# Are the Concepts of “Torah” and “the Prophets” Texts or Something Else? Educational, Media, and Elite Contexts from the Persian Empire Onwards

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# SCRIPTURES IN THE MAKING: TEXTS AND THEIR TRANSMISSION IN LATE SECOND TEMPLE JUDAISM

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# ARE THE CONCEPTS OF 'TORAH' AND 'THE PROPHETS' TEXTS OR SOMETHING ELSE? EDUCATIONAL, MEDIA, AND ELITE CONTEXTS FROM THE PERSIAN EMPIRE ONWARDS[1]

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*Still a man hears what he wants to hear*
*And disregards the rest*

—Simon and Garfunkel, "The Boxer"

> "For centuries the inability of literate thinkers to conceive meaningfully of what the spoken word actually is has blocked our fuller understanding not only of epic and ballad but of the massive rhetorical tradition which underlies Western culture.… the same disability has interfered with our understanding of the nature of the Bible, with its massive oral underpinnings, and of the very nature of language itself."[2]

## 1. Introduction

Judaism is known as a religion of the book. This bookishness finds its icon in the inscribing of stone tablets on Mount Sinai. If biblical scholars no longer advocate for the divine authorship of the text, its *writtenness* is often treated as carved in stone.[3] Despite a long tradition of scholarship pointing to the importance of media considerations, an overly

[1] I wish to thank Francis Borchardt, at a CSTT meeting in Tallinn 2014/2015, for the prod to put to paper thoughts on "the torah and the prophets" that I had long entertained but never bothered to write down or defend; also the conference organizers for the opportunity to finally do so.

[2] Walter J. Ong, *The Presence of the Word: Some Prolegomena for Cultural and Religious History* (New Haven: Yale University Press, 1967), 21.

[3] As Susan Niditch, *Oral World and Written Word: Ancient Israelite Literature* (Louisville: Westminster John Knox, 1996), 1, complained.

textualized[4] view of human society still lurks in the shadows behind many of our debates in the field. In this paper I argue that the concepts of "the Torah" and "the Prophets" as *primarily* two collections of texts is an example of such unconscious bookishness. A reassessment of their meaning with an eye towards the social and communicative implications of media and ancient education points to a cultural development in which literature was not as decisive as it is sometimes claimed to have been. Though multiple scholars have previously discussed similar issues and theories as I will in this paper, the exact implications remain to be fully assessed and assimilated into our understanding of Second Temple Judaism and its literature.[5]

To understand how the text collection of the Hebrew Bible appeared and became associated with the Torah and the Prophets, I will ask three questions and sketch five hypotheses as answers to these questions. First, I will ask what the Torah and the Prophets were originally, and I will propose that they were merely two, widespread sources of social warrants. Second, I will ask why the text collections came to be. For the Pentateuch I will argue it was originally codified gradually as scribal curriculum, and for the Prophets I will argue it was collected as an answer to Mesopotamian divinatory scholarship. Both of these were in the context of elite responses to imperial contexts. Third, I will ask how these two collections of texts became associated with "Torah" and "Prophets."

[4] For clarity, I use the word "text" exclusively for written texts, not oral media.

[5] Important works in this respect include Niditch, *Oral World*; Anne Fitzpatrick-McKinley, *The Transformation of Torah from Scribal Advice to Law,* JSOTSup 287 (Sheffield: Sheffield Academic Press, 1999); Martin S. Jaffee, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism 200 BCE–400 CE* (Oxford: Oxford University Press, 2001); Catherine Hezser, *Jewish Literacy in Roman Palestine* (Tübingen: Mohr Siebeck, 2001); Jonathan A. Draper, *Orality, Literacy, and Colonialism in Antiquity,* SemeiaSt (Atlanta: SBL, 2004); William M. Schniedewind, *How the Bible Became a Book: The Textualization of Ancient Israel* (Cambridge: Cambridge University Press, 2004); David Carr, *Writing on the Tablet of the Heart: Origins of Scripture and Literature* (Oxford: Oxford University Press, 2005); Piotr Bienkowski, Christopher Mee, and Elizabeth Slater, eds., *Writing and Ancient Near Eastern Society: Papers in Honour of Alan R. Millard* (London: T&T Clark, 2005). I have previously synthesized this material and theory in Jason M. Silverman, *Persepolis and Jerusalem: Iranian Influence on the Apocalyptic Hermeneutic*, LHBOTS 558 (London: T&T Clark, 2012), 98–129. I have also harped on the importance for historiography using biblical texts a number of times. See Jason M. Silverman, "Persian Influence on Jewish Apocalyptic," *PIBA* 32 (2009): 49–60; idem, "Pseudepigraphy, Anonymity, and Auteur Theory," *RelArts* 15 (2011): 520–55; idem, "'We May Be Through with the Past…': *Magnolia*, the Exodus Plague Narrative, and Tradition History," *RelArts* 20 (2016): 459–90. More recently, a number of the topics in this paper have been raised by Michael L. Satlow, *How the Bible Became Holy* (New Haven: Yale University Press, 2014).

For this I will appeal to both the process of textual internalization[6] as well as to the exigencies of communities dispersed through time and space.[7]

## 2. What were 'Torah' and 'The Prophets' originally?

As is well known, the Hebrew scriptures are traditionally divided into three parts, the Torah, the Prophets, and the Writings. It is widely accepted that this formulation is rather late, with the third part typically considered to be latest to be "canonized."[8] Even when collections popularly called by these designations existed, it should not be assumed that references to these words primarily or automatically refer to said collections of texts.[9] I will use the following philologically barbarous convention for clarity: I will use "Pentateuch" to mean the textual collection, and "torah" for the concept; "the Nevi'im" for the textual collection and "the prophets" for the concept.

That "torah" means "teaching" or "instruction" is nothing new or controversial.[10] However, the translation of "torah" by *nomos* in Greek contexts as well as the "legal" nature of some materials within the Pentateuch, in my opinion, has misdirected scholarship in characterizing the term as "law" in English language discussions.[11] This leads to the

[6] As described by Marshall McLuhan, *Understanding Media*, Routledge Classics (London: Routledge, 2001 [1964]); idem. *The Gutenberg Galaxy* (Toronto: University of Toronto Press, 1962; repr., 2002) and Ong, *Presence of the Word*; idem. *Orality and Literacy* (London: Routledge, 1982; repr., 2004).

[7] As sketched by Robert K. Merton, *Social Theory and Social Structure*, Enlarged Edition (New York: The Free Press, 1968).

[8] E.g., the summary in John Barton, *Oracles of God: Perceptions of Ancient Israel after the Exile*, new.rev.ed. (London: Darton, Longman & Todd, 2007), 23–29.

[9] Note that I wrote "primarily or automatically" *not* "never." Cf. Niditch, *Oral World*, 95–97.

[10] E.g., Francis Brown, S. R. Driver, and Charles A. Briggs, *A Hebrew and English Lexicon of the Old Testament Based on the Lexicon of William Gesenius as Translated by Edward Robinson* (Oxford: Clarendon, 1966), 436; David J. A. Clines, *The Concise Dictionary of Classical Hebrew* (Sheffield: Sheffield Phoenix, 2009), 485. Indeed, Reinhard G. Kratz, "Temple and Torah: Reflections on the Legal Status of the Pentateuch between Elephantine and Qumran," in *The Pentateuch as Torah: New Models for Understanding Its Promulgation and Acceptance*, ed. Gary N. Knoppers and Bernard M. Levinson (Winona Lake: Eisenbrauns, 2007), 77–104 (77, 93), notes the need to distinguish between "torah" and the Pentateuch.

