I imagine that when Robert Cover’s “Nomos and Narrative” essay first reached the editors of the Harvard Law Review, their befuddlement derived not so much from Cover’s framing of his review of the 1982 Supreme Court term with a philosophically opaque discussion of the interdependence of law and narrative, but from the illustrations that he drew from biblical and rabbinic texts of ancient and medieval times. For Cover, both intellectually and as a matter of personal commitment, these ancient texts evoke a “nomian world,” rooted more in communally shared stories of legal origins and utopian ends than in the brutalities of institutional enforcement, one from which modern legal theory and practice have much to learn and to emulate. Since my own head is buried most often in such ancient texts, rather than in modern courts, I thought it appropriate to reflect, by way of offering more such texts for our consideration, on the long-standing preoccupation with the intersection and interdependency of the discursive modes of law and narrative in Hebrew biblical and rabbinic literature, without, I hope, romanticizing them. Indeed, I wish to demonstrate that what we might think of as a particularly modern tendency to separate law from narrative, if only for the economies of specialization, has itself an ancient history, and to show how that tendency, while recurrent, was as recurrently resisted from within Jewish tradition. In particular, at those cultural turning points in which laws are extracted or codified from previous narrative settings, I hope to show that they are also renarrativized (or remythologized) so as to address, both ideologically and rhetorically, changed socio-historical settings. I will do so through admittedly selective, yet telling, examples.


2 To the extent that such renarrativizing of biblical law is also a form of remythologizing, compare Michael Fishbane, Biblical Myth and Rabbinic Mythmaking (Oxford: Oxford University Press, 2003), who deals more with the remythologizing of biblical narrative.
Let me begin not at the historical beginning, but with a well known comment—well known at least among students of rabbinic learning—which marks roughly a midpoint in the history of “nomos and narrative,” even as it attends to the opening words of the Torah’s account of creation. While this comment is usually credited to the medieval rabbinic commentator Rashi, whom I cite, Rashi in turn credits a third-fourth century rabbinic sage for its origins:

Said Rabbi Isaac: There was no reason to begin the Torah, but from “This month shall be to you” (Exod 12:2, introducing the laws of Passover), which is the first commandment with which Israel was [collectively] commanded. So why did he open with “In the beginning”?4

Rashi’s answer to this question is, in effect, that it was necessary first to establish God’s creator credentials as justification for having given to the people of Israel the land of other nations.5 I am less interested in (or sympathetic to) Rashi’s answer than to his (and R. Isaac’s) question, or rather, to what it assumes: If the Torah (Pentateuch) is primarily and fundamentally a collection of commandments, that is, of laws, why delay by all of the book of Genesis and the first eleven chapters of the book of Exodus before getting to the legal heart of the matter? In this view, the narrative framework of the Torah, if not of the whole Hebrew Bible, appears to be mere padding, which could easily be dispensed with, were it not for its value in establishing that the commander in chief of Israel in particular is the universal creator of the whole world and its peoples. Whatever the justificatory value of Rashi’s opening comment, it hardly does justice to the richness of the biblical narrative that follows, or, for that matter, to the great learning, insight, and sensitivity that Rashi himself displays in elucidating almost every detail of that biblical narrative. Certainly, the lengthy narrative prologue to the biblical laws must do more than simply set the stage for their revelation and reception.

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3 Rashi is an acronym for Rabbi Solomon (ben) Isaac (1040–1105), a French commentator on the Hebrew Bible and Talmud.
4 Rabbi Isaac is most likely of the late third/early fourth century, mainly in Palestine, but also in Babylonia. Rabbi Isaac’s view is first cited in Tānḥuma Berešit (ed. Buber) 11, but in briefer form. For a similar idea, see Mek. Bahodesh 5 (ed. Horovitz-Rabin, 219); Gen. Rab. 1.2 (ed. Theodor-Albeck, 4–5); Sifre Num 115 (ed. Horovitz, 127). Compare Philo, Abr. 3–6, 275–76; Mos. 2.48; Opif. 1–3; Josephus, Ant. 1.18–23. Here and below, unless otherwise noted, English translations are my own.
5 Rashi (and his source) cites Ps 111:6: “He revealed to his people his powerful works, in giving them the heritage of nations.”