

# The Latin Talmud and the Extension of Papal Jurisdiction over Jews

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*This paper addresses the question of how the Latin translation of the Talmud, known as the *Extractiones de Talmud* (1245), is related to the changing perception of the Jews and in particular to the reassessment of their legal status during the thirteenth century. It draws particular attention to Pope Gregory IX's description of the Talmud as another law – an *alia lex*, as he called it – which challenged the traditional representation of the Jews as witnesses of the Christian truth, depicting them instead as heretics. This new perception of the Jews had far-reaching consequences for their legal status, for the popes used it to subject them to direct papal jurisdiction. To conclude, the question of whether the discovery of the Jewish »Oral Law« can be considered the cause of this new representation of the Jews in the strict sense is addressed. It is argued that it may, conversely, have been the intended representation of the Jews as heretics, who could thus be subsumed under papal jurisdiction, which was instrumental in bringing to light and decrying this body of rabbinic wisdom.*

*Keywords: Babylonian Talmud; Hebrew-into-Latin translations; canon law; religious law; blasphemy; heresy; Nicholas Donin; Gregory IX; Innocent IV*

## **Introduction**

A significant landmark in the long and complex history of anti-Jewish polemic is the Christian »discovery« of the Babylonian Talmud. While the Talmudic corpus developed in the same period as early Christianity, this post-biblical text, which is the basis for the development of Rabbinic Judaism, was largely unknown to the Christians. The Church fathers, for instance, referred only occasionally to what they called the *deuterosis* of the Jews, that is, their second teaching.<sup>1</sup>

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1 See del Valle Rodríguez, *Primeros contactos*, 300-304.

While, in the Early and High Middle Ages, authors such as Agobard of Lyon,<sup>2</sup> Peter Alfonsi<sup>3</sup> and Peter the Venerable<sup>4</sup> addressed certain Talmudic doctrines more explicitly, full awareness of the Talmud among Christian authors did not arise until the late 1230s. In 1238/39 the Jewish convert Nicholas Donin from La Rochelle presented a Latin translation of Talmudic fragments to Pope Gregory IX. This selection of Talmudic texts, known as the *Thirty-Five Articles against the Talmud*, determined a new course in Christian-Jewish relations. In 1239, the pope wrote to kings and bishops across Europe requesting that they confiscate and examine the manuscripts of the Talmud found in their territories. As a result, a trial against the Talmud was staged in Paris in 1240. The books were set on fire at the Place de la Grève in 1241/42,<sup>5</sup> yet the controversy surrounding the Talmud continued over the following years, as Gregory's successor, Pope Innocent IV, ordered a revision of the Talmud process. At the core of this re-examination are the *Extractiones de Talmud*, a translation of 1,922 passages from the Babylonian Talmud, prepared during the year 1245 for Odo of Châteauroux, Legate of the Apostolic See. This translation served as the basis for his final condemnation of the Talmud in May 1248.

The documents surrounding this controversy are preserved in several manuscripts, the most complete of which – though not the original – is MS Paris, Bibliothèque nationale de France, lat. 16558. This manuscript offers a comprehensive »dossier« on the Talmud affair: its first part contains the *Extractiones de Talmud*, while the second part includes Nicholas Donin's *Thirty-Five Articles against the Talmud* along with further materials, such as Latin excerpts from Rashi's glosses on the Hebrew Bible.<sup>6</sup> Though scholars have been dealing with this dossier for more than 130 years, most of the texts have only recently been edited.<sup>7</sup>

