

CANON, INTERTEXTUALITY AND HISTORY IN NEHEMIAH 7:72B-10:40

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Keywords:

canon; intertextuality; Nehemiah; Hebrew Bible; biblical exegesis

Dates:

Received: 07 July 2008

Accepted: 13 Jan. 2009

Published: 24 July 2009

How to cite this article:

 Venter, P.M., 2009, 'Canon, intertextuality and history in Nehemiah: 7:72b-10:40', *HTS Teologiese Studies/Theological Studies* 65(1), Art. #135, 8 pages. DOI: 10.4102/hts.v65i1.135

This article is available at:
<http://www.hts.org.za>

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ABSTRACT

The forming of the Hebrew Bible can be depicted as an ongoing movement from *traditum* to *traditio*. Several parallel and interactive phenomena contributed to this process. One of these was intertextuality, which played a major role in the process. This article indicates that intertextuality was not restricted to mere quotations or the recycling of existing *traditum*, but also included dialogue with older genres and existing ideological patterns. Aesthetic and polylogic intertextuality are shown to have been part of this process of inner-biblical exegesis. These two aspects of intertextuality are demonstrated in a discussion of the narrative in Nehemiah 7:72b. Aggadic exegesis linked to aesthetic intertextuality is found in several places in this passage. Polylogic intertextuality can be seen in the use of the *Gattungen* of Historical Review and Penitential Prayer in Nehemiah 9:1-37. These are linked to a *Sitz im Leben* during the fifth century BCE when an endeavour was made to find a new identity for the Judaeans.

INTRODUCTION

The formation of the biblical canon was enacted on different interactive levels (cf. Venter 2002:470-488). At least three levels can be identified.

First, each literary unit or 'book' in the final canon represents a history of growth. Whether there was a very long tradition extending from original oral tradition to a final literary form, or just a brief history of growth (cf. Ruth and Esther), at this level a process of gradual growth was present. Each unit is the layered end result of a dialogical composite cognitive process in which each new phase of its literary growth was undertaken in dialogue with the existing form(s) of that unit. It is characteristic of this process that the older literature was not replaced, but maintained and incorporated into the newer form. In the final form of the units or books residues of the older layers are still visible. This feat of dialogical compaction¹ can be studied with the discipline of intertextuality. This article focuses mainly on this level of literary growth, exploring the theories of Fishbane (1985) and Fisk (2001). It aims at indicating that intertextuality in the canonical process of growth was not restricted to mere quotations or recycling of existing phrases, but was also present at the 'higher' level of dialogue with older genres and existing ideological patterns.

A second interactive level that is not discussed here, but played a role in canonisation, is that of inclusion and omission of existing materials in the agglomeration of material into an authoritative collection. In its final form a canon represents the ideological choice of a specific group of what is authoritative and what not. This selection takes place in dialogue with other contemporary groups and their points of view on this issue. As the biblical canon consists of a pluriformity of materials an internal juxtaposition can be indicated: a dialogue of theological opinions and view points.

The third level that will also come into play in this article is that of the socio-historical context. Revision, addition, compilation, editing as well as the choice of literature to be included or excluded in the final collection was all in reaction to different social factors. In debate with contemporary groups either new answers were formulated, or mostly old theological answers were moulded into a new form. In this process dialogue and intertextuality played a large role.

This article, having a restricted scope, focuses on the first and third levels mentioned above. It eventually concentrates on the narrative unit of Nehemiah 7:72b-10:40, applying especially the theories of Fishbane (1985) and Fisk (2001) to illustrate the unit's canonical context. Analysis of this passage will show that dialogical compaction is a distinguishing aspect of the canonical process. Not only intertextuality in the sense of re-using and adapting existing scripture can be found in this passage, but also intertextuality on the level of combining the genres of Historical Review and Penitential Prayer to form a new homiletical unit to address the situation of finding exclusive Judaic identity. Different forms of intertextuality including the use of genres will therefore be discussed. It will also be shown that these different forms were used as theological strategies to give authoritative answers to questions of identity during the Second Temple period.

INTERTEXTUALITY IN THE PROCESS OF *TRADITUM* AND *TRADITIO*

Intertextuality: aesthetic and polylogic

In the process of communication, selection (paradigmatic use of words) as well as combination (syntagmatic use of words) takes place. Existing texts are quoted or combined with a new set of words into new texts. This is the process of intertextuality. Even when no direct hint is found of this process a form of intertextuality is always present. The instinctive use of other texts can take more than one form. Schmitz (1987:25) distinguishes between intertextuality with signs and that of symptomatic intertextuality. Texts with signs refer to other texts and the relationship is obvious. In texts with symptomatic intertextuality the relationship is still visible, although no direct indications are present. Generally the study of intertextuality focuses on two aspects of the process: aesthetical production and

¹This process is of course not restricted to compaction of inner-biblical material only, but was also operating on the level of intertextuality with literature and ideas outside the growing unit.

polylogy (cf. Venter 1997:326-347). The first pays attention to the way authors used their sources. They created new texts by way of repetition of existing sources. The second aspect, that of polylogy, is understood in terms of the theory of Julia Kristeva. The creative role of the reader is central to an endeavour of deconstructing the text into something new (cf. Ibsch & Van Gorp 1987:3). In this second case the dialogistic aspect of the speech act plays the main role.

The first aspect, intertextuality, namely the aesthetical production of texts by transforming existing literature into new texts, can take many forms. Techniques such as quotation, paraphrase, *résumé*, commentary, criticism, interpretation, allusion, parody and even *pastiche* can be used. Generally aesthetic intertextuality can occur on three levels:

1. On the basic syntactical level, the older text serves as the *archi* text for the newer text, called the *pheno* text (cf. Claes 1987:11). The mutual element between the two is the 'intertexteem' (Claes 1987:10).
2. On the second level of intertextual semantics, the original illocutive goal of a text is maintained or even severely altered.
3. The situation forms the third level. The protocol differs radically between an oral situation, where words do not have an author, and a written situation, where the author and his rights are fundamental. On this level idioms, hard sayings and expressions are used in new literature, sometimes changing the original meaning.

