in North Carolina and other states have in birth certificates, with their binary logic regarding gender, matters of gender assignment are more complicated as, for example, in the small community in the Dominican Republic where a group of people known locally as "guedeoces" are "born looking like girls but grow up to be men, all because of a misfiring of the gender hormone testosterone long before birth." See "Jonny's Story," *PBS* video, 2:02, from "PBS 9 Months That Made You," televised by PBS on June 29, 2016, <<http://www.pbs.org/video/2365771265/>>.
- 4 The US media reported on many reactions to the bill, such as Steve Harrison, "N.C. Gov Pat McCrory signs into law bill restricting LGBT protections," *The Charlotte Observer*, April 8, 2016, <<http://www.charlotteobserver.com/news/local/article67845317.html>>; Rich, "North Carolina Gay Bias Law Draws a Sharp Backlash." Protection for transgendered individuals is neither covered by this bill nor, apparently, of concern to the legislators. The legislature and governor repealed the bathroom provisions of HB 2 in March, 2017 (Richard Fausset, "North Carolina Strikes a Deal to Repeal Restrictive Bathroom Law," *The New York Times*, 29 March 2017, <<https://www.nytimes.com/2017/03/29/us/north-carolina-lawmakers-reach-deal-to-repeal-so-called-bathroom-bill.html>>).

individuals in a particular context in order, according to the bill's proponents, to protect the civil rights of others. To be certain, this *is* a governmental action. What has received rather less notice in the midst of the controversy is how this bill effects that action. The exercise of power created by HB 2 is not simply a top-down, coercive one, originating in a governing body and imposed on individuals in the State. Such an understanding ignores the implicit process created by HB 2 that becomes incumbent upon every individual desiring to use a public bathroom in the state. It ignores, in other words, the ways the bill attempts to shape individual behavior according to a larger governing idea. Anyone who wants to use a public bathroom in North Carolina – resident and non-resident, young and old, in every socio-economic and political category – must engage in a specific activity before entering. Individuals must know what gender, male or female, is listed on their birth certificates, recall that information, compare it with the law and the bathroom options available, and select the one matching the gender listed on that birth certificate. What HB 2 effectively creates is a particular governmental process each person must follow when making use of a public bathroom. Whether or not individuals follow this process and thereby comply with the new law (they are law-abiding citizens when they do so), or how such compliance is to be monitored, are open questions.<sup>5</sup> Yet, for all the controversy surrounding the action of the state legislature and Governor, it is this process – knowing what gender is specified on one's birth certificate, accepting that classification, and then using the bathroom corresponding to it – that realizes the governing moment, making the law effective (or not). Government is both the centralized institution and the micro-governmental moment, that is, the shaping of individual behavior, what Catherine Bell refers to as “the local interactions and petty calculations of daily life.”<sup>6</sup>

Effective government, ancient or modern, depends on the ability to shape the mundane activities of life in ways that serve larger objectives, even if these effects are not always apparent. Governmental concern with common, everyday spaces such as bathrooms and the behaviors appropriate within them has a long history. In Deuteronomy, instructions are given concerning defecation in the military camp. Dated as early as the seventh century BCE, Deuteronomy

5 House Bill 2 does not specify how compliance with this article of the bill will be monitored and enforced. Presumably it relies on self-government – individuals following the implied process of the law – and monitoring by others in and outside of bathrooms. The question of compliance has been noted in the public debate. Not surprisingly, it also has been satirized, as in Henry Alford, “North Carolina Police Blotter,” *The New Yorker*, June 20 (2016), p. 33.

6 Catherine M. Bell, *Ritual Theory, Ritual Practice* (New York: Oxford University Press, 1992), p. 200.

long has been recognized as a document concerned with the governing of Israel. In Book IV of the *Jewish Antiquities*, the first-century CE Jewish historian Josephus describes Deuteronomy as the *politeia* left by Moses for Israel's use.<sup>7</sup> *Politeia* variously is translated as constitution, form of government, citizenship, law of the land, way of life.<sup>8</sup> New possibilities for understanding what *kind* of *politeia* or political treatise was involved emerged in the 1950s with George Mendenhall's work on the literary form of Deuteronomy. Comparison with Hittite suzerainty treaties and, later, Neo-Assyrian loyalty oaths reveals the appropriation and adaptation of these literary forms by the writers of Deuteronomy. Their use in Deuteronomy suggests that the deity, YHWH, is cast in the subject position of the militarily more powerful suzerain, while Israel is cast in the role of YHWH's vassal, over whom YHWH exerts dominant control and influence.<sup>9</sup> The governing of Israel is represented as part of YHWH's empi-

7 Josephus, *Jewish Antiquities*, Books I-IV (LCL 242; trans. H. St. John Thackeray; Cambridge: Harvard University Press, 1930), Book IV, §302 (p. 621).

8 Just what translation best captures the meaning of *politeia* is a matter of debate. Bernard M. Levinson argues *politeia* does not refer to a political constitution, as in H. St. John Thackeray's Loeb edition translation, but rather a "form of government"; see Bernard M. Levinson, "Deuteronomy's Conception of Law as an 'Ideal Type': A Missing Chapter in the History of Constitutional Law," *The Right Chorale: Studies in Biblical Law and Interpretation* (FAT, 54; Tübingen: Mohr Siebeck, 2008), pp. 52-86. Levinson does not dispute the importance of Deuteronomy as a political treatise in antiquity, noting it serves "as a constitutional model by Jews" from ancient times, citing for this claim Daniel Judah Elazar, *Covenant & Polity in Biblical Israel: Biblical Foundations & Jewish Expressions* (The Milken Library of Jewish Public Affairs, 1; New Brunswick, NJ: Transaction Publishers, 1995), p. 196. Shaye Cohen argues "constitution" is part of the semantic range of this term, as are citizenship, law of the land, and way of life (see Cohen's extended discussion of this term in Shaye J. D. Cohen, *The Beginnings of Jewishness: Boundaries, Varieties, Uncertainties* [Berkeley: University of California Press, 1999], pp. 125-29).

9 George E. Mendenhall, "Covenant Forms in Israelite Traditions," *BA* 17.3 (1954), pp. 50-76; see also George E. Mendenhall and Gary A. Herion, "Covenant," *ABD* 1:1179-1202. There is much debate about the origins of this literary form in Deuteronomy, whether Hittite or Neo-Assyrian; see, for example, Joshua Berman, "CTH 133 and the Hittite Provenance of Deuteronomy 13," *JBL* 130.1 (2011), pp. 25-44; Joshua Berman, "Histories Twice Told: Deuteronomy 1-3 and the Hittite Treaty Prologue Tradition," *JBL* 132. 2 (2013), pp. 229-50; Bernard M. Levinson and Jeffrey Stackert, "Between the Covenant Code and Esarhaddon's Succession Treaty: Deuteronomy 13 and the Composition of Deuteronomy," *Journal of Ancient Judaism* 3 (2012), pp. 123-40; Moshe Weinfeld, *Deuteronomy and the Deuteronomistic School* (Winona Lake: Eisenbrauns, 1992); D.J. Wiseman, *The Vassal-Treaties of Esarhaddon* (London: British School of Archaeology in Iraq [Gertrude Bell Memorial], 1958). The origin of this form in Deuteronomy is not central to my argument and thus not discussed.

re. As a *politeia*, Deuteronomy creates Israel not as an independent state, but rather as a dependent state within an imperial governmental system.<sup>10</sup>

As a document outlining Israel's form of government, perhaps it is not surprising that several important social and political institutions in Israel, including the judiciary (Deut. 1:9-18; 16:18-20), priesthood (Deut. 18:1-8), kingship (Deut. 17:14-20), and prophets (Deut. 18:15-22) are addressed explicitly in the book.<sup>11</sup> But a number of other matters also are addressed in Deuteronomy, including a law about bathrooms (or their equivalent). In Deut. 23:13-15, a command is given concerning where to defecate in the military camp and what procedure must be followed when doing so. Why? What is it about defecation (and excrement) that merits discussion in a book detailing Israel's form of government? In North Carolina, the legislature and Governor wanted to prevent LGBTQ individuals from entering certain bathrooms. Their targeting of this group of individuals, based on gender identity, derived from particular understandings of the State, populations, the public, and "safety." What ideas and objectives explain Deuteronomy's concern with defecation in the military camp?