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- 2 See, e.g., Agobard's *De iudaicis superstitionibus*, 10, with allusions to Berakhot, Avodah Zarah and others, in Agobard of Lyon, *Opera omnia*, ed. van Acker, 205-206.
  - 3 Peter Alfonsi criticized the anthropomorphic representations of God in the Talmud, e.g. at Berakhot 6a: »Si nosse cupis ubi scriptum sit: in prima parte vestrae doctrinae est cuius vocabulum *Benedictiones*. Si igitur vis scire quomodo dixerunt deum habere caput et brachia [...]« (Peter Alfonsi, *Dialogus contra iudaeos*, 1, ed. Cardelle de Hartmann *et al.*, 20). For a useful survey of Talmudic quotations in the *Dialogus*, see Kniewasser, *Antijüdische Polemik*, 42-43. For a critical appraisal of his familiarity with Jewish traditions: Hasselhoff, *Petrus Alfonsi Judentum*.
  - 4 Cf. Peter the Venerable, *Adversus iudaeorum inveteratam duritiem*, where the Talmud is mentioned for the first time by its proper name: »Produco igitur portentuosam bestiam de cubili suo, et eam in teatro totius mundi, in conspectu omnium populorum ridendam propono. Profero tibi coram universis, iudaeae, bestia, librum tuum, illum, inquam, librum tuum, illum Thalmuth tuum, illam egregiam doctrinam tuam.« (Peter the Venerable, *Adversus iudaeorum inveteratam duritiem* 5, ed. Friedman, 125-126). See also, Friedman, *Anti-Talmudic invective*.
  - 5 The exact date of the burning is disputed. See Rose, *Talmud burnt in Paris*.
  - 6 For a detailed analysis of the contents of this manuscript and its textual layers, see de la Cruz, *Estadio textual*.
  - 7 Piero Capelli's critical edition of Nicholas Donin's *Thirty-Five Articles* has now replaced the nineteenth-century edition by Isidore Loeb, which was based on a single manuscript. See Capelli, *De articulis litterarum papae*, and Loeb, *Controverse de 1240* (in three parts), edition in no. 2, pages 253-270 and no. 3, pages 39-54. A critical edition of the *Extractiones* has been published by Ulisse Cecini and Óscar de la Cruz in the CC CM-series: *Extractiones de Talmud per ordinem sequentialem*. For the Latin Rashi-translations, see the edition of the fragments on Isaiah in Hasselhoff, *Rashi's glosses on Isaiah* (with detailed references to editions of the remaining fragments on pages 112-113).

### *The Talmud as alia lex and the Extractions de Talmud*

In this article, I wish to address the question of how the translation of the Talmud, which enhanced Christian knowledge of Judaism, is related to the perception of the Jews and in particular to the assessment of their legal status. Already towards the end of the twelfth century, one can observe trends in canon law which aggravate the legal position of the Jews. Among these »amendments« are the redefinition in social and legal terms of the theological notion of a perpetual serfdom of Jews vis-à-vis Christians (*servitus iudaeorum*) and an indirect form of punishment of Jews by means of forbidding Christians to have any dealings with them (*iudicium iudaeorum* or indirect excommunication). Yet, it was not until the thirteenth century that Jews were definitively subjected to direct papal jurisdiction.<sup>8</sup>

The reason for this development may be summarized as follows: from the times of Augustine, Jews were considered to be witnesses of Christian truth as transmitted by the Old Testament, which Jews and Christians likewise venerate as the True Word of God. The Jews did not embrace the New Law, but as long as they did not depart from the old one, they were to be tolerated and, where necessary, protected. The *locus classicus* for Augustine's »witness doctrine« is Book 18, Chapter 46 of his *De civitate Dei*:

But the Jews who slew Him, and would not believe in Him [...] are thus by their own Scriptures a testimony to us that we have not forged the prophecies about Christ. [...] Therefore God has shown the Church in her enemies the Jews the grace of His compassion [...]; he has not slain them, that is, He has not let the knowledge that they are Jews be lost in them, although they have been conquered by the Romans, lest they should forget the law of God, and their testimony should be of no avail in this matter of which we treat.<sup>9</sup>

This very influential account was radically called into question when Nicholas Donin approached Pope Gregory in 1238/39 with the *Thirty-Five Articles against the Talmud*. The tremendous challenge that the Talmud posed to the Christian world is succinctly captured in Pope Gregory's immediate reaction, namely the letter that he addressed to the archbishops of France on 9th June 1239:

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8 See, among others, Magin, »Wie es umb der juden recht stet«, 21-26; and Pakter, *Medieval Canon Law*, 59 and 132-137.