This aesthetical aspect of intertextuality as a compositional technique used in inner-biblical exegesis will be discussed. Aggadic exegesis, one of the four types of inner-biblical exegesis, will be used to illustrate its application in Nehemiah 7:72b-10:40.

The second aspect of intertextuality is linked to the situation of dialogue. Deconstructionist intertextuality pays attention to the polylogy of texts. For Bakhtin, language is always a social activity. It is a dialogue not only with older texts but also with the surrounding world. Everything in the world is a text carrying some meaning. Julia Kristeva's well-known term '*intertextualité*' refers to the fact that each text stands at the crossroad of a multiplicity of texts and of ideas which it re-reads, condenses, replaces and deepens into new forms. Umberto Eco uses the term 'hypo-codification' in his work to indicate how a text is created by forming a new combination of elements that have been used formerly in another codification. It is the task of the analyst to identify these elements constituting a network of interacting texts. The language, specific contents, structure and presentation of contents in a document is the codification of the social system in which it was produced and to which it reacted.

This aspect will be discussed in the sections 'The use of *Gattungen* in creating *traditio* out *traditum*' and 'The social dimension of aggadic exegesis in Nehemiah 7:72-10:40', indicating how *Gattungen* linked to a *Sitz im Leben* were used intertextually in Nehemiah 7:72b-10:40 to formulate a unique point of view on identity in the Second Temple period.

Intertextuality and biblical exegesis

A mental feature² found in biblical literature and which fully emerged in post-biblical sources is the phenomenon of supplementing the original authoritative teachings with traditions and commentaries. Referring to Thomas Mann's term '*zitathaftes Leben*', Fishbane (1985:2) is of the opinion that preoccupation with interpretation and exegesis even inverted the hierarchical order of revelation in Judaism, Christianity and Islam. In these religions revelation is only comprehensible through the exegetical tradition of interpretation.

Since the nineteenth century it was acknowledged that not only the major textual versions of the Hebrew Bible (Septuagint,

Targum and Samaritan Pentateuch) indicate reworkings of the available Hebrew Bible in the context of social and theological concerns, but that the Hebrew Bible itself is the product of such reworkings (cf. Fishbane 1985:5). Exegesis is inherent to the biblical text itself. The text is not monolithic but rather the end result of a process in which interpretation and exegesis were used right from the beginning. Fishbane uses the term 'inner-biblical exegesis' for this phenomenon. This phenomenon roughly corresponds to the 'dialogical composite cognitive process' found in the forming of biblical units referred to above. This was an ongoing process over many centuries. To indicate this continuing process Fishbane (1985) uses the terms *tradtum* and *traditio*. The contents of tradition, being the complex results of a long and varied process of transmission, can be called the *tradtum*. The process of recycling this received *tradtum* is called *traditio* (cf. Fishbane 1985:6). The mechanics of this process can be studied as inner-biblical exegesis in which the two aspects of aesthetic and polylogic intertextuality played a major role.

Inner-biblical exegesis differs from post-biblical exegesis as it is found in *inter alia* Tannaitic sources, the Qur'an and the New Testament. In those cases the Hebrew Bible is clearly the fixed written *tradtum* and the other sources represent the *traditio*. It is also different from tradition-history where a tradition can be extrapolated. The Hebrew Bible is a composite source and its internal strata are to be identified. The central concern in inner-biblical exegesis is to distinguish between the received text (*tradtum*) and its interpretation (*traditio*). The tools used for this enterprise include study of comments, clarifications, scribal remarks, interpolations and revisions found in the text.

The next step in the study of inner-biblical intertextuality is to analyse the nexus between the *tradtum* and *traditio*. This relationship varies considerably from one text to another depending on the type of text. Several modes can also be found in this relationship. Fishbane (1985) identifies four models of inner-biblical exegesis: scribal (cf. Fishbane 1985:23-88), legal (cf. Fishbane 1985:91-277), aggadic (cf. Fishbane 1985:279-440) and mantological (cf. Fishbane 1985:441-524) exegesis. For the purpose of this study aggadic exegesis in the narrative unit of Nehemiah 7:72b-10:40³ will be focused on. In contrast to halakhic exegesis, aggadic exegesis is charged with the religious ethos of Israel. It deals with theological, reflective, moral and practical matters as they are depicted in that narrative.

An intertextual model of *traditio*

While Fishbane (1985) studied inner-biblical exegesis in his trendsetting research, Fisk (2001) focused on the use of the already coagulated *tradtum*. This is often called 'rewritten Bible', a term coined by Vermez. Trebolle-Barrera (2000:102) calls it 'para-biblical writings'. This category includes books such as Jubilees, the Genesis Apocryphon (1QapGen), 1 Esdras, and Josephus's Antiquities. Precursors of this category can be found in the canonical books of Chronicles, Ezra and Nehemiah.

Fisk developed his specific approach to rewritten Bible from the studies of Michael Fishbane (1985), Richard Hays (1989 *Echoes of Scripture in the Letters of Paul*) and Daniel Boyarin (1990 *Intertextuality and the reading of Midrash*). He studied the intertextual use of aggadic exegesis in this process of rewriting. Aggadic exegesis is found in the legal traditions, in prophetic literature, the transformation of non-legal Pentateuchal traditions and in historiographical literature. In the last case theological transformations can be found both in Samuel-Kings as well as in the work of the Chronicler. Fisk studied the uses of existing scripture in *Liber Antiquitatum Biblicarum* (Pseudo-Philo). He is of the opinion that Pseudo-Philo represents a trajectory of these aggadic traditions, already used in post-exilic biblical literature, and culminating in later aggadic midrashim. There is substantial and organic continuity between earlier aggadic exegesis already found in the Bible and the later rabbinic strategies of Scripture interpretation (cf. Fisk 2001:67-68). His theories are

²Fishbane (1985:xvii) calls it a 'sub-surface culture'.

³The numbering of the Hebrew Text as in *Biblia Hebraica Stuttgartensia* is used here.

therefore applicable to both inner-biblical as well as post-biblical material.