[11] Fitzpatrick-McKinley, *The Transformation of Torah*, has already forcibly argued that the Pentateuch's materials and its Near Eastern parallels such as the stele of Hammurabi cannot in fact be understood as law in the modern sense, at least until Ezra. She, ibid., 148, also argues that the Hellenistic equation with *nomos* is significant. John J. Collins,

assumption that the term primarily has to deal with rules for behavior. It is better to understand it merely as the "ancestral way of life" that undergirds much unreflexive understandings of traditional lifeways as well as conservative ethnic lifeways—or, in scholarly parlance, wisdom traditions.[12] Lifeways can be understood as rules when practices come into conflict, but that is not their primary reality. An elder or sage's decision on a question of lifeways is "torah," but that is because it is an instantiation of the broader "way things are done." This is how Walter Ong has described "primary orality" and the way culture is transmitted in it: the goal is always understood to be to preserve the ancestral traditions as they were received. STJ was no longer in primary orality, but it was still residually oral, in the process of being slowly transformed by the internalization of literacy and its effects of decontextualization and visualization. My argument in this context is that no matter how much material from the ancestral traditions ended up in writing, so long as there was a living ancestral tradition, no single textual transcription from it could ever assume the role of *the* ancestral traditions. They may end up being recognized as legitimate instantiations of the ancestral traditions, but would never be the totality of them. As Jaffee has already argued, the self-aware distinction between oral and written forms of tradition only arises when there is a sociopolitical reason to distinguish between competing bearers of the tradition—and even then, it attests to a broader tradition than any single text.[13] We will return to this point later.

Nevertheless, scholars often assume that within HB and other STJ texts, references to "the torah" refer primarily to the Pentateuch—other uses being argued to be exceptions or novel developments. For example, John Collins's new book deftly shows how often appeals to "torah" cannot be primarily textual, yet still interprets this as a departure from

*The Invention of Judaism: Torah and Jewish Identity from Deuteronomy to Paul,* The Taubman Lectures in Jewish Studies 7 (Oakland: University of California Press, 2017), which will be discussed more below, also sees Ezra as a watershed in this respect. On lawcodes, cf. Philip R. Davies, *Scribes and Schools: The Canonization of the Hebrew Scriptures* (Louisville: Westminster John Knox, 1998), 91–92.

[12] Or what Josephus calls "ancestral laws" (e.g. *Antiquities* 11.338–9; 12.142); cf. Satlow, *How the Bible*, 109. Contra Christophe Nihan, "The 'Prophets' as Scriptural Collection and Scriptural Prophecy during the Second Temple Period," in *Writing the Bible: Scribes, Scribalism and Script*, ed. Philip Davies and Thomas Römer, Bible World (Durham: Acumen, 2013), 67–85 (79–80).

[13] Jaffee, *Torah in the Mouth*.

a normative understanding of "torah" as the Pentateuch.[14] Collins continually points to the non-textual nature of the references to Torah before the Hasmonean period, yet still seems to see it as an aberration against the written Pentateuch—even in Ezra-Nehemiah where he notes the torah being promulgated is in fact not in the Pentateuch.[15] I think the depth of scholarly bookishness is shown by Collins' discussion on this point. While he notes that here "conformity to the law of Moses" primarily means the religious authorities, he still sees it a turning point for appeal to a text.[16] Rather, the novelty of the appeal to written texts in this narrative and the disconnect with any actual texts should be a point of evidence that literacy was only in the early stages of internalization and that torah was functioning in the same non-textual way as earlier whenever this narrative was written. It is, in fact, a show-piece for how torah as a concept was still functioning primarily as ancestral traditions, even if it shows the beginnings of an awareness of the textualization of some of those traditions. The key change in this story is *who* may impart Torah.[17]

A similar analysis can be provided for "the prophets." The claim that human prophets existed in the southern Levant is also uncontroversial. Their continued existence and importance through STJ, at least until the Jewish rebellion, is also widely acknowledged.[18] In this, STJ is quite in line with its surrounding cultural context, in which divination was widely practiced. The aberration is more the restricted methods employed for divination, at least in those deemed legitimate for its practice. Unlike Mesopotamia, where a wide range of divinatory methods were sanctioned and practiced, in Israel the range of options was reduced (albeit not quite as much as the HB would like one to believe). The problem with

[14] Collins, *The Invention of Judaism*. For example, ibid., 87, where he argues in Josephus the torah "had taken on an iconic status whereby it stood for the entire Judean way of life, whether specific provisions were actually found in the text or not."

[15] Ibid., 44.

[16] Ibid., 57, 60, 82. Thus contra the reading of Kratz, "Temple and Torah," 94.

[17] Thus, although I agree with Satlow that the authority of texts is abnormal, I disagree with Satlow's reading of this narrative, as he sees it a story of a (historical) Ezra attempting to introduce "normative" textual authority and failing. See Satlow, *How the Bible*, 79–84.

[18] I.e., the whole "end of prophecy" debate, which is an impression given by some STJ texts, but belied by the periodic appearance of prophets. Cf. Thomas W. Overholt, "The End of Prophecy: No Players without a Program," *JSOT* 13 (1988): 103–15; Barton, *Oracles*, 106–10; cf. ibid., 99, where he sees later interest in prophets as *people*; Lester L. Grabbe, "Poets, Scribes, or Preachers? The Reality of Prophecy in the Second Temple Period," in *Knowing the End from the Beginning: Prophecy, Apocalyptic, and Their Relationship*, ed. Lester L. Grabbe and Robert D. Haak, JSPSup 46 (London: T&T Clark, 2003), 192–215 (197–211).

prophets, as has been deftly shown by Overholt and by Carroll, is not the idea of the authority of the divine word, but one of verification, both of the person and the person's prophecies—e.g., what to do when two prophets prophesy contradictory things.[19]

Nevertheless, despite this awareness, scholars again assume that references to previous prophets and prophecy necessarily refer to the Nevi'im. For example, the introduction of the Book of Zechariah mentions "former prophets" (1:4). Many commentators assume this phrase must refer to passages of the Nevi'im, despite the fact that verse 5 rhetorically asks if prophets live forever, implying a mortal referent.[20] This makes perfect sense if one recognizes that the source of social authority lies in persons and not texts: i.e., it had been *prophets* who had prophesied, regardless of whether some of their oracles ended up in the Nevi'im or not.

What I want to argue, therefore, is that both "the torah" and "the prophets" were originally and primarily not texts.[21] When sources appeal to "the torah and the prophets" (see the appendix), what the source is doing is merely using two typical social warrants for the southern Levant: ancestral tradition and divine oracles, not the Pentateuch and the Nevi'im. Both of these warrants are key for two traditional authorities in the southern Levant: elders/sages and prophets.

To clarify what I mean by this, I will very briefly explain what I mean by "social warrants" and by "authority."[22] First, for me authority is a social problem, and it can only be held by people, not texts. What does "authority" mean? Weber defined authority as "legitimate power."[23]

[19] Robert P. Carroll, *When Prophecy Failed: Cognitive Dissonance in the Prophetic Traditions of the Old Testament* (New York: Seabury, 1979); Thomas W. Overholt, *Channels of Prophecy: The Social Dynamics of Prophetic Activity* (Minneapolis: Fortress, 1989).

[20] E.g., Michael H. Floyd, *Minor Prophets, Part 2*, FOTL 22 (Grand Rapids: Eerdmans, 2000), 309; Michael R. Stead, "Sustained Allusion in Zechariah 1–2," in *Tradition in Transition: Haggai and Zechariah 1–8 in the Trajectory of Hebrew Theology*, ed. Mark J. Boda and Michael H. Floyd, LHBOTS 475 (New York: T&T Clark, 2008), 144–70 (166); Mark J. Boda, *Exploring Zechariah 2: The Development and Role of Biblical Traditions in Zechariah,* ANEM 17 (Atlanta: SBL, 2017), 1–2, 11. Carol L. Meyers and Eric M. Meyers, *Haggai, Zechariah 1–8,* AB 25B (Hartford: Yale University Press, 2004), 94, 396, seem more willing to see a reference to previous prophets rather than texts.

