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Actualization of Pentateuchal Legal Traditions in Jeremiah

More on the Riddle of Authorship

Dalit Rom-Shiloni (Tel Aviv)

I. Introduction¹

By the early sixth century BCE, the Pentateuch (without specifying its extent) served as a „canonical corpus“ for the prophets Jeremiah and Ezekiel.² This general statement has been substantiated by scholars of both prophetic and Pentateuchal literature, though not without debate.³ I would widen this observation to encompass not only the prophets, but also their mostly unspecified audiences, among them the Priests, the Elders, the Wise men, and perhaps others.⁴ By way of example, Jeremiah denounces two professional circles which claim to possess the *torah*: the Priests (18:18; as also 2:8) and the Wise men: „How can you say, We are wise, and the law of Yahweh is with us“ (Jer 8:8).⁵ While Jeremiah challenges them, posing a

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- 1 English biblical quotations in this paper are taken from the NJPS Tanakh translation. A shorter version of this paper was presented in the Biblical Law section of the Society of Biblical Literature Annual Meeting, Washington, D.C., 2006.
 - 2 The authoritative, canonical or only quasi-canonical status, of legal and literary traditions within the Bible was thoroughly discussed by M. A. Fishbane, *Biblical Interpretation in Ancient Israel*, Oxford 1985, 1988, 9-18, and *passim*, as well as in a number of his other studies.
 - 3 For general discussions of the Pentateuch in prophetic literature, see: A. C. Welch, *Deuteronomy: The Framework of the Code*, London 1932, 1-4; D. N. Freedman, „Law and Prophets“, VTSupp 9 (1963), 250-265; R. Davidson, „Orthodoxy and the Prophetic Word: A Study in the Relationship between Jeremiah and Deuteronomy“, VT 14 (1964), 407-416; W. Zimmerli, *The Law and the Prophets: A Study of the Meaning of the Old Testament* (trans: R. E. Clements), Oxford 1965; and recently in the collection: G. N. Knoppers and B. M. Levinson (eds.), *The Pentateuch as Torah: New Models for Understanding Its Promulgation and Acceptance*, Winona Lake, IN 2007, from which I would mention the papers of E. Otto and J. Schaper. For specific discussions of Jeremiah, see W. L. Holladay, *Jeremiah 2* (*Hermeneia*), Philadelphia 1989, 35-40, 53-63; and extensively in M. Fishbane, *Biblical Interpretation*.
 - 4 Another unspecified group is referred by Jeremiah only as „the Leaders“ (*hagedolim*, 5:5), and is said to be knowledgeable in God’s ways and in his law. As for the „Wise men“, see R. N. Whybray’s critical discussion of the scholarly understandings of the Wise as a professional group, and his counter suggestion that the „wise men“ in Jer 8:8-9 and elsewhere were an unspecified audience of persons of superior intelligence (*The Intellectual Tradition in the Old Testament* [BZAW 135], Berlin 1974, 15-54, especially 21-31).
 - 5 Translated thus by W. L. Holladay, *Jeremiah 1* (*Hermeneia*), Philadelphia 1986), 274.

contradiction between their pretended wisdom and *torat 'adonai* or *devar 'adonai* (v. 9), his attack demonstrates the phenomenon: Jeremiah was not the only one who used „the law of Yahweh“ in his rhetoric.⁶ The *torah* had gained a central role in the Judaic discourse of the time.⁷

In fact, the chief-editor of this journal, Professor Eckart Otto, is a leading voice in recent German biblical scholarship who profoundly refutes such proclamations. Otto suggests a vivid deliberation between post-exilic-postpriestly, postdeuteronomic, and *Tradentenprophetie* (specifically that of postexilic Jeremianic *Tradentenprophetie*). The scribal authors of this Jeremianic *Tradentenprophetie* differed significantly from the postexilic Priestly authors of the Pentateuch on central issues of Israel's identity, divine revelation, as also on prophetic authority, and most of all on the status of the words of the Torah in relation to the words of the prophets.⁸ While, according to Otto, both circles used the same scribal techniques, within post-exilic Priestly scribes *torah*-interpretation replaced divine revelation after the death of Moses, whereas the post-exilic *Tradentenprophetie* claimed an ongoing divine revelation throughout the prophetic period. Hence, usage of the Pentateuch in Jeremiah adheres mostly to this polemic among post-exilic scribal circles.⁹

In his paper „The Pentateuch in Synchronical and Diachronical Perspectives: Protorabinnic Scribal Erudition Mediating between Deuteronomy and the Priestly Code,“ Otto advances the following highly important statement:¹⁰

6 J. P. Hyatt („Torah in the Book of Jeremiah,“ JBL 60 [1941], 381-396) and J. Bright (Jeremiah [AB 21], Garden City, NY 1986, 63-64). Hyatt and Bright followed W. Rudolph (Jeremia [HAT], Tübingen 1958, 57-58) and were influenced by the oppositional parallelism of human wisdom to the divine law or word. Thus they drew the unfounded distinction between the prophetic speaker who delivers the divine words and the Wise who rely on written law. See Holladay's precise and convincing criticism reframing the contradiction as between *torat / devar 'adonai* and *sheger sofrim*. The following discussion illustrates Jeremiah's treatment of the Torah as a written and authoritative source.

7 D. Rom-Shiloni, „Facing Destruction and Exile: Inner-Biblical Exegesis in Jeremiah and Ezekiel“, ZAW 117, 2 (2005), 189-205.

8 E. Otto, „Scribal Scholarship in the Formation of Torah and Prophets: A Postexilic Scribal Debate between Priestly Scholarship and Literary Prophecy – The Example of the Book of Jeremiah and Its Relation to the Pentateuch“, in G. N. Knoppers and B. M. Levinson (eds.), The Pentateuch as Torah: New Models for Understanding Its Promulgation and Acceptance, Winona Lake, IN 2007, 171-184; and already in Otto, „Der Pentateuch im Jeremiabuch“, ZAR 12 (2006), 245-306, see especially pp. 297-298.

9 Otto, „Scribal Scholarship“, 178-180. R. Achenbach argues for a Priestly dominance not only on the Pentateuch but over the transmission of prophetic literature as well, and he agrees with Otto on its post-exilic fourth century BCE time-frame, see Achenbach, „The Pentateuch, the Prophets, and the Torah in the Fifth and Fourth Centuries B.C.E.“, in O. Lipschitz, G. N. Knoppers and R. Albertz (eds.), Judah and the Judeans in the Fourth Century B.C.E., Winona Lake, IN 2007, 253-285.

10 E. Otto, „The Pentateuch in Synchronical and Diachronical Perspectives: Protorabinnic Scribal Erudition Mediating between Deuteronomy and the Priestly Code“, in E. Otto und R. Achenbach (Hgg.), Das Deuteronomium zwischen Pentateuch und Deuteronomistischen Geschichtswerk (FRLANT, 206), Göttingen 2004, 14-35, quotation from p. 21, and already pp.

Hypotheses of the literary history of the Pentateuch should be judged according to the criterion, if they correspond to the Pentateuch's idea of its literary origins and development.

While I can theoretically accept this approach, I want to add another dimension to it (which however stands in contradistinction to Otto's conclusions): the literary history of the Pentateuch should also take into consideration the prophetic idea of the *torah*/the Pentateuch as prevalent among the people (in both its legal and literary traditions), without excluding the possibility of its knowledge in Judah during the pre-exilic monarchic era.

Moshe Greenberg had argued that the *torah*, with its diverse covenant stipulations, was publicly addressed to the people from its outset.¹¹ The turning-point according to Greenberg was with Elijah in the Northern Kingdom who rebuked the entire people for trespassing God's covenant (1 Kgs 18; 19:10, 14). This pattern was followed by the classical prophets, and brought to Judah mainly after the Northern Kingdom's destruction by the end of the eighth century. Hence Greenberg claims:

The assumption of the classical prophets is, that the covenant obligation of loyalty to God was known to all the people. Hence they arraign the people for having rejected and rebelled against God's Torah and commandments.¹²

Greenberg brings the following examples from the eighth century prophets: Amos 2:4; Hosea 8:1, 12; Isa 5:24; 24:5; 30:9; and in reference to Jeremiah and Ezekiel, he adds: „Jeremiah and Ezekiel take it to be common knowledge that from its beginning the Israelite people received divine injunctions, which it spurned; e.g., Jer 7:22-23; Ezek 20:11.“¹³

Greenberg and Otto seem to agree on the point of departure, they both appreciate the biblical literature's „own understanding of its literary development“ (in Otto's words) as a starting point for any scholarly critical reconstruction,¹⁴ yet they differ significantly on the results, a difference that seems to be wider than the circa four hundred years of gap. To emphasize the major difference between their approaches, I would quote Greenberg saying:¹⁵

Our interest lies in the support that this prophetic assumption gives to what the Pentateuch traditions say about the publication of the laws. According to

14-16, 22.

11 M. Greenberg, „Three Conceptions of the Torah in Hebrew Scriptures“, in E. Blum, C. Macholz, und E. W. Stegemann (Hgg.), *Die Hebräische Bible und ihre zweifache Nachgeschichte: Festschrift für Rolf Rendtorff zum 65. Geburtstag*, Neukirchen-Vluyn, 1990, 365-378.

12 Ibid, 368.

13 Ibid, 368. Greenberg's paradigm is thus very different from that of Achenbach's, who argues that the term *torah* referring to the entire teaching of Moses was introduced only during the fourth century BCE, see Achenbach, „The Pentateuch“, 253-261.

14 Otto, „Synchronical and Diachronical Perspectives“, 16; and see Greenberg, ibid, 366.

15 Greenberg, ibid, 369.

those traditions, from the outset the stipulations of the covenant were public property.

With Greenberg (and the „Jerusalem School“), I argue that „the outset“ of Pentateuchal traditions in general (including the covenant traditions) should not be classified as exilic or post-exilic.¹⁶ Moreover, following Otto’s perspectives on the positions held by modern exegetes, I suggest that the prophetic literature (taking into consideration its own literary evolution) should indeed serve the scholarly discussion as an adequate historical anchor to consider the role played by specific Pentateuchal legal and literary traditions in Israel and Judah as of the late eighth century, and particularly by the early sixth century BCE. Methodologically, it seems that our ways depart substantially on the relationship between the Pentateuch and the prophetic literature, and particularly Jeremiah. Otto holds an inter-textual synchronic perspective on the relationship between the Pentateuch, the deuteronomistic and the prophetic literatures, reconstructing a contemporaneous debate between diverse scribal circles all situated in the post-exilic era, or specifically by the fourth century BCE. Whereas, I understand the textual intra-relationship to be of diachronic allusive and exegetical nature, i.e., texts from the Pentateuch were evoked by later allusive-prophetic texts for the sake of the latters’ messages.¹⁷ In reaction to Otto’s observations, I would say that the prophetic literature provides another valuable tool to expose the „time of narration“, i.e. to reconstruct the relative chronological order between Pentateuchal traditions and their interpretation / adaptation by the prophetic literature of the sixth century, specifically that of the book of Jeremiah.¹⁸

II. The Pentateuch in Jeremiah

The word *torah* (translated as „Law“, „Instruction“, „Teaching“) appears more frequently in Jeremiah than in any other prophetic book. It occurs four times in poetic passages (Jer 2:8; 6:19; 8:8; 9:12) and seven in prose (16:11; 18:18; 26:4; 31:33; 32:23; 44:10, 23). *Torah* (or *torati*) stands in parallel to „my words“ (6:19), it was given by God to the people (26:4; 44:23), and it is the written covenant to which God had obligated them (31:31-33). In all these instances Jeremiah rebukes the people for disobeying the *torah*. The most common construction is „not follow (*lo’ halak b-*) my torah“, (9:12; 26:4; 31:33; 44:10, 23); the verbs „reject“ (*ma’as*, 6:19),

¹⁶ This is of course not to exclude a gradual literary evolution (for both the Pentateuch and the prophetic literature) which assumedly culminated during the Neo-Babylonian and the early Persian periods. Contra Otto’s reconstruction of Deuteronomy as publicly addressing its audience only during the exile, p. 20; and his clear cut conclusion concerning the book of Jeremiah: „das gesamte Jeremiabuch ein nachexilisches Pseudepigraphon sei“ in Otto, „Der Pentateuch in Jeremiabuch“, 298.

