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DOI: <http://dx.doi.org/10.18820/23099089/actat.Sup26.7>

ISSN 1015-8758 (Print)
ISSN 2309-9089 (Online)

Acta Theologica 2018
Suppl 26:118-135

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JEREMIAH 8:8: WHY ARE SCRIBES ACCUSED OF CORRUPTING THE TORAH?

ABSTRACT

Why are scribes accused, in Jeremiah 8:8-9, of corrupting the “tôrāh”? The article contemplates possible answers to this question against the background of what is presupposed in the Book of Jeremiah with regards to “tôrāh” and being a scribe. Does this confront one with a response triggered by the reformation of Josiah (older interpretation) or by an indication of what took place much later during the gradual combination of Torah and Nebi'im as authoritative scripture in Persian and Hellenistic times (recent interpretation)? The article distinguishes between oral common law and written statutory law, in order to rectify anachronistic interpretations of all biblical laws as statutory laws (Berman 2014). The change from oral to written law, facilitated by the scribes, caused a legitimacy crisis and can be explained against the background of a new understanding of what “word of God” or “revelation” entailed (Van der Toorn 2013).

1. INTRODUCTION

While reflecting on what might be an appropriate topic for this *Festschrift*, I assumed that the link between prophecy, the law and wisdom might be of some interest to Fanie Snyman, given his longstanding interest in Malachi and post-exilic prophecy.

The decision to focus on Jeremiah 8:8 was triggered by the fact that there are only two references in the Old Testament where scribes are identified as writers of biblical texts and both of them are in the Book of Jeremiah (8:8-9; 36:18). Thus, the underlying presuppositions of this contribution are

that Jeremiah's perceptions of *tôrāh* and being a scribe influenced the negative statement with regard to scribes in Jeremiah 8:8-9:

8 How can you say, "We are wise,
for we have the law of the Lord,"
when actually the lying pen of the scribes
has handled it falsely?
9 The wise will be put to shame;
they will be dismayed and trapped.
Since they have rejected the word of the Lord,
what kind of wisdom do they have? [NIV]

According to Jeremiah 8:8-9, the scribes seem to be accused of falsifying the *tôrāh* with their "false" or "lying pen". In Jeremiah 36:4, "Jeremiah dictated all the words the Lord had spoken to him" and "Baruch wrote them on the scroll", which is confirmed in verse 18 when Baruch answered the enquiring officials: "Yes ... he (Jeremiah) dictated all these words to me, and I wrote them in ink on the scroll."

Are there two diverging perceptions or evaluations of the role of scribes in the process of transmitting *tôrāh* (8:8-9) and prophecy (36:4, 18)? There is no suggestion in chapter 36 that Baruch as scribe changed or falsified the (prophetic) words that Jeremiah dictated to him, whereas the scribes are clearly accused of falsifying *tôrāh* with their "lying pen" in 8:8-9. What might be the reason for these contrasting views on the role of scribes in writing down *tôrāh* and prophecy?

Berman's (2014:22-32) recent study of biblical law takes a leaf out of the history of legal theory and identifies a neglect of "common-law" in favour of "statutory law" in the majority of modern scholarly engagements with legal *corpora* in the Old Testament/Hebrew Bible. This focus on statutory law presupposes that "law" amounts to codified and written law that is authorised by a sovereign and constitutes a finite and well-demarcated collection of legal texts (Berman 2014:20-21). Juxtaposed to statutory law, Berman (2014:21) describes common law as not being found in written or codified law, because it is rooted in

a process whereby the judge concludes the correct judgment based on the mores and the spirit of the community and customs.¹

1 Ancient Israelite jurisprudence taking place with elders as judges in the city gate resonates with this understanding of "law" as "common-law".

According to Berman (2014:23-24), the bulk of biblical laws and legal texts can be depicted as common or customary law. They were “records of precedent and not of legislation” and thus no false dichotomy between legal and narrative texts in terms of legal authority can be justified in the Pentateuch and the Prophets.