[21] This contrast the approach of many, for example, Barton, *Oracles*, 35–95, which assumes "Law and the Prophets" refer to texts; Christophe Nihan, "The 'Prophets,'" 70. He later, ibid., 74, argues it comes to mean a legitimate time period for revelation, but he does not see how that would obviate such a textual reading to the term.

[22] I am still very much in the process of developing my thoughts on these ideas.

[23] Max Weber, *Economy and Society*, ed. Guenther Roth and Claus Wittich, Vol 1, rev. and enl.ed. (Berkeley: University of California Press, 1978; repr., 2013), esp. 31–37,

Weber, however, took his analysis more in a political than social direction, and I think this is where his categories have proved sociologically difficult to use. I think the key insight of Weber is the recognition that social order is not—or cannot—in the long-run be maintained solely by force; there is always some measure of consent. Moreover, society is more than politics. It is for this reason Robert Merton defined authority as "a patterned social relationship." Thus, the structure and composition of the group are decisive; authority, in his view, "can only be exercised within the constraining limits provided by the group."[24]

Therefore, I would argue that "authority" ought to be conceptualized as *the index of the correlation between a leader's person and actions with his or her group's expectations for his or her role(s)*.[25] What this means is that to understand how authority exists or functions in any group requires understanding both the structure of that group, as well as the group's shared expectations for roles within that structure. It is in this last element in which *ideas*—whether in "tradition" or a text—become relevant to the analysis.[26]

What does this mean for "the torah" and "the prophets"? At the moment, a concept I think is potentially fruitful for understanding this is the sociological concept of a *warrant*.[27] A warrant derives from the

50–56, 212–301. So far, I have yet to read a sociological study that does not reference Weber on this point. Even the recent book by Frank Furedi, *Authority: A Sociological History* (Cambridge: Cambridge University Press, 2013), 12, describes itself as an expanded commentary on Weber's analysis. Even Bourdieau's theory of symbolic power is built upon it. See Pierre Bourdieu, *Outline of a Theory of Practice*, trans. Richard Nice, Cambridge Studies in Social and Cultural Anthropology 16, 19th English printing ed. (Cambridge: Cambridge University Press, 2005), 192.

[24] Merton, *Social Theory*, 393 and 394, respectively.

[25] This definition is broadly in line with Furedi's, *Authority*, emphasis on foundationalism, though it focuses more on the structural and contextual manner in which it functions. It also has the advantage of emphasizing that it involves norms for both sides of the relationship, in terms of perceptions and actions. By calling it an index, one also has the potential to describe degrees of authority.

[26] I find this a much more productive way of thinking than theological approaches, such as Bartholomew's. Bartholomew has argued that for a theologian, religious authority is the difference between rational assent and faith (with obedience). See John Niles Bartholomew, "A Sociological View of Authority in Religious Organizations," *RRelRes* 23 (1981): 118–32 (118).

[27] Term introduced for the analysis of rhetorical logic in 1958 by Stephen Edelston Toulmin, *The Uses of Argument*, updated ed. (Cambridge: Cambridge University Press, 2003), 89–100. Furedi, *Authority*, 101–2, takes the language for use in describing the same dynamic in a social sense. Joel Best, *Random Violence: How We Talk About New Crimes and New Victims* (Berkeley: University of California Press, 1999), 163–65, talks of "cultural resources" for depicting new social problems in a similar manner,

communal base of pre-existing values and traditions seen by that community to be foundational to itself and thus of its interactions, and from which leaders can derive socially meaningful reasons for their actions and decisions (what Bourdieu would call *doxa*, or at least *orthodoxy*). A warrant is a *reason* drawn from this source. It must be emphasized that this source must pre-exist the leader's use of it and already be accepted by the group for it to function. No matter how creatively it may be deployed, or the innovations which it may effect, the warrant (to be a warrant) must appear to the group to provide "good reasons" (as Fisher calls them).[28] Otherwise, the relations between the leader, the group, and his/her actions will not be one of authority.

So, what I am proposing is this: that in ancient Palestine we can understand both elders/sages and prophets as two classes of people who held varying levels of social authority. The warrants used by the former was "torah" (or tradition) and prophecy (or revelation) for the latter. Viewed as such, the ancient Levant looks very much like the societies around it.

## 3. Why did the collections called Pentateuch and the Nevi'im come to be?

The collation of the materials in the Tanak is a hotly debated topic, and I do not propose to provide any detailed suggestions on the processes of collation (i.e., redactions, manuscript recensions, etc). Rather, I wish to propose two different reasons for *why* the Pentateuch and the Nevi'im came to be that I think the educational and social realities of Persian and early Hellenistic Palestine make plausible.

*Education*. Direct evidence for education in the Levant is sadly lacking for our periods. There are several logically necessary inferences one must make concerning it, however. First, to be able to write requires that one be taught to write. Thus even without any direct evidence for education, the existence of writing logically requires that someone somehow was teaching someone else to write. Indeed, the existence of so-called

though he does not use the language of tradition or warrant (though Furedi, *Authority*, 101–2, cited him as such).

[28] Walter R. Fisher, *Human Communication as Narration: Toward a Philosophy of Reason, Value, and Action*, Studies in Rhetoric/Communication (Columbia: University of South Carolina Press, 1987). On "tradition" being more of an orientation than a fixed set of contents, cf. Furedi, *Authority*, 134, "But the medieval experience indicated that tradition is not so much stand-alone doctrine as an orientation towards the world where the consciousness of history exists in a relatively restricted form."

abecedaries attests to the preliminary stages of this process.[29] It must be emphasized, however, that there is a huge leap from learning to write a script to authorial proficiency. (Even today, when we assume the value of universal literacy, the percentage of the population willing and able to write a book is minimal).[30]

It also must be stated that education *per se* is coterminous neither with "schools" in the sense of formal institutions of instruction nor with learning any level of literacy. Trades were taught—until relatively recently—via apprenticeship, and the basic levels of reading and writing can plausibly be understood merely as a trade.[31] Crenshaw's search for "schools"

[29] For a useful overview of the scholarship on education in Israel (albeit with an apparent misunderstanding of Ong), see Laura Quick, "Recent Research on Ancient Israelite Education: A Bibliographic Essay," *CurBR* 13 (2014): 9–33; Niditch, *Oral World*, 69–71; Carr, *Writing*, 122–23.

[30] Already argued by Davies, *Scribe and Schools*, 82; Ian Douglas Wilson, *Kingship and Memory in Ancient Judah* (Oxford: Oxford University Press, 2017), 15. Some numbers give this assertion some quantitative clout. Using the data for book authors in the United States from 2011–2016 as provided by Statista (Anonymous, "Number of Writers and Authors in the United States from 2011 to 2016." Statista: The Statistics Portal, 2017, https://www.statista.com/statistics/572476/number-writers-authors-usa/) divided by the population numbers from the US Census Population clock for the same six years (https://www.census.gov/popclock/) provides the following average percentage of population to book authors: 0.01358%. To put this into comparative perspective, even at Joel Weinberg's outrageously high estimate of the population of Yehud as 150,000 people [*The Citizen-Temple Community*, trans. Daniel L. Smith-Christopher, JSOTSup 151 (Sheffield: Sheffield Academic Press, 1992), 43, 47, 132], this would equal only 20.37 individuals. At Charles E. Carter's lower estimate of c. 20,000 people [*The Emergence of Yehud in the Persian Period: A Social and Demographic Study*, JSOTSup 294 (Sheffield: Sheffield Academic Press, 1999), 202] this is only 2.71 people. It must be borne in mind that the number 0.01358% comes from a society with (theoretical) universal literacy and vast industries promoting publishing. One can hardly posit, therefore, that the percentage of literature-producing people was significantly higher in the ancient Levant. I provide the numbers I used below for transparency sake (but it must be emphasized these numbers are merely for illustration—being based on published books and not manuscripts, among other issues—and I make no claim to the percentage being valid outside those six years in the USA).