¹⁷ See Fishbane, Biblical Interpretation, 1-19.

¹⁸ Otto, „Synchronical and Diachronical Perspectives“, 22.

„forsake“ (*'azav*, 9:12), and „not keep“ (*lo' shamar*, 16:11) are also used. These phrases stand in parallel to the phrases „did not listen to you“, „did nothing of what you commanded them“ (*lo' shama'*, *lo' 'asah*, 32:23); or they occur in descriptions of the people's worship of other gods (16:11). Thus as a general term, the *torah* plays a central role in prophecies of judgment. Rejecting God's *torah* denotes the people's violation of the covenant, by which the prophet emphasizes the people's responsibility for the destruction.

But what was Jeremiah's *torah*? What did it specifically contain? How was it used? These questions seem not only relevant for Pentateuchal studies, but to be some of the most intriguing questions in the study of prophetic literature. These questions have led me to map the evidence, to pinpoint various Pentateuchal passages which can be traced both overtly and covertly in the book of Jeremiah. While this general issue is entangled with tremendous traditio-historical disciplinary questions, the present paper discusses the rhetorical function and allusive character of some Pentateuchal traditions and legal materials found in Jeremiah, and calls for further re-evaluation of the scholarly notions regarding the authorship of the book.

Allusions to the Pentateuch occur throughout the literary units of the Book of Jeremiah – in judgment prophecies to Israel, confessions, biographical chapters, prophecies of consolation, and prophecies against the nations. Literary traditions (from Genesis, Exodus, and the opening and closing chapters of Deuteronomy), as well as legal traditions from the Pentateuchal codes (the Covenant Code, Priestly and Holiness Codes, and especially the laws of Deuteronomy), play significant roles in both poetic and prose passages. To demonstrate this widespread phenomenon I will identify nine central topics in Jeremiah's message which are constructed through allusions to the Pentateuch. The examples are found in both prose (Pr) and poetic (Po) passages:¹⁹

1. Literary and legal traditions function to authorize Jeremiah's status as a prophet; they are invoked in his conflicts with the „pseudo-prophets“. Several examples may illustrate this point: a) Moses and Samuel are Jeremiah's role-models (15:1 [Pr]); the phrase „dismiss them from my presence“ (15:1) designates an ironic reversal of the repeated formula found in Moses' missions to Pharaoh in the Exodus narrative.²⁰ b) Jeremiah's commissioning prophecy (1:4-10 [Pr]) is built on Moses' commissioning story (Exodus 3-4).²¹ c) The law of the prophet in Deut 18:15-22 (as also 13:1-6) is reinterpreted several times (i.e., Jer 1:4-9 [Pr]; compare „No more

19 This list is not intended to be exhaustive, but only to demonstrate the phenomenon. Many of the examples appear already in Holladay, *Jeremiah* 2, 35-40. Yet Holladay's list deserves reexamination, as at least some of his examples are doubtful, and for others it is impossible to track down a real interpretive process.

20 See Exod 5:1, as also 7:16, 26; 8:16; 9:1, 13 (all J passages); and see Holladay, *Jeremiah* 2, 38.

21 N. Habel, „The Form and Significance of the Call Narratives“, ZAW 77 (1965), 297-323; W. L. Holladay, „The Background of Jeremiah's Self-Understanding“, JBL 83 (1964), 313-324; idem, „Jeremiah and Moses: Further Observations“, JBL 85 (1966), 17-27; C. R. Seitz, „The Prophet Moses and the Canonical Shape of Jeremiah“, ZAW 101 (1989), 3-27.

will I speak in His name“ 20:9 [Po], to Deut 18:19-22 and Exod 5:23; and see the conflict with Hananiah in Jeremiah 28 [Pr]).²²

2. Literary and legal traditions serve to characterize the people, and mostly to condemn their sins: a) Jeremiah describes personal relationships among the Jerusalemites of his time using the example of Jacob’s deceptive actions (9:3-5 [Po]) as known from both the Jacob-Esau and Jacob-Laban cycles (Gen 25:26; 27:36; 31:7). b) Jerusalem’s sins are said to be ten times worse than Sodom’s (5:1 [Po], alluding to Gen 18:23-32). c) The Ten Commandments, especially the second commandment, function as the criteria to demonstrate the present iniquities in many prose passages (e.g., 1:16; 13:10; 16:11 [all Pr]), and a few poetic passages as well (see 23:10, 14, 23; and 5:8 [all Po]).²³

3. Pentateuchal laws (or legal terminology) serve the prophet in describing the people’s status before God: a) The people is „holy to the Lord“, and thus promised protection (2:3 [Po]), in an allusion both to the Priestly-Holiness Codes and to a Deuteronomistic conception.²⁴ b) On the other hand, the irremediable breach of the covenant connection between God and Judah (3:1-5 [Po]) is illustrated using the metaphor of the people as a divorced woman prohibited to her former husband (Deut 24:1-4, discussed below). c) Jeremiah reproves the people and prophesies its devastation by God the father (Jer 5:20-21 [Po]) in analogy to the law of the „wayward and defiant son“ (Deut 21:18-21).

4. The *torah* as a general term, and legal traditions from it, are brought as evidence to exemplify the people’s breaching of the covenant. While this usage occurs in poetic passages (6:19; 8:8; 9:12 [all Po]), and in reference to the covenant (2:14-19, 20-23 [all Po]), this topic is more often discussed in conjunction with prose passages, and will be presented below.

5. Literary traditions are used to describe the interactions of the nations with Israel, their sins, and their judgment: a) The analogy of Edom as Esau (Jer 49:8 [Po]) is built on the Jacob-Esau relationship (Gen 25:25, 30). b) Prophecies against Edom (Jer 49:18 [Pr]) and against Babylon (50:40 [Pr]) predict total destruction and an empty land drawing on the simile of Sodom and Gomorrah’s destruction (Genesis 18-19).²⁵ c) In prophecies against Egypt, Jeremiah alludes to the Song at the Sea from the Exodus Traditions (Jer 46:8 [Po], compare to Exod 15:5, 10).²⁶

22 See Davidson, „Orthodoxy“, 410-416.

23 E. J. Smith, “The Decalogue in the Preaching of Jeremias“, CBQ 4 (1942), 197-209.

24 *Qodesh Israel lYHWH* in Jer 2:3 collates two different types of Pentateuchal sources: specific legal terminology of the Holiness code (Lev 22:14-16; and possibly also Num 18:12), together with the Deuteronomistic conception of the people as holy (as in Deut 7:6). The connection rests on the root *qadash*. J. Milgrom (Cult and Conscience: The Asham and the Priestly Doctrine of Repentance [SJLA 18]: Leiden 1976, 70-74) defined this interpretive procedure „an aggadic midrash“.

25 Sodom traditions occur elsewhere in the prophetic books; see Amos 4:11; Isa 1:9, 10; 3:9; Zeph 2:9.

26 Holladay (Jeremiah 2, 38) mentions this example as an „ironical echo“ of the Song at the Sea,

6. Literary traditions demonstrate the nature of God and his conduct towards the people: a) God is the One who saved the people from Egypt, and just as fiercely will he become the enemy of the city and kingdom (Jer 21:1-7 [Pr]).²⁷ b) Phrases that appeal to God and his divine attributes testify to his nature, above all the „thirteen epithets of God“ (Exod 34:6-7),²⁸ which are quoted in Jeremiah’s prayer (Jer 32:18-19 [Pr]), and alluded to in Jer 30:10-11 [Po].²⁹

7. Literary and legal traditions intensify the description of the destruction: a) The Creation narrative is inverted in a judgment prophecy (Jer 4:23-26 [Po], compare to Genesis 1).³⁰ b) God’s own role in the destruction is demonstrated as the reversal of his saving role in the Exodus tradition (Jer 21:1-7 [Pr]).³¹ c) The agricultural work of the vintner exemplifies the force and the totality of the devastation (6:9-10 [Po], in contrast to Deut 24:19-22). d) Judgment prophecies of destruction use formulae from the curses of Deuteronomy 27-28 (such as Jer 5:15-17 [Po] alluding to Deut 28:49-52; and Jer 11:1-14 [Pr] invoking Deut 27:15-26; 28:53-57).

8. On the other hand, literary and legal traditions also designate redemption: a) Release from servitude to foreign nations (Jer 30:8-9 [Pr]) is demonstrated by a

and adds Jer 46:18 [Po] as alluding to Exod 15:4,10. However, this last instance presents doubtful allusion. This interpretive framework is clearly not restricted to the prophet, and may be found in later levels of the book. See, for instance, the analogy drawn in Jer 50:33-34 [Po], between the Exiles under Babylonian rule and that of the people in Egypt under Pharaoh, alluding to Exod 4:23 [JE]; 7:14, 27; 9:2 [J] (and see Holladay, there). The geographical, chronological, and more so the social arena of this passage are not Jeremian, yet the question how to distinguish the prophet’s words from those of his exilic followers awaits further discussion. See D. Rom-Shiloni, „The Prophecy for ‚Everlasting Covenant‘ (Jeremiah 32:36-41): An Exilic Addition or a Deuteronomistic Redaction?“, VT 53,2 (2003), 201-223.

27 See Rom-Shiloni, „Facing Destruction“, 192-194.

28 R. C. Dentan („The Literary Affinities of Exodus XXXIV 6f“, VT 13 [1963], 34-51) argued for the precedence of Exod 34:6-7 and its wisdom roots over an alleged Deuteronomic origin for this phrasing.

29 Some of the allusions may not reflect acquaintance with the actual Pentateuchal literary contexts in which they appear. See for instance Jer 32:27 [Pr]: „Is anything too wondrous for Me?“ which presumably relies on Gen 18:14. But if Jer 32:27 only responds to Jer 32:17 [Pr], it may just reflect knowledge of the linguistic convention independent of the literary context of the Genesis story of Abraham in Sodom. Holladay reasonably seems to follow this assumption (Jeremiah 2, 37).

30 M. A. Fishbane, „Jeremiah iv 23-26 and Job iii 3-13: A Recovered Use of the Creation Pattern“, VT 21 (1971), 151-167.

31 Another example of such reversal is the judgment prophecy against Pashur (20:1-6 [Pr]) which uses Priestly traditions from Genesis (Gen 17:5-9; 35:10-12) and presents Pashur as a symbol of the prospective judgment upon Judah in opposition to the patriarchal promises of land and progeny. See W. L. Holladay, „The Covenant with the Patriarchs Overturned: Jeremiah’s Intention in ‚Terror on Every Side‘ (Jer 20:1-6)“, JBL 91 (1972), 301-320.

