

JOEL B. KEMP

# Ezekiel, Law, and Judahite Identity

*Forschungen  
zum Alten Testament 2. Reihe  
123*

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**Mohr Siebeck**

Forschungen zum Alten Testament  
2. Reihe

Edited by

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123





Joel B. Kemp

# Ezekiel, Law, and Judahite Identity

A Case for Identity in Ezekiel 1–33

Mohr Siebeck

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ISBN 978-3-16-156579-3 / eISBN 978-3-16-156580-9  
DOI 10.1628/978-3-16-156580-9

ISSN 1611-4914 / eISSN 2568-8367 (Forschungen zum Alten Testament, 2. Reihe)

The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliographie; detailed bibliographic data are available at <http://dnb.dnb.de>.

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The book was printed on non-aging paper by Laupp & Göbel in Gomaringen and bound by Buchbinderei Nädele in Nehren.

Printed in Germany.

## Acknowledgements

This monograph is a revised version of my dissertation. A project of this magnitude is only possible with the support of mentors, colleagues, friends, and family members who provided invaluable counsel, encouragement, and insight. I am grateful to all who have helped me complete this project.

My thanks to my many colleagues and mentors at Boston College who were phenomenal models of scholarly rigor and mentorship throughout my time there. I especially appreciate the time, energy, and commitment that my advisor, David Vanderhooft, has shown me during the production of this manuscript. David's incisive comments, keen attention to detail, and generous sharing of his time contributed immeasurably to this book. Jeff Cooley and Yonder Gillihan, the two other members of my dissertation committee, were invaluable sounding boards to help me refine the scope and focus of the project. The friendship, collegial relationship, and encouragement they provided is one of the reasons this project was completed. To John Darr and PHEME Perkins, I am humbled by the time and energy you invested in me throughout the PhD program.

In addition to the excellent mentorship I received from faculty members at Boston College, the students I worked and studied with throughout the years enriched my experience in this program. While the faculty members were my official teachers, I feel I learned as much from my fellow students as I did from the faculty. While I am grateful for all of the members of the Bible Colloquium, I want to especially offer my appreciation and deep gratitude to Kim Bauser, Clint Burnett, Tom Fraatz, Rachel Nelson, and Dan Vos for their contributions. In addition, a host of others at Boston College too numerous to name have added to the quality of my time in the program and the completion of this project. I especially want to thank Nichole Flores, Daryn Henry, and Nicole Reibe for their advice, friendship, and thought-provoking questions. I look forward to continuing these conversations for many years to come.

The intellectual and personal support my colleagues provided was augmented by the generous financial support of the Forum for Theological Exploration (FTE). The FTE Doctoral Fellowship I received for the 2015–2016 academic year helped me complete my dissertation. In addition to their financial support, FTE provided a wonderful opportunity to know and learn from other doctoral students in theology programs from across the nation. Also, the faculty

members and other individuals who generously donated their time to work with me during (and after) my time as a FTE Doctoral Fellow contributed immensely to the completion of this project. I am grateful and honored to be a member of the FTE family.

Additionally, I wish to thank the University of Scranton and my current colleagues within the Department of Theology/Religious Studies. Their encouragement and support as I began my new position in the department allowed me to revise my dissertation into the form presented here. I want to especially thank Associate Provost Sunil Ahuja, PhD and the University's Weinberg Judaic Studies Institute for their role in securing funding to have this manuscript edited professionally.

Last, but not least, I wish to thank the publisher and editors who helped in the production of the final manuscript.

This book is dedicated to my close friends and family who supported me through the years. In particular, my parents, Jesse and Loretta Kemp, remain among the largest influences on my life as a scholar, teacher, and person. Without the love for Christ and passion to learn instilled in me at an early age, this book could not have been written. To my beloved wife, Gail, there are not enough words in the English language to describe all she means to me and her role in completing this project. Her incredible intellect, uncompromising honesty, unsurpassed grace, and immeasurable strength inspire me daily.