In his study of the forming of rewritten Bible Fisk pays attention to both the compositional techniques (the mechanics of a citation or allusion to Scripture) and the hermeneutical strategy (the hermeneutical function of the precursor text within the new context and within the social-historical setting that gave rise to the new composition) (cf. Fisk 2001:109-110). These correspond more or less with the aesthetical and the polylogic aspects of intertextuality as discussed above.

Fisk (2001:110-116) proposes six hypotheses regarding this process:

1. Post-biblical intertextual hermeneutics is based on inner-biblical exegesis.
2. The biblical text contains 'gaps' and 'excesses' that invite exegetical response.
3. Inner-biblical exegesis is marked by the collocation of repetition and transformation, continuity as well as discontinuity of the *traditum*.
4. Annexations of the *traditum* cover a whole spectrum of possibilities from subtle allusions to extensive verbatim reiteration.
5. The exegesis of the *traditum* depends upon the literary context of a citation or allusion.
6. 'Intertextual fusion' (Fisk 2001:115) takes place so that text and intertext become mutually interpretive. New meaning is created in both original and subsidiary text.

All of these hypotheses can be linked to aesthetical exegesis. From these hypotheses regarding the intertextual exegetical process Fisk developed a model to indicate four quadrants in the relationship between *traditum* (inherited tradition) and *traditio* (literary transformation). Depending upon a large variety of factors the gravitational pull could be in one of four directions. In aggadic exegesis the focus can fall on either the *traditum* or the *traditio*. The strategy followed in transformation from *traditum* into *traditio* can be either static (reception) or dynamic (innovation). Within these four quadrants 'we might plot virtually any instance of inner-biblical exegesis, intertextual echo and midrashic reading' (Fisk 2001:118).

The transformation of *traditum* into *traditio* by any of these strategies was further shaped by several external factors such as politics, culture and history. Here we have to do with polylogic intertextuality, where a multiplicity of texts and ideas meet. As data on the social dimension of aggadic exegesis is often limited and confined to theories, another way has to be followed. Fisk (2001:127) refers to 'general patterns of interaction between exegesis and social context'. Rather than theorising on the social context of exegesis, a pattern or type of interaction can be deduced from the text. Fisk then follows the three 'basic social settings' (Fisk 2001:127) already proposed by Fishbane:

1. Exegesis is used as the instrument of paraenesis to call the people back to covenant allegiance. The social setting of this situation is that of moral lapse when righteousness is in decline and faltering commitment to the covenant occurs.
2. The next situation is where the text fails to have direct moral, religious and theological values as the contemporary notion of these have shifted. Fisk (2001:135) refers to this situation as that of 'textual obsolescence'. These circumstances call for drastic revision of the *traditum*.
3. The third basic social setting is that of a time of crisis and social-historical dislocation. Here the received *traditum* becomes incomprehensible and must be interpreted anew to address the questions of the time. In this case the exegetical response can follow one of three paths. Firstly the discontinuities may be emphasised by depicting a bright future in contrast with the present. Secondly continuity may be stressed by using images and typologies from the *traditum* to conceptualise expectations for the future. A third possibility is 'the aggadic retrieval and representation

of cultural memories' (Fishbane 1985:413), a 'reformation of memory itself' (Fishbane 1985:413). According to Fisk (2001:129) this 'strategy rewrites (sometimes radically) episodes in the *traditum* to create paradigms for the present, entrench values, organize divine-human relations and portray the consequences of behaviour'. Both Fishbane and Fisk (2001:129) find traces of this 'third, more aggressive response' in the work of the Chronicler, who's work is that of 'revisionary historiography' (Fisk 2001:65, 129).

In the following section the narrative unit of Nehemiah 7:72b-10:40, another example of 'revisionary historiography', will be discussed.

INTERTEXTUALITY IN NEHEMIAH 7:72b-10:40 The narrative unit of Nehemiah 7:72b-10:40

Scholars more or less agree that Nehemiah 7:72b-10:40 forms an autonomous unit in the present text.⁴ Eskenazi (1988) sees the unit as the beginning of the third section of the Ezra-Nehemiah⁵ narrative dealing with 'Success (Objective Reached): The Community Celebrates the Completion of the House of God According to the Torah' (Eskenazi 1988:95; cf. also Grabbe 1998:96). Throntveit (1992:92) takes it to be the middle section of the second major division of Ezra-Nehemiah that 'describes Ezra's renewal of the congregation's covenant relationship with God'. Williamson (1998)⁶ refers to the 'very widest spectrum of opinions' on the structure due to Ezra's sudden move into the foreground while Nehemiah's first-person account is suspended.

The unit of Nehemiah 7:72b-10:40 consists of three episodes: the reading of the Book of the Law and the Succoth festivities (7:72b-8:18); Israel's confession in the form of a Historical Review and Penitential Prayer (9:1-37); and the agreement of the people to follow the Law of God (9:38-10:40). Three successive meetings take place, culminating in the ceremonial firm agreement in writing to keep to God's laws.

This unit does not have any obvious link with either the preceding (7:5-72a) or succeeding sections (11:1-13:30). There is, however, an internal link binding the three episodes together as one unit. A transition is found from the third-person narration in episode one to first-person narration in the following episode and then a return to third-person narration in the third episode. According to Kvanvig (2007:4) this 'transition intensifies the narrative and demonstrates the close literary connection between the recall of history in the prayer and the commitment in the ceremony'.⁷ The pattern of formal statement of the law, confession and renewed commitment to the covenant found here is also found in Ezra 9-10; 2 Chronicles 15:1-18; 29-31; 34:29-35:19. Although it can be argued that each of these three episodes represents an independent literary and historical origin, Williamson points out that:

they have not come together by the random processes of chance or error in transmission, but rather that they have been carefully assembled and thoughtfully located by the editor responsible for combining the Ezra and Nehemiah material.