10 As I argue elsewhere, Deuteronomy's view of YHWH's realm differs from that of the Priestly writers; see Mark K. George, "The Sabbath, Regimes of Truth, and the Subjectivity of Ancient Israel," *Journal of Religion and Society* Supplement Series 12 (2016), pp. 5-21 (13-15). For P, YHWH is the creator god (Genesis 1). The result is the entire creation is YHWH's realm; therefore, YHWH is the sovereign over it. Suzerainty over any people or land therefore is not possible for YHWH because the deity already rules over it all. Suzerainty requires a ruling relationship over a foreign people and land, even if they are absorbed into the governing control of the suzerain, as happens when Tiglath-pileser III accounts foreign people as part of Assyria (e.g., Hayim Tadmor and Shigeo Yamada, *The Royal Inscriptions of Tiglath-pileser III [744-727 BC] and Shalmaneser V [726-722 BC]*, *Kings of Assyria* [RINAP, 1; Winona Lake, Ind.: Eisenbrauns, 2011], nos. 5, ll. 5b-8a; 6, ll. 1-4a; 14, ll. 5b-8a). Suzerains expand the territorial boundaries of their own lands by annexing and incorporating other peoples and lands into their realm (again, as Tiglath-pileser III does; Tadmor and Yamada, *Royal Inscriptions of Tiglath-pileser III and Shalmaneser V*, no. 35, ll. 21-35). If YHWH is sovereign over all creation, nothing (land or people) is foreign to this deity. Deuteronomy's writers do not share this understanding of YHWH's relationship to the created order, as suggested, for example, by Deut. 32:8-9, where the Most High and YHWH are differentiated.

11 Commentators generally are not surprised to find these institutions being addressed. See, for example, Mark E. Biddle, *Deuteronomy* (SHBC; Macon, Ga.: Smyth & Helwys, 2003), pp. 277-99; Duane L. Christensen, *Deuteronomy 1:1-21:9* (WBC, 6A; Nashville: Thomas Nelson Publishers, 2001), pp. 353-56; J.G. McConville, *Deuteronomy* (ApOTC, 5; Leicester, England: Apollos, 2002), pp. 278-85, 304-06; Patrick D. Miller, *Deuteronomy* (IBC; Louisville, Kent.: Westminster/John Knox, 1990), pp. 140-54; Jeffrey H. Tigay, *Deuteronomy* (JPS Torah Commentary; Philadelphia: Jewish Publication Society, 1996), pp. 159, 453-54.

One means of answering these questions is to examine Deut. 23:13-15 in terms of governmentality. Governmentality, a term and analytical perspective proposed by Michel Foucault, examines how behaviors are shaped at every level of society in a more or less coordinated way.<sup>12</sup> Of particular interest are the social operations and practices deployed in different ways to effect governing relationships. What this perspective helps reveal about Deut. 23:13-15 is how it contributes both to the larger governmental objectives of the book and how they are realized. Imperial government, expressed through the book's suzerainty treaty form, does not limit itself to shaping and controlling Israel through centralized social institutions, such as the judiciary and cult. Rather, it extends its influence into the lives of individuals, shaping them into appropriate, governable subjects. For Deuteronomy, this means loyal and docile vassals. Analysis of Deut. 23:13-15 in terms of governmentality thus provides insight into the ways Deuteronomy functions as Israel's *politeia* by providing an example of how it effects a governing relationship over individuals.

### The Oddities of Excrement

You will have a place for yourself outside the [military] camp where you will go. You will have a peg among your kit so that, when you squat outside, you will dig a hole with it, then you will squat, then you will cover your excrement. For YHWH your God walks about in the midst of your camp, to deliver you and to give your enemies to you. Your camp must be holy; do not let [YHWH] see among you an unseemly thing and turn away from you. (Deut. 23:13-15 [ET 12-14])<sup>13</sup>

This pericope is generally understood to be part of a larger unit, Deut. 23:10-15, which situates the defecation command in the context of a time of war: "When you are encamped against your enemies, you will be on guard against any evil thing" (Deut. 23:10). Preceding the instructions about defecation are instructions about a different biological concern for men, nocturnal emissions, and the process for returning to purity.<sup>14</sup> The instructions for defecation then

<sup>12</sup> Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France, 1977-78* (ed. Michel Senellart, et al.; trans. Graham Burchell; New York: Palgrave Macmillan, 2007), pp. 108-09; Mitchell Dean, *Governmentality: Power and Rule in Modern Society* (Los Angeles: SAGE, 2010), pp. 24-25, 27.

<sup>13</sup> All biblical translations are by the author unless otherwise noted.

<sup>14</sup> Seminal emissions, whether or not part of coitus, are addressed as part of the Levitical purity laws in Lev. 15:16-18, 32 (a chapter concerning natural bodily discharges) and Lev.

prescribe where and how this natural human activity is to occur. The entire unit is addressed to a singular “you” (2ms).<sup>15</sup> When Israel is at war and encamped, a place outside the camp is to be designated as the place “you shall go.” In that place, each “you” of the camp is to bring a particular piece of kit, a particular tool that he must carry with him into war: a יתד, a “spike” or “peg.”<sup>16</sup> The purpose of this piece of equipment is so a soldier may dig a hole in the ground for his excrement when he defecates. When finished, he must cover up his excrement, צאה, before returning to the camp. The reason for this behavior then is explained. The deity walks about in the midst of the camp, מִתְהַלֵּךְ בִּקְרֵב מַחֲנֶה, when Israel goes to war in order to save them and deliver their enemies to them. Because of the deity’s presence, presumably, the camp must be holy. Finally, the deity cannot see anything indecent among the people lest the deity depart.

Commentators generally spend little time examining this pericope, typically discussing it with respect to the behaviors expected of Israel when engaged in holy war (the wars of YHWH), and thus as a continuation of items addressed in Deuteronomy 20.<sup>17</sup> Yet it merits greater consideration, because it provides a means of examining how government operates in Deuteronomy as a whole, not simply during war. Several aspects are of interest in this regard. First, it is defecation for which a command and special procedure is given, not, say, urination. Going number one in the camp is not as much of a problem as going number two and failing to cover up your excrement. Evidently urination does not render holy space profane, or at least is not an unseemly thing (an “indecent thing” in the NRSV; Deut. 23:15). Nor are vomiting or a host of other natural human experiences, secretions, discharges, and fluids. Why, then, create a procedure for defecation? Why is it a topic worth addressing *at all* in Deu-

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22:4 (as something that prevents a priest from fulfilling his ritual duties). The words for “nocturnal emission,” מִקְרֵה לַיִל, in Deut. 23:11 are unusual, since קרה is a *hapax legomenon*. HALOT glosses the term as “nocturnal occurrence, seminal emission,” citing Deut. 23:11, but cognate languages suggest a bit wider translational range, including Syriac “quarrel” or “contest.” See Ludwig Koehler, Walter Baumgartner, and Johann Jakob Stamm, *The Hebrew and Aramaic Lexicon of the Old Testament* (trans. M.E.J. Richardson; 2 vols.; Leiden & Boston: Brill, 2001), s.v. קרה. Perhaps other “occurrences” are possible beyond seminal emissions?

15 Despite gender neutral translations of Deut. 23:10-15, such as the NRSV, Susan Ackerman and others remind us Deuteronomy speaks to a privileged male audience; see Susan Ackerman, “Only Men Are Created Equal,” *JHebS* 10.9 (2010), pp. 14-27.