| Year | Authors (Statista) | Population (US Census) | Percentage |
|---|---|---|---|
| 2011 | 40,930 | 310,591,006 | 0.01317 |
| 2012 | 41,990 | 312,911,605 | 0.01341 |
| 2013 | 43,590 | 315,237,406 | 0.01382 |
| 2014 | 43,500 | 317,524,631 | 0.01369 |
| 2015 | 43,380 | 319,958,045 | 0.01355 |
| 2016 | 44,690 | 322,311,308 | 0.01386 |

[31] Even more advanced levels can be understood to have been learned via apprenticeship, or at least on a more intimate level. J.C. Fincke, "The School Curricula from Ḫattuša,

that are outside the home and required tuition fees is therefore likely to be misleading and unhelpful/anachronistic (though he does conclude households were the primary locus of education).[32]

We have evidence for "curricula" for Mesopotamia for a long stretch of time, including for the first millennium BCE.[33] In very broad terms, it consisted of learning the basics through syllabaries, lexical and other lists, and then practical and formulaic administrative texts. A more advanced step involved copying more literary and advanced texts, and this stage also moved towards specialization in areas such as extispicy or astrology.[34] In earlier, Bronze Age Levant there is also evidence that the various city-states adopted a similar system for their diplomatic, Akkadian needs.[35]

Although the pragmatic demands of alphabetic script do not require as much intensive learning in the early stages as the cuneiform scripts do, it stands to reason that we can posit an analogous system for Hebrew and imperial Aramaic education in the Levant. By this I mean a basic level where students learned the alphabet and script, using such things as abecedaries, moved on to learning relevant administrative formula and text types, and for the advanced few, learning in more literary genres and arcane knowledge. For Elephantine, in fact, the documents recovered

Emar and Ugarit: A Comparison," in *Theory and Practice of Knowledge Transfer: Studies in School Education in the Ancient Near East and Beyond*, ed. W. S. van Egmond and W. H. van Soldt, PIHANS 121 (Leiden: NINO, 2012), 85–102 (91) on materials being found in private houses at Ugarit; cf. Adrian Curtis. "Ilimilku of Ugarit: Copyist or Creator?" in *Writing the Bible: Scribes, Scribalism and Script. Bible World*, ed., Philip R. Davies and Thomas Römer (Durham: Acumen, 2013), 10–22. On trades / apprenticeships in general, see an example for a specialist hunter in A. Bongenaar and Michel Jursa, "Ein Babylonischer Mäusefänger," *WZKM* 83 (1993): 837–47 (Thanks to Gina Konstantopoulos for access to this article). See also Carr, *Writing*, 12–13, 130. For a useful archaeological and economic perspective on this (though focused on an earlier period), see David W. Jamieson-Drake, *Scribes and Schools in Monarchic Judah: A Socio-Archaeological Approach*, JSOTSup 109 (Sheffield: JSOT Press, 1991), 51.

[32] James L. Crenshaw, "Education in Ancient Israel," *JBL* 104 (1985): 601–15 (602, 614), respectively.

[33] For an introduction, see Benjamin R. Foster, "Transmission of Knowledge," in *A Companion to the Ancient Near East*, ed. Daniel C. Snell (Malden: Blackwell, 2005), 245–52. For detailed discussion of the first millennium BCE see Petra D. Gesche, *Schulunterricht in Babylonien im ersten Jahrtausend v. Chr.*, AOAT 275 (Münster: Ugarit-Verlag, 2001). Also surveyed by Carr, *Writing*.

[34] Gesche, *Schulunterricht*.

[35] W. H. van Soldt, "Why Did They Write? On Empires and Vassals in Syria and Palestine in the Late Bronze Age," in *Theory and Practice of Knowledge Transfer: Studies in School Education in the Ancient Near East and Beyond*, ed. W. S. van Egmond and W. H. van Soldt, PIHANS 121 (Leiden: NINO, 2012), 103–14.

suggest that the Judaean colonists there used at least three literary works in this latter process: *Ahiqar*, Aramaic Behistun, and the *Tale of Ḥor*.[36] Indeed, on the basis of the papyri's continual re-use, Mitchell has recently argued for its long-term relevance for the community.[37] The example of Elephantine also points to elite, imperial contexts, to which I will return below.

The point I am making is that more advanced scribal education (perhaps what Davies means by "professional"?)[38] most probably required the copying of various kinds of texts, as is visible in Mesopotamia. I would like to argue that the texts that ended up in the Pentateuch were copied (and perhaps developed) as part of this higher-level curriculum. David Carr has also argued that the Pentateuch (along with most of the rest of the Hebrew Bible) was curricular, but I differ from Carr on a number of points, including seeing this curriculum merely as a logical necessity rather than as a top-down program and in not being as extensive or focused on rote memorization.[39]

[36] For the three texts, see Bezalel Porten and Ada Yardeni, eds., *Textbook of Aramaic Documents from Ancient Egypt*. (6 vols. Jerusalem: Hebrew University, 1986–99), 3: 21–71. On their use in the colony, see Christine Mitchell, "Berlin Papyrus P. 13447 and the Library of the Yehudite Colony at Elephantine," *JNES* 76 (2017): 139–47.

[37] Ibid.

[38] Davies writes of a distinction between professional and nonprofessional (scribal) education, but I am not sure how useful such a distinction is. E.g., Davies, *Scribes and Schools*, 83.

[39] Carr, *Writing*, 9, 155, 170; David M. Carr, "The Rise of Torah," in *The Pentateuch as Torah: New Models for Understanding Its Promulgation and Acceptance*, ed. Gary N. Knoppers and Bernard M. Levinson (Winona Lake: Eisenbrauns, 2007), 39–56 (40); Karel van der Toorn, *Scribal Culture and the Making of the Hebrew Bible*. (Cambridge: Harvard University Press, 2007), 62, thought this was true for Deuteronomy, Isaiah, and the Psalms. I suspect the Psalms could be better explained by their use for liturgical purposes, though of course one might imagine some were copied during education as well. Diana V. Edelman, "Genesis: A Composition for Constructing a Homeland of the Imagination for Elite Scribal Circles or for Educating the Illiterate?" in *Writing the Bible: Scribes, Scribalism and Script*, Bible World (Durham: Acumen, 2013), 47–66 (62), argues Genesis was written for education, but she argues it was a deliberate, ideological creation for educating all, literate and non-literate. I find that dubious. Satlow, *How the Bible*, 28, suggests the Covenant Code was an Israelite scribal exercise. Later, in passing, ibid., 137, he claims in discussion of the Sadducees that the inherited texts had primarily been educational and oracular texts for elites, so similar to my overall argument in this section. Davies, *Scribes and Schools*, sees the "canonization" of the Hebrew Bible largely in terms of scribal education. His overall perspective is quite similar to the one advanced here, though there are considerable differences in detail and emphases. Kratz, "Temple and Torah," 94, rejects an educational model as "too simplistic," but gives no reason why.

One reason for this is the fact that these texts are shared by the MT and the Samaritans. If we recognize that 1) both Yehud and Samerina were tiny provinces in the empire(s), 2) both thus had very few individuals learning to write at advanced levels, and 3) they shared the same languages (Hebrew and Aramaic), it would make sense for the two areas to share educational traditions and materials. Further, a shared "curriculum" would also explain the pan-Levantine perspective of the tradition quite well. By this shared curriculum I do not mean a top-down imposition by any kind of authority (whether imperial, gubernatorial, or clerical). I see it as the practical necessity of needing to train a few in advanced literacy. (The reason for the need related to elite contexts, which we will see below).