(Williamson 1998)

Some formal pattern of composition found elsewhere could have served as example for the final composition of the narrative unit of Nehemiah 7:72b-10:40. Williamson (1998) has some reservations about the idea that this accumulation is based on

4. This paper does not deal with the literary issue of the main sources used in creating the final narrative unit (Ezra and Nehemiah memoirs etc.), but rather with the role of intertextuality in creating the smaller separate units of the work. See Grabbe (1998:107-109, 122) for a brief discussion of the literary issue.

5. See Grabbe (1998:93-96, 102-107) for a discussion on the unity of Ezra and Nehemiah.

6. The electronic copy used does not have page numbers.

7. Miller (1994:256) rather sees in this transition 'a sense of continuity with the sins of the ancestors'.

a formal cultic procedure that the editor knew and sought to imitate.

The question, however, is not only what played a role in the eventual assemblage of these three episodes to form a unit but also which factors were present in the formulation of each separate episode. What intertextual indications can be found in these separate units as well as in their final assemblage? Some of these factors can be identified by paying attention to the role of aesthetic (aggadic) exegesis in some sections of this narrative and to the application of polylogic (form critical and social) exegesis in especially the episode of Nehemiah 9:1-10:40.

Aggadic exegesis

Aggadic exegesis (cf. Fishbane 1985:279-440) is concerned with the religious ethos of Israel dealing with theological, reflective, moral and practical matters. This type of exegesis is also found in Nehemiah.

Fishbane (1985:107) discusses the exegesis found in Ezra and Nehemiah under the heading 'Legal Exegesis with Verbatim, Paraphrastic, or Pseudo-citations in Historical Sources'. These sources are of immense importance for their detailed witness to ancient biblical legal exegesis. The activities of the Levitical instructors in Ezra 8:8 and 'the way these activities are referred to leaves little doubt that they express developed and well-known exegetical procedures' (Fishbane 1985:108).

Studying these exegetical procedures, Fishbane (1985) focused on inner-biblical exegesis. He isolated several distinct exegetical patterns found in the Hebrew Bible. The received *traditum* was exegeted in such a way that the comment on that *traditum* was embedded in the text. In the supplementation of laws, blending takes place, the innovations are obscured and presented as part of the text-citation itself (cf. Fishbane 1985:134). Generally these patterns are 'lemmatic in nature' (Fishbane 1985:266). The exegesis as ongoing *traditio* is bound to the authoritative *traditum* (lemma) and becomes part of it as new *traditum*.

Fishbane distinguishes between stylistic forms of inner-biblical exegesis⁸ and form-critical exegesis. Inner-biblical exegesis is found in several forms in a wide variety of biblical materials, but neither of these forms represents an exegetical genre on its own. Fishbane (1985:266) confirms 'that there is no distinct exegetical literature or genre to be found in the Hebrew Bible'. Independent exegetical literature is only found outside the Hebrew Bible in books such as Jubilees. In Nehemiah 7:72b-10:40, however, we do find a precursor of exegetical literature as a genre.

Next the way aggadic exegesis is applied in some of the units of Nehemiah 7:72b-10:40 is discussed.

In Nehemiah 8:8, in the first episode, it is stated that the Levites read from the book of *Elohim* 'with interpretation. They gave the sense, so that the people understood the reading' (The Holy Bible: New Revised Standard Version [NRSV], 1989). In this process they used these well-known exegetical procedures⁹ referred to above. Reading out the text explicitly to make its traditional sense readily comprehensible and expounding the recited text, lead to the study of the words of the law on the next day (Nehemiah 8:13-18). They found it written in the law that the people of Israel should live in booths during the festival of the seventh month. In this process the Levitical instructors did not only clarify the plain sense of the laws stated in Leviticus 23:39-42, but also made a harmonistic blend of this Levitical text with Deuteronomy 16:13-15. Engaged in legal exegesis the citation

8. Fishbane (1985:266-267) indicates three types of inner-biblical exegesis: formal lemmatic exegesis, informal lemmatic exegesis and implied lemmatic exegesis.

9. Grabbe (1998:53-54) rejects the idea that 'giving sense' was mere translation into Aramaic. From a practical point of view 'we need not assume that an actual event is being described; rather, we more probably have an idealized picture of a single reading and explanation to all the people at one time' (Grabbe 1998:54). This reading refers to an ideal situation of teaching and explanation as experienced in smaller groups.

in Nehemiah 8:14 (to dwell in booths) is expounded in the proclamation of Nehemiah 8:15 to build booths out of local tree species. They used etymological exegesis of the noun 'booths' to interpret the Torah command to dwell in booths as entailing that one must live in a branched shelter during the festival.

What is striking here for Fishbane (1985:111) is that the cited text that states that they are to dwell (8:14) in booths and the interpreted implementation that they are to build (8:15) booths are described in these verses as 'written' in the *Torah*. The interpreters apparently felt their exegesis to be implied in the written Scriptural passage read on the second day of the seventh month. It was in this way that they 'made (exegetical) sense' of it (Fishbane 1985:111).

In Nehemiah 8:13-16, in the second episode, 'formal lemmatic exegesis' (Fishbane 1985:266) is found. In this lectionary-plus-interpretative mode the text is read and then only a portion of it held to be necessary is explained. It is not an explanation or reinterpretation of the entire passage, but only of the section that requires exegetical comment. This then becomes part of the text. Fishbane (1985:266) refers to this procedure as 'an atomization of its content'.

Another instance of legal exegesis (cf. Fishbane 1985:112) is found in the same second episode in Nehemiah 8:18 ('And day by day, from the first day to the last day, he [=Ezra] read from the book of the law of God') (NRSV). The daily reading of the *Torah* during tabernacles is exegetically inferred from Deuteronomy 31:10-13 ('Every seventh year ... during the festival of booths ... you shall read this law before all Israel in their hearing') (NRSV). Ezra understood the command to read the *Torah* in a distributive sense, that is to read the *Torah* during the whole festival and not just on its opening day. In Nehemiah 8:14 the cited command to dwell in booths during the festival is read distributively. In analogy to exegesis found elsewhere, Deuteronomy 31:10 was interpreted to be a command to read from the Torah day by day. This interpretation was given textual support in the Torah of Moses.