16 The NRSV translates this word as “trowel.”

17 See, for instance, Jack R. Lundbom, *Deuteronomy: A Commentary* (Grand Rapids, Mich.: William B. Eerdmans Publishing Company, 2013), pp. 651-54; Richard D. Nelson, *Deuteronomy: A Commentary* (OTL; Louisville, Ky.: Westminster John Knox, 2002), pp. 279-80; Tigay, *Deuteronomy*, pp. 213-14; Miller, *Deuteronomy*, pp. 159, 162.



teronomy, and why limit the command about defecation to the military camp? If it is an unseemly (23:15) and evil (23:10) thing, a matter somehow related to holiness, why not issue the command for all Israel in every place it finds itself?

Another interesting feature is the final verse, which states the deity must not “see an unseemly thing and turn away from you” (Deut. 23:15). Just what is it that the deity must not see and turn away from? Maybe it is defecating and excrement, both of which are to occur outside the camp. But it is not clear what makes these natural aspects of human life unseemly. If, on the other hand, it is feces rather than defecating, why is the mere *sight* of it unseemly? Jack R. Lundbom argues for the importance of cleanliness (hygiene) in the camp, given the reference to purity in 23:11.<sup>18</sup> But cleanliness, hygiene, rarely if ever is given as a justification for actions in the Hebrew Bible. Thomas Kazen suggests a related possibility, that there is a level of disgust at the sight of excrement.<sup>19</sup> But this raises the question of why, if soldiers and the deity experience disgust at the sight of feces in the military camp, similar procedures for bowel movements are not given for everyday life. Perhaps the text presupposes another practical reason, the fear of having the deity step in it (watch your step, indeed). Or maybe it is not merely the sight of feces and stepping in it, but also the sight of soldiers in the act of eliminating bodily waste. Seeing a bare butt is “unseemly.” Either way, the consequences for Israel are severe, since divine turning away means the deity abandons the army. Divine disgust at the sight of poop or a soldier pooping might be a factor in the divine reaction, but this seems rather minor in the context of war, where gore, viscera, severed limbs, and the other carnage of war seem at least as disgusting as the sight of feces.<sup>20</sup> If wartime is a social context that makes these realities a normal part of life, why do defecation and excrement stand apart from this context, yet not so much that regulations about them are issued for everyday life? Something more is at issue with this issue.<sup>21</sup> Granted, uncovered poop or a soldier pooping improperly are violations of the command. What I will argue is they also are

18 Lundbom, *Deuteronomy*, p. 653. Lundbom conflates cleanliness, a form of hygiene, with purity. Returning to a state of purity after being in a state of impurity often involves ritual washing, but this ritual action is not explained in the Hebrew Bible as cleanliness, at least not in a hygienic meaning.

19 Thomas Kazen, “Dirt and Disgust: Body and Morality in Biblical Purity Laws,” in Baruch J. Schwartz, et al. (eds.), *Perspectives on Purity and Purification in the Bible* (LHBOTS, 474; New York: T&T Clark, 2008), pp. 43-64.

20 In modern times, some soldiers suffer post-traumatic stress disorder from the realities of war, but I would be surprised to learn if any do because of seeing feces or another soldier defecating.

21 This is not to argue other social attitudes, such as disgust, are not at work in the matter of defecation and excrement. Rather, such attitudes are insufficient to explain Deut. 23:13-15.



reasons to believe all is not well with Israel as vassal, which helps to explain why the divine reaction is so consequential for Israel.

A final aspect worth noting is that defecation and holiness are mentioned together. Due to a purity matter (nocturnal emissions) being addressed as part of the larger unit (Deut. 23:10-15), along with the reference to holiness in 23:15, scholars interpret defecation and excrement as defiling.<sup>22</sup> But nowhere in the Hebrew Bible are defecation or excrement categorized as things that render space profane or an individual impure, much less the mere sight of them.<sup>23</sup>

### Governmentality: Thinking about Government and Conduct

Deuteronomy's concern in addressing defecation is governmental. By "government" I am not referring solely to political structures, political theory, the state and its centralized institutions, the origins of state power, its several branches and policies, administrative structure, or other such meanings of the term.<sup>24</sup> Rather, I use this term and governmentality to examine the shaping of behaviors at every level of society. In doing so I am in conversation with Foucault and governmentality studies, where "government" is understood in terms of its older definition, as the guidance or direction of conduct, including both groups and individuals.<sup>25</sup> He called this analytical focus "governmentality" because he was interested in examining the various and multiple ways in which such guid-

22 Because the deity accompanies the army, commentators interpret Deut. 23:13-15 as an instance of holy war, with the result that the military camp is a "sacral camp" (e.g., Nelson, *Deuteronomy*, pp. 274, 279-80; Tigay, *Deuteronomy*, p. 213, but see also Lundbom, *Deuteronomy*, pp. 652-54; Miller, *Deuteronomy*, p. 157; Biddle, *Deuteronomy*, p. 344; Duane L. Christensen, *Deuteronomy 21:10-34:12* [WBC, 6B; Nashville: Thomas Nelson Publishers, 2002], pp. 538-44); for more on holy war, see Gerhard von Rad, *Holy War in Ancient Israel* (trans. Marva J. Dawn; Grand Rapids, Mich.: W.B. Eerdmans Publishing Co., 1991). However, if the deity always is expected to accompany the army to war, and thus every war is a "holy" war and every camp a "sacral" camp, then these distinctions have little meaning because they are axiomatic.

23 Tigay also notes the absence of textual evidence stating defecation or excrement are inherently impure, to which I would add, unholy; see Tigay, *Deuteronomy*, p. 214.

24 This is a common understanding of government, one that holds in biblical studies as elsewhere, as evidenced by, for example, Norman K. Gottwald, "Government, OT," in Katherine Doob Sakenfeld (ed.), *The New Interpreter's Dictionary of the Bible, D-H* (Nashville, TN: Abingdon, 2007), pp. 644-54.

25 Michel Foucault, "The Subject and Power," in *Michel Foucault: Beyond Structuralism and Hermeneutics* (ed. Paul Rabinow and Hubert L. Dreyfus; Chicago: University of Chicago Press, 1983), pp. 208-226.

ance is provided, individually and collectively.<sup>26</sup> There are, in other words, certain possibilities for action that individuals and groups understand themselves to have at any moment, possibilities that shape and direct how they respond. They operate in a “more or less considered and calculated” way to shape behavior.<sup>27</sup> Governmentality examines both how conduct is shaped and the larger logic or guiding idea that informs it.

The focus on conduct in governmentality studies is important. It is what makes governmentality useful not only for reading Deuteronomy, but other religious texts and practices.<sup>28</sup> Conduct is a word with both nominal and verbal meanings. “To conduct” is to direct or guide, that is, to govern someone or something. Behavior is, in turn, one’s “conduct” or action. Governmentality therefore undertakes analysis of the “conduct of conduct,” as Foucault puts it.<sup>29</sup> This shift in focus, broadening government’s meaning and concerns, makes possible consideration of how governmental influence, the directing of conduct, occurs not simply at the macro-level through centralized institutions (e.g., the judiciary), but also at the micro-level, in the intimate, personal actions of individuals. It is by shaping conduct at all these levels that government is both created and effected. Direct force or coercion is one means by which governmental power is effected, but it is not the only means.

Governmentality has another important focus, that of the governing rationality or idea linking together the macro- and micro-levels of governmental influence. This rationality is not restricted to political theories or some universal, hegemonic “Idea” or “Truth,” but that which strategically coordinates a multitude of practices toward an objective. Foucault, for example, famously argued for discipline as the objective of governmental operations in the eigh-

26 Foucault first introduced the term “governmentality” in his 1977–78 lectures at the Collège de France; see Foucault, *Security, Territory, Population*, pp. 108–109, 115–16. Mitchell Dean provides a useful overview and introduction to governmentality studies; see Dean, *Governmentality*. See also Mitchell Dean, *The Signature of Power* (Thousand Oaks, Cal.: SAGE Publications, 2013).

