

The Lex Talionis in the Hebrew Bible and the Jewish Tradition

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The expression “lex talionis” comes from the first compilation of the Roman law, written in 450 BC and known as the Twelve Tables and written: “If a man has broken the limb of another man, unless he makes his peace with him, there shall be like for like, talio esto.”¹ Jan Rothkamm, analyzing different legal documents of the Ancient Near East sorts three kinds of retaliation that pattern the logic of the lex talionis, that is to say, based on a substantial restitution. The first is restitution in kind for someone’s property that someone else has damaged. To Rothkamm, this is a civil talio. The second is an identic and equivalent retaliation that affects a bodily part of the perpetrator who has bodily harmed his victim. To Rothkamm this is a criminal talio. Finally, there is what he calls the vicarious talio, which consists in harming or killing a relative of the perpetrator because the latter has harmed or killed someone’s relative. This solution is obviously violent and unfair since it ends up harming an innocent who is strange to the conflict.²

¹ *The Twelve Tables*, VIII, 2. Andrew Stephenson, Ph.D., *A History of Roman law, With a Commentary on the Institutes of Gaius and Justinian* (Boston: Little, Brown, and Company, 1912), 132.

² Jan Rothkamm excludes from the scope of the talio four kinds of retaliation. The first one is monetary compensation because in this case the money takes the place of the actual prejudice and therefore the retaliation is not substantial. The second one is the death penalty. In this case, the protagonists are killed and their persons to whom justice is done disappear in the process. The third one is the penalty that affects the body limb that perpetrates the crime. In case of a robbery, the thief’s hand is cut. In such a case, there is not substantial compensation but a severe punishment. Finally, to Rothkamm, the talio of premeditation is not a talio because the culprit has not fulfilled his criminal plan. This case corresponds to what is described in Dt 19, 19 for the false witness: “You shall do to the false witness just as that false witness planned to do to the other. Thus shall you purge the evil from your midst.” Jan Rothkamm, *Talio Esto: Recherches sur les origines de la formule ‘oeil pour oeil, dent pour dent’ dans les droits du Proche-Orient ancien, et sur son devenir dans le monde Greco-romain* (Boston: de Gruyter, 2011), xvi-xvii. However, like the most important writers on the lex talionis, I will consider the talio of the premeditation as a true talio because ultimately it conveys the spirit of the lex talionis.

The very first place many have heard about the principle of retaliation is the New Testament and precisely in the Gospel of Mathew: “You have heard that it was said, ‘An eye for an eye and a tooth for a tooth.’ But I say to you, offer no resistance to one who is evil. When someone strikes you on [your] right cheek, turn the other one to him as well.” (Mt 5:38-39) These verses are part of the Sermon on the Mount, where Matthew presents Jesus as a new Legislator as great as Moses or even greater since laws he makes are of a higher ethical standard. Therefore, the former norms, such as the dispositions of Exodus 21:22-25,³ become obsolete and irrelevant for Jesus’ disciples. The passage of Exodus is not the unique prescription in the Hebrew Bible that commends the application of the law of retaliation. In case of a false witness, the book of Deuteronomy states likewise.⁴ The book of Leviticus also prescribes the law of retaliation in cases related to injuries.⁵

This repeated prescription of the same principle of retaliation in the Pentateuch is remarkable even more when one realizes that the different books referred to above belong to different centuries. The book of Exodus is identified as mainly written in the 8th century BCE.⁶ The book of Deuteronomy dates back to the 7th century BCE, during a period of relative prosperity of Israel and state centralization.⁷ The book of Leviticus goes back to the period after

³ “When men have a fight and hurt a pregnant woman, so that she suffers a miscarriage, but no further injury, the guilty one shall be fined as much as the woman’s husband demands of him, and he shall pay in the presence of the judges. But if injury ensues, you shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stripe for stripe.”

⁴ “You shall do to the false witness just as that false witness planned to do to the other. Thus shall you purge the evil from your midst. The rest shall hear and be afraid, and never again do such an evil thing as this in your midst. Do not show pity. Life for life, eye for eye, tooth for tooth, hand for hand, and foot for foot!” (Dt 19:19-21)

⁵ “Whoever takes the life of any human being shall be put to death; whoever takes the life of an animal shall make restitution of another animal, life for a life. Anyone who inflicts a permanent injury on his or her neighbor shall receive the same in return: fracture for fracture, eye for eye, tooth for tooth. The same injury that one gives another shall be inflicted in return. Whoever takes the life of an animal shall make restitution, but whoever takes a human life shall be put to death.” (Lev 24: 17-21)

⁶ Jean-Louis SKA, *Introduction à la lecture du Pentateuque, Clés pour l’interprétation des cinq premiers livres de la Bible* (Bruxelles: Editions Lessius, 2000), 269.

⁷ Ibid.

the Exile (582/581), a time when Israel as a diaspora learnt from other cultures and gained experience more universality.⁸ The fact that, at least apparently, the talionic formula has survived through all the adventures of Israel makes it worthy of interest. Its survival and recurrence on one hand and on the other hand the reference made by Jesus has compelled me to question its actual implementation. Did the Jewish people really execute the *lex talionis* as a law of the land or was it a maxim of general justice and fairness? In other words, was the principle of retaliation a myth or a reality in Israel?

This question is neither new nor insensible. The reality of the principle of retaliation in the Hebrew Bible has fueled some anti-Semitism and forced some scholars and religious leaders to intervene in the debate.

In Hebrew legislation there is no cutting out of tongue, burning of breasts, shattering of limbs, or similar atrocities of the *lex talionis*, found in other ancient penal codes. However, there are some texts in the Pentateuch, which are often quoted as evidence that the primitive law of retaliation was not unknown to Israel. They are even used for denigrating purposes by haters of Jews and Judaism. We are referring to the well-known law "an eye for an eye."⁹

⁸ Ibid., 269-270.

⁹ J. K. Mikliszanski, "The Law of Retaliation and the Pentateuch," *Journal of Biblical Literature* 66.3 (1947): 295. Eugene J. Fisher has written an article as an Executive Secretary, Secretariat for Catholic-Jewish Relations National Conference of Catholic Bishops, Washington, DC), where he contributes to calm down the prejudice: "Talion in the Hebrew Scriptures, then, is not applied literally as a law of retribution. Rather, it is appealed to in certain rare or extreme cases where the biblical author feels the need to give added force to a judgment, which might be deemed harsh by the community. Or it evoked in an extended, moral sense as a general principle of moral equivalency." Eugene J. Fisher, "Lex Talionis in the Bible and Rabbinic Tradition," *Journal of Ecumenical Studies* (Summer 1982): 585. In the preface to the Twelve Tables, there is reference to the Jewish people at the time of the Deuteronomy that echoes this prejudice: "Cicero speaks in terms of highest praise of them and Livy calls them "the fountain of the whole law both public and private," and yet they are in many instances both rude and barbarous, revealing the fact that the Roman people, at the time of their enactment, were but half civilized; in pretty much the same condition as were the Jews at the time of the enactment or codification of Deuteronomy." Andrew Stephenson, Ph.D., *A History of Roman law*, 123.