June 5, 2019

Joel B. Kemp, PhD

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## Abbreviations

<i>ABD</i>	<i>Anchor Bible Dictionary</i> . Edited by David Noel Freedman. 6 vols. New York: Doubleday, 1992
<i>AfO</i>	Archiv für Orientforschung
<i>AHw</i>	<i>Akkadisches Handwörterbuch</i> . Wolfram von Soden. 3 vols. Wiesbaden, 1965–1981
<i>AYB</i>	Anchor Yale Bible
<i>BDB</i>	Brown, Francis, S. R. Driver, and Charles A. Briggs. <i>A Hebrew and English Lexicon of the Old Testament</i>
<i>BHS</i>	<i>Biblia Hebraica Stuttgartensia</i> . Edited by Karl Elliger and Wilhelm Rudolph. Stuttgart: Deutsche Bibelgesellschaft, 1983
<i>BMO</i>	Barcino monographica orientalia
<i>BWA(N)T</i>	Beiträge zur Wissenschaft vom Alten (und Neuen) Testament
<i>BZAW</i>	Beihefte zur Zeitschrift für die alttestamentliche Wissenschaft
<i>CAD</i>	<i>The Assyrian Dictionary of the Oriental Institute of the University of Chicago</i> . Chicago: The Oriental Institute of the University of Chicago, 1956–2006
<i>CBQ</i>	<i>Catholic Biblical Quarterly</i>
<i>CDLI</i>	Cuneiform Digital Library Initiative
<i>CDLJ</i>	<i>Cuneiform Digital Library Journal</i>
<i>CM</i>	Cuneiform Monographs
<i>CMHE</i>	Frank Moore Cross. <i>Canaanite Myth and Hebrew Epic</i> . Cambridge: Harvard University Press, 1973
<i>CUSAS</i>	Cornell University Studies in Assyriology and Sumerology
<i>FAT</i>	Forschungen zum Alten Testament
<i>GKC</i>	<i>Gesenius' Hebrew Grammar</i> . Edited by Emil Kautzsch. Translated by Arthur E. Cowley. 2 <sup>nd</sup> ed. Oxford: Clarendon, 1910
<i>HALOT</i>	<i>The Hebrew and Aramaic Lexicon of the Old Testament</i> . Ludwig Koehler, Walter Baumgartner, and Johann J. Stamm. Translated and edited under the supervision of Mervyn E. J. Richardson. 4 vols. Leiden: Brill, 1994–1999
<i>HAT</i>	Handbuch zum Alten Testament
<i>HSM</i>	Harvard Semitic Monographs
<i>HTR</i>	<i>Harvard Theological Review</i>
<i>HUCA</i>	<i>Hebrew Union College Annual</i>
<i>JANESCU</i>	<i>Journal of the Ancient Near Eastern Society of Columbia University</i>
<i>JAOS</i>	<i>Journal of the American Oriental Society</i>
<i>JBL</i>	<i>Journal of Biblical Literature</i>
<i>JBQ</i>	<i>Jewish Bible Quarterly</i>
<i>JHS</i>	<i>Journal of Hellenic Studies</i>
<i>JNES</i>	<i>Journal of Near Eastern Studies</i>

<i>JPS</i>	<i>Jewish Publication Society</i>
<i>JSOR</i>	<i>Journal of the Society of Oriental Research</i>
<i>JSOT</i>	<i>Journal for the Study of the Old Testament</i>
JSOTSup	Journal for the Study of the Old Testament Supplement Series
JTS	Journal of Theological Studies
<i>NIB</i>	<i>The New Interpreter's Bible</i> . Edited by Leander E. Keck. 12 vols. Nashville: Abingdon, 1994–2004
NICOT	New International Commentary on the Old Testament
<i>NRSV</i>	<i>New Revised Standard Version</i>
OBO	Orbis Biblicus et Orientalis
OTS	Oudtestamentische Studiën
RGG	<i>Die Religion in Geschichte und Gegenwart</i>
SBL	Society of Biblical Literature
SBLSymS	Society of Biblical Literature, Symposium Series
SemeiaSt	Semeia Studies
<i>TDOT</i>	<i>Theological Dictionary of the Old Testament</i> . Edited by G. Johannes Botterweck and Helmer Ringgren. Translated by John T. Willis et al. 8 vols. Grand Rapids: Eerdmans, 1974–2006
<i>ThWAT</i>	<i>Theologisches Wörterbuch zum Alten Testament</i> . Edited by G. Johannes Botterweck and Helmer Ringgren. Stuttgart: Kohlhammer, 1970–2000
<i>TynBul</i>	<i>Tyndale Bulletin</i>
<i>VT</i>	<i>Vetus Testamentum</i>
VTSup	Supplements to the Vetus Testamentum
WMANT	Wissenschaftliche Monographien zum Alten und Neuen Testament
WUNT	Wissenschaftliche Untersuchungen Neuen Testament
<i>WW</i>	<i>Word and World</i>
<i>ZAW</i>	<i>Zeitschrift für die alttestamentliche Wissenschaft</i>



## Chapter 1

# Introduction

The book of Ezekiel is filled with fantastic visions, sexually graphic imagery, and enigmatic sign acts. This book and its eponymous prophet continue to intrigue and, in some cases, mystify scholars.<sup>1</sup> Because of the prophet's identification as a priest (Ezek 1:3) and clear evidence connecting the book with "priestly material"<sup>2</sup> in the Pentateuch, this book also plays a prominent role in the continuing debates regarding the composition and dating of that corpus.<sup>3</sup> Within the past thirty years, the book of Ezekiel – along with other prophetic texts purportedly originating in the "exilic period"<sup>4</sup> – has been identified as a

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<sup>1</sup> The list of commentaries (both critical and non-critical) on the book of Ezekiel is too voluminous to reproduce in its entirety here. Among the earliest commentaries on this prophetic anthology that appear occasionally in some modern literature I reviewed are: John Calvin, *Commentaries on the First Twenty Chapters of the Book of the Prophet Ezekiel*, trans. Thomas Meyers (Grand Rapids: Christian Classics Ethereal Library, 2010); William Lowth, *A Commentary upon the Prophet Ezekiel* (London: W. Mears, 1723); Carl Friedrich Keil, *Biblical Commentary on the Prophecies of Ezekiel*, trans. James Martin (Edinburgh: T&T Clark, 1876); and Wilhelm Julius Schroeder, *The Book of the Prophet Ezekiel Theologically and Homiletically Expounded* (New York: Charles Scribner, 1876). In Chapter 2, I will discuss those Ezekielian critical scholars whose analysis of the book informs my understanding of its provenance and authorship.