27 Foucault, “The Subject and Power,” p. 221.

28 Catherine Bell draws upon the work of Foucault on power and subjectivity to understand ritual and ritualization, in Bell, *Ritual Theory, Ritual Practice*, pp. 197–223.

29 Michel Foucault, *Wrong-Doing, Truth-Telling: The Function of Avowal in Justice* (trans. Stephen W. Sawyer; Chicago: University of Chicago Press, 2014), p. 240. Foucault’s use of this phrase in the lectures and interviews recorded in *Wrong-Doing, Truth-Telling* (originally *Mal faire, dire vrai: Fonction de l’aveu en justice. Cours de Louvain, 1981* [ed. Fabienne Brion and Bernard E. Harcourt; Louvain-de-Neuve: Presses universitaires de Louvain, 2012]) is the earliest attestation I can find, despite many scholars attributing it to other works, most commonly *Security, Territory, Population* (pp. 192–93) or “The Subject and Power” (pp. 220–21).

teenth to nineteenth centuries CE in Europe.<sup>30</sup> This objective is achieved by a continuous application of power relations across, between, and among a profusion of operations, not simply by a centralized force or coercion. The combination and amalgamation of these processes, mechanisms, and other operations constitute a governmental apparatus, what Foucault called the *dispositif*, that aims to shape conduct in a more or less coordinated effort.<sup>31</sup>

Part of what makes governmentality such a useful perspective is its broad understanding of how government works. I attended a professional society meeting a few years ago in which the title of one of the papers accepted for that meeting, “Too Many Dicks at the Writing Desk, or How to Organize a Prophetic Sausage-Fest,” provoked controversy. When the society’s national staff was organizing the meeting program, they contacted the paper’s author out of concern that the use of “sausage” in its title might cause offense to some meeting participants. Due to this concern, they inquired about potential changes to it. In the ensuing exchange between the author and national office staff, professional conduct at academic meetings was an issue – a governing issue. A range of mentalities and claims about conduct, including professionalism, cordiality, collegiality, censorship (or not), informed the exchange. They were made both for the meeting itself and for how individual members of the society should behave. Even in the small matter of a paper title, one of hundreds presented at that meeting, the governing rationality of professional conduct

30 Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Pantheon, 1979).

31 To put this somewhat differently, what makes a governing rationality possible and effective is the collection and assimilation of other practices and the governing ideas within them. Foucault argued for various governing rationalities in his published work, most notably confession, discipline, and biopower. See, for example, Michel Foucault, *The History of Sexuality* (New York: Pantheon, 1978); Foucault, *Discipline and Punish*; Michel Foucault, *The Birth of Biopolitics: Lectures at the Collège de France, 1978-79* (ed. Michel Senellart and Arnold I. Davidson; trans. Graham Burchell; New York: Palgrave Macmillan, 2008); Michel Foucault, *The Hermeneutics of the Subject: Lectures at the Collège de France, 1981-82* (ed. Frédéric Gros, et al.; trans. Graham Burchell; New York: Palgrave Macmillan, 2005); Foucault, *Wrong-Doing, Truth-Telling*. For a helpful analysis of how these ideas emerged in Foucault’s thought and were related to one another, see Stuart Elden, *Foucault’s Last Decade* (Cambridge, UK: Polity, 2016). A political theory might constitute a governing rationality, but as Foucault made clear, a multiplicity of operations and ideas are at work within any apparatus or theory. For example, Foucault argued that political theories of the State served larger governing rationalities (or rather, were developed alongside and as part of these larger rationalities), including discipline (the apparatus of security) and biopower and biopolitics (the apparatus of populations); see Foucault, *Birth of Biopolitics*; and Foucault, *Security, Territory, Population*. Foucault’s work demonstrates the collective nature of these rationalities and the ways they make use of other mechanisms, processes, and operations by appropriating them, adapting them, and redeploying them for their own purposes.

made itself felt. While the society did not yet have a formalized statement about professional conduct at its meetings, it is what guided both author and staff as they wrote emails, blogged, and negotiated their way to an agreement that the paper would be presented with its original title.<sup>32</sup>

The governing idea in Deuteronomy is monitored power. Monitoring, guarding, or keeping watch is a special concern in the book, as expressed by the frequent use of the term שָׁמַר, among other things.<sup>33</sup> This governing idea extends beyond the appropriation of the suzerainty treaty form as the organizing literary structure of Deuteronomy. But it uses the suzerain-vassal relationship as the coordinating apparatus in the book. Suzerainty, with a more powerful foreign king ruling over a weaker vassal king and people, provides the structure that enables the collection and assemblage of a multitude of mechanisms and processes that create and effect the suzerain-vassal governing relationship. The connections between and among these operations are loose, and conflicts between them may exist. But the objective is creating a particular subject, “Israel,” in a particular sort of relationship with YHWH: as a loyal and docile vassal who is monitored in various ways. How it goes about realizing this objective is by guiding (i.e., governing) Israel at both the collective and individual levels. This explains the book’s concern with topics ranging from the judiciary to shit.<sup>34</sup> Neither the judiciary nor excrement is more “naturally” a concern of governmentality than the other. Yet both are addressed because they are appropriated and adapted to achieve this objective. The question with respect to defecation in Israel’s military camp is, how does this normal bodily function serve the objective of creating Israel as a proper vassal?

32 The society’s official statement on professional conduct at its meetings appeared a few years after this kerfuffle, in 2015. Roland Boer, the paper’s author, kindly provided me with the archived version of the correspondence and blog (he removed it from his blog archive). The published version of the paper appears in Roland Boer, “Too Many Dicks at the Writing Desk, or How to Organize a Prophetic Sausage-Fest,” *The Earthy Nature of the Bible: Fleshly Readings of Sex, Masculinity, and Carnality* (New York: Palgrave Macmillan, 2012), pp. 59–70.

33 I provide a fuller argument for monitored power in my forthcoming book, *Deuteronomy’s Subject: Governmentality and the Creation of “Israel.”*

34 My use of a vulgarity here is not intended to offend (I am aware of professional conduct for journal articles). If it does, this is another example of governmentality, of the conduct of conduct and the governing rationality of professional conduct and decorum, since the use of what are deemed vulgarities in a journal article violates that rationality. My occasional use of it in the remainder of this article also is not intended to offend but rather serve as a reminder of how professional decorum and related notions shape behavior.

## Doing One's Duty in the War Camp

Presumably every man already knows how to defecate before serving in Israel's army. No other book or pericope in the Hebrew Bible addresses defecation and how it is to be done, whether at home or at war, by man or woman, old or young, Israelite or Moabite, priest or layperson, king or commoner. It is not a prescribed, and therefore governed, behavior. But for Deuteronomy, when fighting Israel's battles, there *are* rules to follow and procedures to know when defecating. In that context, when nature calls, a soldier must defecate in a particular way. The process explains both where and how he is to eliminate his waste and why this is important.

More than one procedure is involved. Indeed, four procedures are brought together here into a process. First, there is the matter of space: where he is to defecate. Then there is the matter of how he is to go about it. This procedure suggests a third, involving how each soldier assembles his kit for warfare. Finally, these procedures are explained and justified by means of a fourth, one that addresses why the first three procedures are important: the deity – the suzerain – accompanies the military to war, since this is part of the process of warfare. The combination of these procedures breaks down defecation into a series of discrete steps, regimenting and ordering it. Defecation in Israel's army is disciplined.