To Raphaël Draï, the prejudice of the attribution of the *lex talionis* to the Hebrew Bible is incommensurable to Israel. "Deux mythes ont contribué depuis presque deux mille ans à défigurer la pensée juive, à présenter une image dénaturée du droit hébraïque et à mettre en danger l'existence du peuple d'Israël: le mythe du deicide, de l'assassinat du Fils de Dieu, et celui de la "loi du talion" sous sa formulation violente: "oeil pour oeil, dent pour dent" attribuée au "Dieu Vengeur de l'Ancien Testament". Raphaël Draï, *Le Mythe de la loi du Talion* (Aix-en-Provence: Alinea, 1991), 11.

However, the debate is not over. In his recent book, Jan Rothkamm writes that there is not a philological argument that may support the interpretation of the *lex talionis* as meaning financial compensation and not actual retaliation.¹⁰ Many scholars with different backgrounds and in different languages wrote on the topic but more often did not draw profit from one another's views beyond review of literature. In this paper, I present three interpretations of the *lex talionis* as found in the Hebrew Bible, namely the literalist reading, the later edition and the monetary compensation. Then I argue that the principle of "eye for eye and tooth for tooth" could have not been implemented literally but was a claim for justice and equity that took different forms of compensation.

I. A Literalist Reading

Proponents of the literalist reading redeem the passages of the principle of retaliation as a true principle of justice and even more as an advanced level of civilization when compared with mob justice and the culture of vendetta, which one can track even in the Bible. In that perspective, there is a narrative in Genesis worth reading. Shechem, son of Hamor had apparently raped Dinah, Jacob's daughter. To revenge this rape, Jacob and his sons consented to give Dinah in marriage to Shechem if he and the men would agree to circumcise. When those latter did, the sons of Jacob perpetrated a true vendetta:

On the third day, while they were still in pain, two of Jacob's sons, Simeon and Levi, brothers of Dinah, each took his sword, advanced against the unsuspecting city and massacred all the males. After they had killed Hamor and his son Shechem with the sword, they took Dinah from Shechem's house and left. Then the other sons of Jacob followed up the slaughter and sacked the city because their sister had been defiled. They took their sheep, cattle and donkeys, whatever was in the city and in the surrounding country. They carried off all their wealth, their children, and their women, and looted whatever was in the houses. (Gn 34, 25-29)

If compared to this blood feud, one can see not only the limitation of the violence but also

¹⁰ Rothkamm, *Talio Esto*, 88.

the fairness of the retaliation that the lex talionis brings. Another dynamic substantiates the idea of progress of civilization that comes with the lex talionis. Martin Rose, a Swiss Biblical scholar observed that the three talionic formulae are not mere repetition but they are witnesses of the gradual refinement of the social conscience in Israel. In Exodus, the principle of retaliation protects the unborn and recognizes that a formed embryo is already a life, worthy to be compensated by another life, if destructed.¹¹ The Book of the Deuteronomy makes another progress if compared with Exodus. In the 7th century, lawmakers protected another aspect of human personality: the reputation of the victim in case of false witness. Lawmakers somehow anticipated harm that could affect a victim of machination like in the case of Susanna (Dn 13, 62) and started punishing the criminal intent. In the Leviticus, there is another shift that signals another legal refinement. The person who can profit from the implementation of the lex talionis is not only the Jew free man but also anyone. The extension of the scope of protection of the law is made manifest by the word used in the verse 17 of the Leviticus 24: “adam” that is to say, “any human being”. In this perspective, David Werner Amram is also unambiguous: “There was a time in the history of the Jewish law when injuries to the person were punished by retaliation.” Only later, compensation supplanted retaliation.¹²

David Daube nuances his literalist reading. To him, the lex talionis has received a literal implementation even not at the biblical times, at least before. To him, lawmakers in Israel literally copied foreign laws but influenced their application with the spirit of Israel: “When the

¹¹ Martine Rose uses a translation in which the victim of the men fighting could be either the woman or the fetus. Martin Rose, *Ibid.* 394. Such a translation is close of or inspired by the interpretation of the Septuagint and that Isser Standley reports: “But a different understanding of Exod 21: 22-23 is represented by the LXX version of this passage: “If two men fight and strike a pregnant woman, and her unformed embryo departs, he shall be fined; according as the woman’s husband lays upon (him) he shall give according to that which is thought fit. But if it be formed, he shall give a life for a life” Stanley Isser, “The law of Ex 21, 22-23 revisited,” *The Catholic Biblical Quarterly* 52.1 (1990): 31.

¹² David Werner Amram, “Retaliation and Compensation,” *The Jewish Quarterly Review* 2.2 (1911): 191.

biblical authors wrote their laws, they had the Near Eastern codes before them, and they attempted to progressively humanize the savagery of the primitive custom of punishment, that is, corporal mutilation for bodily assault.”¹³ The law he refers to may be the Code Hammurabi that explicitly contains retaliatory provisions affecting bodily parts:

196. If a man destroys the eye of a man (gentleman), they shall destroy his eye.

197. If one breaks a man’s bone, they shall break his bone.¹⁴

This contact between legal cultures is interesting and probably effective but one has to pay attention not to fall into anachronism and apply to ancient texts mechanism of codification of modern codes.

Overall, the literalist reading is not unintelligent. The consequences it derives are consistent with legal anthropologists who observe that law mirrors the society it regulates. The observation is even more obvious when one considers laws regarding human rights. Their history signals a gradual refinement that comes with the refinement of people’s sense of human dignity. Therefore, Philo of Alexandria could claim the literal application of the *lex talionis* with pride and praise it as the Jewish sense of fairness and justice:

The legislators deserve censure who prescribe for malefactors punishments which do not resemble the crime, such as monetary fines for assaults, disfranchisement for wounding or maiming another, expulsion from the country and perpetual banishment for willful murder or imprisonment for theft. For inequality and unevenness is repugnant to the commonwealth which pursues truth. Our law exhorts us to equality when it ordains that the penalties inflicted on offenders should correspond to their actions, that their property should suffer if the wrongdoing affected their neighbour’s property, and their bodies if the offence was a bodily injury, the penalty being determined according to the limb, part or sense affected, while if his malice extended to taking another’s life his own life should be the forfeit. For to tolerate a system in which the crime and the punishment do not correspond, have no common ground and belong to different categories, is to subvert rather than uphold legality.¹⁵

¹³ David Daube, *Studies in Biblical Law* (New York, Ktav Pub. House, 1969), 130.