In this second episode intertextuality that is more inclined towards form-critical exegesis than Fishbane's lemmatic exegesis, can be found in the theme of a 'second exodus'. According to Throntveit (1992:99) this theme is furthered by two elements: the reference to those who had returned from the captivity is an allusion to the first 'captivity' in Egypt and the celebration of booths commemorates the time Israel spent in the wilderness.

Nehemiah 9. Acting as a teacher and administrator of the Torah during the Rosh Hashanah of 458 BCE, Ezra set out to show the community who returned from exile how to put themselves apart from the impurities of the local population. According to Fishbane (1985:114) two factors played a role in the tentative evolving self-definition of this community: firstly, ritual ethos based on the Torah and secondly, ritualised ethnicity that rejected those who did not adhere to their specific praxis and modes of purity. The study of Torah depicted in Nehemiah 8 deals with the matter of ethos. Following the exegetical trend in Ezra 9:1-2 to extend the intermarriage laws of Deuteronomy 7:1-3, 6 with those of people mentioned in Deuteronomy 23:4-9, Nehemiah 9¹⁰ also made the expulsion of foreign wives and other foreign elements a priority of his procuratorship in Judaea. His concerns for proper descent indicate the concern for pure ethnicity in the third episode and the next unit (Nehemiah 10:30 and Nehemiah

10. Eskenazi (2001:1.3) remarks that 'the prayer in Nehemiah 9:6-37 is almost entirely a mosaic of allusions to material found elsewhere in the Hebrew Bible'. Newman (1999), referred to by Eskenazi (2001:1.3), classifies the patterns of scripturalisation in Nehemiah into three categories: (1) exact or near exact citation; (2) reuse of a stock or identifiable phrase; (3) a more diffuse allusion. Eskenazi (2001:1.3) remarks that '[s]he points out that only in one place do we find something that qualifies as a direct quotation: vss. 17b and 18 practically quote Exod 34:6 and 32:32b – in this order. The sequence is telling since it is a reverse of what appears in Exodus. Here, God's compassion precedes sin'. Generally speaking, she says, Nehemiah 9 relies on the reuse of phrases or more diffused allusions. She suggests that 'written traditions – and interpretive traditions – have become the means by which the past is recalled' (Newman 1999:61).

13:23-27). The measures first taken in Ezra's time to make a covenant with God to send away all the foreign wives and their children according to the law (Ezra 10:3) were repeated in Nehemiah's time. He continued Ezra's former exegetical practice of citing (Deuteronomy 7:1-3 and 23:4-9) and alluding (Leviticus 18) to existing scripture to exclude Ashdodite, Ammonite and Moabite women from the post-exilic community, prohibiting Judaeans men to marry them (Nehemiah 10:30) (cf. Fishbane 1985:114-123). His formulation of forbidding intermarriage with these women recalls the language used in the Deuteronomic Law (Deuteronomy 7:3) and the Deuteronomistic historiography (Joshua 23:12) (cf. Fishbane 1985:125). Explicating the reference to the daughters of the land (Nehemiah 10:30) to indicate the women of Ashdod, Ammon and Moab in Nehemiah 13:23-24, Nehemiah deliberately refers to Solomon as one who sinned before the Lord by marrying foreign women (Nehemiah 13:26). More than being just a formal and exhortatory reference to 1 Kings 11:1-8, these remarks in Nehemiah 'reflect a more elaborate theological explanation of Solomon's sins than that found in vv. 6-7' of 1 Kings 11 (Fishbane 1985:125). The particulars in 1 Kings 11:1 of the women Solomon married was already a change to the older list of autochthonous Canaanite nations found in Exodus 34:11 and Deuteronomy 7:1. The Deuteronomistic historian replaced that list of seven nations with 'an early post-exilic exegetical expansion of the old Canaanite population roster to include the Ammonites, Moabites, Ammonites, Egyptians and Edomites' (Fishbane 1985:126). Ezra as well as Nehemiah (cf. Nehemiah 13:23-27) inherited and used this older form of legal exegesis to support their separatist programmes.

Nehemiah 9:38-10:40, the final part of the third episode, narrates a compact signed and sealed by the procurator, princes and clerics, and also sworn to by laymen, other clerics and cult personnel. This 'binding agreement' can, according to Throntveit (1992:108), be seen 'as a return to the faithfulness of Abraham and the covenant relationship that his return implied'. It also refers to the (written) Torah (Nehemiah 10:30, 35, 37) and deals with religious issues separately and in relation to economic ones, and includes exegetical features (cf. Fishbane 1985:131 n. 67). There is a pronounced Deuteronomic tone of the Law in this agreement. The general stipulation to which the people bind themselves is strongly Deuteronomic (cf. Throntveit 1992:108). 'Walk in God's law' uses the same type of language as Deuteronomy 8:6 and the expression 'to observe and do all the commandments' reminds one of Deuteronomy 28:15. This pact of Nehemiah 10 was a subsequent ratification and codification of the ad hoc measures discharged by Nehemiah during the course of his procuratorship. It consists of a list of laws formulated in legal terms and can be seen as a legal document. Like Deuteronomy it expanded older legal materials without identifying them by way of citation or any other formal way. Nehemiah 10:32b is presented as part of the compact sworn in Nehemiah 9:38-10:40. It combines the law of sabbatical land release in Exodus 23:11 with release of debt in Deuteronomy 15:1-2. It does not, however, resolve the textual contradiction inherent in these two versions of sabbatical law. According to Fishbane:

Nehemiah 10 is not "merely a source of early Jewish legal exegesis but an exegetical source in its own right". Its laws are not found in the Pentateuch, nor are they Sinaitic. Its laws, being a weaving together of Pentateuchal laws, are rather found in contemporary historiographic narratives such as 2 Chronicles 35:12-13. They are not a comprehensive collection of laws, but rather "a reformulated digest of issues mostly related to Nehemiah's reforms".

(Fishbane 1985:165)

In Nehemiah 10, with its essentially non-lemmatic presentation of official rules, we find a mixture of exegetical types in one text. Here we have the coexistence of normative prescriptions where the one group is derived exegetically while the others are derived (or justified) non-exegetically.