32 Resemblances between Jeremiah and Deuteronomy 28, and the relationship of these passages to extra-biblical curse literature have been discussed by M. Weinfeld (Deuteronomy and the Deuteronomic School, Winona Lake, IN 1972, 1992², 138-146, 360) who argued for a common authorship within the Deuteronomistic school.

reversal of the language of Deut 28:47-48. b) „Again you shall take up your timbrels and go forth to the rhythm of the dancers“ (Jer 31:4 [Po]) alludes to Miriam’s song (Exod 15:20). c) The new covenant (Jer 31:31, 34 [Pr]) is established in the pattern of the first (Deut 11:18-21; and Deut 4:45-5:33; 6:6-9).

9. Legal traditions structure the prophet’s conception of exile: a) In Jer 16:10-13 [Pr] exile is construed as an unknown land and a place to worship other gods (as in Deut 4:25-28; 28:36, 64); whereas b) in the letter to the Jehoiachin Exiles (Jer 29:1-7 [Pr]) Jeremiah modifies his conception of exile based on the same Deuteronomic conception (cf. Deut 4:25-28).³³

This broad distribution of allusions to the Pentateuch, and their rhetorical functions in the book, obligate us as scholars to recognize that allusion to and exegesis of Pentateuchal traditions is a general phenomenon within the Book of Jeremiah. Allusions cannot be seen as a limited literary characteristic of one or another levels of the book, and we should not exclude the possibility that such allusions were made by the prophet himself. Thus (choosing my words carefully), it is plausible that the Pentateuch with its literary and legal traditions (still without confining its extent), was a major literary reservoir and a central authoritative source for the prophetic message in Jeremiah, whether for the prophet himself, or for his followers and the redactors of the book.

In what follows I will concentrate on the interpretive usage of specific Pentateuchal laws in only two of the above-mentioned contexts: in describing the people’s status before God, and as evidence for the people’s breaching of the covenant (numbers 3 and 4 in the list). The discussion aims at discovering the allusions, examining the interpretive techniques, and thus revealing the prophet’s intentions in actualizing those legal traditions.

33 D. Rom-Shiloni, „Deuteronomic Concepts of Exile Interpreted in Jeremiah and Ezekiel“, in H. Cohen, V. A. Hurwitz, B. J. Schwarts, J. H. Tigay, and Y. Muffs, (eds.), *Birkat Shalom: Studies in the Bible, Ancient Near Eastern Literature and Post-biblical Judaism Presented to Shalom M. Paul on the Occasion of His Seventieth Birthday*, Winona Lake, IN 2008, 101-123.

III. Actualization of Legal Traditions

A. Jeremiah 3:1-5 and the Law of Divorce

Jeremiah 3:1-5	Deuteronomy 24:1-4
<p>¹לְאָמֵר הַן יִשְׁלַח אִישׁ אֶת אֲשָׁתוֹ וְהַלְכָה מֵאָתוֹ וְהַיִתָּה לְאִישׁ אַחֲרֵי הַיּוֹשֵׁב אֲלֵיהֶם עַד הַלֹּא חִנּוּף תְּהֻנָּה הָאָרֶץ הַהִיא וְאֶת זָנָת רְעִים רְבִים וְשׁוֹב אֲלֵי נָאָם יְהוָה² שָׂאֵי עֲנֵיךְ עַל שְׁפִים וּרְאֵי אִיפָּה הַלְּא שָׁגַלְתָּ (שְׁכָבָת) עַל דְּרָכָים יְשַׁבֵּת לְהַם כְּעָרְבִּי בָּמְדֻבָּר וְתְּהֻנָּפִי אָרֶץ בְּזָנוֹתֶר וּבְרָעָתֶן³ יוּמָנֶנוּ רְבִבִּים וּמְלֻקּוֹשׁ לְאָוֹה הִיא וּמְצָא אָשָׁה זָנוֹה הִיא לְךָ מְאֹנֶת הַכְּלָמִים⁴ הַלֹּא מְעַתָּה קָרְאָתִי (קָרָאת) לֵי אַבְּיָלָף נָעָרִ אַתָּה⁵ הַינְטָר לְעוֹלָם אִם יִשְׁמַר לְנַצְחָה הַנָּה דְּבָרָת וְתַעֲשֵׂי הַרְעָתָה וְתוּכָלָה</p>	<p>כִּי יִקַּח אִישׁ אִשָּׁה וּבָעֵלה וְהִיא אִם לֹא תִמְצָא הַן בְּעִינָיו כִּי מֵצָא בָּה עֲרוֹת וְשָׁלָחָה מִבְּתוֹן² וַיֵּצֵא מִבְּתוֹן כָּרִיתָה וְנִתְן בִּזְדָּה שְׁלָחָה מִבְּתוֹן³ וַיָּשָׁנַת הָאִישׁ אֲחֵר וְהַלְכָה וְהַיִתָּה לְאִישׁ אֶחָד³ וַיָּשָׁנַת הָאִישׁ אֲחֵר וְכַתֵּב לְהַסְּפֵר כְּרִיתָה וְנִתְן בִּזְדָּה שְׁלָחָה מִבְּתוֹן או כִּי יִמּוֹת הָאִישׁ אֲחֵר כִּי לֹא אָשָׁה לֹא יוּכֶל בָּעֵלה הָרָאשׁוֹן אֲשֶׁר שְׁלָחָה לְשׁוֹבֵן לְקַחְתָּה הַזֹּה לְהִוּוֹת לוֹ לְאִשָּׁה אֲחֵר שְׁלָחָה כִּי תוֹעֲבָה הָוָא לְפָנֵי יְהוָה וְלֹא תַּחֲטִיא אֶת הָאָרֶץ אֲשֶׁר יְהוָה אֱלֹהֵיךְ נָתַן לְךָ נַחַלָּה</p>
<p>¹[The word of the Lord came to me] as follows:</p> <p>If <u>a man divorces his wife</u>, and she leaves him <u>and marries another man</u>, can he ever go back to her? Would not such a land be defiled? Now you have whored with many lovers; can you return to Me? says the Lord.</p>	
<p>²Look up to the bare heights, and see: Where they have not lain with you? You waited for them on the roadside like a bandit (Lit. Arab) in the wilderness; <u>And you defiled the land With your whoring and your debauchery.</u>³ And when showers were withheld, And the late rains did not come, You had the brazenness of a street woman, You refused to be ashamed.</p> <p>⁴Just now you called to Me: „Father! You are the companion of my youth.</p> <p>⁵Does one hate for all time? Does one rage forever?“ That is how you spoke, You did wrong, and had your way.</p>	<p>¹When <u>a man takes a wife</u>, and possesses her. She fails to please him because he finds something obnoxious about her, and he writes her a bill of divorce, hands it to her, and <u>sends her away</u> from his house; ²she leaves his household, and <u>becomes the wife of another man</u>; ³then this latter man rejects her, writes her a bill of divorce, hands it to her, and sends her away from his house; or the man who married her last dies. ⁴Then the first husband who divorced her shall not take her to wife again, since she has been defiled – for that would be abhorrent to the Lord. You must not bring sin upon the land that the Lord your God is giving you as a heritage.</p>

The allusions to the law of divorce in Deut 24:1-4 are built on the fact that the Deuteronomic law is seen as a precedent (see the parallel in the opening phrases: *hen yeshalak / ki yiqah*);³⁴ allusive are also the repeated phrases (*'ish 'et 'ishto / 'ish 'isha*); the recurring verbs or verbal phrases (*shilah, vehayta l'ish 'aher, shuv*); and the major thematic connection: the prohibition against reactivating the first marriage, after the former wife has been married to another person (Deut 24:4a, and the question in Jer 3:1: *hayashuv 'leiha 'od?*).³⁵ From these literal and thematic connections we may reconstruct the entire interpretive procedure.

(1) This prophecy refutes the people's words (quoted in vv. 4-5), which express obedience to God by using familial metaphors of adoption and marriage („Father! You are the companion of my youth“).³⁶ The prophet, however, considers these metaphoric proclamations of faithfulness of a daughter to her father and a woman to her husband, and especially the hope in forgiveness („Does one hate for all time? Does one rage forever?“, v. 5a), to be hypocritical and deceptive, in the face of what he considers as the people's continuous disobedience to God („That is how you spoke, you did wrong, and had your way“, Jer 3:5b). In order to respond to his audience on their own level, Jeremiah constructs his words on the law of divorce, using the same marital metaphor.³⁷

(2) In choosing this law the prophet transfers the social and legal framework of marriage to the metaphorical realm, in order to describe the relationship between God and his people. The narrative precedent of the Deuteronomic law (Deut 24:1-4) is invoked in Jer 3:1 to present the pivotal question: „can he ever go back to her?“

(3) The legal prohibition is formulated in two rhetorical questions (3:1). The first question follows the legal narrative, but the second reverses the direction of return. While the Deuteronomic law establishes both the marriage and the divorce as entirely the prerogative of the man, the prophecy's question „can you return to Me?“ presents the reinstatement of the relationship as the initiative of the woman / the

34 For *hen* functioning in a similar way to *ki* in legal contexts, see Jer 2:10 and compare Lev 10:18; 25:20 etc. B. O. Long („The Stylistic Components of Jeremiah 3,1-5“, ZAW 88 [1976], 386-390) suggests that *hen* presents legal or cultic circumstances which are adduced as the subject of the following rhetorical question (as also in Haggai 2:10-14).

35 For a comparative study of this law in biblical, post-biblical and extra-biblical sources, consult R. Yaron, „The Restoration of Marriage“, JSS 17 (1966), 1-11; for the relationship between the Deuteronomic law and the marriage stories of David and Michal and the prophet Hosea, see J. D. Martin, „The Forensic Background of Jeremiah III 1“, VT 19 (1969), 82-92.

36 *'Avi 'Aluf ne'urai 'atah* brings together adoption and marriage formulae; note *'aluf ne'urai* in Prov 2:16-17, and see other examples in S. M. Paul, „Adoption Formulae: A Study of Cuneiform and Biblical Legal Clauses“, MAARAV 2,2 (1979-80), 173-185. The resemblance between the quotation in Jer 3:4-5 and Ps 103:9 substantiates the authenticity of the quoted words at least in its content, and possibly even in its actual wording. Compare this phrasing to the consolation words of Jer 3:12.

37 This, then, reinforces Long's definition of this passage as a „disputation“ („Stylistic Components“, 386-390).

people. This reversal is not coincidental, but is the prophet's deliberate reaction to the people's obedient (or only quasi-obedient) proclamations quoted in vv. 4-5.³⁸

(4) The Deuteronomic law serves the prophet as a direct analogy, given its force by the principal "from the minor to the major" (*Qal Vahomer*). The law deals with one man, one woman, and her marriage to another. It is thus very different from the metaphorical situation projected for the God-people relationship, in which the woman is said to have whored with „many lovers“ (v. 1). As the law forbids the man to re-marry his former wife (literally: „to return and take her as his wife“), how much more decisive it is in excluding the possibility that God will return to his people, that is, the woman who has been constantly and repeatedly disloyal to him with many men.³⁹ Using this civil-personal law, known to the prophet and to his audience, the prophet presents a very extreme view of the God-people relationship. Jeremiah portrays the covenant relationship as irredeemable because of the woman's / the people's sins.⁴⁰

(5) In contradistinction to his use of the above mentioned allusions and clear analogies, when he reaches Deut 24:4 the prophet detaches himself from this Deuteronomic law. Instead of using the verbs „to defile“, „to bring sin“, and the noun „abhorrent“ (*tama'*, *heheti'*, and *to'evah*) which designate in Deuteronomy 24 the severity of the transgression in remarrying the former wife,⁴¹ the prophet chooses

38 The woman's / the people's initiative to return to God as the former husband occurs in Hosea 2:9, where up to v. 15 it is likewise declined with fierce judgment prophecy (in difference from Hosea 2:16-25). Therefore, contra Hyatt („Torah in Jeremiah“, 119-20) there is no reason to accept the Septuagint version of Jer 3:1 as original or better. This analysis adds another example to the list of harmonizations, passages in which the Septuagint tends to adapt the text of Jeremiah to Deuteronomy. In addition, there is no need to assume a third legal source earlier than both Jeremiah and Deuteronomy, pace T. Raymond Hobbs, „Jeremiah 3:1-5 and Deuteronomy 24:1-4“, ZAW 86 (1974), 23-29; and see Long's criticism („Stylistic Components“).