<sup>2</sup> This term references those elements in the book that scholars identified as being similar to biblical texts belonging to P or H. Scholars' most prevalent theories regarding the nature of the literary dependence and chronological priority among Ezekiel, P, and H will be investigated briefly in Chapter 2. Although I will give some attention to this debate, my primary interest is the *fact* that the book of Ezekiel shares similar juridical terminology with these sources not *how* these similarities appeared in each.

<sup>3</sup> See Federico Giuntoli and Konrad Schmid, *The Post-Priestly Pentateuch: New Perspectives on its Redactional Development and Theological Profiles* (Tübingen: Mohr Siebeck, 2015); Konrad Schmid, "Der Pentateuch und seine Theologiegeschichte," *ZTK* 111 (2014): 239–270, esp. 259–266.

<sup>4</sup> It is common among biblical scholars to refer to the period of Neo-Babylonian domination of Judah after its destruction as "the exile." As scholars have noted, this term lacks precision within Israelite/Judahite history and can obscure Judah's place within the larger ancient Near East. Consequently, several proposals have emerged that define exile either by temporal parameters or national events. See Peter R. Ackroyd, *Exile and Restoration: A Study of Hebrew Thought of the Sixth Century B.C.* (Philadelphia: Westminster, 1968); Daniel Smith-Christopher, *A Biblical Theology of Exile* (Minneapolis: Fortress, 2002); Rainer Albertz, *Israel in Exile: The History and Literature of the Sixth Century B.C.* (Atlanta: SBL,

valuable source to understand “Judahite”<sup>5</sup> life in the 6<sup>th</sup> century BCE. Many scholars recognize that the 6<sup>th</sup> century BCE was an important era that produced significant developments in Judahite conceptualizations of their identity. In particular, the Babylonian conquest of Jerusalem in the years between 597–586 BCE led to the loss of polity, multiple deportations of Judahites from Judah to Babylonia, and the destruction of the Temple. In light of these events, I concur with scholars who identify the 6<sup>th</sup> century BCE as a particularly fruitful era for observing how Judahite identity developed.<sup>6</sup>

Many scholars who study Judahite identity augment traditional methods of biblical criticism by appropriating models from the social sciences, including cultural anthropology, ethnic and racial studies, and psychology.<sup>7</sup> Addition-

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2003); Jill Middlemas, *The Templeless Age: An Introduction to the History, Literature, and Theology of the “Exile”* (Louisville: Westminster John Knox, 2007); Middlemas, “The Future of the ‘Exile,’” in *By the Irrigation Canals of Babylon: Approaches to the Study of the Exile*, ed. John J. Ahn and Jill Middlemas (New York: T&T Clark, 2012), 63–81; and John J. Ahn, *Exile, Literature, and Theology: The Literature and Socio-Theological Impact of the Forced Migrations of the Southern Kingdom of Judah*, BZAW 417 (Berlin: de Gruyter, 2011). For purposes of this project, I will avoid referring to the “exilic period” or “the exile” (unless an author I reference uses it). Instead, I will use chronological markers (e.g., 6<sup>th</sup> century BCE) or political designations (e.g. Neo-Babylonian) to refer to the tumultuous sixth century BCE and the indelible mark it left upon Judah, its inhabitants, and its forced migrants to Babylonia.

<sup>5</sup> Debate persists about when the terms “Jewish” or “Judean” are applicable and their meaning. For example, Shaye Cohen argues that “Jewishness” does not exist prior to the second or first century BCE. Rather, it is only appropriate to speak of “Judeanness” and this is “primarily a function of birth and geography” (*The Beginnings of Jewishness* [Berkeley: University of California Press, 1999], 109). Joseph Blenkinsopp, however, advocates for a Persian era provenance for the emergence of “Jewishness” (“Judeans, Jews, Children of Abraham” in *Judah and the Judeans in the Achaemenid Period: Negotiating Identity in the International Context*, ed. Oded Lipschits, Gary N. Knoppers, and Manfred Oeming [Winona Lake, IN: Eisenbrauns, 2011], 461–82.) Like Cohen, Seth Schwartz contends that “Jewishness” did not emerge until Late Antiquity (*Imperialism and Jewish Society: 200 BCE to 640 CE* [Princeton: Princeton University Press, 2004], 49–58.) In a recent monograph (2017), John J. Collins discusses a similar scholarly trajectory regarding developments in “Jewish” identity in antiquity. For Collins’s overview of this subject matter, see John Collins, *The Invention of Judaism: Torah and Jewish Identity from Deuteronomy to Paul* (Berkeley: University of California Press, 2017), 1–21. For purposes of this study, I will use the term “Judahite” to describe individuals in the sixth century BCE from Judah and their descendants, regardless of their physical location.