I do not wish to exclude by this thesis the use of other texts as part of the curriculum, nor to imply that it did not or could not vary in time and locality. But my hypothesis is that the prominence of the Pentateuch came about because these texts happened to have been the most used throughout Yehud and Samerina—leading almost inevitability to a status as "classics" amongst the highly educated. I'm not so confident in this process being a deliberately "identity formation" effort, as many scholars are wont to claim, although it may have been a byproduct.[40] Education, by its very nature, imparts social values, norms, and worldviews, and the selection of curriculum, even in a non-institutionalized sense, naturally fits into this.

As Philip Davies has noted,

> Education, then, is not the assimilation of facts…. It is about the manipulation of facts into understanding, using reason and, sometimes, imagination and instinct. It is not always about finding the answer, but about learning how the answer should be sought.[41]

Davies said this about modern universities, but we can extrapolate it to the nature of education in all societies: it is not just about content, but

[40] E.g., Davies, *Scribes and Schools*, 35–36; Anselm C. Hagedorn, "Local Law in an Imperial Context: The Role of Torah in the (Imagined) Persian Period," in *The Pentateuch as Torah: New Models for Understanding Its Promulgation and Acceptance*, ed. Gary N. Knoppers and Bernard M. Levinson (Winona Lake: Eisenbrauns, 2007), 57–76 (74–76); Edelman, "Genesis," 62; Ehud Ben Zvi, "The Yehudite Collection of Prophetic Books and Imperial Contexts: Some Observations," in *Divination, Politics, and Ancient Near Eastern Empires*, ed. Alan Lenzi and Jonathan Stökl, ANEM 7 (Atlanta: SBL, 2014), 145–69.

[41] Davies, *Scribes and Schools*, 1.

of instilling cultural values and ways of viewing the world.[42] This is broader than just identity formation.

I posit a similar, but slightly different, context for the collection of the Nevi'im. We already mentioned the varying levels of curricula. At the highest level of the Mesopotamian curriculum was the divinatory literature—vast collections of omena and their interpretation that were collated, expanded, and standardized over time.[43] These were the pinnacle of Mesopotamian higher scribal culture, and they accordingly played a prominent role in the later portions of the curriculum.[44] The Hebrew Bible famously dislikes divination, yet it allows for one kind: what it calls prophecy. No doubt this portrayal is not historically accurate, but it probably reflects a social reality: i.e., the old Levantine monarchies (not to mention the Persian provinces) were probably not sufficiently socially stratified/complex to support the extreme specialization and refinement found in Mesopotamia and thus they practiced forms that were simpler and thus cheaper: intuitive divination, i.e. prophecy, being much cheaper than extispicy.[45] In this case one could argue that the Hebrew Bible's perspective merely made a virtue of a necessity. Be that as it may, ancient cultures took the relevance and need for divine revelation seriously, and Yehud must have been no exception. I posit therefore that the Nevi'im began as a collation of oracles that were intended to serve the Yehudians in the same functions as the omen literature did for the Mesopotamian haruspex.[46] Whether the oracles derived from surviving monarchic

[42] Cf. Bourdieu, *Outline*, 186–88. Also emphasized by Carr, *Writing*, 12.

[43] E.g., Ulla Susanne Koch, *Mesopotamian Divination Texts: Conversing with the Gods: Sources from the First Millennium BCE*, GMTR 7 (Münster: Ugarit-Verlag, 2015).

[44] Fincke, "The School Curricula"; for the first millennium, see Gesche, *Schulunterricht*, 213–18.

[45] I follow Martti Nissinen and Jonathan Stökl in seeing prophecy as "intuitive divination," related to but usefully distinguishable from "deductive" or technical divination. See, e.g., Martti Nissinen, *Prophets and Prophecy in the Ancient Near East*, WAW (Atlanta: SBL, 2003), 1; Jonathan Stökl, *Prophecy in the Ancient Near East: A Philological and Sociological Comparison*, CHANE 56 (Leiden: Brill, 2012), 9–10; cf. Armin Lange, "Oracle Collection and Canon: A Comparison between Judah and Greece in Persian Times," in *Jewish and Christian Scripture as Artifact and Canon*, ed. Craig A. Evans and H. D. Zacharias (Edinburgh: T&T Clark, 2009), 9–47 (11).

[46] This is also suggested in passing by Carr, *Writing*, 151, but it is not really defended nor given a precise social context. He is also more concerned with the texts ending up as educational texts. That at least some oracles lay behind the extant books is commonly accepted, e.g., Philip R. Davies, "'Pen of Iron, Point of Diamond' (Jer 17:1): Prophecy as Writing," in *Writings and Speech in Israelite and Ancient Near Eastern Prophecy*, ed. Ehud Ben Zvi and Michael H. Floyd, SymS 10 (Atlanta: SBL, 2000), 65–82 (72); Diana V. Edelman, "From Prophets to Prophetic Books: The Fixing of the Divine Word," in *The Production of Prophecy: Constructing Prophecy and Prophets in Yehud*,

archives or derived from more recent oracles, they could be collated as texts that were already accepted as valid oracles of Yahweh. Indeed, lists are a classic scholastic propensity.[47] (This does not preclude, either, the invention of oracles, or the continual addition of new prophetic oracles from contemporary prophets). In this way, the scribes could maintain a tradition of not using "divination" while still providing the province with divinatory resources. Davies has previously noted that 1Q*Pesher Habukkuk* already explicitly described its use of the prophets in this manner.[48] This thesis also fits well with the recent argument of Stökl that

ed. Diana V. Edelman and Ehud Ben Zvi, Bible World (London: Equinox, 2009), 29–54 (41); Satlow, *How the Bible,* 29. Van der Toorn, *Scribal Culture,* 184, however, finds this unlikely, preferring "prophetic followers" due to the narrative portions of some of the books. However, as Nissinen has shown, there are little to no grounds for positing such groups in the ANE. See Martti Nissinen, "Das Problem der Prophetenschüler," in *Houses Full of All Good Things: Essays in Memory of Timo Veijola*, ed. Juha Pakkala and Martti Nissinen, Publications of the Finnish Exegetical Society 95 (Helsinki: Finnish Exegetical Society; Göttingen: Vandenhoeck & Ruprecht, 2008), 337–53. An alternate suggestion by Nihan, "The 'Prophets'", 77, that they were collected to be commentaries of a (textual) Pentateuch is both too textually focused and assumes already an "authority" for that collection that I think is problematic. The suggestion by Lange, "Oracle Collection," 21, that Israelite prophecy was inherently aimed at future audiences turns their later use into a teleology. However, his note, ibid., 34, that (Greek) oracle collections were used as a source of divination is similar to my suggestion, though he does not directly apply it to the collation of Judaean oracles.