The first procedure involves the where. The military camp must have a specially designated place outside the camp where the troops are to go when they defecate (Deut. 23:13). Space is a concern for the suzerain. It is something to be controlled and regulated. All space is governed within the apparatus of suzerainty, whether that is imperial space (all the people and lands that constitute the empire) or smaller spaces within it, such as camp and shitting space. When camp is set up, the space and place for pooping must be distinguished from it. This requires ordering and dividing space into at least two categories, camp space and defecation space. Defecation and feces are excluded from camp space, and vice versa. No details are given for how this division and distinction are performed, but it *is* to be done.<sup>35</sup> Bodies thereby must circulate between

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35 If the motivating logic underlying this division of space is because the governing rationality is holy-profane (camp is "holy" space because the deity/suzerain is in it, Deut. 23:15), then conceptual spatial logic suggests the space and place for defecation is profane or common space. Perhaps there is symbolism in the fact that defecation and excrement, common biological aspects of human life, are to occur in profane space. But urination and a host of other biological processes also are common biological aspects of human life, yet they are not restricted to this or another special space (even if having a seminal emission in the camp renders a soldier impure and relegates him to space outside the camp for one day; Deut. 23:11). In other words, if defecation space operates within the governing

these spaces as needed (when nature calls), distributing them between these spaces according to the functions and activities involved.

Space is regulated, but it is not micro-managed. Both the War Scroll (1QM 7:6-7) and Temple Scroll (11Q19 46:13-16) from the Qumran community are more specific about where to locate the community's latrines. Not so Deuteronomy. Shitting space may be situated north, west, east, or south of the camp just so long as it is separate and set apart, excluded from camp space. The distance of this space from the camp is of no particular concern. The size of this space, whether it has recognizable boundaries, whether or not this space is patrolled and thus protected, how it is maintained, what to do if the space proves inadequate for the needs of the army, and other such practical matters are not of concern.<sup>36</sup> For the book's governing rationality, what is important is that soldiers defecate in a specific space. They must be obedient and monitor their conduct by dividing space this way.

The second procedure regiments and regulates the "how" of defecating (Deut. 23:14). It lays out a step-by-step procedure, which transforms a natural occurrence into a regulated, regimented conduct. When a soldier feels the urge, he is to take a special implement, a peg or stick, from among his kit, leave the camp, go to the designated space, dig a hole, defecate, then cover his excrement before returning to the camp – presumably carrying the peg in his hand as he returns. This is the procedure, *the* procedure, each and every soldier must follow when he has a bowel movement while serving in Israel's army. From the top general to the lowliest soldier, every man must follow this procedure. No exceptions are noted. Every man must have his own special peg for the purpose of defecating; sharing, evidently, is not allowed. Still, there are ambiguities in the procedure that allow for personal discretion, choice, even a measure of freedom. No specifics are given as to the size, length, dimension, or materials out of which this peg or spike is made. No specifications are given about how it is to be carried in a soldier's kit: in a separate compartment, in a sheath, uncovered, wrapped in something, or the like. No instructions are given for how to clean the peg after use, which is a surprising omission if excrement defiles or renders impure.<sup>37</sup> Nor does the procedure explicitly state (although it implies)

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rationality of holy-profane and thus has symbolic meaning in some way, the reasons are not made clear.

36 Mark E. Biddle, for example, argues this space *is* marked; see Biddle, *Deuteronomy*, p. 345. I do not understand the command to designate a space (Deut. 23:13) to mean this space is marked by a formal boundary.

37 If fecal matter is impure or causes the soldier to become impure, on analogy with a nocturnal emission, then presumably the peg also is impure by contagion once it comes into contact with it, and thus it can carry over the impurity to the man and his kit when he

the soldier must dig the hole with the peg, or how deep and wide to dig the hole, how close to the hole the soldier must squat, how long the soldier may linger while defecating, whether and how a soldier is to clean himself, whether the tool must be used to cover the excrement or how the hole is to be covered with dirt (e.g., making the surface smooth and level, leaving a depression, creating a mound over it), and so on. Perhaps a soldier may use his hand(s) or foot or some other means to cover it. Once he does so, is he to wash his hands or feet? Must he return directly to the camp or may he wander? Does he have to report back to anyone when he returns (or, for that matter, when he leaves to use this space), or is he free to come and go from the camp to this space? Does a soldier have to report to anyone in defecation space? There also are a series of questions that might be raised concerning compliance with the procedure in all of its steps, just as the issue of compliance faces the State of North Carolina with HB 2. There are at least three possibilities: self-compliance (through self-regulation), monitoring by others in the army, and monitoring by the deity. This is a point to which I will return.

The matter of a special tool being included in a soldier's kit suggests a third procedure, about what a soldier brings with him. Each soldier has equipment with him in the camp. It is not clear from the text whether this kit includes a soldier's equipment and matériel for battle, or only the soldier's personal, individual equipment for his own use. Like the location of shitting space, there is a lack of specificity regarding the items constituting this kit, but the presumption is that there *is* a set of equipment soldiers take along on military outings against Israel's enemies. The compilation of that kit is a matter of concern for Deuteronomy only to the extent it includes a special tool. It also is a concern in so far as *each* soldier must pack this tool. All soldiers, whatever his rank or responsibility in the army, must include a peg specifically for the performance of the defecation process. When he needs to answer nature's call, he must use this special tool (no sticks or other substitutes, apparently) in defecation space to dig a hole.

Broken down as a series of steps, defecation is a regulated process that is fairly simple. Its simplicity is a result of a combination of three procedures: one determines the where, another determines the how, and a third determines what he must bring. When any soldier needs to do his duty, he does so by following the process: peg, defecation space, hole, bowel movement, cover

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returns to the camp. Therefore it should be washed. Also, both the soldier and the peg should be temporarily separated from the camp for one day, again on analogy with a seminal emission. Such, at least, seems to be the logical conclusion based on the arguments of those scholars who claim excrement is impure. I find this argument unconvincing, as I argue below and in n. 52.



up, return. It is his duty to do his duty according to the process. Defecation is a governed activity, because the process has transformed it (and the soldier) into something governed; it involves the conduct of conduct. For the writers of Deuteronomy, when a soldier needs to drop his bundle, as it were, then following the steps of these procedures is what is important. As long as soldiers do so, there are no consequences. Failure to follow them, on the other hand, *does* have consequences, just not for the individual, as the fourth procedure, discussed below, makes clear.

The soldier's discipline when defecating is the important element for my argument. One might think that discipline is to be expected on a military campaign, since the idea of the military and that of discipline are practically synonymous today. Foucault argues this is not necessarily the case. Various social, cultural, and technological changes in the Western world at the end of the seventeenth century CE led to changes in the way military forces were thought about, trained, and deployed in battle. Military discipline emerged, regulating soldiers' training, living, placement, movements, uniform, personal hygiene.<sup>38</sup> Deuteronomy does not speak of drill sergeants and marching in formation and the like. There is no military discipline detailed in Deuteronomy of the sort deemed synonymous with armies around the world today. But this is not to say there was no discipline. It is rather to ask what sort of discipline did exist, how it was effected, and to what end. In Deuteronomy, one way it is effected is when a soldier needs to defecate.<sup>39</sup> It is realized by a series of specific procedures shaping each soldier's conduct. This is how discipline is created in the military in Deuteronomy, and it is this discipline that transforms each man into a soldier in Israel's army; it creates an "Israelite" soldier. Even the grammar of the command effects this discipline. The pericope uses the singular "you," indicating each and every soldier is being addressed, rather than the collective (which the plural "you" would suggest).<sup>40</sup> Thus Deut. 23:13-15 is not simply a regulation for the army as a whole, a collective of men. The 2ms individualizes the army and places responsibility for keeping the command on each soldier. The government of Israel at war depends upon *self*-discipline, on an individual soldier regulating his behavior and complying with the regulation. He must self-govern.