<sup>6</sup> See Ackroyd *Exile and Restoration*, 8; Albertz, *Israel in Exile*, 1–2; Martien A. Halvorson-Taylor, *Enduring Exile: The Metaphorization of Exile in the Hebrew Bible* (Leiden: Brill, 2010), 194; and John Ahn, *Exile, Literature and Theology*, 2.

<sup>7</sup> The interdisciplinary approach to studying Judahite identity in the sixth century BCE is reflective of a larger movement among biblical scholars to augment traditional methods of scholarship with other disciplines when studying the era of Neo-Babylonian domination of

ally, several scholars recognize the presence of juridical diction and legal imagery within prophetic material.<sup>8</sup> Despite biblical scholars' increased awareness of how developments in Judahite identity are preserved in the book of Ezekiel and the presence of legal material in it, few scholars have investigated how these legal materials affect the manner in which the book portrays Judahite identity. A primary purpose of this study is to address this lacuna in scholarship on Judahite identity in the 6<sup>th</sup> century BCE by examining how legal elements in Ezek 1–33 are used to articulate Judahite identity.

Although a fuller discussion of my methodology for investigating Judahite identity will follow in Chapter 3, a few remarks are warranted here. For this study, my investigation of Judahite identity focuses upon how individuals or groups define themselves, including what values and practices are foundational to a group's *self-categorization*. I investigate the ways the book of Ezekiel, especially Ezek 16, reveals how a Judahite community sought to (re-)define itself in response to the realities of Neo-Babylonian hegemony. This focus on Judahite self-categorization means that I will not consider in this project how others perceived or categorized Judahites living under Neo-Babylonian sovereignty. As I will discuss, this project builds upon aspects of Erik Erikson's and Urie Bronfenbrenner's theories of development to frame the analysis of certain texts in the book of Ezekiel and their connection to Judahite self-identification. Specifically, these theorists emphasize that the wider contexts within which a subject lives must be considered when studying identity development. Such contexts inform and provide the "raw material" to define, describe, and delineate the most salient aspects of a subject's identity at any given moment in time. These researchers' focus on the wider contexts in which subjects live, and the impact of those contexts upon identity development, enabled me to recognize certain connections in the book of Ezekiel between legal components

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Judah and the wider ancient Near East. An overview of this growing trend in the study of the period is Brad E. Kelle, "An Interdisciplinary Approach to the Exile," in *Interpreting Exile: Displacement and Deportation in Biblical and Modern Texts*, ed. Brad E. Kelle, Frank Ritche Ames, and Jacob L. Wright (Atlanta: SBL, 2011), 5–40.

<sup>8</sup> A fuller discussion of the legal elements in the book of Ezekiel occurs later in this study. Some of the more frequently referenced studies of legal material in the prophetic corpus are Herbert B. Huffmon, "The Covenant Lawsuit in the Prophets," *JBL* (1959): 285–295; Kirsten Nielsen, *Yahweh as Prosecutor and Judge: An Investigation of the Prophetic Lawsuit (Rib-Pattern)*, JSOTSup9 (Sheffield: University of Sheffield, 1978); Michael DeRoche, "Yahweh's Rib Against Israel: A Reassessment of the so-called 'Prophetic Lawsuit' in the Pre-exilic Prophets," *JBL* 102 (1983): 563–574; Dwight Daniels, "Is There a Prophetic Lawsuit Genre?" *ZAW* 99 (1987): 339–360; and Claus Westermann, *Basic Forms of Prophetic Speech*, trans. Hugh White (Louisville: Westminster John Knox, 1991). Specific studies of legal material within the book of Ezekiel include: Meindert Dijkstra, "Legal Irrevocability (*lō' yāšūb*) in Ezekiel 7:13," *JSOT* 43 (1989): 109–116; and Meir Malul, "Adoption of Foundlings in the Bible and Mesopotamian Documents: A Study of Some Legal Metaphors in Ezekiel 16:1–7," *JSOT* 46 (1990): 97–126.



and arguments for the proper conceptualization of Judahite identity. For this project, I will focus on the legal elements in the book of Ezekiel and how the authors of this text martialled them to articulate and describe Judahite identity during the sixth century BCE.