47 Michael H. Floyd, "New Form Criticism and Beyond: The Historicity of Prophetic Literature Revisited," in *The Book of the Twelve and the New Form Criticism*, ed. Mark J. Boda, Michael H. Floyd, and Colin M. Toffelmire, ANEM 10 (Atlanta: SBL, 2015), 17–36 (24–27) has already argued that the scholastic propensity for lists is a key way to understand the collation of the HB prophetic literature; on lists as technology cf. Christine Mitchell, "The Technology of Lists and the Archival Function of Temple Deposits: The 'Book of Remembrance' in Malachi and Temple Bureaucracy in Fifth Century BCE Elephantine as a Case Study" (paper presented at the Canadian Society of Biblical Studies, Victoria, BC, 2013) (I am grateful to Christine for sending me her paper); On lists in Mesopotamian and STJ context, see respectively van der Toorn, *Scribal Culture*, 99 and Michael E. Stone, "Lists of Revealed Things in the Apocalyptic Literature," in *Magnalia Dei, the Mighty Acts of God: Essays on the Bible and Archaeology in Memory of G. Ernest Wright*, ed. Frank Moore Cross, Werner E. Lemke, and Patrick D. Miller (Garden City: Doubleday, 1976), 414–52. For the broader significance of lists as a technology see Jack Goody, *The Domestication of the Savage Mind*. (Cambridge: Cambridge University Press, 1977), 75–111; Ong, *Orality and Literacy*, 121–27. For Mesopotamian education, see Gesche, *Schulunterricht*, 61–152. In the context of arguing that the *Book of Watchers* directly attacks Mesopotamian diviners (the *āšipu*), Henryk Drawnel has argued that several texts at Qumran attest to the use of "Babylonian *Listenwissenschaft*" within Jewish scribal education. See Henryk Drawnel, "Between Akkadian Ṭuparrūtu and Aramaic ספר: Some Notes on the Social Context of the Early Enochic Literature," *RevQ* 24 (2010): 373–403. His article conveniently highlights the STJ attitudes towards foreign methods of divination as well the role of lists in ancient scholarship.

48 Davies, *Scribes and Schools*, 159.

Judaean prophetic texts were interpreted in ways quite similar to the ways omina were interpreted.[49] I think the imperial elite context of the scribes must be taken into account here, and to that I will now at last turn.

*Elite context*. I will speak primarily of Persia, but the general point will hold true for the later empires as well.[50]

I think we must reckon with the vast majority, if not the entirety, of literates in Yehud and Samerina learning to write for gainful employment by the Persian Empire. We know that the empire made significant use of local bureaucrats in its administration. We even have examples of Judeans serving at various administrative levels in various provinces. This is a significant context I think is not often enough stressed. Whether one views scribes as part of the ruling elite, some sort of retainer class, or just lowly servants, the prime value in writing as a skill would have been imperial opportunities.[51] (Indeed, van Soldt has already suggested that in earlier eras, city-states only show signs of advanced bureaucracy under empires).[52] Some anthropologists have spoken of the "legibility" or mechanisms whereby rulers try to make their rule more effective and efficient, and these include standardized languages, grammars, and scripts.[53] Imperial Aramaic served this function, and the Hebrew Bible itself as well as some manuscripts from Qumran demonstrate Levantine education in and use of Imperial Aramaic.

[49] Jonathan Stökl, "Prophetic Hermeneutics in the Hebrew Bible and Mesopotamia," *HBAI* 4 (2015): 267–92.

[50] While I share the opinion of Richard Horsley that we must take into account the imperial contexts of Judaean scribes, I strongly disagree with his characterization of the nature of Persian rule and a number of his historical assumptions. See Richard Horsley, "The Origins of the Hebrew Scriptures in Imperial Relations," in *Orality, Literacy, and Colonialism in Antiquity*, ed. Jonathan A. Draper (Atlanta: SBL, 2004), 107–35; for his reading of dynamics in the Hellenistic period, see Richard Horsley, "The Politics of Cultural Production in Second Temple Judea: Historical Context and Political-Religious Relations of the Scribes Who Produced 1 Enoch, Sirach, and Daniel," in *Conflicted Boundaries in Wisdom and Apocalypticism*, ed. Benjamin G. Wright III and Lawrence M. Wills, SymS 35 (Atlanta: SBL, 2005), 123–48.

[51] This is a matter that requires more clarity. Crenshaw, "Education," 608, calls them "poor aristocrats". Van der Toorn, *Scribal Culture*, 105, calls them "upper middle class." Horsley, "Origins," 18, calls them "retainers."

[52] Van Soldt, "Why Did They Write?," 111; cf. Jamieson-Drake, *Scribes and Schools*, 37; Satlow, *How the Bible*, 26.

[53] E.g., J. Jensen, "When Style Matters: Literacy in an 'Illegible' Place in Rural Mali," in *Theory and Practice of Knowledge Transfer: Studies in School Education in the Ancient Near East and Beyond*, ed. W. S. van Egmond and W. H. van Soldt, PIHANS 121 (Leiden: NINO, 2012), 59–68. Cf. Bourdieu, *Outline,* 186–89 (without using this terminology).

For the Persian Empire, both Samerina and Yehud were in the same satrapy for the entire length of the empire (and for a time, also with Babylonia). They were very likely, therefore, to have had close administrative contacts with each other, if only in terms of shared duties to supply the nearby royal road to Egypt. Moreover, both being in a satrapy with Babylonia means that both were in a context where the administration was in large part made up of scribes trained within the Mesopotamian tradition, and thus familiar with its standard curriculum. A structural analogue within the Levant is therefore quite plausible.

This context also explains, to my mind, why Levantine scribes may have wanted to develop their own divinatory tradition—they wanted to have their own, native scholarly divinatory tradition like their satrapal colleagues. We know the Magi (the western Iranian sage-priests) borrowed much Mesopotamian learning, and that Babylon was renowned in the Greek world for its divination. By collecting oracles already deemed to be divine, Levantine scribes could have tried to compete within the small, cosmopolitan scholarly world. I would like again to return to the point that the number of highly literate scribes were few. Given that many if not all of these individuals were probably somehow involved in the mechanisms of the empire, it is plausible they were in contact with each other.[54] Other Achaemenid elites formed an empire-wide koine in their status-seeking, so why should the literati have been immune from this?[55] The later Hellenistic sport of comparative cultural antiquities can plausibly seen to originate in the Achaemenid world.

Finally, I would like to return to the issue of Elephantine and its Behistun manuscript. I think this document demonstrates both the imperial contexts of the scribes, the enculturating/ indoctrinating potential of the choice of texts to copy, as well as the difficulty of easily assuming the process would involve deliberately resistant literatures.

To sum up this section: I argued that the nature of educational processes and the imperial elite contexts of scribes in Yehud and Samerina together support my hypotheses that the Pentateuch initially developed as advanced curriculum and the Nevi'im were collated as an answer to

[54] E.g., Satlow, *How the Bible*, 27. Seth L. Sanders, *From Adapa to Enoch: Social Culture and Religious Vision in Judea and Babylon,* TSAJ 167 (Tübingen: Mohr Siebeck, 2017), 59–68, also discusses this sort of dynamic from the perspective of Aramaic as a shared medium, with a focus on Mesopotamian knowledge transfer. He is less concerned with the practicalities of individuals in Persian administration.

[55] Cf. Ben Zvi, "The Yehudite Collection," 145–69.

Mesopotamian divinatory compendia. (Neither requires any recourse to the recurrent yet flawed thesis of Persian authorization.)[56]

## 4. How did 'Torah' and 'the Prophets' come to be associated with these groups of texts?

So far I have argued that torah was merely ancestral traditions and the prophets human-divine intermediaries, and that the Pentateuch began as scribal curriculum and the Nevi'im as collated oracles for divinatory purposes. How, then, did these two collections come to be called the torah and the prophets?

For the torah, I would again like to emphasize that even in quite late references to the book form of the Pentateuch they are not identified with the torah wholesale (e.g., Sirach 24:23; 38).[57] Therefore, this connection is both a slow and late development. I think there are two key concepts that help to explain this process: 1) the internalization of textualization and 2) the function of textual warrants. I will discuss these below.

For the prophets, the connection is of course more obvious: the Nevi'im at least partially derive from, and claim to derive from, oracles of prophets. However, as Davies has noted, even quite late sources call "the prophets" texts not in our "prophetic literature."[58] Again, one sees the lateness of the slippage between the two. For the prophets, in addition to internalization and textual warrants, the issue of authentication plays a key role.