9 Augustine, *De civitate Dei*, 18, 46, ed. Dombart and Kalb, 644-645: »Iudaei autem, qui eum occiderunt et in eum credere noluerunt [...] per scripturas suas testimonio nobis sunt prophetias nos non finxisse de Christo [...] Et ideo non eos occidit, id est non in eis perdidit quod sunt iudaei, quamvis a Romanis fuerint devicti et oppressi, ne obliti legem Dei ad hoc, de quo agimus, testimonium nihil valerent.« See also his *Enarrationes in Psalmos*, e.g. on Psalm 56: »Omnes ipsae litterae quibus Christus prophetatus est, apud iudaeos sunt, omnes ipsas litteras habent iudaei. Proferimus codices ab inimicis, ut confundamus alios inimicos. In quali ergo opprobrio sunt iudaei? Codicem portat iudaeus, unde credat Christianus. Librarii nostri facti sunt, quomodo solent servi post dominos codices ferre, ut illi portando deficiant, illi legendo proficiant« (Augustine, *Enarrationes in Psalmos*, 56, 9, ed. Dekkers and Fraipont, 699-700). – For a more detailed analysis of Augustine's very influential model, see Cohen, »Slay them not«.

If the things that are asserted about the Jews residing in the Kingdom of France and other provinces are true, there would be no adequate or fitting punishment for them. For not content, as we have heard [from Nicholas Donin], with the Old Law, which the Lord gave in writing through Moses, indeed completely neglecting the same, they maintain that the Lord also proclaimed another law, which is called Talmud, i.e. teaching; and they falsely claim that it was passed on orally to Moses.<sup>10</sup>

As Joel E. Rembaum has already noted, the pope's concern in his letter does not refer, in the first place, to the specific content of the Talmud, but rather to its alleged status of being another law.<sup>11</sup> This law not only supplemented, but was likely to supplant the Old Law: it was neither *lex vetus* nor *lex nova*, but, as the text has it, *lex alia*.

With this, Pope Gregory IX levelled a new and very serious accusation,<sup>12</sup> which was echoed by his more lenient successor, Pope Innocent IV. On 9th May 1244, he wrote the following to the King of France:

Indeed, in such traditions, which they call the Talmud in Hebrew [...] they teach and bring up their children and make them thoroughly estranged from the teaching of the Law and the prophets, fearing that they be converted to the faith and return humbly to their Redeemer, since the truth that is found in the same Law and the prophets clearly offers a proof of the only begotten Son of God who should come in flesh.<sup>13</sup>

Far more than the purported blasphemies it contained, it was the charge against the Talmud as an alternative law that superseded the old one and obliterated the Christian truth, which determined its investigation. While the depositions and reports of the Talmud trial from 1240, which would lead to its burning in 1241/42, do not expressly mention it,<sup>14</sup> the

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10 Friedman *et al.*, *Trial of the Talmud*, 93-94. Original: »Si vera sunt, quae de iudaeis in regno Franciae, et aliis provinciis commorantibus asseruntur, nulla de ipsis esset poena sufficiens, sive digna; ipsi enim sicut accepimus, lege veteri, quam Dominus per Moysen in scriptis edidit, non contenti, immo penitus praetermittentes eadem, affirmant legem aliam, quae Talmut, id est Doctrina, dicitur, Dominum edidisse ac verbo Moysi traditam« (Grayzel, *Church and the Jews*, 240).

11 See Rembaum, *Talmud and the popes*, 205-206, who also notices that the pope's point is not directly raised in Nicholas Donin's *Thirty-Five Articles against the Talmud*, though it can be inferred from them. See also Cohen, *Living Letters*, 317-330.

12 Causing some confusion, Amos Funkenstein has credited Peter the Venerable with qualifying the Talmud as a Jewish equivalent to the New Testament, and hence as a different *nova lex*: Funkenstein, *Ha-temurot be-vikkuah*, 140. See, however, the objection by Cohen, *Scholarship and intolerance*, 603, n. 30. Along similar lines, see Friedman, *Anti-Talmudic invective*, 174. – As Matthias M. Tischler has shown, Peter Alfonsi and Peter the Venerable did indeed use the term »lex« in their polemical discussions on other religions: Peter Alfonsi speaks of a »lex Moysi«, which refers to the Hebrew Bible, a »lex Christianorum«, namely the New Law of the Gospels, and a »lex Sarracenorum«, that is the Qur'ān. Yet, he never refers to the Talmud as a law, but always as a doctrine (*doctrina* or *liber doctrinarum*). The same is true for Peter the Venerable, who is the first to mention the Talmud by name in Latin literature, likewise describing it as a doctrine. Cf. Tischler, *Lex Mahometi*. Authority, 13-19, and the relevant passages quoted above in notes 3 and 4.