Against this background, it is likely that the “law of the Lord” (8:8) and the “word of the Lord” (8:9) might, therefore, refer to common-law material that included legal and narrative texts, for which the scribes were eventually responsible in written form. The interpretation of Jeremiah 8:8-9 must not fall in the trap of presupposing *tôrāh* as statutory law in the modern sense of the word, but rather as common law that included both legal and narrative texts, with an emerging statutory law that caused controversy.

In a recent publication, Van der Toorn (2013) contemplates the reformulation of the concept “revelation” as part of a process during which oral tradition (early format of prophetic oracles and legal tradition) was written down and presented as eternal truth of divine origin.

Once the written tradition supplanted oral knowledge, it needed an authority it did not derive from those who transmitted it. The problem facing the scribes was legitimacy rather than credibility ... The scribes found the new source of authority in the concept of divine revelation (Van der Toorn 2013:12).²

It will, therefore, be considered that Jeremiah criticised the emerging statutory law. However, this did not entail a critique of *tôrāh* as such or the scribes in general.

2. TORAH IN THE BOOK OF JEREMIAH

Scholarship has identified three major contexts in the Old Testament or Hebrew Bible in which *tôrāh* is used (Garcia Lopez 2006:609-639; Maier 2008:24):

- In the wisdom traditions of Ancient Israel and early Jewish societies, *tôrāh* refers to “the oral instruction of the teacher or father (Prov. 4:1-2; 28:7) and the mother (Prov. 1:8; 6:20; 31:26)”.
- According to priestly traditions, *tôrāh* “denotes the oral instruction of the priests in general (Deut. 33:10; Ezek. 7:26; Mal. 2:8) or a single cultic regulation (Ex. 12:39; Num. 5:29-30; Lev. 7:1)”.

2 De Jong (2011:39) argues that biblical prophecy is a scribal enterprise *ex eventu*: “At the heart of the biblical books is scribal reinterpretation of earlier prophetic legacies.”

- Of particular importance for a study focused on Jeremiah and its close relationship with Deuteronomy, one should note that, in Deuteronomy, *tôrāh* “most often refers to the written law (Deut. 4:8, 44; 27:26; 31:12)”.

Prophets such as Amos, Hosea and Micah, related to the 8th century, show no interest in quoting from written *tôrāh*, since their indictments take unwritten law embodied in concepts such as justice and righteousness. According to Patrick (1986:202), “Jeremiah might be the first prophet to recognize the dangers of identifying the law with written rules” and it is against this background that the scribes are accused of “corrupting the law” in Jeremiah 8:8. Recently, Fischer (2011:368) interpreted the references to *tôrāh* in Jeremiah 2:8; 8:8 and 18:18 as “nicht nur irgendeine mündliche Unterweisung, sondern die schriftlich vorliegende Tora zu sehen”. This concurs with Maier (2008:24) who, after discussing the eleven references to torah in the Book of Jeremiah, concludes that “the book of Jeremiah mainly refers to torah as a God-given written code of law” and that the prophet Jeremiah is accordingly depicted as “a teacher of Torah”.

Friedman (1987:149) is of the opinion that the prophet Jeremiah was the author responsible for the description of the rediscovery of the “Book of the Law” in the Jerusalem temple (2 Kings 22-23).³ In an unpublished dissertation, Silver (2009) resuscitates Hyatt’s hypothesis that Jeremiah was antagonistic towards the Deuteronomic Reform, but not necessarily against the contents of the Book of Deuteronomy. Thus, the critique of the scribes in 8:8 is perceived as a criticism of a royal ideology that does not adhere to Deuteronomy 17:14-20.

The link between the *tôrāh* in Jeremiah and the rediscovered law in Deuteronomy remains speculative and cannot be proven beyond any doubt.⁴ Recently, Mastnjak (2016:12) indicated that the assumption of the “direct use” of Deuteronomy in the poetic sections of Jeremiah

3 From a Greek Orthodox perspective, Tarazi (2002:11, 32) considers the Book of Jeremiah to be a “résumé” of the Pentateuch and concludes that the “Pentateuchal Torah is the Jeremian Torah” – in other words, arguing for continuity between Jeremiah and the Pentateuch and not only Deuteronomy.