*Internalization of textualization*. By this I refer to a process described at length by McLuhan and Ong.[59] Internalization refers to the cumulative manner in which individuals and societies are shaped in the way they think and organize society in response to using a (new) medium. When a new communicative technology is introduced, it is at first used in ways

[56] In fact, the discussion here is *not* meant as an exercise in the study of "Persian influence" (one which I frequently investigate; see Silverman, *Persepolis and Jerusalem*, 29–37 for a definition), but merely of social-historical contexts more broadly. In other words, one that treats the Persian Empire as a meaningful social context and not just a time period.

[57] "All this" referring the previously listed wisdom in the chapter; cf. Davies, *Scribes and Schools*, 94, 109.

[58] Ibid., 108.

[59] McLuhan, *The Gutenberg Galaxy* 18; Ong, *Orality and Literacy*, 56; cf. Silverman, *Persepolis and Jerusalem*, 119–28. The complexity of this concept has often been misunderstood. As McLuhan, *Understanding Media*, 28, said, "…no medium has its meaning or existence alone, but only in constant interplay with other media."

that earlier technologies were used (amplification). Only with time are its own potentialities brought to fruition. A classic example of this in recent memory is the internet, which began as very text-bound until its multimedia and hyperlink capabilities began to be more fully exploited. As STJ progressed, it increasingly internalized literacy. (A process also visible in Hellenism in general as well; the Hellenistic period was a more literate period than ever before, but this is still likely only roughly 10% of population!)

Aspects of textual internalization include the increased length of lists beyond the capabilities of human memory, increased interest in *verbatim* memorization, and increased use of *textual* allusion, to only name a few.[60] As the process continues, texts gain more importance and are viewed as more important on their own, independent of their original contexts (in line with the principle of decontextualization caused by writing).[61] I think this helps explain how the Pentateuch, as a text collection recognized by many as an instantiation of torah, eventually became identified with torah: as more and more scribes referenced the text as warrant and fewer and fewer authorities referenced oral tradition as a living tradition, over time the text became conflated with the concept. Both were sources of warrants, and the text derived from the original source (tradition).

This pattern can be seen with the Nevi'im as well. However, here I think we have the additional factor of authenticity. Already noted was the inherent epistemological problem of prophecy: how does one know that a prophet actually speaks for God or is falsely claiming so? This is an intractable problem for all human prophets, even in cultures that accept prophets as a legitimate phenomenon.[62] The Nevi'im, however, do not have this issue, as they were already collected as having been valid oracles from YHWH. This means that in case of a dispute, the Nevi'im would obviously be the safer option; not only that, the Nevi'im would be likelier to command wider assent as a warrant, being already accepted as such. This brings us back to the idea of a warrant.

*Warrants*. As I've said several times, I think the idea of *warrant* might prove suggestive for the HB's emergence and its eventual depiction by

[60] See Ong, *The Presence of the Word*; idem, *Orality and Literacy*.

[61] E.g., Fitzpatrick-McKinley, *Transformation*, 15–16.

[62] Also suggested as one reason for what he calls "shift from aural to literary (prophecy)," although without reference to the dynamics of media change; Lange, "Oracle Collection," 24–25.

some Judaeans as "authoritative."[63] As said, a warrant is a justification acceptable to a group and usable to their leaders to gain assent. The idea of a cultural foundation or warrant is quite compatible with Bourdieu's concept of a field of competition—in which conflict occurs within a set of "agreed" rules, or shared frame of reference which itself goes unquestioned. For industrial times, Merton has described the phenomenon of written professional "codes of conduct" and association "constitutions" as providing warrants for the status of its members. Merton has seen written, professional codes of conduct function to support statuses with *multiple* role-sets in conflict, and that this function of support is accentuated in situations of geographical dispersal.[64] The reason for their writtenness would be a response to the group's disjunctions in time and space—i.e., that the relevant group is a "collectivity" rather than a group characterized by immediate social interactions.[65] The point here, however, is how the warrant supports pre-existing group norms and ideas, and provides reasons for individual actions—the warrant itself holds no authority.[66]

Given the situation of STJ with Judaean and Samarian/Samaritan communities dispersed throughout the Mediterranean and Near East, the potential for a text functioning as a source of warrants is very high, especially in one with multiple role-sets in conflict. As literacy increased and became socially internalized, the Pentateuch and the Nevi'im became increasingly valuable as sources of already-accepted social warrants that could transcend time and space by the various communal leaders and elites. This also proved a development that would open up new sources of conflict—i.e., over the texts' interpretation.

[63] In this context I would like to re-emphasize the difference between the content of the HB and its potential functions as an icon. (In this way Berge's ideas of symbol can still be useful in a still largely oral society, Kåre Berge, "Mystified Authority: Legitimating Leadership through 'Lost Books,'" in *Leadership, Social Memory, and Judean Discourse in the Fifth-Second Centuries BCE*, ed. Diana V. Edelman and Ehud Ben Zvi (Sheffield: Equinox, 2016), 41–56.

[64] Merton, *Social Theory*, 432–33.

[65] Merton, ibid., makes a distinction between "groups" (which are individuals who actually interact in person on a frequent basis), "collectivities" (groups too large for interaction, such as ethnicities), and "social categorizations" (such as sex, age, status).

[66] Cf. Jeremiah F. Wolpert's comments on how constitutions are really "convenient fictions." See Jeremiah F. Wolpert, "Towards a Sociology of Authority," in *Studies in Leadership: Leadership and Democratic Action*, ed. A. Gouldner (New York: Harper & Brothers, 1950), 679–701 (697).

## 5. Conclusions

Although the brevity of this essay, I'm afraid, makes all of this sound terminally vague and hypothetical, what I am trying to do is provide a framework for understanding STJ and the HB that is grounded in evidence and arguments from outside texts alone. This frame is meant to take into account a broader social reality, one not solely based on texts and inter-text-relations. Key contexts for this are educational realities and elite dynamics in imperial social contexts, and, in my view, the phenomena of media change (decontextualization, internalization, etc.). None of this is meant to deny the relevance or importance of texts, nor of scribal interactions with them. Nor is it to claim no scribe ever quoted another text. Rather, it is meant to place these scribal phenomena in a more sociologically and communicatively likely pattern than I think often prevails in scholarly discourse—there is less dogged textuality than that about which we are accustomed to speaking.

To repeat one last time and to answer the question in my title: I argue that the torah and the prophets are primarily not texts, despite their connection to the Pentateuch and Nevi'im. The process behind this is not the increasing acceptance of authoritative texts, but of a shift in social practice from appeal to primarily oral warrants to primarily textual ones. This shift is due, at least partially, to internalization and the exigencies of scribal elite imperial and diasporic contexts.