¹⁴ Percy Handcock, MA, *The Code of Hammurabi* (New York: McMillan Company, 1920), 33.

¹⁵ Philo, *On the Decalogue: On the Special Laws*, Books 3.181-83, translated by F. H. Colson, Loeb Classical Library 320 (Cambridge, MA: Harvard University Press, 1937), 589, 591.

Around the 2nd and the 3rd century CE, a literalist reading was signaled among the rabbis. First, some think that the Sadducees defended a strict application of the *lex talionis* while the Pharisees understood the talionic formula as referring to monetary compensation.¹⁶ Rabbi Eliezer is mentioned in the Babylonian Talmud as an important proponent of a literalist application.¹⁷ The importance of the arguments brought by those who defended the opposite thesis led some authors to suspect that the principle of retaliation was literally applied.

The order may indicate nothing more than the fact that R. Eliezer's interpretation was an exception that needed to be overthrown but much more likely is that it reflects an all out effort to overturn a viable view - a view that was more widely held or perhaps predominately held in an earlier era. If not, why make such a big issue over it? The complexity, length, effort of point-counterpoint argumentation, and the dates of cited authorities strongly point in this direction.¹⁸

Related to the importance of the debate around the first century James Davis considers a possible influence of the Roman law on the rabbis' interpretation of their own texts. In other words, some Rabbis read the Bible with Roman lenses and therefore tended to support a literal implementation of the *lex talionis*. This opinion is not worthless if one takes into account that law, as a cultural component, moves and is affected by other cultures. In colonial times, it is not

¹⁶ "The use of the archaic stereotype [eye for eye], however, still requires explanation. It was intended, as already indicated, to express the horror of Scripture at the deed; and to suggest that morally, though not judicially, the talio ought to be invoked. This was clearly the interpretation put on the passage by the Shammaite Pharisees. We know that R. Eliezer, who imposed the talio for willful injury to a person's limb, recognized the propriety of monetary ransom for unintentional injury, like that described in this passage [Exod 21.22ff]. His views may have been shared by the Sadducean judges. However, R. Eliezer's view that willful injury to a person's body may be punished by the talio was challenged by his colleagues. Presumably he reflected the attitude of the School of Shammai, they that of the School of Hillel." Louis Finkelstein, *The Pharisees: The Sociological Background of their Faith*, vol. 2 (Philadelphia: Jewish Publication Society of America 1938), 722.

¹⁷ "In regard to Eliezer's hermeneutic, Gilat summarizes R. Eliezer's general mode of interpretation, which fits well with his literal interpretation of the *lex talionis*, 'R. Eliezer usually explains biblical passages according to their simple meaning. This method serves as his criterion for the clarification of the *halakha* [Jewish positive law] and as the basis for his decision. On the other hand, he was opposed to a pedantic inspection of the language and form of the passages, which while pretending to be simple interpretation, actually curtailed the extent of the *halakha* and its meanings.'" James F. Davis, *Lex Talionis in Early Judaism and the Exhortation of Jesus in Matthew 5.38-42* (New York: T and T Clark International, 2005), 96.

¹⁸ *Ibid.*, 92. This argument is somehow weak. The same kind of argument can be used to substantiate the opposite opinion: "In our opinion, however, the recorded incident proves the contrary. Why should the Amoraim have been amazed at R. Eliezer's divergent point of view if from time immemorial the unanimous opinion had not been that in regard to "eye-for-eye" the law should be understood in terms of adequate monetary compensation?" Miklitzanski, "The Law of Retaliation and the Pentateuch," 302.

surprising that the law of the colonizer affects colonized peoples' documents and their interpretation.

It is also plausible that at a minimum the Roman *lex talionis* was exerting influence and pressure on views and practices in first century AD Palestine. It is also plausible that it was exerting more influence on the Jewish factions such as the Sadducees and the aristocratic classes who maintained considerable power and wealth during the time of Roman rule and some interest in keeping the laws stringent and the status quo maintained.¹⁹

Overall, proponents of the literalist reading value the content of the *lex talionis* as worth and fair. They take into account the contact of cultures and consider the law of retaliation as a dynamic provision signaling the refinement of the Jewish society. In the first century, the principle of literal application of the *lex talionis* was still under discussion even if its defenders have become a minority. Another category of hermeneutists argues another position, that the law of retaliation is rather a later edition and a ritual prescription.

II. Later Addition and Ritual Purpose

The second interpretation of the principle of retaliation is based on an attentive reading of the different passages and the consequent conclusion that the *lex talionis* does not belong to the original draft of the different codes.²⁰ It is an addendum from a late edition. To Kugelmass Harvey, the *lex talionis* does not even belong to the legal arena. In his doctoral dissertation, he argues that the Priestly tradition is responsible for that edition and made it for a religious and a

¹⁹ Davis, *Lex Talionis*, 97. Such an influence is perceptible in the writings of Josephus, who seems to read the Hebrew texts with Roman lenses: "He that has maimed another, shall meet with the same fate, forfeiting the like member, unless the person maimed choses rather to take money; the law empowering the injured person to make an estimate of the damage sustained by the accident, and permitting him to do this, except he has a mind to be more cruel." Flavius Josephus, *The Genuine and Complete Works of Flavius Josephus, The Celebrated Warlike, Learned and Authentic Jewish Historian* (London: Printed for J. Cooke, No. 17), 90.

²⁰ In the Hebrew Bible, the *lex talionis* is a component of codes; the code of the covenant (Ex 20:22-23:19.), the Deuteronomic code (Dt 12-26) and code of holiness (Lev 17-26).

ritual purpose.²¹

The proponents²² of the later edition see a cut-off point between the lex talionis and the rest of the writing piece in which it locates. In the case of the Exodus, the detail of the principle of retaliation is not consistent with the narrative that aims to protect the pregnant woman from fighting men. The lex talionis specifies different cases of harm: harm affecting life, an eye, a tooth, a foot, or a case of burn, a wound and a strip. If the narrative really regards men who were fighting and who hurt by accident a pregnant woman, we can hardly see how a burn can be here applicable. Eugene Fisher makes the same observation: “Obviously burns and stripes are not at issue here, yet the author of Ex. 21 repeats the whole saying as it was handed down in oral tradition. The saying thus appears to have been utilized more for its general impact on the reader²³ than as a precise ruling in the case.”²⁴

The case of Deuteronomy can be exposed to the same critique. To understand it consistently with the narrative the reader should imagine that the false witness accused the victim of a crime for which the penalty is to lose an eye or a hand or a foot or to be put to death. The Hebrew Bible usually does not prescribe penalty, which consists of maiming the perpetrators.²⁵

²¹ Harvey J. Kugelmas, *Lex Talionis in the Old Testament* (Ph.D. diss. Université de Montreal, 1981), 35.