In this study, I argue that the consistent presence of juridical diction, legal metaphors, and courtroom imagery reveals that Ezek 1–33 is set within a precise juridical framework. I contend that focusing upon these legal elements has two primary benefits for understanding the book. First, it illuminates the coherence of some passages within Ezek 1–33. Second, it reveals how the book uses its legal elements to articulate a version of Judahite identity under Neo-Babylonian hegemony. For this project, I consider Ezek 16 as a case study to examine how attention to the juridical framework may provide additional insight regarding the meanings and functions of this oracle. In particular, I investigate how the legal elements contribute to an understanding and articulation of Judahite identity under Neo-Babylonian control. As noted, I use insights from the works of Erik Erikson and Urie Bronfenbrenner to connect these legal elements to identity development. According to my analysis, Ezek 16 equates the *legal status* of the city with *Judahite identity* to prove that since the experiences of Neo-Babylonian domination do not nullify or rescind the legal agreement (ברית) between the deity and Judahites, that domination did not destroy Judahite identity. Rather, the punishment that this chapter describes demonstrates the continuing validity of the contract and the version of Judahite identity that is rooted in it. Consequently, Ezek 16 claims that the Judahites' acceptance of the legal appropriateness of Neo-Babylonian domination is the *sine qua non* for remaining in the legal relationship that defines Judahite identity.

## 1.1 The Scope of This Study

### 1.1.1 Ezekiel 1–33

Before summarizing the progression of chapters, a brief comment on the scope of this study and its operating assumptions is warranted. The primary texts within the book of Ezekiel I am investigating are found in chapters 1–33. My concentration on these chapters is not intended either to deny or to suggest that the book's juridical terminology and legal imagery are located only there. Rather, my choice stems from the fact that the majority of these chapters purport to describe the prophet's messages prior to the physical destruction of Jerusalem, a fact that is reported to the Babylonian exilic community, גולה, in Ezek

33:21–22.<sup>9</sup> As I will discuss in Chapter 4, the noticeable shift in tone that biblical scholars find after Ezek 33 reflects a change in the kind of legal argumentation the prophet employs, a change that is beyond the scope of this project. Consequently, my review of the history of scholarship on the book of Ezekiel will not address the complications Ezek 34–48 (especially Ezek 40–48) presents for determining the provenance and authorship of the book.<sup>10</sup>

### 1.1.2 The Need for a Case: Rival Prophets and Obstinate Audiences

I argue that the book of Ezekiel is using juridical terminology and imagery to make a rhetorically persuasive case for Judahite identity.<sup>11</sup> The need to persuade an audience of the accuracy and appropriateness of the eponymous prophet's conception of Judahite identity arises for at least two reasons. First, the book of Ezekiel, like many prophetic anthologies preserved in the Hebrew Bible, acknowledges the presence of other, dissenting voices whose messages oppose that of the prophet. In some prophetic books, such as Jeremiah, the rival prophets are named and their disputations with the prophet are recorded.<sup>12</sup> Similarly, Ezek 13 acknowledges the presence of rival prophets and describes why

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<sup>9</sup> As will be discussed in Chapter 2, most scholars agree that the book of Ezekiel underwent redactional activity after the prophet's life. My choice to limit my consideration to Ezek 1–33 does not mean I deny the evidence scholars have adduced to conclude that portions of those chapters were written after the destruction of Jerusalem.

<sup>10</sup> As noted, the dating of Ezek 40–48 raises several issues concerning the *terminus ante quem* for the book as a whole. Since these chapters lie outside the scope of this project, they will not be discussed in the second chapter of this monograph. For a recent treatment of these chapters and related issues, see Stephen L. Cook, *Ezekiel 38–48: A New Translation with Introduction and Commentary*, AYB 22b (New Haven: Yale University Press, 2018), 9–15. See also, Jon D. Levenson, *Theology of the Program of Restoration of Ezekiel 40–48*, HSM 10 (Missoula, MT: Scholars Press, 1976).

<sup>11</sup> Adrian Graffy is one of several scholars who suggests that prophetic texts need to be understood within the context of the disputes, arguments, and “contested space” in which the prophet delivered his messages. See Adrian Graffy, *A Prophet Confronts His People: The Disputation Speech in the Prophets* (Rome: Biblical Institute Press, 1984), 55–57. Additionally, as Thomas Renz argues, prophetic audiences often have a quasi-adjudicatory function within the context of these disputations. As I will discuss later in this study, I concur with Renz's assessment of the book's audience as a “jury” who must determine whether (and to what extent) the prophet's argument is accurate. For a fuller discussion, see Chapter 6.

<sup>12</sup> Jeremiah 28 records a disputation between the prophets Jeremiah and Hananiah, including Hananiah's interference with Jeremiah's prophetic performance (Jer 28:10–11). The chapter ends with YHWH's pronouncement of judgment upon Hananiah and his subsequent death (Jer 28:15–17). The similarities between Jeremiah and Ezekiel are well discussed, including extensive debates regarding the direction of influence between these prophetic books. For a good overview and summary of the relevant bibliography, see Walther Zimmerli, *Ezekiel 1: A Commentary on the Book of the Prophet Ezekiel, Chapter 1–24*, trans. Ronald E. Clements (Philadelphia: Fortress, 1979), 44–46; Henrik Leene, “Blowing the

their message should not be trusted. As Hendrik Leene notes, although “the book of Jeremiah contains many warnings against misleading prophecy, the book of Ezekiel virtually confines itself in this respect to only one address against the prophets and prophetesses of Israel, chapter 13.”<sup>13</sup> There, the false prophets are described as those: אשר הלכים אחר רוחם ולבלתי ראו “who follow their spirit so they do not see” (Ezek 13:3b).<sup>14</sup> To corroborate this claim, the following accusation is levied against the rival prophets: חזו שוא וקסם כזב האמרים נאם־יהוה ויהוה לא שלחם ויחלו לקים דבר הלוא מחזה־שוא חזיתם ומקסם כזב אמרתם: “They saw vanity and false divination saying, ‘YHWH declares,’ but YHWH has not sent them, and then they waited for the word to be confirmed. Have you not seen an empty vision and a false divination (when) you spoke saying YHWH declares but I have not spoken?” (Ezek 13:6–7).<sup>15</sup>