4 Fischer (2005:335) considers the speculative linking of the “lying pen” with the rediscovered law by Josiah to be unlikely, due to Jeremiah’s dependence on many aspects of the Torah. Less speculative is Droge’s (2003:130, 142) observation that the accidental discovery of an ancient text in a temple as a *topos* goes back as far as the first Egyptian dynasty and that this was “one of the most potent instruments available ... for bringing about an ideological inversion and a redefinition of society”. This places an interesting perspective on the ideological context of the rediscovery of the law, but it does not have immediate relevance for Jeremiah 8:8-9.

(including 8:8-9) must be contemplated with “more caution”, because the reference to *tôrāh* does not imply a reference to Deuteronomy.

3. SCRIBES IN THE BOOK OF JEREMIAH

In prophetic texts, there are incidental references to the tools of the scribal trade: the pen or reed (Jer. 8:8); the penknife for sharpening the instruments of writing (Jer. 36:23), and even a writing case (Ez. 9:2-3). According to Koehler (1967-1995:724), the Hebrew noun *sôpēr* (“scribe”) has four meanings (see also Van der Toorn 2007:78-79):

- A scribe or secretary resembled a craftsman who used implements such as a “pen” for writing (Ps. 45:2; Jer. 8:8).
- A royal official, secretary of state: The earliest reference indicates a strong connection with the royal court – Seraiah was the “scribe” of David (2 Sam. 8:17), whose sons Elihoreph and Ahijah were “scribes” of Solomon (1 Kings 4:3); Shaphan was “scribe” of Josiah (2 Kings 22), and so on. These men were not mere scribes, but high-ranking officials who resembled the royal letter-writer of Pharaoh responsible for the king’s foreign and domestic correspondence.
- A secretary for Jewish affairs can be found only in connection with Ezra who, as a scribe, was a high-ranking member of Persian royal bureaucracy, with a special responsibility for Jewish affairs (7:11, 21-22). In 7:6, Ezra is described as an expert scribe in the Torah of Moses. This is similar to an Aramaic expression in the Story of Ahiqar (a romance from circa 5th century BCE) that qualifies Ahiqar as a wise and expert scribe. Furthermore, the description of Ezra as a “wise” scribe in 7:25 is also depicted as one whose wisdom is embodied in the Torah as “the wisdom of God that is in your hand” (7:14, 25).
- A “scholar of scripture” (*Schriftgelehrte*) such as Ezra probably belonged to a “group of Levites” (2 Chron. 34:13), read the Torah in the Jerusalem temple, and explained it to the people (Neh. 8:7-8). The *sôpēr* as “scholar” allows the occasional use of “sages” (*hākāmīm*) and “scribes” (*sôpērīm*) as synonymous terms, as in the focus text Jeremiah 8:8-9.⁵

Why is it significant that there are only two references in the Old Testament that consider scribes to be the writers of biblical texts and that both are found in the Book of Jeremiah (8:8-9; 36:18)? This significance is suggested by the more common references to other authors of biblical texts: usually God

5 One should take note that, several centuries later, Ben Sira (38:24) persists in identifying wisdom as the main pursuit of the scribes.

(Ex. 24:12; 31:18; 32:15-16, 32; Deut. 4:13; 5:22; 9:10; 10:2, 4), or a prophet (Ex. 17:14; 24:4; 34:27-28; Num. 33:2; Deut. 31:9, 22, 24; 2 Chron. 26:22; Isa. 8:1; 30:8; Jer. 30:2; Ezek. 24:2; 37:16, 20; 43:11; Hab. 2:2; Dan. 7:1), and other inspired individuals such as Moses, Joshua, and Samuel.

Some modern scholars still presuppose the tenuous link between Jeremiah and Deuteronomy. Sonnet (1997:266) is cautiously of the opinion that the functioning of scribes, either redacting or copying, “in the making of Deuteronomy apparently surfaces in Jeremiah’s interpretation ... (in 8:8)”. Although the link between law, prophecy and scribes in Jeremiah is still contested, the interconnectedness of law and wisdom can be found in second millennium ancient Near Eastern legal collections that predate the Old Testament/Hebrew Bible (Marlow 2013:654).