39 The understanding of Jer 3:1 as a *Qal Vachomer* and thus as adducing a break in the God-people relationship was suggested by W. McKane (Jeremiah I-XXV [ICC], Edinburgh 1986, 63-64) and J. R. Lundbom (Jeremiah: A Study in Ancient Hebrew Rhetoric [Winona Lake, IN 1997], 54; idem, Jeremiah 1-20 [AB], New York 1999, 301-302). Compare to Yaron („Restoration“, 3) and to Fishbane (Biblical Interpretation, 307-312), who argued that Jeremiah reverses the law in order to create a theological tension between the law and the principle of repentance. Although I disagree with Fishbane on this overall interpretation of Jeremiah's usage of the Deuteronomic law, I do accept his observation (idem, 311) that Jeremiah does not change or modify the law.

40 Jeremiah thus differs from Hosea (2:4-15; 3:1-5); and see Holladay, Jeremiah 2, 113. This extreme view of the God-people relationship does not recur in other prophecies in the book of Jeremiah (though it does occur in communal laments cited in Jer 14:7-9, 19-22; and prophecies of consolation even refute this otherwise characteristic nonprophetic perception, Jer 31:35-37; 33:23-26). Still, this position suggested by the prophet may be understood as an authentic ad hoc reaction to the people's words. Thus there is no need to try to harmonize these diverse prophetic perceptions; compare, for instance, Martin, „Forensic Background“, 91-92.

41 Since both verbs and the noun do occur in Jeremiah, their absence from Jer 3:1-5 is clearly intentional, see *tam'* (Jer 7:30; 32:34; and in quotation in 2:23), *heheti'* (32:35) and *to'evah*

to use the verb *hanaf* and the phrases: „Would not such a land be polluted?“ (*halo' hanof tehenaf ha'arets hahi*, v. 1), „and you polluted the land with your whoring and your debauchery“ (*vatahanifi erets biznutaikh uvera'atekh*, v. 2).⁴² Beyond the semantic difference, in using *hanaf* Jeremiah transforms and expands the Deuteronomic law of divorce by adding an allusion to Priestly legal phraseology and terminology, as it appears in Numbers 35:33-34:

<p>³³You shall not pollute the land in which you live; for blood pollutes the land, and the land can have no expiation for blood that is shed on it, except by the blood of him who shed it.³⁴You shall not defile the land in which you live, in which I Myself abide, for I the Lord abide among the Israelite people.</p>	<p>³³ולא תחניפו את הארץ אשר אתם בה כי הדם יחניף את הארץ ולארץ לא ייכפר לדם אשר שפכּ בה כי אם בדם שפכו ולא תטמא את הארץ אשר אתם ישבים בה אשר אני שכן בתוכה כי אני יהוה שכן בתקן בני ישראל</p>
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The severity given to the Deuteronomic prohibition against a husband's remarriage of his former wife is transferred in Jeremiah's prophecy to the woman's sins (adultery with many lovers); and the consequence of this sin is intensified (it pollutes the land). Using the recurring prophetic imagery of the worship of other gods as adultery, Jeremiah expands the analogy beyond the God-people relationship to encompass the land and the fate of the people who sin within it (this is further developed in Jer 3:2-3).⁴³

(6) While there is a clear phraseological similarity between Jer 3:1-5 and Num 35:33-34 (the verb *hanaf* and its object, the land), the prophecy differs from the Priestly passage, which connects the land's pollution to bloodshed („for blood pollutes the land, and the land can have no expiation for blood that is shed on it“, v. 33). According to the Holiness Code the two domains related to blood, cultic bloodshed (i.e. child-sacrifice) and sexual sins, pollute the land to the point it vomits out its inhabitants (Lev 18; 20, and specifically 18:24-30; 20:22-24). Jeremiah uses *hanaf* five times out of the total eleven occurrences in the whole Bible. In three instances, the verb designates the pollution of the land as the consequence of idolatry metaphorized as adultery (Jer 3:1, 2, and 9); at Jer 23:11, prophet and priest *hanefū* (23:11), and as a result „*hanuppah* has gone forth to the whole land“ (23:15).⁴⁴ In all

(6:15; 8:12; 32:35).

- 42 Holladay (Jeremiah 1, 113) pointed out Jeremiah's intentional usage of *hanaf* as a more extreme verb which associates the transgression of adultery with blood-guilt (Num 35:33; Ps 106:38) and with violent blood. Yet Holladay did not note the central position of *hanaf* in its double meaning in Jeremiah's prophecy.
- 43 For a different suggestion, see Michael Fishbane, „Torah and Tradition“, in D. A. Knight (ed.), *Tradition and Theology in the Old Testament*, Philadelphia 1977, 285-286.
- 44 Holladay translates *hanaf* as „commit sacrilege“ (Jeremiah 1, 624, and the discussion on pp. 627-628). The translation „godless“ (so Bright, NJPS, and others) gives only vague contextual meaning and loses its moral, and even sexual, aspect.

these, emphasis is given to sexual misconduct as resulting in pollution of the land (see 3:1-5, 6-10; 23:10-11, 13-15). Hence, it seems that Jeremiah borrows the Priestly terminology, and presumably knows the Holiness Codes' conception of the land as well, but that he is not constrained by those Priestly legal contexts in which the phrase „pollute the land“ occurs. Rather the prophet appropriates this phraseology to enhance the description of the God-people relationship in the framework of the marital metaphor.

(7) This freedom in using the legal terminology appears furthermore in the way that both meanings of *hanaf* are activated in Jer 3:1-5.⁴⁵ The verb is explicitly used, in vv. 1-2 in reference to sexual sins as sources of pollution. Although *hanaf* itself does not appear in vv. 3:4-5, its second meaning „to deceive“, „behave hypocritically“ is suggested by the quoted words in Jer 3:4-5a, which indeed give the taste of deception and hypocrisy on the part of those whose deeds have polluted the land. Thus we may cautiously suggest that this double sense of *hanaf* was the linguistic anchor that led Jeremiah to choose the Priestly legal phrase over against the phrases which appear in the Deuteronomic legal context of Deut 24:1-4.⁴⁶

To conclude, (a) Jeremiah uses four major techniques in this interpretive process: analogy, transformation, reversal and expansion. These exegetical techniques enable the prophet to evoke a specific Deuteronomic law in order to give it a new role in his prophetic message to the people, in the very last years of Jerusalem. (b) The law of divorce is clearly the central text through which the whole prophecy refutes the people's perspective. But in order to reinforce the severity of the people's sin and its consequences Jeremiah turns to Priestly (and Holiness Code) terminology. The prophet favors the harsher double meaning of *hanaf* in the Priestly phrase „pollute the land“, over the Deuteronomic construal of the initial transgression. (c) Nevertheless, we should not blur the differences in Jeremiah's reference to the two bodies of legal material. While we can safely assume that Jeremiah uses this specific Deuteronomic law of divorce in its present literary form; and we may furthermore assume that Jeremiah knows the Priestly terminology and conceptions and uses them; nevertheless, there is no way to argue that the prophet knows or uses the literary context of the Priestly source of Numbers 35. What appears very strongly throughout is the prophet's freedom in managing different legal traditions, which are for him as clay in the potter's hand.

45 K. K. Seybold (TDOT, V.36-44) distinguished two contexts in the occurrences of *hanaf*: with *erefts* as subject or object the verb denotes „to pollute“ and figuratively „to desecrate“ (as in Ps 106:38); with human subjects the verb designates an antisocial behavior which uses hypocrisy and deception (as in Prov 11:9). Indeed, Jeremiah seems to play on both senses not only in Jer 3:1-5; see *hanuppah* in Jer 23:13-15, which is the inclusive term for the prophets' sins amongst them *na'af* and *halakh basheger*; and he may even play on the alliteration of *hanaf* / *na'af* (see Jer 3:9; 23:10, 14).

46 Double meanings and word plays as central interpretive technique occur for instance with the use of *qadash*, *'akhal 'asham* (Jer 2:3); *hishava' lasheger* (7:9); *berit* and *qara' deror* (34:8-22).

A definition of Jeremiah's „actualization“ of legal traditions may thus be adduced: Jeremiah chooses specific Pentateuchal laws and or terminology, and invokes them through exegetical traits, in which he is free to combine diverse legal sources. The chosen legal traditions serve by way of analogy, they are transformed, and may even be reversed and expanded, to attain a new context, which serves the prophetic message on the eve of Destruction.

B. Prose Speeches in Jeremiah: Pentateuchal allusions and the Question of Authorship

In contradistinction to the poetic verses, prose passages in Jeremiah were classified already by Bernard Duhm (1901) and Sigmund Mowinckel (1914) as Quelle C, speeches or adaptations of original prophecies, done by Deuteronomistic redactors.⁴⁷ The arguments which led Mowinckel and many later scholars, to deny prophetic authorship for the prose sermons from the prophet were: the elaborate and repetitive prose style; phraseological similarities to Deuteronomic / Deuteronomistic languages; the literary structure of the speeches (emulating Joshua 24 and 1 Samuel 12); thematic principles that presumably were of relevance to the exilic community to which the Deuteronomistic redactors belonged;⁴⁸ and finally, the conception that, following Moses, the prophet's role was to mediate between God and his people in line with the law of the prophet in Deuteronomy 18. According to this scholarly perspective, the prophet's disciples, members of the Deuteronomistic school, chose to thus authorize Jeremiah's role and words.⁴⁹

Yet, using almost the same arguments other scholars have presented the counter claim attributing the prose sermons to the prophet himself. They argue that in style and theme those speeches accord perfectly with Jeremiah's prophetic message of the late seventh and early sixth century BCE.⁵⁰

Referring to the prose passages, Yair Hoffman in his recent commentary says:

There are within the book pronouncements for which Jeremiah's authorship should not be doubted (especially poetic prophecies), and others which there is no doubt that Jeremiah did not compose (historiography, biographical prose, and some of the passages which are not in the Septuagint). The prose speeches are thus in an intermediate position, for they share common features with each of the above mentioned groups: they are prophecies like the first,

⁴⁷ B. Duhm, Das Buch Jeremia (KHAT 11), Tübingen 1901; S. Mowinckel, Zur Komposition des Buches Jeremia, Kristiania 1914, 31-45, 55-57.

⁴⁸ E. W. Nicholson, Preaching to the Exiles: A Study of the Prose Tradition in the Book of Jeremiah, Oxford 1970, 116-135; R. P. Carroll, From Chaos to Covenant: Uses of Prophecy in the Book of Jeremiah, New York 1981, 66-83, 84-106.

⁴⁹ Thus for instance Mowinckel, Jeremiah, 31; and reinforcing this view, Carroll (*ibid.*, 86) challenged the very existence of any actual Jeremian words within the „Jeremian tradition“.