As a result of these deceptive visions and false utterances, YHWH announces that he will judge them harshly (Ezek 13:7–9) and terminate all false prophets/prophecies concerning the land (Ezek 13:23).<sup>16</sup> Although the book of Ezekiel does not provide extensive details regarding the false prophets’ messages, Ezek 13:10 provides the following characterization: יען וביען הטעו את־עמי “Since they seduced my people saying ‘Peace’ when there is no peace while one built a wall and behold others coated it with whitewash.”<sup>17</sup> The fact that such dissenting voices were

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Same Shofar: An Intertextual Comparison of Representations of the Prophetic Role in Jeremiah and Ezekiel,” in *The Elusive Prophet: The Prophet as a Historical Person, Literary Character and Anonymous Artist*, ed. Johannes C. de Moor OTS 45 (Leiden: Brill, 2001), 175 nn. 1 and 2; Albertz, *Israel in Exile*, 346–348; Walther Eichrodt, *Ezekiel: A Commentary* (Philadelphia: Westminster, 1970), 14; and Michael Lyons, *An Introduction to the Study of Ezekiel* (London: Bloomsbury, 2015), 28–29.

<sup>13</sup> Leene, “Blowing Shofar,” in de Moor, *Elusive Prophet*, 177.

<sup>14</sup> In this study, all passages from the Hebrew Bible in Hebrew represent the consonantal text of *BHS*. All English translations of biblical texts are by the author, unless otherwise noted.

<sup>15</sup> This indictment of false prophets is similar to language that also appears in Jeremiah. See, e.g., Jer 14:14 and 23:21.

<sup>16</sup> Although beyond the scope of this project, it is noteworthy that Ezek 13:17–23 contains a specific indictment and pronouncement of judgment upon women who are also delivering false prophecies: ואתה בן־אדם שים פניך אליבנות עמך המתנבאות מלבהן והנבא עליהן: (Ezek 13:17). While this inclusion of women may not be deemed particularly pejorative, the negative portrayal of women in the book of Ezekiel, especially in Ezek 16, will be discussed briefly in the overview of scholarship that follows in Chapter 2.

<sup>17</sup> Similar to the earlier accusations in Ezek 13, several parallels can be found in Jeremiah. For example, during YHWH’s rebuke of prophets and priests, the deity accuses these individuals of saying (שלום שלום ואין שלום) “peace, peace but there is no peace.” See Jer 6:14 and 8:11.

present during the career of “Ezekiel”<sup>18</sup> – as they were in the careers of the Bible’s other featured prophets – in part explains why the prophet had to persuade his audience.

In addition to the erroneous messages of “false prophets,” the book of Ezekiel repeatedly describes the incredulity and obstinacy of the prophet’s putative audience. One reason for some Judahites’ rejection of the prophet’s message is the interval between the announced destruction of the community and its actual fulfillment. For example, Ezek 12:21–28 contains a lengthy discussion concerning whether the prophet’s message is to be believed given the “delay” in its fulfillment. Moshe Greenberg concluded similarly that the central issue in these verses is that “as the moment when the prophecy was uttered recedes further and further into the past without the prophecy’s taking effect, its power peters out and it sinks into oblivion – a dead letter no one need worry about.”<sup>19</sup> This pericope begins with a proverb that is popular among some Judahites: יארכו הימים ואבד כלי־הזון “The days are prolonged and every vision has perished” (Ezek 12:22b). The deity responds to this initial proverb by declaring that it will no longer be uttered in Israel and that: לא תמשך עוד כי בימיכם בית המרי אדבר “It will no longer be delayed but in your days, O Rebellious House, I will speak a word and fulfill it, announces the Lord GOD.” (Ezek 12:25). This section (Ezek 12:21–28) concludes with the deity once again refuting the Judahites’ statement that delays in fulfillment render the prophecies irrelevant, if not false. In summation, YHWH responds: לא־תמשך עוד כלי־דברי אשר אדבר דבר ויעשה נאם אדני יהוה “None of my words will be delayed; the word I declare will be performed, announces the Lord GOD.” (Ezek 12:28).