One consequence of self-government and self-regulation is, ironically, that soldiers lose their particular identities. Despite its focus on individual soldiers,

38 Foucault, *Discipline and Punish*, pp. 162-69.

39 Just as it is in the event of a soldier's nocturnal emission, see Deut. 23:10-12.

40 As noted above, I acknowledge the privileged male audience being addressed in Deuteronomy (so Ackerman), but the grammatical form nevertheless individualizes the address.

the process cares not for the particularities of individuals. It cuts across rank as well as the social, economic, tribal, clan, age, and other socio-cultural categories and distinctions that contribute to an individual's identity in the Hebrew Bible. On the contrary, it dehumanizes them by ignoring these things. Each soldier becomes just another body to be directed in particular ways, that is, to be governed. It is as if, in Deleuzian terms, each man is a mechanism or mechanical process of a biological sort: a shitting machine.<sup>41</sup> These machines produce waste, which is handled in a particular way: the process.<sup>42</sup>

Self-government is monitored and reinforced by another aspect of the process. Because it applies equally to all the troops, the camp as a whole regulates the behavior of one and all. Incumbent upon all the army, each soldier effectively is deputized to enforce it. The gaze of each and all is on every soldier in a relentless, unending, unblinking constancy. In this way, monitored power becomes a constant and continual force on individuals. The lawmakers of North Carolina can only hope for such a monitoring program.<sup>43</sup>

### Watch Your Step

The defecation protocol could be a one-off, an isolated command operating in a particular context only distantly related to the larger objectives of Deuteronomy's governing rationality. But such is not the case. Defecation is a matter of national concern. Deuteronomy 23:15 makes clear that personal behavior can determine the fate of the people at war, a rather dramatic generalization, intensification, and amplification of the consequences of an individual's conduct. The fourth procedure of the pericope is laid out in this verse. "For YHWH your God walks about in the midst of your camp, to deliver you and to give your enemies to you. Your camp must be holy; do not let YHWH see among you an unseemly thing and turn away from you." The procedure involves the presence of the deity during a military campaign. Going to war in the ancient Near East generally requires receiving the approval of the deity and gaining the deity's

41 Gilles Deleuze and Félix Guattari, *Anti-Oedipus: Capitalism and Schizophrenia* (trans. Robert Hurley, et al.; New York: Penguin, 2009), pp. 1-2.

42 The process also distributes these mechanisms spatially, assigning them one space for temporary habitation (camp space) and another for elimination of waste (shitting space).

43 Self-regulation certainly is assumed in HB 2, especially since the law requires the use of bathroom facilities corresponding with the gender stated on one's birth certificate. Such knowledge presumably is held by the individual and few others. What is not clear from the law is how else this knowledge would be used to monitor compliance.

agreement to participate in the battle.<sup>44</sup> Thus, like the defecation process, the fourth procedure involves a combination of actions. When Israel goes to war, the deity, in the role of suzerain, goes with the army. This is one part of the procedure: go to war accompanied by the deity. The deity's presence introduces a second action: the deity walks about, *מתהלך*, in the camp. The third and fourth actions follow: the deity delivers the army and defeats Israel's enemies.<sup>45</sup> All four actions are part of this procedure for warfare in Israel.

In and of itself, this fourth procedure, focused on the presence of the deity as suzerain in the camp, is not especially remarkable. Kings and gods in the ancient Near East go to war with human armies, as indicated by deities commanding kings to go to war and their idols being present with the army.<sup>46</sup> Suzerains are no different. Indeed, it is likely they were *more* concerned to accompany their army lest a vassal king, his army mustered and at the ready, turn against the suzerain in rebellion.<sup>47</sup> The deity's presence leads to the

44 Numbers 14:39-45 is an exception to the deity accompanying Israel to war, because the deity explicitly tells the Israelites not to go up into Canaan and fight against its inhabitants after the people have refused to do so on hearing the spies' report of the land and its inhabitants (14:42). On the other hand, this exception proves the need of soliciting the deity's approval and having the deity accompany the army, because the people are defeated by the Canaanites (14:45).

45 Arguably the divine deliverance of the army and defeat of the enemy constitute one step in the procedure, although two verbal actions are described. Whether this is two steps, one step in two parts, or one step in which the verbal action describes one and the same action (a hendiadys), is immaterial to my argument. All of this is part of the fourth procedure.

46 Tiglath-pileser III regularly reports the gods command that he go to war (Tadmor and Yamada, *Royal Inscriptions of Tiglath-pileser III and Shalmaneser V*), as do Israelite kings (perhaps most notably Ahab and Jehoshaphat in 1 Kings 22). Graphic evidence of a deity's idol or image going with the king to war is found in the reliefs of Ashurnasirpal at the British Museum, from the Northwest Palace in Nimrud, in which the king, on military campaigns, is depicted with the iconographic representation of the deity in a winged disc above him: panel 11 (top; cat. no. WA124540), panel 5 (top; cat. no. WA124551), panel 4 (top; cat. no. WA124554). They also go to war when the gods tell them to do so, as evidenced by the inscriptions of Tiglath-pileser III (see, e.g., Tadmor and Yamada, *Royal Inscriptions of Tiglath-pileser III and Shalmaneser V*, nos. 4, ll. 1-7; 15, ll. 5b-8a).

47 2 Samuel 11 suggests Israel's kings are expected to go to war with their armies, since this provides the dramatic context for David's affair with Bathsheba. The same expectation appears to hold for Assyrian and Babylonian kings (see the various chronicles in Albert Kirk Grayson, *Assyrian and Babylonian Chronicles* [Winona Lake, Ind.: Eisenbrauns, 2000]). Suzerains expected vassals to join forces with them when called. The Hittite treaty evidence indicates that vassals join forces with the Hittite king when he goes to war or, if he is delayed for some reason, he sends a nobleman in his place. See, for instance, Gary M. Beckman, *Hittite Diplomatic Texts* (WAW, 7; ed. Simon B. Parker; Atlanta, Ga.: Scholars, 1999), nos. 2 §§22, 35, 47; 3 §12; 8 §§4-6; 8 §§7-8; 9 §§2-5. Vassals of Neo-Assyrian kings

command that the camp be holy. It must be holy because the deity is present in it.<sup>48</sup> What is remarkable is how this reference to holiness obscures the governmental operations of the pericope.

Recall that Deut. 23:10-15 begins and ends with references to evil and unseemly things. Israel must “be on guard against any evil (רע) thing” in Deut. 23:10, and 23:15 states the deity should not see any “unseemly thing” (lit. “naked thing,” ערות דבר). This is another reason why, when combined with the concern for how a nocturnal emission renders a soldier “unclean” (or, “impure,” טהור; Deut. 23:11), most commentators interpret defecation and feces to be matters of purity and holiness.<sup>49</sup> Both nocturnal emissions and defecation, or at least uncovered feces, are interpreted as evil and unseemly. But neither nocturnal emissions nor excrement are considered evil in the Bible.<sup>50</sup> Seminal emissions are not, as Jonathan Klawans argues, moral impurity, so if they are something “evil,” a moral judgment, such a reclassification of a ritual impurity must be explained.<sup>51</sup> Neither do defecation or excrement require the purification process of a nocturnal emission.<sup>52</sup> Therefore, if defecation and excrement

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also are expected to fight alongside the suzerain; see, for example, Simo Parpola and Kazuko Watanabe, *Neo-Assyrian Treaties and Loyalty Oaths* (SAA, 2; Helsinki: Helsinki University Press, 1988), nos. 2 iv 1-3; 9 21-25.

48 Holy, in the nominal and adjectival forms, occurs 11 times in Deuteronomy compared to 122 occurrences in Leviticus, suggesting the writers of Deuteronomy are less concerned with this topic. Purity, in either its nominal and verbal forms, also appears to be of little concern in Deuteronomy, since this word occurs six times, while some form of it occurs 74 times in Leviticus. Leviticus understands the deity to be the definition of holiness (Lev. 11:44-45; 19:2; 20:7, 26). It is unclear if the writers of Deuteronomy agree or disagree with this understanding. The people of Israel are to be holy to YHWH (Deut. 7:6; 14:2, 21; 26:19; 28:9), and YHWH’s heavenly habitation is holy (Deut. 26:15), but the deity is not described as such in Deuteronomy.