(cf. Fishbane 1985:275)

The use of *Gattungen* in creating *traditio* out of *tradtium*

Aesthetical exegesis consists of more than mere quoting, paraphrasing, alluding to, parodying and forming pastiches. In creating and applying an 'intertexteem' (Claes 1987:10) an author can use existing *Gattungen* as basic patterns to create new compositions. In the process of canon forming, *traditum* can be vindicated in the *traditio* but simultaneously provide an existing thought pattern to formulate new insights applicable to unforeseen circumstances.

Because *Gattung* and *Sitz im Leben* are closely related, a study of the way *Gattungen* are implemented in aesthetical exegesis automatically leads to information on the interlinked polylogic aspect of exegesis. As an all-encompassing process intertextuality does not only include words and the manipulation of words but also the social context in which the process takes place. Studying a *Gattung* as a formal way of ordering words in a composition leads *ipso facto* to identifying the type of circumstances to which that pattern is applicable. Fisk's (2001:127) argument that it is not always possible to pinpoint the exact circumstances of a composition, but that the 'basic social settings' can at least be identified has already been referred to.

In the second episode (Israel's confession in the form of a Historical Review and Penitential Prayer in 9:1-37) two existing *Gattungen* of Historical Review and Penitential Prayer are combined into a new composition. Kvanvig's (2007) paper is quite helpful in this regard. Although Kvanvig's study focuses on the way narratives interact,¹¹ his study also indicates the way in which existing Historical Reviews interact with each other to form a new master narrative.

In the Bible several Historical Reviews are found conceptualising Israel's history in terms of different phases: creation, patriarchs, exodus, journey through the desert, occupation of the land, exile and return to the land. These Reviews are constructed from an ideological perspective which identifies, substantiates and affirms a specific theological perspective on Israel's history (cf. Venter 2004: 703-723). They are part of the author's general ideological construction (cf. Baumgarten 2000:2-3), a crucial component of his ideological foundations (cf. Baumgarten 2000:9). The way in which exactly these or several of these phrases were used as fixed elements of a Historical Review formed a standard pattern and can be viewed as a *Gattung*. This *Gattung* is found in biblical passages such as Deuteronomy 32:1-43, Psalms 78, 105, 106, 135, 136, Ezekiel 20, Ezra 9:6-15 and Daniel 2:1-49, 7:1-28, 9:4-19 and 11:14. Especially the passages in Deuteronomy and Psalms could have played an important intertextual role in the text production of Nehemiah. Nehemiah 9 is the only instance 'in the Hebrew Bible where [all] the basic elements of the early history of Israel are woven together, in the way we are familiar with it from the reading of the Hebrew Bible as a whole' (Kvanvig 2007:6). Here we have 'for the first time ... the basic elements of the biblical image of history woven together in one coherent picture in order to advocate a specific religious identity where the law and the temple play a major role' (Kvanvig 2007:1). There are close parallels to this passage in Psalm 106. In the other passages containing a Historical Review the theme of thanksgiving is used. In the case of both Psalm 106 and Nehemiah 9 the theme of penitence is found, linked to the Historical Review (cf. Fensham 1982:228). The doxology in Psalm 106:1, the reference to God's elected in 106:5, the mentioning of those who are held captive in 106:46 and the plea to be gathered from the nations in 106:47 point to the diaspora and return from exile (cf. Booij 1994:349). Nehemiah 9:32-37 reflects exactly the same situation.

11. He compares the narratives of Nehemiah 7:72b-10:40, the Watcher Story (1 Enoch 1-36) and the Apocalypse of Weeks (1 Enoch 93:1-10 and 91:11-17). His study deals with what I would call post-biblical intertextuality. I am focusing on pre-final biblical intertextuality here, i.e. the process of text production rather than text reception which he deals with.

On the other hand Nehemiah 9's Historical Review is the only one among these Reviews where Sinai and the Law (9:13, 14) are included in Israel's history.¹² In the other Reviews Israel's sin is confessed (Deuteronomy 32:5, 15-18; Psalms 78:8-11, 17-19, 32, 36-37, 41-43, 56-58; 106:6-39; Ezekiel 20:8, 13, 16, 21) in general terms of disobedience and rebellion. Different to them the events of Sinai are included here to link Israel's disobedience directly to the revealed Torah. The historically conceptualised theology in these Reviews confesses God not only in terms of his glorious deeds of salvation through history, but also in terms of the sins of his people and his gracious willingness to forgive them.¹³ Here those sins are explicitly formulated in terms of the Torah and its stipulations. That law was read ceremonially in the previous section and is referred to in this section in terms of Israel's history. This is linked to the ceremonial phenomenon of prayer in this section.

The Historical Review of Nehemiah 9 is presented in the form of a Penitential Prayer.¹⁴ Werline saw this prayer as belonging to the *Gattung* of the Penitential Prayer.¹⁵ This *Gattung* consists of 'a direct address to God in which an individual, a group, or an individual on behalf of a group confesses sins and petitions for forgiveness as an act of repentance' (Werline 2003:3).¹⁶ Boda (1999:30) identified the typical elements of this *Gattung*: doxology, supplication, confession of transgression, covenant, land and law.¹⁷ According to Miller (1994:259) the pattern of these prayers consists of the acknowledgement of transgression; the acceptance of the reality of punishment as well as the reality of God's salvation and righteousness; and acknowledgement of God's right to inflict punishment and his willingness to forgive. Boda (1999:x) concluded that Nehemiah 9 represents a post-exilic Penitential Prayer in which priestly/Ezekielian circles transformed and supplemented the classical Hebrew *Gattung* of the lament, superseding its Deuteronomistic foundation.