As a result of this delay, YHWH repeatedly assures the prophet that the fulfillment of his proclamations will serve as vindication of both his prophetic office and message.<sup>20</sup> Additionally, the book contains warnings from YHWH that detail the opposition the prophet will face. For example, YHWH tells the prophet: ובית ישראל לא יאבו לשמע אליך כי־אינם אבים לשמע אלי כי כלי־בית ישראל חזקיי “Concerning the house of Israel: They do not desire to listen

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<sup>18</sup> When I use the term “Ezekiel,” it refers to the prophet to whom the book is attributed rather than the text of the biblical book itself. Although I agree with those scholars who conclude that an actual, historical figure lies behind the literary portrait of the prophet painted in the book of Ezekiel, it is unnecessary for this project to attempt to reconstruct either the *ipsissima verba* of “Ezekiel” or the prophet himself. For this project, it is sufficient to note that debates regarding the impact of Neo-Babylonian domination upon Judahite identity began during the lifetime of the eponymous prophet and were articulated (in part) with language borrowed from Judahite and Neo-Babylonian legal proceedings. Thus, the debates among scholars regarding the similarities between the historical prophet and the literary portrayal of him in the book of Ezekiel will not be discussed extensively in this study. For a brief treatment of this issue, see my overview of scholarship in Chapter 2.

<sup>19</sup> Moshe Greenberg, *Ezekiel 1–20: A New Translation with Introduction and Commentary*, AYB 22 (Garden City, NY: Doubleday, 1983), 227.

<sup>20</sup> See, e.g., Ezek 2:5 and 33:33.

to you because none of them desire to listen to me. For the entire house of Israel has a hard forehead and stubborn heart.” (Ezek 3:7). Moreover, YHWH warns the prophet that his fellow Judahite exiles will bind him and restrict his movements among them (Ezek 3:25).<sup>21</sup> Because of the audience’s incredulity and obstinacy, the final destruction of Jerusalem becomes irrefutable evidence of the veracity of his case and silences his critics’ objections. Greenberg puts the matter thus: “The imminent disaster would validate Ezekiel’s doom prophecy in the face of the enmity, or at best the skepticism, of his audience.”<sup>22</sup> Thus, the need to persuade his audience is the result of both rival messages delivered by other prophets and his audience’s skepticism, stubbornness, or disbelief regarding the fulfillment of his message.<sup>23</sup> Additionally, the need for persuasion may help explain the utility of legal elements for articulating and framing the book’s vision of Judahite identity.

### 1.1.3 Historicity of Babylonian Deportation

In this study, I will not engage in a lengthy discussion of the deportation of some Judahites to Babylonia either in terms of its historicity or its impact upon Judah. While biblical scholars are more sanguine about the fact that the Judahites experienced a significant disruption in their lives in the sixth century BCE because of Neo-Babylonian domination, the nature and severity of that disruption remains a subject of debate.<sup>24</sup> As should become clear, this study argues that the book reflects circumstances and experiences consistent with a Babylonian provenance. Whether the portrait of Judahite life in Ezek 1–33 can be verified in every material respect does not bear upon my analysis of the

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<sup>21</sup> This pronouncement precedes a declaration by the deity that the prophet will be rendered silent (Ezek 3:26). The legal significance of the prophet’s silence and its impact upon the rhetorical logic of Ezek 1–33 will be discussed in Chapter 4.

<sup>22</sup> Moshe Greenberg, *Ezekiel 21–37: A New Translation with Introduction and Commentary*, AYB 22a (Garden City, NY: Doubleday, 1983), 516.

<sup>23</sup> As will be discussed, Thomas Renz argues similarly that the rhetorical situation of the prophet and his audience must be considered in the analysis of the book of Ezekiel.

<sup>24</sup> Useful summaries of the biblical evidence and scholarly debates regarding the historicity and scope of exile include: Hans M. Barstad, *The Myth of the Empty Land: Study of the History and Archaeology of Judah During the Exile Period* (Oslo: Scandinavian University Press, 1996); Lester L. Grabbe, ed., *Leading Captivity Captive: ‘The Exile’ as History and Ideology*, JSOT 278 (Sheffield: Sheffield Academic, 1998); Albertz, *Israel in Exile*, 74–111; Kathryn P. Darr, “The Book of Ezekiel: Introduction, Commentary, and Reflections,” in *Introduction to Prophetic Literature, Isaiah, Jeremiah, Baruch, Letter of Jeremiah, Lamentations, Ezekiel*, ed. Leander E. Keck, vol. 6 of *New Interpreter’s Bible* (Nashville: Abingdon, 2001), 1075–1607; Oded Lipschits, *The Fall and Rise of Jerusalem: Judah Under Babylonian Rule* (Winona Lake, IN: Eisenbrauns, 2005); John J. Ahn and Jill Middlemas, eds., *By the Irrigation Canals of Babylon: Approaches to the Study of the Exile* (New York: T&T Clark, 2012); and Jonathan Stökl and Caroline Waerzeggers, eds., *Exile and Return: The Babylonian Context*, BZAW 478 (Berlin: de Gruyter, 2015).

book's use of legal elements to articulate Judahite identity. This project will investigate the fact that the sixth century BCE Neo-Babylonian conquest of Judah occurred and produced conditions that significantly affected Judahite identity.