⁵⁰ J. Bright, „The Date of the Prose Sermons of Jeremiah“, *JBL* 70 (1951), 15-35; H. Weippert, Die Prosareden des Jeremiabuches (BZAW 132), Berlin 1973, 228-234; Holladay, Jeremiah 1, 239-240, 351-352 etc; Jeremiah 2, 35-40, 53-63.

but they are prose, like the second; they are attributed to Jeremiah, like the first, but are very close to the Deuteronomistic style, as like the second. It seems that every decision in the question, whether the prose speeches were composed by Jeremiah or not, will be in accordance with the general nature of the book.⁵¹

While Hoffman recognizes the „intermediate position“ of the prose speeches, he nevertheless classifies them consistently in his commentary as Deuteronomistic rewritings, i.e. non-Jeremian passages.

Based on the above discussion and on what follows, I argue, first, that although Deuteronomistic phraseology and themes indeed prevail in Jeremiah, one should recognize that allusions draw on the entire Pentateuchal tradition (both literary and legal). Second, the usage of Pentateuchal traditions is of an exegetical nature. It is not simply a stylistic characteristic, which can be used to differentiate the prophet's material from that of his followers and redactors, but it plays an important functional role in the prophetic message. Third, allusion and exegesis seem to be common to both poetic and prose passages in Jeremiah. Hence, we should not deny the possibility that this genuine technique was used by the prophet himself. This observation is in full agreement with the methodological principle Hoffman himself suggests:

One should not demand a positive definite proof that this or that verse is Jeremian, because this is impossible. A verse is referred to Jeremiah simply because of its presence in the book, unless its language, its content, or the historical background which it reflects suggests otherwise.⁵²

I therefore suggest that we recognize allusion and exegesis of literary and legal Pentateuchal traditions as a substantial characteristic of Jeremiah's own prophetic activity, and as an important component in his discourse with his contemporaries.⁵³

51 Y. Hoffman, *Jeremiah 1-25* (Mikra LeIsrael), Tel Aviv-Jerusalem 2001, 65.

52 Hoffman, *Jeremiah 1-25*, 62. To clarify my position on the enigma called the literary evolution of the book of Jeremiah: I do recognize an exilic editorial process done by Deuteronomists in Babylon, to which nevertheless additional exilic intrusions were subsequently added. These exilic additions present clear connections to Ezekiel and to Deutero-Isaiah; see my paper: „Everlasting Covenant“, 201-223. In this, I join more recent studies of Jeremiah which call for non-monolithic treatment of the prose chapters and challenge the scholarly notions which seem to be oversimplifying the compositional character of this prophetic book; see R. Albertz, „In Search of the Deuteronomists: A First Solution to a Historical Riddle“, in T. Römer (ed.), *The Future of the Deuteronomistic History*, Leuven 2000, 1-17; and C. J. Sharp, *Prophecy and Ideology in Jeremiah: Struggles for Authority in the Deutero-Jeremianic Prose* (Old Testament Studies), London / New York 2003, 13-23. Nevertheless, I believe that the articulation of a Jeremian (and a Judaic non-Deuteronomistic Jeremian-)Tradition should still be a major goal of inquiry in the study of Jeremiah.

53 Y. Kaufman (*Toledot Ha'eminah Hayisre'elit* [Tel Aviv 1955]) designated the resemblances between Jeremiah and Deuteronomy „a monumental phenomenon“, and considered Jeremiah and Ezekiel to be the most influential prophets in using the Pentateuch, thematically and

C. Prose Covenant Speeches

William Holladay designates five of the prose sermons as „covenant speeches“: Jer 7:1-15; 11:1-14; 17:19-27; 22:1-5; 25:1-14.⁵⁴ These passages indeed share specific Jeremian phraseology and both formal and thematic features, which to my mind set them apart as a special group within the book of Jeremiah:

(1) The prophet as the covenant mediator is ordered to announce his words publicly, in the city or the Temple’s gates:⁵⁵ „Stand at the gate of the House of the Lord, and there proclaim this word“ (7:1; with slight differences: 11:2-3, 6; 17:19-20; 22:1, and exemplified only roughly in 25:2).

(2) The prophet opens his proclamation to the people with the call to „Hear the word of the Lord,“ and his audience is specified as the crowds in Jerusalem, or the king and the people who enter those gates (7:2; 11:2 and 6; 17:20; 22:2; 25:2). The verb *shama’* is used in these speeches as a leading word, which occurs in the opening call of the speech as well as throughout, in the two meanings: „to listen“, and „to obey“. The phrase *velo’ sham’u (shema’atēm)* „yet they (/you) did not listen / obey“ occurs repeatedly in these speeches. It designates past and present disobedience to the words of God, and at times serves in the context of a future threat (7:13; 11:8, 10; 17:23, 24-27; 22:5; 25:4, 7).

(3) Imperatives or idioms of rebuke characterize the demand for the people’s obedience to God and to his covenant; e.g., „Mend your ways and your actions“ (7:3, 5). In Jeremiah 11 the demand is accompanied by the threat of a curse: „Cursed be the man who will not obey the terms of this covenant“ (11:3, and the imperative in v. 4). Jeremiah 17 refers to the observation of a specific law: „Guard yourselves for your own sake against carrying burdens on the Sabbath day“ (17:21). Jeremiah 22 presents a list of demands to the king of Judah “Do what is just and right ...“

stylistically, in their prophecies. But Kaufman maintained the traditional restriction of Jeremiah to the use of Deuteronomy and of Ezekiel to that of Priestly sources. The present discussion illustrates several examples of Jeremiah’s knowledge and usage of Priestly sources (or at least terminology).

54 In discussing these passages Holladay presented two features he considered characteristic of these „covenant speeches“ (see for instance Jeremiah 1, 239, 509): Jeremiah as the covenant mediator; and the prevalence of commands, conditions and warnings which are typical of the covenant. Holladay followed J. Muilenberg („The Form and Structure of the Covenantal Formulations“, VT 9 [1959], 347-65) in suggesting that these speeches represent a literary genre, yet he did not pursue this generic study. Compare to W. Thiel (Die Deuteronomistische Redaktion von Jeremia 1-25 [WMANT 41], Neukirchen-Vluyn 1973, 290-295) who considered three of the above mentioned speeches (7:1-15; 22:1-5; 17:19-27) to be „Alternative-Predigt“ and presented nine defining characteristics for them. However, in this study I place these three speeches in a wider context of passages which share literary structure and thematic functions.

55 Muilenberg suggested that this covenant mediator position was central to the covenants in Schechem (Joshua 24) and at Gilgal (1 Samuel 12). Therefore the allusions to Moses and Samuel in Jer 15:1 indeed reflect this conception of the prophetic role. Yet scholars debate the question of whether this passage reflects Jeremiah’s personal perspective (so Holladay, „Jeremiah’s Self-Understanding“, idem, „Jeremiah and Moses“, and Seitz, „The Prophet Moses“), or only editorial perspectives (so Carroll, Jeremiah, 367).

(22:3). Finally, Jeremiah 25 suggests the request for repentance: „Turn back, everyone, from your evil ways and your wicked acts“ (25:5).

(4) As for the literary genre, the prevailing treatment of these passages as „speeches“ or „sermons“ should not abstract our attention from the rhetorical function of the covenant in these prophecies of judgment to Israel. Allusions to the covenant serve as the accusation segment within the well-known structure of judgment prophecies, and thus every speech concludes with a threat of judgment (7:12-15; 11:11-14; 17:27; 22:5;⁵⁶ 25:8-14).⁵⁷

(5) The people's sins are noted with a clear differentiation made between those of the present generation and those of previous ones.⁵⁸ This distinction adds to the people's blame, since transgressions have continued over many generations (7:13; 11:7-8; 17:22-23), and still persist notwithstanding constant prophetic exhortations *hashkem veha'ed* („repeatedly and persistently“, 11:7; and see 25:3-4).⁵⁹ The demand to repent in Jer 7:3, 5 hints at the continuing commission of sin, as also does the mention of the past „wickedness of My people“ (7:12-14); thus only 22:1-5 does not explicitly recall earlier sins.

(6) The condition: promise and threat. The „covenant speeches“ present a full condition for proper behavior, with its consequences in reward or punishment, which accompany the divine demand for adherence to the law and to the covenant in general. One unique common denominator in the promises of reward manifests itself in the emphasis on continuous existence in the land, according to the promise to the fathers (7:3;⁶⁰ and v. 7; 11:5;⁶¹ 25:5); or another element is the prospect of the continued endurance of the Temple, the city and the rule of the Davidic dynasty within it (17:25-26; 22:4).

On the other hand, judgment is described in all of these contexts as complete destruction: Destruction of the Temple (7:14; 22:4), consumption of the city by fire (17:27), vast devastation of the cities of Judah (11:11-14), and total annihilation of the land, including a long term servitude to the Babylonians (25:6, and detailed in

56 Negative condition clauses in Jer 17:27 and 22:5 serve as the threat of destruction.

57 Whether related to the prophet or to the editorial level, most scholars assign vv. 1-14 one prophetic passage, see Holladay, Jeremiah 1, 664; and compare to Carroll, Jeremiah, 490.

58 The perpetuate sin occurs in Jeremiah referring to three different points of departure in the past history of the people of Israel: (1) the Exodus, so in the „covenant speeches“ as well as in Jer 34:8-22; (2) the Settlement in the land (Jer 2:4-9; 32:16-24); (3) the establishment of Jerusalem and kingship in it (32:26-35). In addition, Jeremiah blames the present generation as „worse than his parents“ (7:21-28; 16:10-13).

59 *Hashkem veha'ed* is one of the repeated formulae which occur in eleven prose passages in the book, and otherwise only in 2 Chron 36:15 (compare to the Deuteronomistic formula in 2 Kgs 17:13), see Bright, „Prose Sermons“, 30, no. 1.

60 Jer 7:3 presents significant differences in punctuation between the MT text and the Septuagint version. See commentaries.

61 The promise to the fathers, including the theme of the promised land, occurs further in Jer 25:5; 35:15 (as also 24:10); and see Bright, „Prose Sermons“, 40, no. 39.

vv. 8-11).⁶² With the exception of Jer 7:15, none of these „covenant speeches“ mention exile.⁶³ The clear orientation in these speeches conforms to the Judaic stance Jeremiah holds in reference to his conception of land and exile (as in Jer 22:24-30; 27:9-15; 42:9-17), and does not reflect the exilic (Babylonian)-editorial perspective which occurs in other passages in Jeremiah (such as Jeremiah 24).⁶⁴

These structural common denominators all point to a conscious analogy between past and present, between Moses and Jeremiah, between the people obliged to the covenant in the Exodus and the present generation of the Destruction. All these correlations function as the basis for the demand to obey God in the present crisis and are the departure points for prophetic threats concerning the future.

(7) The last and final common denominator is the exegetical nature of the speeches in their references to Pentateuchal traditions. In all five passages the explicit prophetic demand is structured through allusions to Pentateuchal legal traditions, as a general request for obedience (11:3b, 3, 6b; 25:5-6), or in the application of specific laws from the cultic or the social-ethical arenas: Jer 7:9 alludes to six of the Ten Commandments; Jer 17:21-22 to the Sabbath; and Jer 22:3 uses legal phraseology to demonstrate the king's commitment to justice and righteousness.

I will confine myself to demonstrating the exegetical traits of only one of the five „covenant speeches,“ that of 17:19-27 on the Sabbath law.