13 Friedman *et al.*, *Trial of the Talmud*, 96. Original: »In huiusmodi namque traditionibus quae Talmut hebraice nuncupantur [...] filios suos docent ac nutriunt, et a legis et prophetarum doctrina reddunt ipsos penitus alienos. Verentes ne veritate, quae in eisdem lege ac prophetis est, intellecta, aperte de unigenito dei filio venturo in carnem testimonium perhibente, convertantur ad fidem, et ad redemptorem suum humiliter revertantur« (Grayzel, *Church and the Jews*, 250). For the close connection between the two letters by Gregory IX and Innocent IV, see also Cohen, *Friars and the Jews*, 66-67.

14 The Latin and Hebrew accounts are conveniently translated in Friedman *et al.*, *Trial of the Talmud*, 122-168.

issue is very present in the *Extractiones de Talmud*, which would give way to the Talmud's second condemnation in May 1248. Already in the prologue to the *Extractiones de Talmud*, one finds a programmatic reference to the idea of a twofold Law of the Jews. Indeed, the anonymous compiler of the Talmud explains:

In order better to understand the things translated here, one must know that the Jews say that the Lord gave two Laws to Moses on Mount Sinai, one is written and the other is on or in the mouth, as is explained below.<sup>15</sup>

In other words, the Jews claim to have received two divine laws through Moses, one that was written down, the Torah, and another one that was transmitted orally at first, the Talmud. This is indeed a manifest corroboration of Pope Gregory's suspicion, which receives further support from various fragments in the translation. Such is the case for Berakhot 5a, in which various layers of God's revelation to Moses on Mount Sinai are distinguished:

Rabbi Levi says: What is [the meaning] of that which was written [in the Bible in the following way]: »And I shall give you tablets of stone, and the Law and the commandment which I have written; so that you may teach them«? (Exodus 24.12) »Tablets of stone«, this is the Books of Moses. »The Law«, this is the Mishnah. »Commandment«, this is ceremonies and judgments. »Which I have written«, these are the Books of the Prophets and the Hagiographa. »So that you may teach them«, this is the Talmud [...]. Through this you may know that all these were *halakha*, i.e. teachings, given to Moses on Mount Sinai.<sup>16</sup>

The passage clearly identifies the Mishnah – which integrates the Talmud, along with its commentary, the Gemara – with the Law from Exodus 24.12 and implies that the Talmud, as a whole, was revealed by God to Moses, along with the Hebrew Bible.

The following passage is even more explicit with regard to the twofold written and oral law of Judaism. In Shabbat 31a, a non-Jew approaches the rabbis as he wants to become a proselyte, even though he is reluctant to embrace the authority of the Talmud. Despite this, Rabbi Hillel accepts him and eventually convinces him:

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15 *Extractiones de Talmud per ordinem sequentialem*, 3, ed. Cecini and de la Cruz, 3-4: »Ut autem quae translata sunt melius intelligi possint, sciendum quod iudaei dicunt duas leges in monte Sinai Dominum Moysi tradidisse: una est lex in scripto et alia est lex super os vel in ore, sicut patebit inferius.«

16 *Extractiones de Talmud per ordinem sequentialem*, 16, ed. Cecini and de la Cruz, 22: »Dicit rby Levi: Quid est quod scriptum est: »Et dabo tibi tabulas lapideas et legem et praeceptum quod scripsi ad docendum eos« (Exodus 24.12)? »Tabulas lapideas«, id est libros Moysi. »Legem«, id est Misna. »Praeceptum«, caerimonias et iudicia. »Quod scripsi«, hii sunt libri prophetarum et agiograforum. »Ad docendum eos«, hoc est Talmud [...]. Per hoc potestis scire quod omnia ista fuerunt halaka Moysi – id est edocta –, in monte Sinai.«