## 1.2 The Organization of This Study

To understand how legal elements in Ezek 1–33 are used to make a case for Judahite identity under Neo-Babylonian domination, I have divided the study into five chapters. Chapter 2 provides an overview of the history of scholarship on the book of Ezekiel, with a particular emphasis upon the book's provenance and authorship. Additionally, some of the insights that feminist scholars have provided on the book, particularly their analyses of Ezek 16, occupy a portion of the opening chapter. While it is an overview of scholarship in general, I highlight trends in the broader study of the book of Ezekiel that underscore why that book is an appropriate biblical text to investigate my basic question: how were legal elements used to articulate a vision of Judahite identity under Neo-Babylonian hegemony?

Chapter 3 outlines the social-psychological model I am applying to Ezek 1–33 to associate its legal elements with identity development. Few biblical scholars studying identity formation incorporate into their analyses the legal language and imagery that permeates many prophetic texts. To account for the function of these legal elements within the context of identity development, it is necessary to create a methodological framework that connects them. The discipline of social psychology recognizes that, to account properly for identity development, the broader contexts – within which law is embedded and in which a subject lives – must be studied. Two prominent researchers whose work is congruent with such an approach are Erik Erikson and Urie Bronfenbrenner.<sup>25</sup> Building upon their work, this chapter elaborates a framework, which I call the Erikson–Bronfenbrenner Model (“EB Model”), to examine how the book of Ezekiel uses juridical diction, courtroom imagery, and legal metaphors to make a case for Judahite identity.

In Chapters 4–6, I turn my attention to several passages in Ezek 1–33 that demonstrate both the legal framework the book employs and the specific arguments it makes regarding how Judahite identity should be constituted as a result

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<sup>25</sup> The primary works of these researchers I will discuss are: Erik Erikson, *Identity: Youth and Crisis* (New York: Norton, 1968); Erikson, *Identity and the Life Cycle* (New York: Norton, 1980); Urie Bronfenbrenner, “Ecological Models of Human Development” in *Readings on the Development of Children*, eds. Mary Gauvin and Michael Cole (New York: Worth, 1993), 3–8; and Bronfenbrenner, *Making Human Beings Human: Bioecological Perspectives on Human Development* (London: Sage, 2005).

of Neo-Babylonian domination.<sup>26</sup> Chapter 4 investigates how the book of Ezekiel describes the traditional (legal) roles of the principal parties and strategically subverts them within the context of a legal contest. To illustrate the legal *milieu* in which the book was written and to gain a fuller picture of ancient Near Eastern legal praxis, I begin this chapter with an overview of Shalom Holtz's monograph, *Neo-Babylonian Court Procedure*. Building upon his reconstruction of adjudicatory proceedings connected to the Temple in the cuneiform records, I argue that the book of Ezekiel shares several elements with these temple disputes.<sup>27</sup> Consequently, I contend in Chapter 4 that the "judicial disposition" of the deity, the restrictions placed upon the prophet's role prior to the fall of Jerusalem (Ezek 33), and other elements are consistent with the first phase of a Neo-Babylonian temple dispute, i.e., the accusation of the defendant.

Chapter 5 continues to follow the basic outline of temple disputes Holtz reconstructs and focuses on the arguments the Judahites raise in their own defense. In this chapter, I analyze three examples that represent the primary legal arguments the Judahites assert in an attempt to demonstrate their innocence or which they use as counterclaims against the deity. Specifically, Chapter 5 investigates Judahites' (i) assertions of their innocence of the charges levied against them; (ii) counterclaims alleging divine dereliction of fiduciary duties; and (iii) counterclaims alleging the deity is not adhering to the sentencing guidelines for alleged crimes.

The final chapter is an analysis of Ezek 16, which serves as a case study to illustrate how the deity "proves" the case against the Judahites and provides a blueprint for how Judahites should conceive of their identity. In this final chapter, I incorporate elements of the social-psychological model outlined in Chapter 3 to highlight certain elements of Judahite identity that this chapter advocates. The primary focus of this final chapter is to demonstrate how Ezek 16

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<sup>26</sup> My thesis that the book of Ezekiel is making a legal argument as part of its articulation of Judahite identity does not mean that I understand every term, phrase, or image to carry a juridical significance. Rather, it is important to recognize that non-legal elements can (and often do) contribute to an overall legal argument, without burdening each term with a legal valence it cannot bear. A modern legal argument often includes terminology with specific, legal nuance and those which do not. In my previous experience as an attorney, I commonly included terminology that did not have a legal significance, but were important elements of the broader legal position I advocated. With respect to my analysis of the book of Ezekiel, I recognize that an analogous practice is operative in it as well. As a result, I will neither attempt to prove that every term I discuss has a legal significance nor is such proof necessary for the thesis of this project.

<sup>27</sup> As I will argue in Chapter 4, the similarities between Neo-Babylonian court proceedings and the book of Ezekiel do not necessitate the conclusion that a one-to-one correspondence between this document and Neo-Babylonian legal procedures must be reached. Rather, these similarities provide additional evidence of the legal genre (*Gattung*) I contend is critical to the analysis of the vision of Judahite identity articulated in this biblical book.

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