D. Jeremiah 17:19-27 and the Sabbath law

Formal and thematic characteristics tie this passage to the above-mentioned group of „covenant speeches“: the demand for obedience; the full condition which promises either continuous independent existence in the land or total destruction; and the choice of one specific law to symbolize disobedience.

The intertextual connections between Jeremiah 17 and Pentateuchal passages on the Sabbath, similar to those of Nehemiah 13:15-22, have led many scholars to designate this passage as a late addition to the book of Jeremiah. It has thus been dated to the mid fifth century BCE.⁶⁵ However, the exegetical relationship between these passages demonstrates a clear literary dependence between them, which thus allows us to arrange them in the following relative order and chronology.⁶⁶

62 For different suggestions to explain the composition and the unity or evolution of Jer 25:1-14, consult McKane, *Jeremiah* 1-25, 628-632.

63 Jer 7:15 seems to be a secondary addition to the speech in 7:1-14, see A. Rofé, „Studies in the Composition of the Book of Jeremiah“, *Tarbiz* 44 (1974-5), 13-15.

64 Pace Thiel, *Deuteronomitische Redaktion*, 293-294; Nicholson, *Preaching*, 69-71; and Carroll, *Chaos*, 84-95.

65 Even Holladay concurs with this late dating (Jeremiah 1, 509-510); and see Carroll, *Jeremiah*, 366-69; McKane, *Jeremiah* 1-25, 414-419; Hoffman, *Jeremiah* 1-25, 402-406. For an early Jeremian dating, see Bright, *Jeremiah*, 119-120; and Lundbom's discussion of the scholarly diverse positions (*Jeremiah* 1-20, 802-804, 808-810).

66 This literary dependency was noted earlier by A. Rofé („Composition“, 14, n. 41) and by M.

Jer 17:19-27 elaborates on the Sabbath as it appears in the Deuteronomic version of the Ten Commandment (= TC, Deut 5:12-15).⁶⁷

Jeremiah 17:19-27	Deuteronomy 5:12-15
<p>¹⁹כה אמר ייְהוָה אֱלֹהִי הַלֵּךְ וְעַמְדָת בְּשֻׁעַר בְּנֵי עַם (הָעֵם) אֲשֶׁר יָבֹא בְּבוֹ מִלְּפָנֵי יִהּוָה וְאֲשֶׁר יֵצֵא בּוֹ וְכָל שְׁעָרִי יְרוּשָׁלָם²⁰ וְאָמְרָת אלְيָהָם שְׁמָעוּ דָבָר יִהּוָה מִלְּפָנֵי יִהּוָה וְכָל יִהּוָה וְכָל שְׁבֵי יְרוּשָׁלָם הַבָּאִים בְּשֻׁעָרִים הַאֲלָה ²¹כה אמר ייְהוָה שְׁמָרְיוֹ בְּנֶפֶשׁ תִּיכְלַפְּךְ וְאֶל תִּשְׁאַו מִשְׁאָה <u>בַּיּוֹם הַשְׁבָּת</u> וְהַבָּאתֶם בְּשֻׁעַרְיִ רְיוֹשָׁלָם²² זֶלֶא חֲצִיאָה מִשְׁאָה מִבְּלִיכְמָן <u>בַּיּוֹם הַשְׁבָּת</u> מְלָאָה לֹא תִּعְשֶׂה וְקַדְשָׁתָה אַת <u>בַּיּוֹם הַשְׁבָּת</u> כַּאֲשֶׁר צוִיתִי אֶת אֲבוֹתֵיכְם²³ זֶלֶא שְׁמָעוּ וְלֹא הָטו אֶת אָזְנֵיכְם וַיְקַשׁו אֶת עַרְפָּם לְבָלְתִי שְׁוֹמֵעַ (שְׁמוֹעַ) וּלְבָלְתִי קָהָת מִסּוֹרַ²⁴ וְהִיא אֶם שְׁמָעַ תִּשְׁמַעַן אֵלִי נָאָם יִהּוָה לְבָלְתִי הַבִּיאָמָשָׁא בְּשֻׁעַרְיִ הַעֲיר הַזֹּאת <u>בַּיּוֹם הַשְׁבָּת</u> וְלִקְדַּשָּׁת אֶת יּוֹם הַשְׁבָּת לְבָלְתִי עַשְׂתָּה בָּה כָּל מְלָאָה²⁵ וּבָאוּ בְּשֻׁעַרְיִ הַעֲיר הַזֹּאת מַלְכִים וּשְׁרִים יִשְׁבִּים עַל כֵּסָא דָוד רַכְבִּים בְּרַכְבָּם וּבְסּוּסִים הַמָּה וּשְׁרִיהם אִישׁ יִהּוָה וַיְשִׁיבָּיְרְשָׁלָם וַיִּשְׁבַּת הַעֲיר הַזֹּאת לְעוֹלָם²⁶ וּבָאוּ מִעָרֵי יִהּוָה וּמִסּוּבִּבּוֹת יְרוּשָׁלָם וּמִאָרֶץ בְּנִימָן וּמִן הַשְּׁפֵלָה וּמִן הַהָר וּמִן הַגְּבֵג מִבָּאִים עֹלָה וּזְבָחָה וּמִנְחָה וּלְבָוָנה וּמִבָּאִי תְּוֹדָה בֵּית יִהּוָה²⁷ זֶלֶא לֹא תִּשְׁמַעַן אֵלִי לִקְדַּשָּׁת אֶת יּוֹם הַשְׁבָּת וְלְבָלְתִי שָׁאת מִשְׁאָה וּבָא בְּשֻׁעַרְיִ רְיוֹשָׁלָם <u>בַּיּוֹם הַשְׁבָּת</u> וְהַצְתִּי אֶשׁ בְּשֻׁעָרִיה וְאֶכְלָה אַרְמָנוֹת יְרוּשָׁלָם וְלֹא תִּכְבַּה</p>	<p>¹²שְׁמֹר אֶת <u>יּוֹם הַשְׁבָּת</u> לְקַדְשׁו כַּאֲשֶׁר צַוָּךְ יְהָוָה אֱלֹהִיךְ¹³ שְׁשָׁת יָמִים תַּעֲבֹד וְעַשְׂתָה כָל מְלָאָתָךְ¹⁴ יּוֹם הַשְׁבִּיעִי שְׁבָת לִיְהָוָה אֱלֹהִיךְ לֹא תַעֲשֶׂה כָל מְלָאָה אֶת וּבְנֵךְ וּבְתֵךְ וּבְעֵדֶךְ וּמְתַחְךְ וּשְׁוֹרֶךְ וּחֲמֹרֶךְ וְכָל בְּהַמְתַחְךְ וְגַדְךְ אֲשֶׁר בְּשֻׁעְרֵיךְ לְמַעַן יְנֵוח עַבְדְךְ וְאַמְתַחְךְ כִּמְנָךְ¹⁵ וּוְכָרְתָה כִּי עַבְדָךְ הִיְתָה בָּאָרֶץ מִצְרָיִם וַיֵּצֵא יְהָוָה אֱלֹהִיךְ מִשְׁמָשׁ בֵּית חֲזָקָה וּבְכָרוּעָ נְטוּיָה עַל כָּן צַוְךְ יְהָוָה אֱלֹהִיךְ לְעַשְׂתָה אֶת <u>יּוֹם הַשְׁבָּת</u></p>

Fishbane (Biblical Interpretation, 131-134); yet both scholars considered Jer 17:19-27 to be non-Jeremian, and saw its ideological context as that of exilic and post-exilic Judaism.

67 Jer 17:19-27 lacks any Priestly phraseology (including that of the Holiness Code). Compare to the clear connections between Ezek 20:11 and Exod 31:12-17; and see R. Levitt Kohn, A New Heart and a New Soul: Ezekiel, the Exile and the Torah (JSOTSup 358), Sheffield 2002, 33-34, 49.

¹⁹Thus said the Lord to me: Go and stand in the People's gate, by which the kings of Judah enter and by which they go forth, and in all the gates of Jerusalem,²⁰and say to them: Hear the word of the Lord, O kings of Judah, and all Judah, and all the inhabitants of Jerusalem who enter by these gates!

²¹Thus said the Lord: **Guard yourselves for your own sake against carrying burdens on the sabbath day, and bringing them through the gates of Jerusalem.** ²²Nor shall you carry out burdens from your houses on the sabbath day, or do any work, but you shall hallow the sabbath day, as I commanded your fathers. (²³But they would not listen or turn their ear; they stiffened their necks and would not pay heed or accept discipline.) ²⁴If you obey Me – declares the Lord – and do not bring in burdens through the gates of this city on the sabbath day, but hallow the sabbath day and do no work on it;²⁵then through the gates of this city shall enter kings who sit upon the throne of David, with their officers – riding on chariots and horses, they and their officers – and the men of Judah and the inhabitants of Jerusalem. And this city shall be inhabited for all time. ²⁶And people shall come from the towns of Judah and from the environs of Jerusalem, and from the land of Benjamin, and from the Shephelah, and from the hill country, and from the Negeb, bringing burnt offerings and sacrifices, meal-offerings and frankincense, and bringing offerings of thanksgiving to the House of the Lord. ²⁷But if you do not obey My command to hallow the sabbath day, and to carry in no burdens through the gates of Jerusalem on the sabbath day, then I will set fire to its gates; it shall consume the fortresses of Jerusalem, and it shall not be extinguished.

¹²Observe the sabbath day and keep it holy, as the Lord your God commanded you.¹³Six days you shall labor and do all your work,¹⁴but the seventh day is a sabbath of the Lord your God, you shall not do any work – you, your son or your daughter, your male or female slave, your ox or your ass, or any of your cattle, or the stranger in your settlements, so that your male and female slave may rest as you do.
¹⁵Remember that you were a slave in the land of Egypt and the Lord your God freed you from there with a mighty hand and by an outstretched arm; therefore the Lord your God commanded you to observe the sabbath day.