Jeremiah 36 provides an important example of prophecy by means of the written word that God not only commanded, but also personally spoke to the prophet (39:2). Despite the personal nature of the divine communication with Jeremiah, the scribe, Baruch, is instructed to write the prophecy on a scroll (Niditch 1996:104-105). In this chapter, there is no negative reference to scribal activity; in fact, there is a close relationship between scribe and prophet to produce the written “word of the Lord”.

One could well ask: To what extent was it possible to even consider that a scribe could be “lying” by interpreting *tôrāh* in a spurious manner. In a rereading of 1 Kings 1-11, Seibert (2006:183) argues that there is ample evidence of submissive and subversive scribes in the Old Testament. This opens up the possibility that “submissive” scribes toeing the line of temple theology, inculcating a false sense of security and not demanding repentance from Israel, could well be accused of using a “lying pen”.⁶

4. JEREMIAH 8: 8-9

Current scholarship is unanimous that Jeremiah 8:8 “is notoriously difficult to translate”, due to the uncertainty and lack of consensus about the subject of the sentence and whether the MT must be followed with or without emendation (Egglestone 2016:63).⁷

6 Osoji (2010:276) makes a strong case that Jeremiah “condemns the false security that the people have in the cultic system and in the temple”. This is clear in the “temple sermon” of Jeremiah 7 that precedes the reference to the “lying pen” of the scribes in 8:8-9. The “temple sermon” also acts as a prose “hinge” between the poetic sections in chapters 2-6 and 8-10 (Crouch 2017:16).

7 On the level of textual criticism, “הַשֵּׁבֶט” in verse 8b is translated with different nuances (De Waard 2003:34-35):

This contribution will focus on the reference to the priestly scribe as a writer of biblical texts in Jeremiah 8:8-9. Some commentators consider 8:8-9 as “a self-contained unit, consisting of indictment in verse 8 and a mixture of threat and indictment in verse 9” (McKane 1986:187). Unlike Klopfenstein (1964:133), Rudolph (1968:61) does not presuppose any close connection between 8:4-7 and 8:8-9, since the focus shifts from the nation, in general, to the wise, in particular.

Despite the general assumption that verses 8 to 9 constitute an independent unit, one is well advised to pay some attention to its immediate literary context – the use of catchwords in verses 7 and 8 indicates at least some connectivity (*mišpāṭ* and *torah*). One of the best examples of reinterpretation that relativizes verses 8 to 9 as an independent unit, is the occurrence of a “double revelation of the torah and prophecy” in 8:8-9 that refers back to the preceding 6:16-19 and reappears in the subsequent 9:13 (Allen 2008:105).

It is striking to note that the critique of the temple in the so-called Temple Sermon in Jeremiah 7:1-8:3 consists predominantly of prose and that poetry is resumed from 8:4 onwards, with the use of a “messenger formula” (Lundbom 1999:505), a poetic and prophetic critique of the scribes responsible for legal and narrative texts, resulting from the preceding indictment of the temple in Jerusalem!

The oracle in 8:4-7 chastises the people of God for their stubborn refusal to restore their broken (“covenantal”?) relationship with the Lord. The initial two rhetorical questions refer to two common-place events: if someone falls down, s/he gets up again and if someone takes the wrong turn, s/he returns to take the right direction. The wordplay on *šûb* makes it clear that, although in everyday life one turns around when one has taken a wrong turn, Judah persists to go on their “*falschem Wege*”, with no inclination to turn around (Rudolph 1968:60). Jeremiah makes a case against an unrepentant people by using *šûb* six times in this pericope – in nature

LXX: “In vain have the scribes used (ἐγενήθη) a false pen”. A more literal translation would be: “In vain a false pen come to be for the scribes.”

Targum: “In vain the scribe has made (pera) a lying pen.”

Vulgate: “It is falsehood the lying pen of the scribes has worked (perates est).”

Many scholars read a *mappiq* in the *he* of “הַשֵּׁבֶט”, thereby enabling it to function “as indication of a feminine object, referring back to ‘law’” (De Waard 2003:35). Fischer (2005:330) also agrees that the text critical note in BHS suggests *tôrāh* as object. One should also bear in mind that the verb שֵׁבֶט followed by the preposition *lamed* “would have the meaning ‘to transform something into something else’”, but this change requires “the presence of a grammatical object” (De Waard 2003:35).

something returns from where it came from, but Israel and her (temple?) scribes do not comply with this “natural order” (Fretheim 2002:147-148).