The form of the Penitential Prayer was used on purpose¹⁸ because it was the most suitable form available to the author(s) to present Israel's unique theology formulated in both positive and negative terms.¹⁹ Shifting the focus in dirge songs on self-pardoning to confession of guilt (cf. Balentine 1993:116) the

Gattung of the Penitential Prayer enabled the author(s) to express God's mercy not only in terms of what God did for his people in the past, but also in terms of Israel's disobedience and their total demeritorious receiving of God's care throughout history.²⁰ The recital of the Law and this prayer's confession of Israel's sin in the past in terms of that Law would lead to the ceremonial commitment to the Law in the next section of the narrative. The transition is made when the Penitential Prayer turns into a petition for mercy (9:32-37). As in Daniel 9:17-19 God is requested to change their circumstances.²¹ According to the Deuteronomistic scheme of history, change always takes place when Israel repents and they confess their sin. The *Gattungen* of Historical Review and Penitential Prayer already used in the *traditum* is used again in the *traditio*, but now linked to the Law. The confession of Israel's sin all through history serves as the negative antecedent to the positive proposition that God was always merciful in his acts of salvation and was always prepared to forgive his people when they repent.²² This confession has both a positive and a negative aspect, being two sides of the same coin.²³ Confession of sin becomes confession of faith in the Lord. The *Kyrie Eleison* of the prayer becomes a *Gloria in Excelsis* (cf. Venter 1999:557). Miller (1994:257) finds the theological heart of this prayer in the 'juxtaposition of a clear acknowledgement of the justice and rightness of God's judgment with an appeal to the mercy of God.' This dual confession then leads to the ceremonial written agreement to keep the Law. In acting out this agreement their circumstances will change and Israel will find its real identity.

The social dimension of aggadic exegesis in Nehemiah 7:72-10:40

Modes of exegesis are determined by different social and historical settings. External social factors also contributed to the process of upholding *traditum* as *traditio*. The life-context formed an integral part in the exegesis of ancient Israel. The socio-historical context had a direct influence on the strategies followed in advancing *traditum* into *traditio*, but was in turn determined by its specific contents. We therefore need to identify the underlying socio-historical contexts of the different modes of exegesis found in the Hebrew Bible.

As mentioned previously, polylogic exegesis in the form of halakic exegesis is usually found in a social setting of crisis and social-historical dislocation. Fishbane (1985:413) sees the strategy of 'aggadic retrieval and representation of cultural memories' as a 'reformation of memory itself'. According to both Fishbane and Fisk, this type of aggressive response, rewriting 'episodes in the *traditum* to create paradigms for the present, entrench values, organize divine-human relations and portray the consequences of behaviour' (Fisk 2001:129) is found in the work of the Chronicler. The Chronicler used aggadic means for the exegetical transformation and elaboration of earlier sources. His aim was to vivify dimensions of his view of divine providence and historical causality through concrete historical examples (cf. Fishbane 1985:392). For this purpose he used several techniques of aggadic exegesis. Presuming that the books of Ezra and

12. Von Rad (1961:61) points out that the different presentations of the salvation history in the lyric literature (Psalms 78, 105, 135, 136; Exodus 15; 1 Samuel 12:8 and Joshua 24) 'übergehen konsequent die Sinaiepisode' (consistently stayed clear from the episode at Sinai). It was the Yahwist who linked the Sinai tradition to the Festival of the Tabernacles and the Credo of the Land Occupation. The first time we come across the Sinai episode 'als Ereignis der Heilsgeschichte' (Von Rad 1961:61) (as part of the salvation history) is in the post-exilic Psalm 106 and in the prayer of Nehemiah 9. Eskenazi (2001:3.3) agrees that Sinai is mentioned (9:13-14) but points out that it is without reference to the covenant because the Abrahamic covenant suffices and is still intact. Cf. Throntveit (1992:108) who sees the agreement 'as a return to the faithfulness of Abraham'.

13. Gunneweg (1987:126) understands this reference to the stipulations and rules of the law against the background of the purpose of the passage: 'Vor allem das Gesetz hat Israel verstossen, also muss auch mit soviel Worten von dem Gesetz als von Jahwes gnädiger Gabe zum Leben gesprochen werden'.

14. Eskenazi (2001:1.1) remarks that 'the prayer has eluded for a long time the kind of thorough analysis it deserves. The complex issues surrounding the prayer's intertextuality probably account for the neglect'.

15. Eskenazi (2001:2.7) finds the usual genre identification only partially helpful. She believes that the specific way the characters are distributed throughout the prayer has not received adequate scholarly attention. 'A closer examination shows that one of the prayer's most striking aspects is that its major part, the historical retrospective, most fully describes the transgressions of previous generations, with very little connection to the community that now addresses God'.

16. These prayers were based on the contents of Deuteronomy 4 and 30. It became a widely accepted religious institution by the close of the Persian period. The prayers' Deuteronomic centres were preserved, but the language and contents of the prayers were changed according to changing historical situations and religious needs (cf. Werline 1998:65). As part of 'a larger interpretive enterprise' (Werline 1998:64) older traditional and formulaic phrases were used again, giving them new literary, social or historical contexts and therefore new force in meaning. Cf. also Venter 2005:406-407.

17. Cf. Venter 1999:553-559 for a discussion of these elements.

18. Mathys (1994:4) calls Nehemiah 9 a 'systematische, durchkomponierte Gebet'.

19. Mathys (1994:18-9) is of the opinion that a new definition was given to the concept of guilt influenced by the Servant Songs of Isaiah.

20. Throntveit (1992:106) calls it a 'doxology of judgment'.

21. Eskenazi (2001:2.19) points out that '[t]he prayer thus diverges from the other confessions of penitence. It recites transgressions of earlier generations to account for how the plight came about. But it puts a definite distance between those earlier generations of sinners for whom God did so much and the community now in distress ... [O]ne must note the rarity of this confession and its general rather than specific sense, in sharp contrast to the repeated inclusion of the first person plural throughout the entirety of the two most comparable prayers of Daniel 9 and Ezra 9'.

22. By using the Hebrew term *sdq* (God's righteousness) the blame of the sinner is linked with the blamelessness of the divine judge (cf. Miller 1994:252). The one is articulated in terms of the other. Balentine (1993:104) remarks: '[T]he theme of penitence attains clarity by being contrasted to a governing emphasis on God's sovereignty, mercy and justice'. Cf. also Venter 1999:557.