49 Biddle, *Deuteronomy*, pp. 344-45; Lundbom, *Deuteronomy*, pp. 653-54; McConville, *Deuteronomy*, p. 350; Miller, *Deuteronomy*, p. 162; Nelson, *Deuteronomy*, p. 279; Tigay, *Deuteronomy*, pp. 213-14.

50 As Jonathan Klawans argues, seminal emissions render a male ritually impure, but such emissions are not sinful nor, apparently, evil, as in Zoroastrianism. See Jonathan Klawans, *Impurity and Sin in Ancient Judaism* (New York: Oxford University Press, 2000), pp. 24-25. Neither is excrement called evil in the Torah or rest of the Hebrew Bible.

51 Klawans, *Impurity and Sin*, pp. 22-26.

52 Many commentators cite Lev. 15:16-18 and 22:4 as the justification for the purification procedure for nocturnal emissions in the military camp (Deut. 23:11-12) and then, by inference, to explain the defecation and excrement procedures (23:13-15) in terms of purity (e.g., Lundbom, *Deuteronomy*, p. 652; Biddle, *Deuteronomy*, p. 345; McConville, *Deuteronomy*, p. 350; Nelson, *Deuteronomy*, p. 279; Tigay, *Deuteronomy*, p. 214). In the Leviticus texts, a seminal emission requires the man separate himself from the camp for one day, wash, and that he wash everything touched by semen, whether textile or skin, as part of the ritual of purification (Lev. 15:17), since the impurity of semen is contagious (cf. Lev

are not purity issues, what else might be deemed evil and unseemly? What other argument may be made to explain what is evil and unseemly? Governmentality and the conduct of conduct provide an answer.

What is of concern here is that Israel becomes a proper vassal. This is accomplished by following the commands outlining the defecation process (and the purification process after a seminal emission), that is, self-government. The deity walks about the camp to ensure compliance with these commands. The soldiers are being monitored by the deity for how they behave in these two matters.<sup>53</sup> By inspecting and monitoring the behavior of soldiers, the deity can see whether "Israel" performs the specified operations and thereby self-governs. Seeing leads to evaluation and judgment and therefore the ability to render a moral judgment on behavior: to determine if the soldiers' actions are "evil." This is how defecation becomes a matter of national consequence and sufficient cause to turn the deity away from the camp. The concern with respect to defecation and excrement is not holiness, despite arguments to the contrary. But there are two aspects of Deut. 23:15 that merit more attention.

First, the physical presence of the deity stands in stark contrast with the much-celebrated theology of Deuteronomy noted by scholars, the so-called "name theology," in which it is only the name of the deity that is present on

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22:4-7). But none of these procedures hold for defecation and excrement (as indicated by the lack of concern for how to treat the peg, as noted in n. 37), thereby making arguments for purity as the explanation of defecation and excrement in Deut. 23:13-14 unconvincing. Additionally, since seminal emissions are not moral impurity, and thus not evil, some other explanation is needed for Deut. 23:10-15. A practical argument also is present: if feces render a soldier impure, and a soldier must follow the purification process by being temporally separated for one day from the camp, then it is logically possible the camp could be emptied of soldiers at some point in time if defecation occurs as regularly as every day. In such a case, what happens if Israel is attacked and must do battle? Are the ritually impure soldiers to fight in a different area from the deity because they are impure and therefore unable to be in the presence of the (holy) deity, even in battle? Or must the assumption be only the camp is holy and marching and fighting with the deity renders holiness protocols moot? Arguments for purity and holiness as the explanation for Deut. 23:10-15 founder on many (unexamined) points. Governmentality provides a more compelling rationale and explanation.

53 I find it surprising these are the only matters of military behavior being monitored. Brawling, drunkenness, improper storage of weapons, sleeping while on guard duty, dereliction of duty, disobeying orders, all pass without comment. But their omission here suggests self-government and self-regulation are of primary importance. This is not to suggest ritual purity is not important or that defecation and excrement might not have other social value or stigma associated with them. What is of concern in Deuteronomy is compliance with how soldiers treat these matters, namely that they follow the procedures explicitly named in Deuteronomy for addressing them.

earth, in a location selected by the deity (e.g., Deut. 12:2-7).<sup>54</sup> But within Deuteronomy's governing rationality of monitored power, the deity's presence can be explained. Loyalty and docility among vassals is an ever-present concern of suzerains, as evidenced by Hittite treaties of the fourteenth to thirteenth centuries BCE and Neo-Assyrian treaties and loyalty oaths (*adê*) of the eighth to seventh centuries BCE.<sup>55</sup> The concern for loyalty and docility was great because vassals so often rebelled and, indeed, were expected to rebel, as did Hezekiah.<sup>56</sup> Hezekiah's rebellion against Assyria led to Sennacherib's invasion of Judah, the loss of 46 cities and towns, the siege of Jerusalem, and eventually the imposition of a heavy tribute on Hezekiah and Judah (so high that Hezekiah was forced to strip the gold from the doors of the Temple; 2 Kings 18-19; Isaiah 36-37; 2 Chronicles 32).<sup>57</sup> Rebellion is why it is unwise for suzerains to

54 Most notably, Gerhard von Rad, *Studies in Deuteronomy* (London: SCM, 1953), pp. 38-40. This argument rightly has been challenged by scholars, including Michael B. Hundley, "To Be or Not to Be: A Reexamination of Name Language in Deuteronomy and the Deuteronomistic History," *VT* 59 (2009), pp. 533-55.

55 Most if not all extant Hittite treaties contain calls for loyalty and docility from their vassals. Loyalty is demonstrated by such actions as sending troops to aid the suzerain (the Hittite king) in battle against his enemies, the regular reading of the treaty, carefully observing the treaty, returning fugitives, and reporting sedition (Beckman, *Hittite Diplomatic Texts*, nos. 1, 2, 6A, 7, 11). Extant Neo-Assyrian treaties and loyalty oaths also contain calls for loyalty and docility from partner kings and people (Parpola and Watanabe, *Neo-Assyrian Treaties and Loyalty Oaths*, nos. 2, 3, 6, 9). Parpola and Watanabe note in their introductory comments to this volume (pp. xv-xxv) that Neo-Assyrian texts used the term *adê*, loyalty, and thus acknowledge the question of whether or not any of the texts in their volume should be classified as "treaties" in a technical sense. They note that, as an imperial (dominant) power in the region (a "superpower," according to Parpola and Watanabe, p. xvi), these were binding agreements that for the most part advantaged Assyria, even if Assyria granted concessions in certain cases. The effect of the loyalty oaths certainly is comparable to Hittite treaties, that is, making the other party subservient to the Neo-Assyrian king.

56 See, for example, Tiglath-pileser III dealing with the city of Erinziašu and others (Tadmor and Yamada, *Royal Inscriptions of Tiglath-pileser III and Shalmaneser V*, nos. 8, ll. 10b-12; 9, ll. 8b-12; 12, ll. 3'-6'a; 21, ll. 12'-16'; 22, ll. 8'b-13') and Sennacherib dealing with Mero-dach-baladan II in Babylon (Grayson, *Assyrian and Babylonian Chronicles*, Chronicle 1 ii.19-23). Simo Parpola also sees rebellion and revolt as constant threats from the period of Tiglath-pileser III on; see Simo Parpola, "Assyrian Expansion in the 8th and 7th Centuries and Its Long-Term Repercussions in the West," in William G. Dever and Seymour Gitin (eds.), *Symbiosis, Symbolism, and the Power of the Past: Canaan, Ancient Israel, and Their Neighbors from the Late Bronze Age through Roman Palaestina. Proceedings of the Centennial Symposium, W.F. Albright Institute of Archaeological Research and American Schools of Oriental Research, Jerusalem, May 29-31, 2000* (Winona Lake, Ind.: Eisenbrauns, 2003), pp. 99-111.