These rhetorical questions are followed by two probing questions that begin with “Why?”. It seems that the people of God persevere with their foolish behaviour by listening to, and accepting deceit rather than truth. This “deceit” probably refers to

the message of the false prophets who are telling them that there is no coming judgment and everything is just fine (Longman 2009:80).

It thus becomes clear that it is not the law as such that becomes a lie, but the interpretation thereof.

In 8:8-9, there seems to be a significant triangulation in the prophecy between priests (the address of the prophecy), *tôrāh* (that seems to be related to “the word of the Lord” in verse 9) and scribes (who seem to be both priest and sage or “the wise”). This interconnectedness of priest, *tôrāh* and scribe is qualified by an *inclusio* formed by the initial futile boast, “we are wise”, at the beginning of verse 8 and the corresponding mention made of “the wise” and “wisdom” that frames verse 9. In these two verses, there is a unique reference to a group of priests who could read, write and perform scribal activities related to the interpretation and writing of the *tôrāh*. The status of the scribes or wisdom teachers is somewhat obscure, but they were responsible for much more than the mere copying of legal and other royal texts. These sages were also advisors whose advice was related to their interpretation of *tôrāh* and it is, in this regard, that the “lying pens of the scribes” seem to imply some form of false interpretation (Longman 2009:81).

As part of a series of rhetorical questions that commences in 8:4, judgement is proclaimed on Judah and Jerusalem, due to their deceit, wickedness and general ignorance about the requirements of the Lord. Against this background, the scribal priests are accused of false and lying interpretations of the instruction or *tôrāh* of God, utterly devoid of wisdom. It seems that the “wisdom” in the context of verses 8-9 refers to “the general wisdom that the people of Judah *ought* to have in the light of their possessing of the deuteronomic Torah – cf Deut 4:6” (Van Leeuwen 1990:304).

The possibility has been considered whether *tôrāh*, in this instance, refers to the “book of the law” (“Deuteronomy” or a part thereof?) that precipitated the reform by Josiah⁸. If this reference is correct, there might

8 According to Bright (1974:63-65), there exists a strong contrast between “the law of Yahweh” and the “word of Yahweh”, where the “possession of the law

be a prophetic critique of Pentateuchal *tôrôth*; or the critique of scribal and priestly reinterpretation that caused the collapse of the Josian reforms – indeed, literary and intellectual elites that corrupted the instruction of the *tôrâh*. Despite the attractiveness of this hypothesis, it remains a bone of scholarly contention that cannot be proven beyond any doubt.

One must be aware of the contrast between the deuteronomic demand that Israelites had to write the commands on their hearts (Deut. 6:6-9, 11, 18) and the promise in Jeremiah that the Lord himself will write the *tôrâh* on the heart of the individual (Carr 2005). There is also a further juxtaposition between the command to write the *tôrâh* on the heart and the references in Jeremiah 2:8 and 8:8 that *“kritisieren eine falsche Auslegung der Tora und betonen, dass die Tätigkeit der dazu beauftragten Gruppen gerade nicht zur Erkenntnis JHWH”* (Maier 2002:345). In an important study of “scribal culture” in Ancient Israel, Van der Toorn (2007:77) paid specific attention to Jeremiah 8:8-9 and suggested that it is an oracle in which “Jeremiah pictures the scribes as sages who derive prestige from the religious literature they have produced”. The author of the oracle (Jeremiah or later editor of his prophecies) regards this Torah as a “deception” or “lie” and denies its divine inspiration. The oracle may reflect a polemic about different versions of the written Torah or about the legitimacy of a Torah in writing as opposed to the oral Torah. Whatever the case may be, the scribes who were responsible for this Torah were not simply copyists, but composers of the text.