²² Assnat Bartor, *Reading law as narrative, a study in the casuistic laws of the Pentateuch*, Atlanta, Society of Biblical Literature, 2010. Besides Bartor, there are also Dale Patrick, Nahum Sarna, Bernard Jackson and David P. Wright who argues convincingly: “In any case, the delineation of other talion penalties in vv. 24-25 “an eye for eye, tooth for tooth, arm for arm, leg for leg, burn for burn, injury for injury, wound for wound” is almost universally viewed as secondary to the miscarriage law. The style of these verses deviates from casuistic law, and they include injuries that go beyond the context of injury to a pregnant woman or her child. In addition, some argue that these two verses did not arise on the same level.” Miscarriage and Talion in Exodus 21:22-27, accessed November 28, 2012, <http://www.biblicallaw.net/2007/wright.pdf>.

²³ Jan Rothkamm thinks that the fact the number of cases specified are seven is not trivial. To him, the editor wanted to underline the importance of the lex talionis. Rothkamm, *Talio Esto*, 61.

²⁴ Eugene J. Fisher, “Lex Talionis in the Bible and Rabbinic Tradition,” *Journal of Ecumenical Studies* (Summer 1982): 583.

²⁵ Nahum Sarna makes a similar observation: “Since, with the singular exception of Deuteronomy 25:12, mutilation is not a penalty in biblical law, the entire list, other than “life for life,” is again irrelevant.” Nahum M. Sarna, *The JPS Torah Commentary: Exodus* (New York: The Jewish Publication Society, 1991), 126.

The lex talionis seems to have been added as conclusion at the end of the chapter 19 even more because in the case the reader drops it, the meaning of the paragraph is not affected. The formula of the lex talionis in verse 21 is not necessary to the passage Dt 19: 16-20.

The case of the book of Leviticus is interesting because the passage is built in a mirror with the intention to obviously stress the formula: fracture for fracture, eye for eye, tooth for tooth. The verses 17 to 21 seem to be a unit and have been written purposefully and may be placed as such at the end of the chapter 17.

- A. 17. Whoever takes the life of any human being shall be put to death
 - B. 18. Whoever takes the life of an animal shall make restitution of another animal, life for a life.
 - C. 19. Anyone who inflicts a permanent injury on his or her neighbor shall receive the same in return:
 - D 20- a. Fracture for fracture, eye for eye, tooth for tooth.
 - C' 20-b. The same injury that one gives another shall be inflicted in return.
- B.' 21-a Whoever takes the life of an animal shall make restitution,
- A' 21-b but whoever takes a human life shall be put to death.

Harvey Kugelmass is one of the proponents of the later edition. Besides, he suggested the identity of the editor and the reason of such edition. His thesis is that the talionic formula is not a legal disposition either for civil compensation or for reparation of a criminal offense but a religious prescription that can only be understood in the theology of the Priestly editor who inserted it in the Pentateuch. This theology is that, for a man to worship God, he should be pure. This purity is physical and moral. In other words, the man who approaches God should be physically whole and morally blameless. Therefore if a man is permanently injured, he loses the

capacity to worship because he becomes impure. Such incapacity leads to his death because the incapacity to worship equates to an impossibility to live on earth. In the theology of the Priestly tradition, indeed, the whole earth is the divine habitation. The impure person should be put to death as unworthy to live on earth. This death is avenged, however, because the author of the injury should also be put to death. This retaliation is ultimately the meaning of the talionic formula: life for life. To Kugelmann, Gen 9:6 is the core and the meaning of the *lex talionis* as it appears in the Hebrew Bible: “Anyone who sheds the blood of a human being, by a human being shall that one’s blood be shed; For in the image of God have human beings been made.”

This conclusion requires a complementary explanation. According to Kugelmann the theology of the priesthood identifies the blood to life. This identification is the reason why God’s people were not allowed to eat the blood of animals.²⁶ Whether it is an animal’s blood or a blood of a human being, the blood represents life and life ultimately belongs to God. Once someone’s blood is shed, the offender should pay with his own life since his victim becomes ritually impure and socially unwanted.

Moral failure also affects ritual purity.²⁷ This is the case with of blasphemy but also with false witness. In Kugelmann’s interpretation, the false witness had to suffer the penalty that he intended to inflict on his victim because his deadly thoughts have soiled his person and the soiled

²⁶ Gen 9:4, Lev 7:26-27, Lev 17:4, Dt 19:16.

²⁷ *Ibid.*, 201. “For this P [priestly] editor, concerned as he was with the knowledge that the return to the homeland would require that the land be free of contamination, the crime committed by the violent witness would not be viewed only as an attack upon the judicial rights of the accused, but at the same time as a violent attack upon his moral integrity, leaving him a permanent moral damage, one that could be just as permanent as the resulting from a violent physical assault which leaves the victim with a permanent physical scar or blemish.”

of the country,²⁸ which is God's residency and as such, a sacred place. Kugelmass recalls the "purge formula" of Dt 19:19 as a support of this interpretation.²⁹

This background helps, according to Kugelmass, to understand that the principle of retaliation cannot be understood literally since Israel could not accept maiming people as a matter of reparation or compensation. What is really at stake in this principle is the respect of the human being, who is the image of God.³⁰ To him, the talionic formula should therefore be summarized to its first line, "life for life" since the other specifications are but a linguistic way to say the same thing by using other words.³¹ This style of insistence is not uncommon in the Bible. For instance the Psalmist mentions different body limbs to refer to his actual life: "You have saved me from death/My eyes from tearing/My feet from stumbling." (Ps 116:8)

I would like to point three limits of Kugelmass reading. First, his distinction between law and ritual is probably anachronistic and reflects more contemporaneous legal categories that would be unknown in the Ancient Near East. The king was also priest and judge. Even more, if a ritual impurity can become a matter of penalty, it means that the religious rule takes a legal form of implementation. A second limitation is that Kugelmass acknowledged but did not integrate enough the legal culture, which surrounded Israel. In his interpretation of the law of retaliation, Kugelmass ends up isolating Israel as a unique society without any relationships and influence with its neighbors. Finally, Kugelmass' interpretation of the principle of retaliation in the Deuteronomy and through which he discards a possible literal application of the principle is

²⁸ To Kugelmass, the contamination of the land is confirmed by the commandment of the verse 19 to purge it by getting rid the evil from the midst of the people. Ibid. 196.