23. As an alternative opinion to that of Japhet and Williamson that Ezra-Nehemiah is not part of the work of the Chronicler, the narrative of Ezra-Nehemiah can be viewed as the product of members of a Chronicler school. Cf. Venter 1995:720-731.

Nehemiah are related in one way or another to the Chronicler the next step will be to investigate the occurrence of socially inclined polylogic exegesis in the narrative unit of Nehemiah 7:72b-10:40

In some cases, like the narratives of Ezra-Nehemiah, the temple-centred ideology and the background of social and political rivalries can be deduced from the text. According to Fishbane (1985:268), 'the evidence from the Books of Ezra and Nehemiah is most conducive to a full analysis. Here a full spectrum of exegetical activities are described with some social-historical precision'. This is, however, not the whole truth. Much of the information needed to understand Ezra-Nehemiah is still outstanding. Texts generally do not indicate precisely their *Sitz im Leben* and we therefore have to turn to theoretical inferences from facts available to us. Fisk (2001:127) refers to 'general patterns of interaction between exegesis and social context' when sufficient information on the historical context is absent. Typologically we can deduct from identified main modes of exegesis several scenarios in which exegesis took place, for example in scribal schools and prophetic circles. Fishbane (1985:408-409) also indicates three basic motivating social settings (or 'historical exigencies') for re-reading of the text: either alienation, textual obsolescence or social-historical dislocation.

In terms of Fisk's quadrant model the gravitational pull in Nehemiah 7:72b-10:40 is in the direction of the *traditio* transforming the *traditum* by dynamic innovation. The polylogic exegesis in this passage belongs to a basic social setting in a time of crisis and social-historical dislocation. It aggressively retrieved and represented cultural memories, reforming memory itself (cf. Fishbane 1985:413). It revised history, created paradigms for the present, entrenched values, organised divine-human relations and portrayed the consequences of behaviour (cf. Fisk 2001:129).

Fishbane (1985:7) points out that this process of extending *traditum* into *traditio* as a way of tradition-building was simultaneously a process of *Gemeindebildung*. The process does not only contribute to building out an increasing authoritative and valued anthology of traditions, but also to enhancing a sense of national identity. Throntveit (1992:100) indicates that the aim with the prayer-plus-Historical Review in Nehemiah 9 is 'to represent the pattern of Israel's traditional story as that of the restoration community' The purpose of identifying present Israel with their forebears in the past was 'to motivate the people into making the proper response so woefully lacking in the historical survey' (Throntveit 1992:106).²⁴ Eskenazi (2001:2.6) remarks: 'Like all public liturgy, such a recital aims at community building by cementing a common story and identity.' It presents a theology simultaneously accounting for the present circumstance and advancing faith in God. It even changes the situation 'by galvanizing the community' (Eskenazi 2001:3.6).

Kvanvig (2007:8) uses Najman's²⁵ term 'Mosaic discourse' to describe the intertextuality of Nehemiah 7:72b-10:40. He indicates that intertextual reading and reinterpretation of the Torah forms part of a continuing Mosaic discourse.²⁶ The Mosaic Torah with its openness towards new interpretations

24. According to Eskenazi (2001:4.1) there is a thin line here between asserting continuity and newness. What happens in Nehemiah 9 is that a relation is established with the ancestors but a new model for the relation with God is created simultaneously. This trend of disassociating with the past but simultaneously creating a basis for continuity is found all through the Ezra-Nehemiah narrative (cf. Eskenazi 2001:4.3).

25. He refers to H. Najman's 2003-publication 'Seconding Sinai, The Development of Mosaic Discourse in Second Temple Judaism' in *JSJS* 77.

26. In Morton Smith's (1987:96-112) social analysis of the time of Nehemiah (5th century BCE) he describes Nehemiah as a tyrant under whose leadership the Yahweh-alone party triumphed over the assimilationists. The Levites were raised to a leading role, and the Judaeans were made into a peculiar people: 'marked off from those of neighbouring districts by exclusive devotion to Yahweh, limitation of their sacrifices to Jerusalem, peculiar customs (the observance of Sabbath), an attitude of hostility and a tradition of self-segregation' (Smith 1987:110). Boccaccini (2002:72) sees 'Zadokite Judaism' as the predominant form of Judaism up to the Maccabean Revolt. The Zadokite world view stood in opposition to other groups like the Samaritans, the Tobiads and the prophets. Ezra-Nehemiah was a product of this Zadokite Judaism (cf. Boccaccini 2002:xii).

stimulated parallel forms of the *traditio*, all deriving authority from that Torah and lending authority to it (cf. Kvanvig 2007:8). Fishbane (1985:18) refers to Israel being sent on its course by the 'transformative revelations' of the Torah. The text of Nehemiah 7:72b-10:40 brings together in one coherent master narrative indications of what it means to be true Israel. This viewpoint is 'at interplay with what grew to a dominant discourse in second temple Judaism, resulting in the formation of the core parts of the Hebrew Bible' (Kvanvig 2007:9). In this regard Fishbane (1985:268) remarks that '[t]he counter-exegesis of the opposite group is naturally not recorded in these historical documents which preserve and promote the vested religious interests of Ezra's party'. The narrative of Nehemiah 7:72b-10:40, however, encompasses the most dominant features in this tradition, indicating the typical identity marks of what were conceived as orthodox piety in a segment of the society. It spells out the new identity of the true people of God, competing with contemporary other views of the true religious identity of Israel.

Simultaneously this re-application of Torah *traditum* contributed to the forming of the canon. The purpose of this study is to indicate that intertextuality in all of its different forms was an integral part of canonisation. I can find no better words than those of Fishbane to summarise the argument of this paper:

The final process of canonformation, which meant the solidification of the biblical traditum and the onset of the post-biblical traditio, was thus a culmination of several related processes. Each transmission of received traditions utilized materials which were or became authoritative in this very process; and each interpretation and explication was made in the context of an authoritative traditum. Further, each solidification of the traditum was the canon in process of its formation; and each stage of canon formation was a new achievement in Gemeindebildung, in the formation of an integrated book-centred culture.

(Fishbane 1985:18)

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