Jeremiah 8:8 “represents one of the greatest enigmas in the book of Jeremiah” (Leuchter 2006:129). The reason for this is that Jeremiah seems to be closely identified with scribes such as Baruch and Seriah, the sons of Neriah (Jer. 32:6-15; 36:4-32; 40:6; 51:59-64), on the one hand, and that he seems to be highly critical of scribes in light of their lack of understanding of Torah, on the other. Scholarship has not yet reached consensus as to whom Jeremiah is, in fact, criticising in verse 8.⁹ My own opinion tends to correspond with that of Leuchter (2006:130-131):

has made the spiritual leaders deaf to the word. The law referred to is a written law, no doubt primarily Deuteronomy, but perhaps other bodies of written text as well ... the delusion or falsehood which the scribes have created seems not to be so much the law itself, as the resultant conceit that possession of the law gives all necessary wisdom”.

- 9 Weinfeld (1972:158-163), Perdue (1984:4-6), Fishbane (1985:33-36) and Schniedewind (2004:115-117) presuppose a more general point of view that “Jeremiah stands against the scribal craft with respect to law” (Leuchter 2006:129). McKane (1986:186) cautions commentators on this text not to assume too easily that “Jeremiah is rejecting Deuteronomy”, and he contends that this verse must be understood in a general sense. Subsequently, Lundbom (1999:514) suggests that the criticism levelled at the scribes “may have been

Jeremiah is quoting a group of people who view him and his scribal peers as illegitimate ... The sages, priests, and cultic prophets of Jerusalem appear to have grouped Jeremiah along with the Deuteronomists in direct response to the Temple Sermon. Therein, the prophet had charged that the Jerusalem-centric ideology was “falsehood” (*sheqer*).

However probable, this cannot be proven beyond reasonable doubt.

Of special interest is the reference in verse 8 to the “lying pen of the scribes”. The vast majority of scholars assume that the scribes

comprised a professional class of people employed for their abilities in reading and writing. Those who dealt with the interpretation of Torah were most likely priests ... because knowledge of priestly duties was necessary in interpreting such matters as sacrificial ritual and distinguishing between clean and unclean items. (Dearman 2002:113).¹⁰

In verses 8-9, Jeremiah criticises

those who claim to be wise on the grounds of possessing a *written* law and suggests that its meaning had been perverted by the scribes ... the new and disturbing element for Jeremiah was the claim that the will of Yahweh could be circumscribed by a written law and its authoritative interpretations to the exclusion of the prophetic word (Blenkinsopp 1983:9-10).

5. WHY WERE SCRIBES ACCUSED OF “LYING” IN JEREMIAH 8:8?¹¹

Can one presume that the “men of Hezekiah” (Prov. 25:1) collected and wrote down the proverbs of Solomon? Did “temple scribes” emerge in the Jerusalem temple parallel to the royal scribes? Were these “priestly

directed at the priests, who functioned as scribes as well”. More recently, Lalleman (2013:115-116) is convinced that the focus is on the temple scribes who produced a “lie” – a key concept in Jeremiah (7:8; 9:3, 5).

- 10 Dearman (2002:113) is mystified by the lack of clarity as to who was involved with the “dispute over the interpretation of God’s Torah, but possibly we have here Jeremiah’s accusations about the eventual collapse of Josiah’s covenant reforms”.
- 11 Sneed (1994:651) is correct when cautioning fellow scholars: “Determining the class membership of the wisdom writers is fraught with difficulties. No scholars place wisdom writers within the lower classes. But for determining more precisely their location, no consensus exists.”

scribes” responsible for the Torah “discovered” in the Temple during the reign of Josiah?

According to Wilson (2010:106),

by Josiah’s reign two scribal elites were producing writings advancing the interests of the palace and the temple and laying in place the foundation for conflicts between the two groups.¹²

Van der Toorn (2007) is well informed about the scribal practice in the Ancient Near East that constituted the context within which Israelite, Judahite and early Jewish scribal practice developed. He considers scribes to be highly trained specialists who were rewarded in terms of compensation and social status (Wilson 2010:101). In his reconstruction of the production of a prophetic book such as Jeremiah, Van der Toorn (2007:182-204) discerns different types of scribal activity that explains the genesis of a prophetic text:

- While copying a text, the scribes also composed new material that was added to the written tradition being copied. In this instance, Van der Toorn refers to the *Sondergut* of Chronicles that does not have any parallel in Kings. The jury is still out whether this constitutes a new literary creation or the reuse of existing traditions outside of Kings.
- Scribes also expanded the texts they rewrote by means of *Fortschreibung*. The Greek text of Jeremiah is significantly shorter than the existing Hebrew text and Jeremiah texts found at Khirbet Qumran. Additional details and clarification were added and led to what is currently the Masoretic Text.
- Another scribal technique “was the wholesale adaptation of material into a new context” (Wilson 2010:103). The complaint in Jeremiah 23:30 might be a “possible reference to the scribal adaptation of prophetic material at the written or oral level”.¹³

It seems possible that any of these scribal techniques could cause suspicion, even to the point of accusing the scribes of lying by making changes to a tradition in the process of written transmission.

¹² See also Schniedewind (2004).

¹³ Jeremiah 23:30-32: “See, therefore, I am against the prophets, says the Lord, who steal my words from one another ... who use their own tongues and say ‘Says the Lord’ ... against those who prophesy lying dreams ... who lead my people astray by their lies and their recklessness, when I did not send them or appoint them.”

The other possibility is to approach the scribes as paid officials who had to articulate the ideology and theology of their royal or priestly sponsors. One should bear in mind that the post-exilic expansion of the Hebrew text of the Book of Jeremiah was fairly substantial, in comparison to the LXX version, and that this suggests some form of scribal addition. In my opinion, one should seriously consider the manner in which scribal addition, in accordance with second-temple priestly theology, caused suspicion and led to accusations of using a “lying pen”.

Does Jeremiah 8:8-9 allow one a glimpse of the late pre-exilic and especially post-exilic conflict between the existing written “*tôrāh* of the Lord” (statutory law) and an emerging prophetic “word of the Lord” (common law)? Does this illustrate that this initial process did not exclude the use of derogatory language from two sides? In both Isaiah 9:15 and 16 and Jeremiah 6:13 and 8:10, priests and prophets are criticised for leading the people astray by lying.¹⁴ In Jeremiah 14:14, the Lord describes the prophets, who are denying any future punishment by means of sword or famine and who are proclaiming a false peace, as follows:

The prophets are prophesying lies in my name; I did not send them
... They are prophesying to you a lying vision, worthless divination,
and the deceit of their own minds.

6. CONCLUSION

The enigmatic reference to the “lying pens of scribes” in Jeremiah 8:8-9 forms part of a disputation that challenges claims made to wisdom, despite the obvious “lack of knowledge” (Allen 2008:109). It is clear that, according to Jeremiah 8:4-9, migrating birds comprehend the will of the Lord, but his own people comprehend in part, due to the lying interpretation by the scribes engaged with the misinterpretation of the instruction of YHWH. Bright (1974:63) points out that several kinds of birds

instinctively know the order of nature established by Yahweh
that rules their existence, but Israel does not know the divine rule
(לֹא יָדְעוּ אֶת מִשְׁפָּט יְהוָה:) that governs her.

This resembles a classic *argumentum a fortiori*, according to which the acceptance of a presupposition (migrating birds know when to return) is used to assume that this would imply that wise scribes should have the insight or wisdom to acknowledge that they have erred or “lied”.

14 Isaiah 9:15-16: “[E]lders and dignitaries are the head, and prophets who teach lies are the tail; for those who led this people led them astray.” Jeremiah 6:13 and 8:10: “[F]rom prophet to priest everyone deals falsely שָׁקֵר שָׁקֵר כָּל־אִישׁ מִנְּבוֹנִים וְעַד־כֹּהֲנִים”

Furthermore, the underlying reason for the “lying pen” is identified as the rejection of the “word of the Lord”, which seems to imply another understanding of divine inspiration.

Leuchter (2006:132) is of the opinion that the enmity between Jeremiah, his fellow Deuteronomistic sympathisers, and the cultic establishment supporting the monarchy in Jerusalem “must have been public and very heated”. It is important to note that the time of Jeremiah’s ministry, prior to, and during the exile,

was clearly a particularly confusing and muddled time for both the royal house as well as the populace with regard to discerning the mind and will of YHWH (Heller 2006:10).