²⁹ "You shall do to the false witness just as that false witness planned to do to the other. Thus shall you purge the evil from your midst." (Dt 19:19)

³⁰ Ibid., 206.

³¹ Ibid., 204. "In other words, the only portion of the lex talionis in Dt 19:21 that can be said to possess a legitimate validity is the term life for life. It follows that the remainder of the formula, consisting of the bodily parts arranged in talionic style, eye for eye, tooth for tooth, hand for hand, foot for foot, is not discussing retaliatory corporal punishment for physical assault since they do not participate in the crime nor do they form part of the punishment."

partial. He takes only the case where the false witness aimed to the murder of his victim. What if the accusation entails a less severe penalty than a capital punishment as the last verse implies? In conclusion, Kugelmass unexpectedly includes also some legal consequences of the talionic formula as far as restitution of goods is concerned.

This means that the talionic definition of the x/x formula that when a man's movable property has been damaged or destroyed, it must be restored to its original condition by means of an equivalent qualitative and quantitative restitution, is retained in the *lex talionis* of the Old Testament, except that in the case of assault, the owner of the property is not man but God Himself.³²

This partial recognition of the legal dimension of the talionic formula undermines Kugelmass' thesis but supports the argument of those who understand the law of retaliation as a formula of monetary compensation.

III. A Formula of Compensation

Finally, there are those who think that the *lex talionis* means financial compensation. They argue twofold. First, they contest the translation in modern languages of the *lex talionis* and also refer to the later Jewish legal tradition as an authoritative source.

To Raphael Draï, a French legal scholar expert in Jewish law, translators made a mistake when they translate "ain tah'at ain" into "eye for eye". To him, "tah'at" does not mean "for" but "under, at the place of, in lieu of." As such, it is not correct to identify the principle "eye for eye" read in the Bible to similar formulas found in the Ancient Near East or what would appear much later in the Roman Law. To substantiate his argument, Draï refers to Ex 21: 27 where the same "tah'at" is rather translated "in compensation of": "If he knocks out a tooth of his male or female slave, he shall let the slave go free in compensation for the tooth."

The contribution of Raymond Westbrook concerns also the translation of the *lex talionis*.

³² Ibid., 207.

To him, the talionic formula is an idiomatic expression that used to refer to monetary compensation. There was no need to mention the sum because judges had accurate cues in customary law. If understood as commending a financial compensation, the rest of the formula makes sense.

Once the expression “give a life” is understood as the payment of a set sum at which a person’s life is valued, then the continuation of the phrase in V. 29 “instead of a life” (tht nfs) causes no difficulty. It merely identifies the loss for which the penalty is being paid. This can be done by naming the object lost (where the loss is total-actual or constructive) or the nature of the damage where it is partial (e.g. burning). In the context of delict, a non literal translation of term “instead of” (tht) would, we suggest, be “as the penalty for”. The term does not assume that the penalty in question must necessarily be the mirror-image of the loss caused.³³

To Draï, however, the meaning of the formula “eye for eye” goes beyond only the issue of translation. To him, the whole spirit of the Jewish law denies the possibility of a literal implementation of the talionic formula. Among the numerous arguments he mentions, there is the *halakha* of the Sinäi, a concept that emerges at the junction between the law and the theology of Israel.

An important aspect of the theology of Israel is the Jewish people’s understanding of their relationship with God. In these relationships, there is nothing irreversible or irrevocable despite the very fact that Israel is a “stiff-necked” people. There is a persistence of hope and a subsistence of future because of God who has a womb of a mother. In other words God is Mercy. This persistence of hope receives a legal extension in the *halakha* of the Sinäi. When Moses went down from the Mountain with the Tables of the Law and saw the people worshipping an idol, he crushed the Tables “on the base” of the Mountain. The Hebrew word for “on the base” is *tah’at*, the same word of the principle of retaliation (ain tah’at ain). If *tah’at* means “under” or “in the lieu of”, a literal translation becomes impossible. How could Moses break the Tables

³³ Raymond Westbrook, “Lex Talionis and Exodus 21: 22-25,” *Revue Biblique* 93.1 (1986): 66.

under the Mountain? This impossibility signifies ultimately God's forgiveness even before the worst and God's capacity to renew God's covenant even when Israel has erred. This theology has impregnated the Jewish law so that the *Pchara*, the spirit of Yom Kippur, has become a regular principle of interpretation of that law.

In contrast, in the *Pchara*, the judge is a social agent. He must lead the parties to change their egocentric views and have them take into account the values that exceed such views without compromising them. The judge is reconciler, because as he reduces social divisions and prevents them from worsening and deteriorating in judicial war, he becomes the architect of a society where peace does not consist in the illusory search of a sort of permanent stable condition but harmonization of living and therefore conflicting interests.³⁴

To reinforce the thesis of the financial compensation, its proponents add two arguments. The first one is part of the spirit mentioned above. The Hebrew Bible present some provisions that discard revenge and teach love of the neighbor. Between these provisions and the maiming of bodily parts that a literal implementation of the *lex talionis* would commend, there is incompatibility.

You are children of the LORD, your God. You shall not gash yourselves (Dt 14:1)

You shall not hate any of your kindred in your heart. Reprove your neighbor openly so that you do not incur sin because of that person.

Take no revenge and cherish no grudge against your own people. You shall love your neighbor as yourself. I am the LORD. (Lev 19:17-18)

There is also incompatibility between the *lex talionis* in Exodus with other provisions forgiving in case of unintentional homicide.

³⁴ “Dans la *pchara*, au contraire, le juge est un agent social. Il doit conduire les parties à modifier leurs points de vue nécessairement égoïstes et leur faire prendre en compte des valeurs qui les dépassent sans les exclure. Le juge est réconciliateur en ce que réduisant une fracture sociale et évitant qu'elle ne s'aggrave et ne s'infecte par la guerre judiciaire il participe au développement de la dynamique d'une société où la paix ne consiste pas en la recherche illusoire d'une sorte d'état stable permanent mais en l'harmonisation de conduites vouées par instants à se désaccorder du fait même qu'elles soient vivantes.” Raphaël Draï, “La prétendue loi hébraïque du talion,” accessed November 28, 2012, <http://www.u-picardie.fr/labo/curapp/revues/root/13/drai.pdf>.