The opening phrase in Deut 5:12: „Observe the Sabbath day and keep it holy, as the Lord your God has commanded you“ is paraphrased in the two verses, Jer 17:21-22, with small yet significant changes. First, instead of *shamor* of the TC, there occurs the warning „Guard yourselves for your own sake“ (*hishameru benafshoteikhem*). While this phrase is clearly borrowed from Deuteronomic-Deuteronomistic phraseology, it never occurs otherwise in the context of the Sabbath; rather, it forms an exhortation to the people to be loyal to God and to his covenant (as in Deut 4:15, as also v. 9 there; Josh 23:11). Second, the command to keep the Sabbath holy gains a full independent sentence in Jer 17:22: „but you shall hallow the Sabbath day“ (compare to the infinitive *legadsho* which designates intention in Deut 5:12; and in Exod 20:8). Third, the closing words „as the Lord your God has commanded you“ (Deut 5:12; without parallel in Exod 20:8) appear in Jeremiah with a change of number (to the plural) and in reference to past generations: „as I commanded your fathers“ (Jer 17:22). Since this sentence does not appear in the Exodus version of the TC (nor in other Sabbath laws), it is clear that Jeremiah 17 relies on the Deuteronomic version.⁶⁸ Finally, the demand to lay off work is common to both passages: „you shall not do any work“ (Deut 5:14; repeated nearly exactly in Jer 17:22). But this prohibition is expanded in Jeremiah 17 to include the carrying of burdens in through the gates of Jerusalem or out of its houses (17:21-22). This innovative expansion gets its further authoritative force from the closing words: „as I commanded your fathers“ (17:22), as Michael Fishbane says:

The new teaching is thus authorized around a pseudo-citation from the Pentateuch („as I commanded“) ... the pseudo-citation in Jer. 17:21-2 gives the exegetical expansion to Deut. 5:12-14 Sinaitic, and so revelatory, status. Even more remarkable is the fact that the teaching given by Jeremiah is itself a divine revelation („thus says YHWH,“ v. 21a), so that it is YHWH who putatively cites himself and his ancient teachings.⁶⁹

The Literary relationship between Nehemiah's Sabbath (Neh 13:15-22) and Jeremiah 17 is similar to that of Jeremiah 17 and Deuteronomy 5. Jeremiah 17's description of the desecration of the Sabbath by carrying burdens through the city gates, or carrying burdens out of the houses (vv. 21-22), is further expanded in Nehemiah to include all agricultural work or commerce during the Sabbath (Neh 13:15-17). Moreover, Nehemiah draws an analogy from this Jeremian prophecy to his contemporary situation. According to Nehemiah, the Destruction was indeed the misfortune God had brought upon the city in fulfillment of the threat suggested in Jer 17:25-27, thus the present (fifth century) transgression adds „further wrath against Israel“ (Neh 13:18). Yet Nehemiah (like Jeremiah before him) chooses his

68 So Fishbane, Biblical Interpretation, 132.

69 Ibid, 133-134. Though I accept Fishbane's emphasis on Jer 17:19-27's exceptional „exegetical innovations“, I argue that the „covenant speeches“ in general suggest the similar motive of gaining this Sinaitic status, and see below.

authoritative texts independently; and thus, in distinction from Jer 17:19-27, Nehemiah brings to his sermon the distinctive Priestly phrase: „to profane the Sabbath“ (*lehallex et hashabbat*).⁷⁰

The relative chronology may then be built upon the content of the passages and the clear allusions, as also the differences they present one to the other. Jeremiah builds his prophecy upon the Deuteronomic TC version, expanding it and adapting it to his time, so that the ancient divine command will enforce the present actual demand concerning the carrying of burdens. Disobedience to this law serves as the reason for Jerusalem's Destruction. Nehemiah grounds his order in the fifth century BCE mandate on the historical lesson that should have been learned from the destruction of the early sixth century BCE, and bases his request on the Priestly legal terminology.

The place of the Sabbath within the elaborated condition sentence of Jer 17:24-27 was the central scholarly argument for assigning this passage a late date, and for considering it to correspond to the position of the Sabbath in exilic and post-exilic literature.⁷¹ Yet Moshe Greenberg, in his study of „The Sabbath in Jeremiah“, pointed out the fact that already by the eighth century, in both Israel and Judah, the Sabbath was observed as a day of joy and assembly in temple(s) (Hosea 2:13; Isa 1:13; or a time to visit the prophet in his residence, 2 Kgs 4:23), during which commercial life stopped (Amos 8:5). The prophets of the sixth century, Jeremiah and Ezekiel, admonished against Sabbath desecration among other ritual sins committed by Israel and Judah, and used it to explain the Destruction of both kingdoms (Jer 17:19-27; Ezek 22:8, 26; 23:38); Lamentations mourns over the days of joy, „festival and Sabbath“, which had ended only with the Destruction (Lam 2:6).

Looking at the exegetical traits of the prophetic passages, Greenberg defined „the prophetic stance“ presented by Jeremiah, Ezekiel and Deutero-Isaiah (or Trito-Isaiah) as a transformation in the conception of the Sabbath. From its personal-familial nature the Sabbath was reconstructed to gain a central national position among the divine commands as a symbol of the covenant between God and his people, and a prerequisite for the people's ongoing existence (Ezek 20:12-13, 20; Isa 56:2, 4, 6; 58:13-14; 66:24).⁷² The Sabbath's central position in Nehemiah (10:32; 13:15-22) is thus not an innovation of the Exilic and the Restoration periods, but a continuation of a prophetic perception well-grounded in its time, on the early part of the sixth century BCE. Therefore, Greenberg concludes by rejecting the proposition that Jer 17:19-27 represents a Deuteronomistic modification:

⁷⁰ *Hillel et hashabbat* occurs in the Sabbath law of Exod 31:14; and repeatedly in Ezekiel (20:16, 21, 24; 22:8; 23:38; 44:7); see also Isa 56:2, 6. Jeremiah uses *hillel* in the context of profaning the divine name (Jer 34:16) and land (16:18).

⁷¹ So for instance Hoffman, Jeremiah 1-25, 402-406; as already Holladay, Jeremiah 1, 510.

⁷² M. Greenberg argued further that this transformation in using the individual-moral sphere to critically judge the nation, characterizes the prophets in general („The Sabbath-pericope in Jeremiah“, in ‘Iyyunim be-Sepher Yirmiyahu, Jerusalem 1971, 23-52, and specifically p. 35).

The style is indeed Deuteronomistic, but the content is completely new. Nowhere in Deuteronomy is such an idea suggested. There is no way to refer this content to a re-writing based on Deuteronomy. A revisionist, a master of Deuteronomic conceptions, would not have found this in his source, because there is nothing like it in Deuteronomy. This is an innovation. And before one can deny this innovation from the prophet, one should prove that this „revisionist“ would have the audacity to compose something that was not found in the sources.⁷³

I would pursue Greenberg's interpretation of Jeremiah 17 and contribute additional arguments to substantiate the authenticity of this passage by looking at it in the context of the other „covenant speeches“. Two common denominators characterize the usage of these Pentateuchal laws, particularly from Deuteronomy, in the five „covenant speeches“ in Jeremiah.

First, the exegetical techniques: In all of these passages the prophet builds his prophecy through analogy, transformation, and adaptation, which oftentimes includes the expansion of the law in order for it to address present circumstances.

Throughout the „covenant speeches“ (as with allusions to the Pentateuch in general), the prophet does not suggest that his words are a correction to the ancient law itself, and only seldom do we recognize an expansion of the law alluded to (as we have seen here in Jer 17:21-22). In most cases the prophet handles the legal language freely, reinterpreting the law to suit his present message. This exegetical practice is highlighted when differences occur between the prophet's words and his Pentateuchal literary sources. It is difficult to assume that Deuteronomistic redactors of Jeremiah would have created these midrashic interpretations, which often do not correspond to Deuteronomistic perceptions;⁷⁴ just as it is unnecessary to assume that unique or amalgamated phrases of legal language must be the product of Deuteronomic redactors (e.g., Jer 7:5-6).⁷⁵ Since the allusions to Deuteronomy and to the

73 Ibid, 35-36.

74 See for instance Jeremiah's repetition of „in the day [NJPS: when] I freed them from the land of Egypt“ in Jer 11:4 (see also 7:22; 34:13), which differs from the Deuteronomic emphasis on the covenant in Sinai-Horeb (as in Deut 5:1-5).

75 The phrases in Jer 7:5-6 cannot be taken as Deuteronomic-Deuteronomistic, but appear to be special Jeremian phraseology: (1) for *'im heittiv teitivu 'et darkhekhem v'et ma'alaleikhem*, see Weippert, Prosareden, 137-148. (2) *'asah mishpat* is not a Deuteronomistic phrase altogether. It demands justice from whoever has the authority to defend the weak in the society, thus God (Gen 18:25; Deut 10:18; and in Ps 146:7), the king (1 Kgs 3:28), the princes of Israel (Ezek 45:9), or other elite members of society (Micah 6:8; Ps 119:121; Prov 21:3, 7; 15; Ezek 18:8), and see in this last connection Jer 7:5, as also in poetic verse, Jer 5:1. Moreover, *bein 'ish uvein re'ehu*, which appears otherwise only in poetic passages (Jer 3:20; 5:8), is annexed to *'asah mishpat* only here, and may echo Exod 18:16. (3) The triplet *ger yatom ve'almanah* recalls the Deuteronomic triplet (as in Deut 14:29, and common in Deuteronomy 12-26; and see Holladay, Jeremiah 2, 59); yet *lo' ta'ashoqu* occurs in Deuteronomy in a different context (Deut 24:14; and see the Priestly phrase, Lev 5:21). Thus Jeremiah collates two independent Deuteronomic phrases. (4) *vedam naqi lo' tishpekhhu bamaqom hazeh* indeed recalls Deuteronomic-Deuteronomic.

entire Pentateuchal literature are marked by special Jeremian phraseology and by exegetical techniques which are common to both prose passages and poetic ones, there is no necessary reason to understand the former as late Deuteronomistic additions.

A second common denominator of the „covenant speeches“ is their ideological intention. In choosing specific laws from the Pentateuchal literature the prophet creates a detailed (though partial) inventory of specific sins, through which the people had transgressed the „words of the covenant“ (Jer 11:1-14); thus he presents the people’s responsibility for violating the covenant in a very particular way.⁷⁶

Nevertheless, it seems impossible to explain why some laws were chosen, but not others. It is difficult to find any hierarchy of importance or relevance among those that were chosen, and the collection of prophetic passages in which this rhetorical technique occurs does not include all the covenant codes of the Pentateuch. The TC, though prevalent among legal allusions in Jeremiah (including the „covenant speeches“), is not the only text alluded to. In addition to the TC, many other laws serve to illustrate the people’s sins, that is, they serve to explain the reasons for the coming Destruction. I can only assume that these specific laws were chosen for reasons of content and theme which were essential for each prophecy independently.⁷⁷ In a prophecy which exhorts the people against turning the „Temple of the Lord“ into „a den of thieves“ (7:11), a place of refuge for those who break the covenant (7:1-15), six of the TC were chosen, alluding (and echoing) to proclamations from the relationship with man and with God. To emphasize the atrocity of violating God’s covenant, the prophet evokes the Deuteronomic curses of *’Arur* (Jer 11:1-14). To demonstrate the king’s obligations towards his subjects to execute just and right, he recalls laws from the social-ethical arena (22:1-5, in line with Psalm 72 etc.).⁷⁸ Likewise, the formal-literary structure of the „covenant speeches“ in accordance with the Deuteronomic style (i.e. the use of the full

nomic phrasing (see Deut 19:10; 21:7; 2 Kgs 21:16; 24:4), but it occurs in poetic verses in Jeremiah as well (Jer 2:34; 22:17; and in prose, 19:4). (5) *ve’aharei ’elohim ’aherim lo’ telku lera’ lakhem* present another amalgamated phrase. *halakh ’akharei ’elohim ’akherim* is common in Deuteronomy (as in Deut 6:14; 11: 28; 13:3), and occurs in Jeremiah only in prose passages; but *lera’ lakhem* (see also Jer 25:7) reverses the Deuteronomic phrase *lema’an yitav lakh* (as in Deut 4:40; 5:16, 29; 6:3, 18; 12:25, 28; 22:7; and in other prose passages in Jer 7:23; 38:20; 40:9; 42:6). These short comments augment other instances of unique Jeremian idiom, noted in Bright, „Prose Sermons“, 30-35; and Holladay, Jeremiah 2, 35-40, 53-63.

76 Aside from the „covenant speeches“, this ideological intention occurs in the repeated usage of the second commandment (as in Jer 16:11), which symbolizes the general rejection of God, including violating his covenant (16:11; as also 13:10; 22:9). See Smith, „The Decalogue“, 200-203; and see Zimmerli, The Law and the Prophets, 46, 60.

77 Smith („The Decalogue“, 206) uses this functional argument to explain the allusions to only seven of the TC.

78 This phenomenon is clearly not restricted to the „covenant speeches“, to mention one example: laws of manumission were paraphrased in a prophecy which focuses on Zedekiah’s decree of servants’ release and re-submission (Jer 34:8-22).

condition; the prose writing) is in itself a powerful way to present the people's transgressions into the framework of the Deuteronomic conception of the covenant. This analogy enables the prophet to further expand, transform and adapt the well-known conception of covenantal relationship to the new circumstances faced by prophet and people.