57 Sennacherib commemorated this campaign with the famous Lachish Reliefs, now on display in the British Museum. His recounting of it is included in the Taylor Prism, which



send their armies out to battle and not accompany them. The suzerain's presence helps ensure the army does not rise up in rebellion but rather remains loyal because it is being directly monitored.

The other aspect of Deut. 23:15 meriting attention is that, when on walk-about in the camp, the deity, as suzerain, is exercising an option to monitor the vassals personally. By walking about, observing and inspecting the soldiers and their behavior (i.e., conduct), the deity enacts a continual governmental relationship with them, testing them to see whether or not they are proper vassals. This monitoring and testing of soldiers' compliance with the defecation process brings together two governmental mechanisms. The objective of the defecation process is for soldiers to self-regulate in a certain way. Each time they do so they conform their actions and reinforce their behavior as subjects of Deuteronomy's governing rationality. In other words, they enact their status as vassals. This individualized governmental action, however, is part of the apparatus of suzerainty in Deuteronomy. Its appropriation and redeployment here, as part of the fourth procedure, enables it to function in a new and different way, as a test. As the deity walks about the military camp, a determination of Israel's loyalty may be made simply by observing defecation space. That space and what is left behind are the "test papers," in a manner of speaking, the evidence of the soldiers' subjectivity. Uncovered excrement tells the suzerain what the suzerain needs to know, namely whether or not Israel is a loyal vassal, one who follows the terms of the treaty.<sup>58</sup> By itself, the defecation process is a single instance of government, the objective of which is a small, individualized action of self-government, performed through conformity to the process. But as part of the fourth procedure, it signals one's subjectivity as a vassal. The soldiers, all of them, must demonstrate their loyalty as vassals to the roving, wandering deity; they must watch their steps(!) and behave as the suzerain demands. Observing the process and covering one's feces are litmus tests by which the deity determines and evaluates "Israel's" loyalty. And in the same way that litmus paper is a means of testing the pH balance of a liquid, so too does the defecation process provide the suzerain a means of testing Israel.<sup>59</sup>

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records his capture of 46 cities and towns and shutting up Hezekiah in Jerusalem "like a bird in a cage"; see Daniel David Luckenbill, *The Annals of Sennacherib* (OIP 2; ed. James Henry Breasted; Chicago: University of Chicago Press, 1924), col. III, ll. 18-49 (pp. 33-34).

58 The deity also might observe soldiers defecating in some alternative way to the process commanded in 23:13-14, since 23:15 is not specific as to what particular thing it is the deity might see, deem "unseemly," and thus cause the deity to depart.

59 There are a variety of tests and procedures in Deuteronomy whereby Israel demonstrates its subjectivity as vassal, more than can be investigated here. For another such example, one that also provides a quick means of monitoring compliance, see George, "The Sabbath, Regimes of Truth," pp. 17-18.



The deity can render an evaluation of the soldiers' behavior, whether it is good (it complies with the command and process) or evil and unseemly (it fails to comply).<sup>60</sup>

### Becoming Proper Vassals

It is the combination of operations in Deut. 23:13-15 that becomes apparent by analyzing this pericope in terms of governmentality. Monitored power and the apparatus of suzerainty do not operate simply at the macro-level of Israel's political organization. By examining defecation in the military camp as a governmental operation, the means by which individuals come to be governed – by the command and their compliance with it (their self-governance) – becomes clearer. Government is not abstract, but personal. It occurs in the mundane realities of a soldier's life. The defecation process becomes a testing process that makes possible an evaluation process that determines their compliance to the commands of Deuteronomy. An entire monitoring operation is at work here. It reveals evil behavior by the vassal. And it is in the consequences of this test that yet another operation within the apparatus of suzerainty comes into play. Failure has consequences not for individuals or even the army alone, but for all Israel and the deity.

If YHWH sees a pile of shit, much less steps in it, the deity will turn away and leave the camp.<sup>61</sup> Foreign gods, armies, blood, and gore apparently are things the divine warrior can stomach, but seeing a pile of poop sends YHWH packing. Uncovered feces are a sign of trouble for the suzerain because of what they imply. Most simply, it means the defecation process has not been followed. At least one soldier has failed to follow it. But if *this* process has not been followed, *what else* has not been followed? What other evil and unseemly actions are afoot by the vassal? At this moment, when evaluation is being made, the next operation of the apparatus of suzerainty comes into effect. What has been aimed at the personal and individual now becomes a matter of collective consequence. Most immediately this collective is the army. At least in this small matter, the army as vassal has become lax about reading and observing the treaty, that is, those commands, statutes, and ordinances imposed upon it by

60 Perhaps what constitutes an “unseemly thing” or “naked thing” is a metaphor in Deuteronomy for behavior that is uncovered or revealed through divine inspection determined while on walk-about.

61 The word for turn away used in this verse, שׁוּב, has the connotation of a physical turning (e.g., the flood waters, Gen. 8:3) or departing (Sennacherib, 2 Kgs 18:14). See Koehler, Baumgartner, and Stamm, *HALOT*, s.v., שׁוּב.

YHWH. Minimally it means the suzerain needs to investigate further into the army's loyalty. But such an investigation, apparently, must wait, since delay may be deadly for the suzerain, because rebellion may arise at any moment. Uncovered poop is a sign the suzerain needs to abandon the army post-haste (Deut. 23:15). This action signals the generalization to the second understanding of the collective: Israel. The army will face its enemies without the presence and aid of its divine suzerain, whose function and purpose is to deliver Israel and defeat those enemies. Divine abandonment, in other words, places the people as a whole at risk, since defeat means subjugation of the people to an enemy. In this way, a personal matter becomes something of national importance. It becomes this because of the governing rationality of monitored power and the apparatus of suzerainty. Within that rationality, the evaluation of personal behaviors has significance for all Israel because individualized actions can be shaped in certain ways, observed, evaluated, and judged, a larger set of operations that affect (and effect) Israel as vassal. Defecation contributes to the larger objectives of monitored power and the apparatus of suzerainty, that of the creation of Israel as a loyal and docile vassal. It serves as a bell-weather for the suzerain that Israel may not be the loyal vassal he wants it to be.

### Conclusion

Governing access to bathrooms, conducting the conduct of individuals in bathrooms, is common both to Deuteronomy and North Carolina. In the case of Deuteronomy, governing how soldiers defecate in the military camp may not, at first, seem to be the sort of thing a political treatise like Deuteronomy should address. It is quite specific to a social setting, treats a feature of life shared by all human beings, creates a process for something soldiers presumably already know how to do, and thus intrudes regularly on the ways they live out their lives. But it does serve a purpose within the larger governmental rationality of the book. By specifying the process for defecation, government becomes a continuous, constant influence on the conduct of Israel's soldiers. When soldiers in Israel's army follow this particular process, they shape their conduct according to Deuteronomy's understanding of how Israelite soldiers behave. Such soldiers are recognizable because they defecate in a certain space using a peg according to a particular procedure. Each and every soldier in Israel does this, and then covers up his feces before leaving this space. But it does far more than this because it is part of Deuteronomy's governmental apparatus. By following the process, each soldier self-governs his conduct, internalizing

the governmental relationship between himself and the suzerain. He becomes that subject at whom monitored power and the apparatus of suzerainty are aiming: a loyal and docile vassal. By *not* following the process, a soldier signals the fact that he has not internalized the governmental relationship and therefore is not a loyal vassal. He does not monitor his own behavior by following the command. The process then becomes a means of evaluation of Israel. Uncovered excrement alerts the divine suzerain to the possibility that other, more serious problems may be present with the vassal, that evil and unseemliness in the governmental relationship are at work. It allows YHWH to take appropriate actions of YHWH's own. The consequences of those actions for Israel are, at least potentially, severe, not simply for the soldiers but all the people. Defecating the proper way becomes emblematic of Israel's loyalty and docility, its conformity to its subjectivity as YHWH's vassal.