Does “a life for a life” imply the death penalty or monetary compensation? If the injury to the pregnant woman is unintentional, would a mandatory death penalty make sense, given Exod 21:13, which provides refuge for the unintentional homicide, and 21:28, which absolves the owner of a homicidal ox when no negligence is involved?³⁵

The rationale of the argument related to the incompatibility is that the provisions of the law of the land should be consistent with one another because, ultimately, they reflect a social consensus and some social fundamental options that the people have made as a nation have. In this perspective, such arguments have some relevance and pertinence. This interpretation is consistent with the reading of the rabbis in the later Jewish legal tradition as we can find it the Talmud that goes back to the 2nd and 3rd century AD.³⁶ In the Talmud of Jerusalem *Baba Qamma* 8.1 interprets the lex talionis as a financial compensation.

It is written, ‘An Eye for an eye, a tooth for a tooth (Ex. 21.24). And in another passage, Scripture states, ‘Your eye shall not pity him’ (Deut. 19.13). [One passage refers to inadvertent, the other to deliberate, action.] All the same then are he who acts inadvertently and he who acts deliberately [in that both pay monetary compensation]. Let the law be stated for the one who does so inadvertently and let it not be stated for the one who acts deliberately... One who acts inadvertently pays money compensation. Will the one who acts deliberately then pay nothing at all? [Obviously not] If one who was blind and blinded the eye of another party, or if he was crippled in hand and cut off the hand of another party, how in this case will the passage be carried out, ‘And you shall do to him as he conspired to do to his fellow’ (Deut. 19.19)? This fact tells us that one pays compensation only in monetary form.³⁷

The rabbis’ deliberation does not stop with the principle of compensation. The Babylonian Talmud states also accounts of compensation and provides rationale of calculation of damages: “If a man wounded his fellow he thereby becomes liable on five counts: for injury, for

³⁵ Stanley Isser, “The law of Ex 21, 22-23 revisited,” *The Catholic Biblical Quarterly* 52.1 (1990): 30. Miklitzanski noted that the expression “life for life” in this case couldn’t mean death penalty since “the Mosaic law does not require death for unintentional murder.” J. K. Miklitzanski, “The Law of Retaliation and the Pentateuch,” *Journal of Biblical Literature* 66.3 (1947): 296.

³⁶ The Talmud is not the unique source that may support the thesis of the monetary compensation. The Targoum and the Midrash offer resources for the same reading. Davis, *Lex Talionis*, 77-87. In this article, I consider mainly the arguments of the two Talmud for they legal nature.

³⁷ Talmud of Jerusalem, *Baba Qamma*, 8, folio 1, quoted by James F. Davis, *Lex Talionis*, 88.

pain, for healing, for loss of time, and for indignity inflicted.”³⁸

The Talmud of Babylon continues this interpretation with a twofold argument. The first one is a principle of legal hermeneutics. The Rabbis interpret provisions of Lev 24:17-18 and search the decisive criterion that may justify monetary compensation rather than a bodily retaliation if a person is hurt. They first make a distinction between injury and murder and then observe that the injury to a human being should be treated like an injury affecting an animal rather than like the homicide of a human being. Therefore financial compensation should be paid in this latter case as it is in a case regarding an animal. The second argument is a triple practical consideration related to the material impossibility to implement the *lex talionis* as a perfect measure of justice. The discussion quotes three rabbis who all argue for the pecuniary compensation. Rabbi Dosthai b. Judah signals the difference of size of eyes of the perpetrator and of the victim as an obstacle of the implementation of the talionic formula: “What then will you say where the eye of one was big and the eye of the other little, for how can I in this case apply the principle of eye for eye?”³⁹ R. Simon b. Yohai envisages the case where the perpetrator is blind: “What then will you say where a blind man put out the eye of another man, or where a cripple cut off the hand of another, or where a lame person broke the leg of another?”⁴⁰ And finally Abbaye identifies a risk that may lead to another injustice: “Now if you assume that

³⁸ “One who wounds his neighbor is liable to pay the following five things, viz: damage, pain, healing, loss of time, and disgrace. “Damage.” – If he blinds one’s eye, cuts off his hand, or breaks his leg, the injured person is considered as if he were as slave sold in the market, and he is appraised as if he were a slave sold in the market, and he is appraised at his former and his present value. “Pain.” – If he turns him with a spit or with a nail, if even only on the nail (of his hand or foot), where it produces no wound, it is appraised how much a man his equal would take to suffer such pain. “Healing.” – If he caused him bodily injury, he must heal him to be healed; if, however, not by reason of the wound, he is free. If the wound heals up and breaks out again, even several times, he must cause it to be healed; if, however, it once heals up thoroughly, he is no more obliged to heal it. “Loss of time.” – The injured person is considered as if he were a watchman of a pumpkin field, as he was already paid the value of his hand or foot. The disgrace is appraised with consideration of the station and rank of the one who causes as well as of the one who suffers it.” E. Kyrzner (trans), *Babylonian Talmud*, Baba Kamma 8, folio 83b, Mishnah, accessed May 12, 2016, <http://www.come-and-hear.com/babakamma/index.html>

³⁹ Kyrzner (trans), *Babylonian Talmud*, Baba Kamma 8, folio 83b, Gemara.

⁴⁰ Kyrzner (trans), *Babylonian Talmud*, Baba Kamma 8, folio 84a, Gemara.

actual retaliation is meant, it could sometimes happen that eye and life would be taken for eye, as while the offender is being blinded, his soul might depart from him.”⁴¹

With irony, Jacob Milgrom questions the interpretations of the rabbis as contradicting the Bible: “This is a true case where ‘The halakha [rabbinic law] supplants Scripture’ or in Rashi’s more vivid metaphor, ‘The halakha crushes the scriptural text under heel and overthrows it’ and the rabbis were well aware of it!”⁴² To those who would like to think likewise, he however objects and argues on the impossibility of a literal *lex talionis*.⁴³ Despite the difference of time between the Hebrew Bible and the rabbis of the first and second centuries, the latter have strived to make sense of difficult provisions that challenge the spirit of the *halakha*.

IV. A Holistic Approach

To me only a holistic approach can help capture the meaning of the talionic formula in the Hebrew Bible. To substantiate this view, I would make explicit the limitations of any piecemeal methodology by pointing out possible contradictions between different passages

⁴¹ Ibid.

⁴² Jacob Milgrom, “Lex Talionis and the Rabbis: The Talmud reflects an uneasy rabbinic conscience toward the ancient law of talion, ‘eye for eye’, ‘tooth for tooth,’” *Bible Review* (1996): 16. Levine abounds in the same sense when he writes: “Later Jewish authorities thought that mutilation was unconscionable as a punishment. This testifies to their own sensibilities; they resorted to hermeneutic interpretation in a humane cause. This does not, however, alter the realities of biblical law in its original context, the realities of which the Talmudic sages may well have been aware.” Baruch A. Levine, *The JPS Torah Commentary: Leviticus* (New York: The Jewish Publication Society, 1989), 270.