For this reason, the Sabbath indeed attained a special position in the prophecy of Jeremiah. Desecration of the Sabbath served as one specific example of the people's sins, and thus a justification for the divine judgment. But the Sabbath in Jeremiah is not emphasized beyond other Pentateuchal laws.⁷⁹ The choice of the Sabbath corresponds to the recurring Jeremian technique of choosing specific laws and „actualizing“ them prophetically, that is, as central to the *ad hoc* prophetic exhortation in a given context, to symbolize the people's breech of the covenant and to explain the city's misfortune.

IV. Conclusions

My study of the exegetical process in examples discussed above, and in many more which are beyond the extent of the present paper, leads to several conclusions concerning both the Pentateuch literature of the early sixth century BCE, and the book of Jeremiah.⁸⁰

Let me start with the latter. Based on (a) the vast distribution of passages in the book of Jeremiah in which Pentateuchal traditions are evoked; (b) the diverse topics covered and their relevance to the prophetic message; (c) the repeated use of double meanings and language plays as exegetical techniques; and (d) the freedom with which these literary and legal traditions are reinterpreted, by analogy, transformation, expansion and reversal, I suggest to recognize allusion and exegesis as major and unique characteristics of Jeremiah's prophetic activity and writing.

There is no good reason to reallocate these central characteristics from the prophet to his alleged followers / disciples / redactors (nor to a post-exilic *Tradentenprophetie*). To designate all passages which allude to Pentateuchal traditions in general or to Deuteronomy in particular as non-Jeremian, not only limits the quantity of the prophetic words, but even more sterilizes substantially the content of Jeremiah's proclamation.⁸¹

79 Contra A. Kuenen, who was inclined to accept the secondary nature of this passage „because such a high estimation of one single ritual prescription can hardly be reconciled with the rest of his utterances regarding the will of Jahveh“. (in *The Prophets and Prophecy in Israel: An Historical and Critical Enquiry* [trans. A. Milroy], London 1877, 340).

80 For further discussions of inner-biblical interpretation in Jeremiah see my papers: D. Rom-Shiloni, „Facing Destruction“, 189-205; idem, „The Torah in Jeremiah: The Interpretive Techniques and the Ideological Perspectives“, *Shnaton: An Annual for Biblical and Ancient Near Eastern Studies* 17 (2007), 43-87; idem, „Deuteronomic Concepts of Exile“, 101-123.

81 In this I profoundly differ from Otto (and Achenbach) who finds a lively fourth century debate

As for the Pentateuchal literature – Jeremiah was familiar with many Pentateuchal traditions, mostly legal materials, down to the exact wording. Nevertheless, the prophet was free to choose legal and literary associations which would be best to reinforce his message.

Pentateuchal literature had indeed a central role in crystallizing Jeremiah's professional status. In a time when Jeremiah had to struggle for his position as the prophet of God, the Pentateuch was a source of authority and legitimacy for him.

Furthermore, Pentateuchal literature had a significant role in the prophetic message. Jeremiah did not allude to the Pentateuch in order to educate the people in the Law (compare to the role of the priests, Ezek 7:26; Haggai 2:11; and Jer 2:8, as also the priests and the Levitical *mevinim* in Nehemiah 8), nor for the sake of rhetorical style. Jeremiah was not a *torah*-teacher, but a *torah*-interpreter (*darshan*, an *exegete*, even closer to an *eisegete*).⁸² In using legal (and literary) materials Jeremiah drew analogies from the past to the present and future. He expanded ancient-traditional laws to fit his time, and even reversed the first words in order to counter present realities.⁸³ In drawing his analogies, Jeremiah emphasized the Sinaitic-Mosaic status of the laws and readapted them to his present messages.⁸⁴ Allusions were a rhetorical device to anchor his words in well-known historical-literary and legal traditions. Such allusions functioned to indicate continuity from Moses to the prophet, and even more so to affirm the connection between giving / accepting the *torah* in the desert to the prophetic demand for obedience to God and to His covenant in the early sixth century BCE.

Although most of the legal allusions in the book are indeed to passages in Deuteronomy, there still remains a diversity in the Pentateuchal sources used in Jeremiah, including Priestly ones. Thus not every such allusion in Jeremiah should be counted as non-Jeremian, just as there is no justification to assume that Jeremiah (or the editors of his book) knew no other sources, or that they used only the Deuteronomic-Deuteronomistic literature.

in the book of Jeremiah, following his general prospect of Jeremiah as a pseudoepigrapha, see Otto, „Der Pentateuch im Jeremiabuch“, 298.

82 Contra Achenbach, „The Pentateuch“, 265-267, 280.

83 Additional examples for Jeremiah's interpretive utilization of Deuteronomic terms and texts, see M. Leuchter, „The Temple Sermon and the Term מִשְׁרָה in the Jeremianic Corpus“, JSOT 30,1 (2005), 93-109; idem, „The Manumission Laws in Leviticus and Deuteronomy: the Jeremiah Connection“, JBL 127,4 (2008), 635-653.

84 B. M. Levinson discussed mainly biblical legal literature and pointed out the „rhetoric of concealment“, which he convincingly considers a central technique of adaptations of laws to later circumstances, by gaining authority yet concealing revisions and innovations („The Human Voice in Divine Revelation: The Problem of Authority in Biblical Law“, in M. A. Williams, C. Cox and M. S. Jaffee [eds.], Innovation in Religious Traditions: Essays in the interpretation of Religious Change [Religion and Society 31], Berlin / New York 1992], 35-71). The fascinating traits of the „rhetoric of concealment“ need, however, to be studied carefully in the prophetic literature, since it seems to be applied in various distinctive ways by Jeremiah and Ezekiel.

Nonetheless, it is difficult to estimate the actual components of Jeremiah's *torah*. The above discussion points to a variety of ways by which assumed sources were used. At times, the literary connection is clear, to the point that we can safely regard the allusion as based on a written source similar to the present biblical text (e.g., Jer 4:23-26 in reference to Genesis 1; Jer 17:19-27 and Deut 5:12-14). In other instances we may only say that the prophet knows the legal terminology and is free to couple one term with another, but there is no way to prove that he had the written codes arranged in front of him. This is the situation for most of the allusions to Priestly sources in Jeremiah, where the prophet's usage is closer to paraphrasing Pentateuchal traditions in different categories of accuracy than to quotation.⁸⁵

In an earlier publication I argued that the allusive and exegetical usage of the Pentateuch is not restricted to the prophet(s), or to prophetic circles, but was in use also amongst their contemporaries. This is confirmed in debates within the book of Jeremiah, and in the many quotations brought in Jeremiah and Ezekiel (such as Jer 21:1-7; 14:19-22; Ezek 18:3; 20:32).⁸⁶ The present discussion reinforces the assumption that by the early sixth century BCE Pentateuchal literary and legal traditions were part of the common heritage. They were accepted as relevant to the present reality, and thus played a role in public discourse. This may, therefore, indirectly support the above mentioned arguments for Jeremian responsibility for this exegetical activity throughout his book. It seems that by the early sixth century, Pentateuchal literature (again without specifying its extent) was a major literary source used by all speakers in the ideological conflicts in Judah and in Exile.⁸⁷ Thus inner-biblical interpretation suggests a valuable methodological tool in the study of Jeremiah (as also in Ezekiel) to discover further theological and ideological spheres at this critical period in the history of Judah and the Judeans.

To close this study I want to adduce its implications on the book of Jeremiah's riddle of authorship. Based on the above discussion, I argue that Deuteronomistic phraseology and even the usage of Pentateuchal traditions cannot be distinctive criteria to differentiate Jeremiah from his editors. It is time to re-evaluate the supposed wide deuteronomistic-redactional level in Jeremiah and to address the question of What characterizes non-Jeremian passages? – The arguments repeatedly

⁸⁵ To mention a few examples: the connection between Jer 2:3 and Lev 22:14-16 (in distinction from the legal contexts of Leviticus 5 and Numbers 18); as also the phrases „proclaim a release“ and „no one should keep his fellow Judean enslaved“ (Jer 34:8-9).

⁸⁶ Rom-Shiloni, „Facing Destruction“, 189-205.

⁸⁷ These observations accord D. N. Freedman's suggestions („Law and Prophets“, 250-265) regarding the evolution of the Pentateuch up to Kings in the first half of the sixth century (580-550 BCE), as also most of the prophetic literature assigned to that period down to the end of the sixth century. In agreement with this time frame, the present textual discussion suggests to date the exegetical process already to the early sixth century. Compare to the common recognition that late biblical literature, mostly of the Persian Period, is exegetical, as in S. Japhet, „Law and ‚The Law‘ in Ezra-Nehemiah“, Proceedings of the Ninth World Congress of Jewish Studies, Panel Sessions, Jerusalem 1988, 99-115.

adduced of style, phraseology and themes seem not to be satisfying. The stylistic difference between poetry and prose has long been challenged as invalid (though at times still serves scholars). The argument of deuteronomistic / deuteronomistic phraseology has been reduced significantly, whence many of these phrases seem idio-syncretic Jeremian (thus argued by Bright, Weippert, Holladay, and recently presented by Lundbom). Looking beyond the phraseology to the function, I added in this study that the resemblances are not at all limited to the lexical sphere, but are part of a much wider and calculated interpretive procedure. Within this interpretive procedure, Jeremiah combines different legal codes together, which clearly supports the idiosyncratic nature of his style.

While the interpretive usage of Pentateuchal legal traditions should be considered authentic to the prophet, I perfectly realize that these techniques may have been also carried on by his followers. Thus, this will be another unconvincing divisive criteria to define each of them.

Finally, when it comes to the themes, resemblances to the Pentateuch are part of Jeremiah's intentional usage of that literary heritage applied, or actualized in his message. The contents in which those allusions occur suit perfectly the early sixth century theological and ideological arena.

Therefore, none of these commonly used criteria can be used as divisive features between levels of composition in the book, since they are managed by Jeremiah and possibly also by the editors of the book.

Since I do recognize in Jeremiah a long process of evolution, it seems that other and better suggestions should be raised as distinguishing markers between levels of composition within the book of Jeremiah. One direction which has already emerged in the studies of Jeremiah and the early sixth century biblical literature in general is to realize that differences may be sought on the socio-geographical separation between the Judean communities, the one in Jerusalem / Judah and the other established in Babylon.⁸⁸ I find this direction indeed a promising one to enhance our understanding of Jeremiah and his book.⁸⁹

⁸⁸ To mention central studies: M. Noth, „The Jerusalem Catastrophe of 587 B.C. and Its Significance for Israel“, *The Laws in the Pentateuch and Other Studies* (trans. D. R. ApThomas), London 1966, 260-280; C. R. Seitz, *Theology in Conflict: Reactions to the Exile in the Book of Jeremiah* (BZAW 176), Berlin / New York 1989; and Carolyn Sharp, who argues for diverse Jeremian traditions and long redactional process in the two centers independently (*Prophecy and Ideology in Jeremiah: Struggles for Authority in the Deutero-Jeremianic Prose*, London 2003).

⁸⁹ See Rom-Shiloni, „The Prophecy for ‚Everlasting Covenant‘“, 201-223; idem, „Ezekiel as the Voice of the Exiles and Constructor of Exilic Ideology“, HUCA 76 (2005), 1-45.