During this time, there were several references to prophets who “teach lies” (Isa. 9:15-16) and “lead my people astray” (Mic. 3:5, 11).

It appears that the parallelism of prophetic “word” and *tôrāh* in the Book of Jeremiah is closely related to the deuteronomistic tradition and that this parallelism most probably developed “into a canonical framework which would continue long afterwards to coordinate” and combine biblical traditions from the Pentateuch and the Prophets (Chapman 2000:209). Criticism of the scribes in Jeremiah 8:8-9 might be symptomatic of the canonical growth pains of the combination of legal and prophetic texts as “word of the Lord” in the time after the exile.

After all is said and done, it remains almost impossible to determine the exact or specific class identity of biblical scribes (“literary elite”) and whether multiple identities existed prior to, and after the exile (royal, temple, and private scribes). Sneed (1994:668) was probably correct in concluding that

class identity is simply not going to be a fruitful aspect in understanding the *Weltanschauung* of the wisdom writers, and we just need to acknowledge that.

Despite one’s inability to identify the class identity of the wise scribes in Jeremiah 8:8-9, it does allow one a fascinating glimpse into the contestation between the “*tôrāh* of the Lord” and the “word of the Lord” that ultimately reached a compromise with the canonisation of the *Nebi’im*.¹⁵

15 Although, in the post-exilic period, scribes were more than “mere clerks”, Adams (2017:24, 37) correctly points out that “scribal activity was far more disparate and, in certain instances, less prestigious than discussions about a wealthy class of literates often presume”.

In what way did the scribes corrupt the *tôrāh* with their “lying pens”? In Jeremiah’s time and during the post-exilic *Fortschreibung* and reception of his prophecies, some (temple?) scribes interpreted *tôrāh* in such a way that it reinforced a superficial complacency and peace, despite the peoples’ violation of the *tôrāh* – the law became a mere “talisman” and did not function as the “word of the Lord” (Fretheim 2002:149-150). Patrick (1986:202) is probably right when he claims:

The more law becomes identified with rules of law, the greater is the danger of sophistic casuistry, of formal justice that violates substantive justice, and simply of textual tampering and manipulation.¹⁶

The gradual emergence of prophetic texts challenged the existing oral and written priestly instruction (*tôrôth*). The emerging *Nebi'im* had to argue against restrictive priestly scribal activity, in order to establish themselves as “word of God”.

It is important to emphasise that the criticism in Jeremiah 8:8-9 does not constitute a general vote of no-confidence in all scribes or amount to the rejection of the Torah as a whole. Rather, it seems to be a critique of a form of scribal interpretation that produced a type of *tôrāh* implying a rejection of the “word of the Lord” – the most important characteristic of true prophecy. Wilson (2016:20) provides an insightful summary of what verse 8 alluded to:

This passage not only raises the issue of the validity of written rather than oral teaching, but it also raises the issue of the extent of scribal freedom to expand and interpret written texts.

Biblical scholars and theologians should perhaps take note of Jeremiah’s stringent accusation of the “lying pen” of the (priestly?) scribes. It has been a temptation, over many centuries, to present human laws and religious doctrine as divine revelation rooted in the will of God (Oosterhoff 1990:276-277). The final responsibility for what biblical scholars and theologians produce cannot be side-stepped by claiming divine authority in such a manner that it allows no criticism or even difference of opinion. Furthermore, such a shift will make it unnecessary to shoulder any responsibility for one’s interpretation of religious texts. An ever-present danger of using a “lying pen”, interpreting in service of power (sacred or secular), must inculcate a self-critical “hermeneutic

16 “The interpretive tradition preserved in the Talmud and passed on orally over the centuries is not, as one might expect, a rigid, static, well-ordered system but an ongoing debate over rules and their theological rationale” (Patrick 1986:205).

of suspicion” that inevitably generates more humble scholarship and rigorous inter-subjective academic debate – the type of scholarship that Fanie Snyman has instilled in his students over several decades.

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Keywords

Trefwoorde

Canon formation

Kanonvorming

Jeremiah 8:8

Jeremia 8:8

Scribes

Skrywers

Tôrāh

Tôrāh