⁴³ Jefferey H. Tigay makes a similar argumentation. He first provides solid reasons to support literal application of the talionic formula before turning to monetary compensation: “Talmudic exegesis holds that the formula is not to be taken literally, but means that the assailant is required to indemnify the victim with a sum of money that corresponds to the severity of the injury. However, since the cases in Exodus and Leviticus are paired with and *contrasted* to cases in which the punishment is monetary, the formula itself must refer to corporal punishment. Nevertheless, one passage seems to imply that the victim of a nonlethal injury had the right to accept an indemnity in lieu of talion. Numbers 35:31 states: “You may not accept a ransom for the life of a murderer who is guilty of a capital crime; he must be put to death.” This may well indicate that for all other injuries accepting an indemnity was permitted, though not required. This shows that “an eye for an eye” is not a requirement for exacting vengeance in kind (as it is often popularly misunderstood), but a limitation of such vengeance: it may not exceed the original injury. The rabbinic interpretation is an example of rabbinic loose construction of the law that has the effect of making it more just and humane.” Jefferey H. Tigay, *The JPS Torah Commentary: Leviticus* (Philadelphia: The Jewish Publication Society, 1996), 185.

referring to the law of retaliation. Second, the very nature of law as a sub-culture makes it impossible to grasp the meaning of norms without embracing the major characteristics of the culture to which the legal sub-culture depends on. Third, I'll challenge the influence of the Code of Hammurabi on the codes of the Pentateuch.

The literature on the *lex talionis* notes the contradiction between the formula of the *lex talionis* in Exodus where the line "life for life" seems to claim capital punishment and the same formula in Leviticus where the line "life for life" is applied as a compensation in kind for animal. For the proponents of the thesis of monetary compensation, this contradiction supports their thesis. It does so because in other cases where the Bible commends capital punishment for a deliberate murder, it does not use the talionic formula "life for life". Rather, the Pentateuch says in unequivocal terms: "he shall surely be put to death" (Ex 21 12; Lev 24 17.)

Daube refers to the teaching of Jesus to provide another interpretation. According to him, because Jesus did not include in his teaching the line "life for life" means that the talionic formula have to be divided in two branches related to two different branches of law:

The natural result was that the two parts of the maxim drifted apart, in law and in the minds of the people: the clause 'Life for life' belonged to criminal law, was connected with the death penalty, the other clauses 'Eye for eye' and so on belonged to private law, were connected with monetary compensation.⁴⁴

Unfortunately, this interpretation does not explain why in the case of the Leviticus, the formula "life for life" takes a compensatory meaning. Raymond Westbrook thinks that the two formulae should be considered as distinct. He even thinks that the authors of the Leviticus might have before them the text of the Exodus or a text related. Purposefully they chose to insist on the death penalty in case of deliberate homicide.⁴⁵ Such an interpretation lies on assumptions and

⁴⁴ David Daube, *The New Testament and Rabbinic Judaism* (University of London: The Athlone Press, 1956), 258.

⁴⁵ Westbrook, "Lex talionis and Exodus 21: 22-25," 68.

does not pay enough attention to the rest of the formula as the authors of the Leviticus used it. Such difficulty can be solved by a holistic approach.

Contrary to a piecemeal methodology, a holistic approach allows one to capture the spirit of the law applicable at the time of the books considered. On one hand such an approach makes sense because the law pertains to the cultural arena and echoes the fundamental options that a people have. In laws, people express the values they most cherish and these values are those, that mold the identity and shape the future of that people. To discover this spirit, it is important to take into account the system of values of that society, its anthropology and theology, exegesis of words and structures of sentences. This methodology should be integrative in order to convey as much information as possible concerning the culture and legal system. If singled out, one element alone cannot be decisive in the investigations.

In this perspective, studies related to the later edition and those concerning the general orientation of the Jewish law are important because they prevent us from reading the different texts naively. Whatever the reason for the edition, its existence questions a possible literal implementation of the *lex talionis* at the time of the first draft.

Some arguments encapsulate the spirit or can help to catch it. From Nb 35:31,⁴⁶ which forbids taking a monetary compensation in case of deliberate homicide instead of killing the murderer, some authors have argued that, a *contrario*, for non-deliberate homicide and for wounds, monetary compensation was allowed.

Finally, the influence of some legal codes of the Ancient Near East should be considered. There are opinions that Israel could have borrowed the principle of corporal retaliation from its

⁴⁶ “You will not accept compensation in place of the life of a murderer who deserves to die, but that person must be put to death.”

neighbors' legal codes *lex talionis*. But this opinion should be nuanced. First the only code that really has dispositions of maiming people for injuries is the Code of Hammurabi. This leads Harvey Kugelmass to conclude that the “*Lex talionis* is not a fundamental underlying principle of the ancient Near Eastern laws of corporal assault.”⁴⁷

We should observe that this Hammurabi reigned between 1792 and 1750 BCE. If the Hittite laws that come later (1500-1200) and in the Laws of Eshnunna dated in the 13th century BCE, financial compensation replaced the *lex talionis* as written in the Code of Hammurabi, how much more the laws of the Pentateuch written more than one thousand years later would get rid of a literal application of a principle of retaliation.

Even if the authors of the Pentateuch have copied the provisions of some codes of the Ancient Near East, such dependency does not compromise Israel freedom to put in the same dispositions the ethical content, which is consonant with its corpus of its values. Jan Rothkamm observes such a freedom in laws related to slaves.⁴⁸ Contrary to the laws of the codes of Hammurabi that could cut off the hand of the slave who slapped his master, the Exodus gives, in compensation to the slave whose tooth or eye has been harmed, his freedom.⁴⁹

⁴⁷ Harvey Kugelmass, *Lex Talionis in the Old Testament*, 31.

⁴⁸ Jan Rothkamm, *Talio Esto*, 60.