The sages say: Once a certain gentile came before Shammai and asked him: How many laws do you have? He replied: Two, one in written and the other in oral form. And the gentile said: The one which is written, I believe; but not the oral one. Convert me to Judaism on the condition that you will only teach me the written one. Shammai scolded him and he ran away in shame. Then he came before Hillel and said the same; but Hillel converted him. [...] On the first day, they read together [the letters]: *alef, bet, gimmel, dalet*; on the next day, Hillel reversed them and the gentile said: Yesterday you did not tell me that. Hillel replied: Don't you rely on me? Also with regard to the oral law you should rely on me.<sup>17</sup>

As with these two cases, the translations in the *Extractiones de Talmud* usually reflect the Hebrew and Aramaic original very faithfully, and one finds only a few remarks that betray the polemical bias of the anonymous compiler and translator(s).<sup>18</sup> One such remark, which is relevant to the question of the discovery of the Talmud and the shifts and changes in the legal representation of the Jews, occurs in a glossary of recurrent Hebrew terms, which is part of the aforementioned prologue. The compiler of the *Extractiones* informs his readers that »necesse est quarundam dictionum, quae frequenter occurrunt, significationem et interpretationem agnoscere«.<sup>19</sup> This list contains more than twenty notions, such as »goy«, i.e. non-Jew, explained as Latin »gens«; »Hanukkah«, explained as »festum Judith«; »Shemhamphorash«, explained as God's name expressed by means of 42 letters, etc.<sup>20</sup> The notion that I am interested in is »Baraita«, which refers to »external« materials that do not appear in the Mishnah but were later inserted in the Talmud. The author of the prologue to the *Extractiones de Talmud* explains the term »Baraita« as follows:

*Baraita*, which means ›external‹, we call that which at a certain time was not in the Talmud, but was added to it at a later point in time, just like we call the *Decretales* ›extravagantes‹. In that sense, every doctrine in the Talmud should probably be called a Baraita, that is, ›external‹ with regard to the Old Testament.<sup>21</sup>

17 *Extractiones de Talmud per ordinem sequentialem*, 575, ed. Cecini and de la Cruz, 137-138: »Magistri dicunt: Accidit de quodam goy quod venit ante Samay et ait illi: Quot leges vobis? Respondit: Duae: una in scripto et alia in ore. Et ille ait: Illi quae est in scripto credo; sed non illi quae est in ore. Fac me iudaeum tali pacto quod doceas me legem in scripto. Increpavit illum et fugavit verecunde. Venit autem coram Hylel et dixit similiter. Hylel quoque fecit eum iudaeum. [...] Prima die legit .aleph. .beth. .gymel. .daleth.; in crastino praepostravit ei; at ille ait: Heri non dixisti mihi sic. Respondit Hylel: Nonne de hoc confidis in me? Etiam de lege in ore confide in me.«

18 Concerning the identity of the translator(s), see Fidora, *Latin Talmud*.

19 *Extractiones de Talmud per ordinem sequentialem*, 12, ed. Cecini and de la Cruz, 5.

20 Cf. *Extractiones de Talmud per ordinem sequentialem*, 12-38, ed. Cecini and de la Cruz, 5-8.

21 *Extractiones de Talmud per ordinem sequentialem*, 16, ed. Cecini and de la Cruz, 5: »*Barraita*, id est ›forinseca‹, et accipitur pro illo quod aliquando non fuit in Talmud, sed postmodum insertum, sicut enim ›extravagantes‹ dicimus decretales. Sic quaelibet forsitan sententia Talmud *barraita* dicitur, id est ›forinseca‹ respectu Veteris Testamenti.« It is worth noting that Ramon Martí would give a strikingly similar explanation of Baraita in terms of »extravagans« in his *Pugio fidei* I-III, 4, 7 (c. 1280): »Hinc glossaverunt rabini nostri in extravaganti machiltha quod omnes prophetae astiterunt in Sinay quando scilicet data est lex Moysi, et ibi traditae sunt eis omnes prophetiae.« See Raimundus Martini, *Texte zur Gotteslehre*, ed. Hasselhoff, 84.