## Appendix: Torah (torah/nomos) and Prophets (nevi'im/prophetes) in some Hebrew Bible and Second Temple Judaean sources

| Citation | Text | Comments |
|---|---|---|
| Ex 12:49; cf. Num 15:29 | There shall be one *torah* for the citizen and the *ger*. | Refers to equality of practice. |
| Deut 1:5 | Moses was willing to explain this *torah*. | Refers to the commands of YHWH in v. and Moses's following discourse. It implies not just the text of Deuteronomy but all things supposedly from that audition. |
| Deut 4:8; cf. 4:44 | And what great nation has as righteous statutes and judgments as all this *torah* as I put before you today? | Refers here not only to Moses's speech in this book but to the totality of social mores and their practice. |
| Deut 17:8–13 | You shall do according to the mouth of the *torah* which is handed down to you and according to the judgment spoken to you | Refers to the oral decision of either a priest or judge in a complicated dispute |
| Deut 17:18–20; cf. 28:58; 29:19 | When [the king] sits on the throne of his kingdom he shall have a Levitical priest write for him in his presence a copy of this *torah* on a scroll. | Here refers to the text of Deuteronomy. Implies not the entirety of *torah*, however. |
| Josh 1:7–8; cf 8:34–5 | Do all the *torah* which my servant Moses commanded you…do not let this book of *torah* leave your mouth… | Here envisions a text, but leaves open a broader tradition. |
| Josh 22:2–5 | Be careful to keep and do the instructions and *torah* that Moses the servant of YHWH commanded you… | Here totality of proper ways of life |
| 2 Kgs 17:13 | And YHWH warned Israel and Judah by the hand of all the *prophets* and all the seers saying return from your evil ways and keep my commands and statutes and all the *torah* which I commanded your fathers and which I sent to them by the hands of my servants the *prophets*. | Proper lifeways as deemed deriving from YHWH rather than specific texts are in view |

| Citation | Text | Comments |
|---|---|---|
| Isa 2:3–4 | …that he may teach us his ways, so that we may go according to his paths, for *torah* goes out from Zion, and a word of YHWH from Jerusalem. | Torah is here paralleled with divine revelation and proper lifeways; in verse 4 in the context of proper cosmic rule. |
| Jer 2:8 (MT) | The priests did not say where is YHWH? And the wielders of *torah* did not know me. And the shepherds rebelled against me, and the *prophets* prophesized by Ba'al and walked after that which is profitless. | A clear critique of "illegitimate" warrants being used by social authorities. |
| Jer 18:18 | …for *torah* will not perish from the priest, nor counsel from the wise nor word from the *prophet*. | List of leaders and their typical warrants |
| Psalm 119 | Long poem of adoration of *torah* | Represents totality of right way of life |
| Prov 6:20–3 | My son keep your father's commandment and do not forsake your mother's *torah*… | General lifeways as imparted on intimate scale |
| Zech 1:4–6 | …the former *prophets* saying thus says YHWH Sebaoth return… | Prophets, not texts |
| Ezra 9:10–11 | ..for we have forsaken your commandments which you gave us by the hand of your servants the *prophets*… | This text is often taken as proof of the authority of a fixed text of Deuteronomy, due to thematic parallels. As Lisbeth Fried has rightly stressed, it is in fact not a quote or paraphrase of Deuteronomy, and it claims as warrant previous prophets, not previous texts. |
| Neh 8:2; cf Neh 8–10; 13 | …they asked Ezra the scribe to bring the scroll of the *torah* of Moses with which YHWH had charged Israel. | Clearly refers to a particular text that contains *torah*. It must be noted, however, that the story contains material broader than that in Pentateuch (ch 9) and contains legal rulings also not in it (ch 10) |

| Citation | Text | Comments |
|---|---|---|
| Tobit 6:12 | …for I know that Raguel cannot marry her to another according to the *nomos* of Moses, but he shall be guilty of death… [only Moses extant in 4Q197] | No extant text in fact says this; this is clearly just traditional practice ascribed to Moses |
| Sir Prologue | Many great teachings have been given to us through the *law* and the *prophets* and the others that followed them, and for these we should praise Israel for instruction and wisdom. Now, those who read the scriptures must not only themselves understand them, but must also as lovers of learning be able through the spoken and written word to help the outsiders. So my grandfather Jesus, who had devoted himself especially to the reading of the *law* and the *prophets* and the other books of our ancestors, and had acquired considerable proficiency in them, was himself also led to write something pertaining to instruction and wisdom, so that by becoming familiar also with his book those who love learning might make even greater progress in living according to the *law*. | Assumes the existence of texts containing *torah* and *prophets*, but these are not deemed exhaustive ("many great teachings"), while it also uses *torah* in a broader sense (last line). |
| Sir 24:23 | All this is the book of the covenant of the Most High God, the *law* that Moses commanded us as an inheritance for the congregations of Jacob. | "This" refers to the previous 24 verses of Wisdom praising itself. |
| Sir 38:34–39:11 | …how different the one who devotes himself to the study of the *law* of the Most High [from artisans]. He seeks out the wisdom of all the ancients, and is concerned with *prophecies*; he preserves the sayings of the famous and penetrates the subtleties of parables… | Both teaching and oracles here are part of the greater mastery of tradition which the elite Judaean scribe should master. |
| 1QS 1.3; cf. 8:15–16 | …he commanded by the hand of Moses and by the hand of all his servants the prophets… (trans. DSSSE) | Explicit attribution of tradition to authorizing individuals |

| Citation | Text | Comments |
|---|---|---|
| Jos. *Ant.* 12:142 | [Letter of Antiochus]…let all of that nation live according to the *laws* of their own country… | Traditional praxis. |
| Jos. *Ant.* 20: 265 | But they give him the testimony of being a wise man who is fully acquainted with our *laws*, and is able to interpret their meaning; on which account, as there have been many who have done their endeavors with great patience to obtain this learning, there have yet hardly been so many as two or three that have succeeded therein, who were immediately well rewarded for their pains. | Similar to force of Sirach |
| Jos. *C. Ap.* 1.37–42 | They being only *prophets* that have written the original and earliest accounts of things as they learned them of God himself by inspiration; and others have written what hath happened in their own times, and that in a very distinct manner also. For we have not an innumerable multitude of books among us, disagreeing from and contradicting one another, but only twenty-two books, which contain the records of all the past times; which are justly believed to be divine; and of them five belong to Moses, which contain his *laws* and the traditions of the origin of mankind till his death…. | This is a much discussed passage in the "canonical" debate. While it seemingly attests to a Pentateuch, it is interesting that all are claimed to have prophetic origins. It is also interesting that it is not explicitly called "Torah." It should be noted that this text is post-70 CE. |
| 1 Macc 1:56–7 | The books of the *law* that they found they tore to pieces and burned with fire. Anyone found possessing the book of the covenant, or anyone who adhered to the *law*, was condemned to death… | As Davies has noted, interesting distinction between books of law and book of covenant. Also, law a a wider practice as well. |

| Citation | Text | Comments |
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| 2 Macc 2:13–14 | The same things are reported in the records and in the memoirs of Nehemiah, and also that he founded a library and collected the books about the kings and *prophets*, and the writings of David, and letters of kings about votive offerings. In the same way Judas also collected all the books that had been lost on account of the war that had come upon us, and they are in our possession. | Sounds like an official library collection collated by the Hasmoneans for state purposes. |
| 2 Macc. 15:9 | "Encouraging them from the *law* and the *prophets*, and reminding them also of the struggles they had won, he made them the more eager." | Merism for tradition |
| 4 Macc. 18:10 | "While he was still with you, he taught you the *law* and the *prophets*." | Merism for tradition |
| Matt. 5:17 | "Do not think that I have come to abolish the *law* or the *prophets*; I have come not to abolish but to fulfil." | Merism for tradition |
| Matt. 22:40 | "On these two commandments hang all the *law* and the *prophets*." | Idem |
| Luke 16:16 | "The *law* and the *prophets* were in effect until John came; since then the good news of the kingdom of God is proclaimed, and everyone tries to enter it by force." | Idem |
| Acts 13:15 | "After the reading of the *law* and the *prophets*, the officials of the synagogue sent them a message, saying, 'Brothers, if you have any word of exhortation for the people, give it.' " | Here positing reading of received texts in the synagogue. |
| Romans 3:21 | "But now, irrespective of *law*, the righteousness of God has been disclosed, and is attested by the *law* and the *prophets*." | Note two senses of law here. |
| 4 Ezra 14:21 | "For your law has been burned, and so no one knows the things which have been done or will be done by you." (trans. Metzgar) | Refers here to the ninety-four books dictated by Ezra in 40 days (including 24 "public books") in vv. 37–48. |

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