⁴⁹ “When someone strikes his male or female slave in the eye and destroys the use of the eye, he shall let the slave go free in compensation for the eye. If he knocks out a tooth of his male or female slave, he shall let the slave go free in compensation for the tooth.” Ex 21: 26-27. In a more general way, Nahum Sarna agrees with the substantial difference between the laws of the Ancient Near East and the biblical laws. “The affinities and analogues that abound between the Israelite and the other Near Eastern law collections tend to obscure the fundamental distinctions that exist between the two, a subject that must now be addressed. First and foremost is the essential fact that biblical law is the expression of the covenant between God and Israel. Several important consequences flow from this. Further, there can be no differentiation between the branches of public and private law and between both of them and religion and morality. All topics that fall under any of these rubrics are equally binding. Law is not severed from morality and religion. As to the substance of the law, the Torah allows of no vicarious punishments, no multiple penalties, and, apart from the special category of the slave, demands equal justice for all, irrespective of social status. Finally, whereas the Near Eastern laws place great stress on the importance of property, the Torah’s value system favors the paramount sacredness of human life.” Sarna, *The JPS Torah Commentary: Exodus*, 276. See also, H.B. Huffmon, “*Lex Talionis*,” in *The Anchor Bible Dictionary*, Vol. 4, K-N, ed. David Noel Freedman (New York: Doubleday, 1992), 321-322.

In the scheme of things, the *lex talionis* in the Hebrew Bible, if it has ever been used as a legal disposition, was referred to as a formula of strict equity that judges or arbitrators should apply.

Conclusion

I have tried to respond in this paper to the question whether the *lex talionis* as it appears in Exodus, Deuteronomy and Leviticus has been literally applied as the response of criminal law to some criminal activity. The interest of this issue makes the literature on the topic abundant. I made explicit three theses. The first one is the literalist reading that argues that historically the law of retaliation has been literally implemented and even represents a progress of civilization if compared to the ancient culture of the vendetta. One can even see the progress when one considers the dynamics of the three passages in the Pentateuch related to the talionic formula. However, the insertion of the same formula in these different passages leaves one in doubt as far as an historic literal application is concern. Proponents of a later edition make this argument and propose to see a second hand editing the Pentateuch aftermath. To Harvey Kugelmass, this later hand is the Priestly tradition, which during the Exile, had concerns for ritual purity and inserted the talionic formula to protect ultimately the physical and the moral integrity of human beings, images and likeness of God. Kugelmass' ambition to provide an exclusive explanation of the talionic formula compromises his interpretation. The third thesis interprets the law of retaliation as a formula of monetary compensation. The proponents of that hermeneutics make the exegesis of the formula and take into consideration the spirit of the *halakha*, prompted first by a merciful Lawmaker who is the God of mercy. I support this latter interpretation because it undertakes a

holistic reading and I think that only such a hermeneutic can help to respond to the question.

There is a question prior to the issue I treated in this paper that I did not consider as to whether were the norms of the Pentateuch were considered to be legal documents.⁵⁰ Beyond the debate of opinions, these norms are worthy to be considered as legal norms because they are presented as such and reveal in this position what the authors would value as binding norms. The fact that the posterity, namely the rabbis of the second and first century, also interpreted this material as laws has been enough as basis of this work.

By pleading for a holistic approach, I pursue another agenda related to today's religious dialogue. In this perspective, it is crucial to understand the texts as they are understood in their own tradition. This research comes as a compliance with the recommendation of Commission for Religious Relations with the Jews, encouraging the Christians to “strive to learn by what essential traits the Jews define themselves in the light of their own religious experience.”⁵¹ More recently this call has been renewed in the field of the study and the interpretation of the Bible.⁵² Such an invitation is enrooted in the *aggiornamento* of the Catholic Church at the Vatican Council II and blooms in the warning addressed to the readers of the Bible to never “forget that it [the Hebrew Bible] retains its own value as Revelation that the New Testament often does no

⁵⁰ Bruce Wells presents different theses that try to respond to this question. Some argue that norms in the Ancient Near East were authoritative laws others argue that they represent competing sets of authoritative laws, or theoretical treatises, or legally descriptive treatises or finally non-legal treatises. To Wells, these norms might be legally descriptive – rather than prescriptive – treatises: “That is, whatever the precise purpose of the scribal activity that produced the codes, these collections represent repositories and descriptions of the legal rules and customs that were traditionally practiced. The scribes may also have developed hypothetical scenarios and incorporated their reasoning – even speculation – about how to handle these situations into their list of legal provisions. But their treatment of such scenarios was still in keeping with the basic approach that would have been taken by the legal systems of their respective societies.” Bruce Wells, “What is Biblical Law? A Look at Pentateuchal Rules and Near Eastern practice,” *The Catholic Biblical Quarterly* 70.2 (2008): 229.

⁵¹ Commission for Religious Relations with the Jews, Guidelines And Suggestions For Implementing The Conciliar Declaration “Nostra Aetate” (N. 4), (December 1, 1974), Preamble, at the Holy See. www.vatican.va

⁵² The Pontifical Biblical Commission, The Jewish People and their Sacred Scriptures in The Christian Bible, (May 24, 2001), § 22.4, at the Holy See. www.vatican.va.

more than resume.”⁵³ This recognition of the specificity of the Judaism is a condition for the possibility of Christian-Jewish dialogue as some voices such as those of Franz Rosenberg, Martin Buber⁵⁴ or Joseph B. Soloveitchik⁵⁵ have put it.

My agenda entails a consequence that may affect the principles of interpretation of the Bible in Catholic moral theology and particularly the principle of advance as set by the Pontifical Biblical Commission.⁵⁶ The principle of advance refers to the continuing refinement of human morality and teaches that any moral norm in the Bible finds its ultimate meaning in the person of Jesus and his work of redemption through his life, suffering, death and resurrection. If this principle of advance is made absolute, it can legitimize false and stigmatizing interpretation of Old Testament. In this issue, it is preferable to either profess respectfully the autonomy of faiths or to faithfully recall the word of Saint Augustine in the spirit of *Verbum Domini*: “The New Testament is hidden in the Old and the Old is made manifest in the New.”⁵⁷

⁵³ Commission for Religious Relations with the Jews, Notes On The Correct Way To Present The Jews And Judaism In Preaching And Catechesis In The Roman Catholic Church, (July 1, 1985), § II.7, at the Holy See, www.vatican.va

⁵⁴ Edward Kessler, “‘I am Joseph, Your Brother’: A Jewish Perspective on Christian-Jewish Relations Since Nostra Aetate No. 4,” *Theological Studies* 74 (2013): 53-54.

⁵⁵ Joseph B. Soloveitchik, “Confrontation,” *Tradition* 6.2 (1964): 25.

⁵⁶ Pontifical Biblical Commission, The Bible and Morality: Biblical Roots of Christians Conduct (11 May 2008), § 120, at the Holy See, www.vatican.va.

⁵⁷ Saint Augustine quoted by Benedict XVI, Post Synodal Apostolic Exhortation, *Verbum Domini*, (30 September 2010), § 41, at the Holy See, www.vatican.va.

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