According to the first part of this passage, a Baraita is an extra-Mishnahic prescription that entered the Talmud, in the same way that the *Decretales* are called »extravagantes«. This is a very eloquent comparison because, on the one hand, it reiterates the status of the Talmud as a legal corpus, just like the decretals. On the other hand, it tells us that the author of the prologue probably belonged to, or at least was close to, the canonists of the University of Paris, who had received Pope Gregory's *Liber Extra*, i.e. the *Decretales*,<sup>22</sup> in 1234, which was compiled by Ramon de Penyafort. In the papal letter that accompanied the *Liber Extra*, Gregory IX explained that it contains constitutions and decretals which »vagabantur extra«, that is, which were »extravagantes«, since they were scattered in different sources outside of the *Decretum Gratiani*.<sup>22</sup>

Not less telling is the second part of the passage, which suggests that each and every Talmudic doctrine, in other words the whole of the Talmud, should be considered as a Baraita, since all of it is external to the Old Testament, that is, the Old Law. Based on evidence from both the content and the manuscripts, it seems to me that this latter remark was originally a marginal gloss in a manuscript of the *Extractiones de Talmud* which was incorporated into the main text at an early stage.<sup>23</sup> Otherwise, it is difficult to harmonize the two parts of the passage: the first one gives a very sober and even positive account of what a Baraita is, drawing on the latest developments in canon law and its most authoritative collection. By contrast, the second part clearly pursues more polemical intentions in positioning the Talmud as a new and external law against the Old Law.

Regardless of whether the two parts of the passage in question were authored by the same person, or rather respond to different textual layers, as I am inclined to believe, they do testify to the ever-increasing juridification of the Talmud affair. They reflect the close interplay between theological and canonistic arguments on the one hand and the perception of the Jews as renegades of the Old Law on the other. This interplay is further confirmed through the professional adherences of the members of the commission, who would pronounce the final judgement on the Talmud in May 1248, drawing on the *Extractiones de Talmud*: 4 ecclesiastical authorities, 11 »magistri theologiae«, 12 »boni viri« and no fewer than 14 »magistri decretorum«. <sup>24</sup> Interestingly enough, it is not the masters of theology who represent the largest group within this commission, but rather the »boni viri«, among whom the anonymous compiler and translator(s) of the *Extractiones de Talmud* may feature, as well as the masters of law: in other words, the two groups by which and for which the dossier was prepared.

22 See the letter from September 5, 1234 in Denifle and Chatelain, *Chartularium universitatis parisiensis* 1, 154: »[...] Sane diversas constitutiones et decretales epistolas praedecessorum nostrorum in diversa dispersas volumina, quarum aliquae propter nimiam similitudinem, et quaedam propter contrarietatem, nonnullae etiam propter sui prolixitatem confusionem inducere videbantur, aliquae vero vagabantur extra volumina supradicta, quae tamquam incerte frequenter in iudiciis vacillabant, ad communem et maxime studentium utilitatem per dilectum filium fratrem Raimundum, capellanum et poenitentiarum nostrum, in unum volumen resecatis superfluis providimus redigendas, adicientes constitutiones nostras et decretales epistolas, per quas nonnulla, quae in prioribus erant dubia, declarantur [...]«

23 The passage is not included in a second version of the prologue, which the anonymous compiler of the *Extractiones de Talmud* prepared for his thematic rearrangement of the translated texts. This version is preserved only in MS Schaffhausen, Stadtbibliothek, ms. Min. 71, fol. 60r. Edited in *Extractiones de Talmud per ordinem sequentialem*, ed. Cecini and de la Cruz, 11-17.

24 For the document and the list of signatories, see Denifle and Chatelain, *Chartularium universitatis parisiensis* 1, 209-211. The theologians and jurists in this list have been identified in Gorochov, *Naissance de l'Université*, 535 and 544-545. For the concept of »boni viri«, see Bianchi, *Censure et liberté intellectuelle*, 100-101.

### *The Jews as Heretics and Universal Papal Jurisdiction*

Somewhat paradoxically, the developments that I have outlined show how the Christian discovery of an exclusively Jewish law, that is, the Talmud, would eventually legitimize the Jews' subjection under Christian law and papal jurisdiction.

An overt confirmation of the link between the discovery and translation of the Talmud and papal jurisdiction over Jews is provided in Pope Innocent IV's Commentary on Gregory's *Liber Extra*. Here one reads (X 3.34.8) that the pope:

can judge the Jews if they act against the law in moral issues and are not punished by their leaders; and also if they are found guilty of heresy with regard to their own law. And this was the reason why Pope Gregory and Pope Innocent were moved to order the burning of the Talmud in which there are many heresies and to punish those who followed or taught these heresies.<sup>25</sup>

Innocent not only argued that the Talmud makes the Jews depart from their law, which is understood as the Old Testament, but – based on this claim – he established a direct relationship between the Talmud and heresy: Jews who follow or teach the doctrines of the Talmud are considered to be heretics, and it is as such that they must eventually be judged by the Church.

From here, it would only be a small step to the radical anti-Jewish attitude of Berthold of Regensburg (d. c. 1272) in the second half of the thirteenth century. Berthold systematically represented the Jews as heretics:

They have become heretics [...] making a book which is called Talmud. This is altogether heretic, and it contains heresies so condemnable that it is evil that they exist.<sup>26</sup>

In his sermons against heretics, Berthold of Regensburg not only referred to the teachings of the Talmud, but he did so by quoting the *Extractiones de Talmud*. His Sermons XXVIII and XXVIII, which aim to prove the superiority of Christianity vis-à-vis pagans, Jews and (other) heretics, are one of the first instances of a wider reception of the *Extractiones de Talmud*.<sup>27</sup> For the present context, it is rather significant that this reception took place within anti-heretical writing. In order to substantiate his accusations against the Jewish religion, the German Franciscan quotes, among other texts, a passage from Bava Kamma 60b, which deals with *malach ha-mavet*, the angel of death:

25 Quoted from Kedar, Canon law, 80, who shows that the printed editions are not reliable for this passage. The Latin text from the manuscripts reads as follows: »Item iudaeos potest iudicare papa si contra legem faciant in moralibus, si eorum praelati eos non puniant et eodem modo si haereses contra suam legem inveniant, et hac ratione motus papa Gregorius et Innocentius mandaverunt comburi libros talmuth in quibus multae continebantur haereses et mandavit puniri illos qui praedictas haereses sequerentur vel docerent.«

26 Berthold of Regensburg, *Vollständige Ausgabe* 1, 401: »Sie sint ze ketzern worden [...] unde habent ein buoch gemacht, daz heizet dalmut. Daz ist allez sament ketzerie, unde dà stêt sô verfluochtiu ketzerie an, daz daz übel ist daz sie lebent.«

27 The only earlier references to the *Extractiones de Talmud* are found in Albert the Great, see Fidora, Albert the Great. It is likely that Albert introduced Berthold to the Latin Talmud, see Fidora, *Albertus Magnus*.

Dic de angelo Malachamaut. – Credunt iudaei, quod, si fuerit mortalitas in villa, quod non est ambulandum per medium viarum, quia angelus mortis illic vadit. Si autem non est mortalitas, non est ambulandum per latera viarum, quia angelus mortis per illa vadit, quia, quando non habet licentiam occidendi, vadit latitando.<sup>28</sup>

In the *Extractiones de Talmud*, the angel of death is already introduced in the prologue, where it is defined in the following way: »Malaac mavez, id est ›angelus mortis‹, dicitur angelus qui omnes morientes interficit, et Duma vocatur in Talmud alicubi.«<sup>29</sup> Subsequently, the angel of death appears several times throughout the translation, including the above passage from Bava Kamma 60b:

Si sit mortalitas in villa, non ibit homo in medium viarum propter hoc quod angelus mortis vadit per medium viarum; ex quo cum habet licentiam – nocendi –, vadit plane. Si sit pax in villa, non vadat per latera viarum, quia angelus mortis per ea vadit; ex quo enim non habet licentiam – nocendi –, vadit latitando.<sup>30</sup>

The verbal coincidences between both texts are overwhelming. Small differences such as *occidendi* (to kill) for *nocendi* (to do harm) are misreadings or scribal errors. It should also be noted that *nocendi* is an explanatory addition by the translators of the *Extractiones de Talmud*, which is not found in the Talmud itself. Hence, its appearance in Berthold's text, even if misread as *occidendi*, makes a very strong case for the dependence of his sermon on the *Extractiones*.

While this is not the place to dwell further on the philological details of Berthold's use of the Talmud, which he probably knew through Albert the Great, it is more than obvious that his aggressive campaign against the Jews as heretics was tightly linked to his reading and understanding of the *Extractiones de Talmud*. All in all, the Jews paid a high price for the questionable privilege of being accommodated under papal jurisdiction: thus, at the end of the thirteenth century the Talmudic Jew (*Talmudjude*)<sup>31</sup> was considered to be a heretic who needed to be eradicated, as Berthold put it.<sup>32</sup>

28 Berthold of Regensburg, *Sermo XXVIII*, ed. Czerwon, 224. In Schönbach's edition this sermon takes the number XXVIII (Schönbach, *Geschichte der altdeutschen Predigt*, 41). English translation: »Speak of the angel *malach ha-mavet*. – The Jews believe that if there is a plague in the city, one should not walk in the middle of the road, because the angel of death walks there. If there is no plague in the city, one should not walk on the sides of the road, since then the angel of death walks there, for, when he does not have permission to kill, he walks on the side.«

29 *Extractiones de Talmud per ordinem sequentialem*, 18, ed. Cecini and de la Cruz, 14.

30 *Extractiones de Talmud per ordinem sequentialem*, 649, ed. Cecini and de la Cruz, 157. For an English translation, cf. the translation of the parallel passage from the *Extractiones* in n. 28 above.

31 See also Patschovsky, »Talmudjude«.

32 The legitimization of papal jurisdiction over Jews by means of their representation as heretics would also play a central role in the fourteenth century. See Heimann, Nicolaus Eymerich OP.

### *Concluding Remarks*

In terms of »representation« and »knowledge«, the texts which I have analysed here seem to suggest the following narrative: it is the newly acquired *knowledge* of a Jewish textual body that was until then unknown to Christians, which led to a substantial change in the Christian *representation* of the Jews, namely from being depicted as witnesses to the Christian truth, to being represented and judged as heretics. However, one may ask whether such a unilinear narrative does justice to the facts. Already at the end of the twelfth century, when the Christian attitude towards Jews was becoming increasingly aggressive, one finds, here and there, scattered references to the Jews as heretics.<sup>33</sup> Although in these instances the use of the word »heretical« is vague and not always technical, it is more than a mere *façon de parler*: it shows that the representation of the Jews as heretics was somehow in the air. In this light, rather than being the reason for representing the Jews as heretics, the Christian discovery of the Talmud may have been received as a welcome occasion to finally extend ecclesiastical jurisdiction over Jews, along with other heretics.

If this interpretation is correct, the discourse for legitimizing the subjection of Jews under universal papal jurisdiction eventually succeeded in reversing the sequence of causes and effects. For, as I suggest, it was probably not so much the discovery of rabbinic wisdom that changed the representation of the Jews, but it may instead have been their intended representation as heretics that was instrumental in bringing to light and decrying a new body of Jewish knowledge: the Talmud. Or should one rather say, as the protagonists of the procedure against the Talmud would probably have put it, that the events of the 1240s were a »providential« confluence of both motives?

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33 See, for instance, Honorius, *Summa »De iure canonico tractaturus«*, C. 2 q. 7 c. 25 *Pagani v. accusare*: »De haereticis indistincte est verum, Iudaei autem et pagani videntur admittendi ubi suam iniuriam prosequantur, nam civiliter conveniunt et conveniuntur [...]. Sed nonne ipsi etiam sunt haeretici? Respondeo sic, sed non sunt speciali immo generali sententia excommunicati sicut fideles qui fiunt haeretici.« Quoted in Pakter, *Medieval Canon Law*, 179, n. 119. See also Manselli, *Polémique contre les juifs*; and Müller, *Pariser Verfahren*, 188.

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### Abbreviations

CC CM = Corpus Christianorum Continuatio Mediaevalis

CC SL = Corpus Christianorum Series Latina

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