

Course material

in

Jewish Law

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Emory University School of Law

Introduction to the

Course material

in

Jewish Law

The material used in this course hardly allows one to use the term “casebook” to describe it. As a browse through the material indicates, the bulk of the readings are from articles, and not cases. As a general rule, more than one reading will be assigned for every class. On occasion, supplementary readings will be handed out.

For those students without any background in Jewish law, the first set of reading should be studied in some detail. Those students who are already familiar with the general system of Jewish Law need only skim this section.

General Information about this Course

Goals:

The goal of this course is to introduce students to the methodology and approach of Jewish Law.

Specifically this course will survey the methodology and process Jewish law uses to address “hard” legal issues confronting modern society. This course will examine the principles used by Jewish law as a forum for generally focusing on the relationship between law and ethics in any legal systems. This course will also explore the general rules Jewish law uses in various fields, such as family law, contracts and medical ethics.

Course Requirements:

Law students are required to either complete a take home final exam or write a paper.

Students who are so inclined are encouraged to make presentations of their papers to the class. Class participation is part of one’s overall grade.

(GDR, JS and other students are required to speak to me about course requirements.)

Office Hours:

My office is in G315 in the Center for the Study of Law and Religion suite, and my office hours are Monday from 12:15 to 1:30 pm and Tuesday and Thursday from 10 am to noon. I normally am in my office every day until 3:00. My office telephone number is 404-727-7546, my cell phone number is 917-208-5011, and my email address is mbroyde@law.emory.edu. For an urgent matter, you may call me at home at 404-728-9117.

Table of Contents

Page	Reading
INTRODUCTION	
11	1] “The Structure of Jewish Law,” David Feldman, Introduction to <i>Birth Control in Jewish Law</i> (3rd ed., 1995)
27	2] The History of Jewish Law, Chapter 1 of Justice Menachem Elon, <i>Jewish Law</i> (JPS, 1998)
102	3] The A <i>Priori</i> Component of Jewish Bioethics, J. David Bleich, <i>Jewish Bioethics</i>
112	4] “Bullets that Kill on the Rebound: Discrimination Against Homosexuals and Orthodox Public Policy,” Michael Broyde <i>Jewish Action</i> 54(1):52 (1993) and the response to it, “Rendering the Body Politic: Where the Bullets really Go,” Angel, Goldberg, Stolper, <i>Jewish Action</i> 54(1):53, 82 (1993).
122	5] “Appealing to a Higher Authority,” Daniel Ashburn, University of Detroit Mercy Law Review (1994)
MEDICAL ETHICS	
176	6] The Foetus and Foeticide, from <i>Birth Control in Jewish Law</i> (3rd ed., 1995)
221	7] Abortion in Halakhic Literature, J. David Bleich, 1 <i>Contemporary Halakhic Problems</i> 325-371
266	8] Halakhic Solutions to the Resolution of the Disputes Concerning the Disposition of PreEmbryos, Irving Breitowitz, <i>Tradition</i> , 1996
295	9] “So One May Live” -- Siamese Twins, Moshe D. Tendler, Care of the Critically Ill (Ktav, 1996)
302	10] Conjoined Twins, J. David Bleich, <i>Tradition</i> , 1996
337	11] The Quinlan Case: A Jewish Perspective, J. David Bleich, <i>Jewish</i>

Bioethics

- 349 12] The Jewish Attitude Toward Euthanasia, Fred Rosner, *Jewish Bioethics*
 363 13] Medical Experimentation on Humans in Jewish Law, Immanuel Jakobovits, *Jewish Bioethics* and Experimentation on Human Subjects [in Jewish Law], J. David Bleich, *Jewish Bioethics*
 374 14] Compelling Tissue Donations, J. David Bleich, *Tradition* 27:4, 59-89 (1993)
 466 15] The Establishment of Maternity and Paternity in Jewish and American Law, Michael Broyde, III *Nat'l Jewish Law Review*
 449 16] Cloning People, Michael Broyde *Connecticut Law Review*
 475 17] Jewish Perspectives on Suicide and Physician Assisted Dying, Steven Resnicoff, *Journal of Law and Religion* (1998)
 531 18] Methods in Jewish Bioethics: An Overview, Dena Davis, *J. Contemporary Law* 20:325-352 (1994)

COMMUNITY

- 554 19] "Proselytism in Jewish Law," David Novak, from *Sharing the Book: Religious Perspectives on the Rights and Wrongs of Proselytism* (Maryknoll, NY, 1999).
 583 20] "Proselytism and Jewish Law," Michael Broyde, from *Sharing the Book: Religious Perspectives on the Rights and Wrongs of Proselytism* (Maryknoll, NY, 1999).

BUSINESS ETHICS

- 600 21] Ethical Investment: The Responsibility of Ownership in Jewish Law, D.B. Bressler, *Jewish Business Ethics -- The Firm and Its Stakeholders* (1999, Jason Aronson).
 628 22] Consumer and Social Ethics: Case Studies in Jewish Business Ethics, Aaron Levine
 702 23] Responsibility of the Firm to the Environment, *Jewish Business Ethics --*

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- 730 24] *The Firm and Its Stakeholders* (1999, Jason Aronson).
- 730 24] The Good Samaritan: Jewish and American Legal Perspectives, Besser & Kaplan, *J. Law and Religion* 10:193-219 (1994)
- 752 25] Patentability of Living Within Traditional Jewish Law, Arie P. Katz, *AIPLA Q.J.* 21:117-137 (1993).
- 775 26] The Return of Lost Property in Jewish and American Law, Michael Broyde and Michael Hecht *Journal of Law and Religion* (1996)
- 801 27] “The Gentile and Returning Lost Property According to Jewish Law: A Theory of Reciprocity,” Michael Broyde and Michael Hecht *Jewish Law Annual XIII* 31-45 (2000).

CRIMINAL LAW

- 818 28] Mistake of Law and Ignorance of Law in Jewish Criminal Law, Arnold Enker, *Jewish Law Association Studies VII* (1994)
- 829 29] Self Defence and ‘Necessity,’ Nachum Rakover, *Jewish Law Association Studies VII* (1994)
- 836 30] Rabbi Judah son of Asher on Capital Penalties, *Jewish Law Association Studies VII* (1994)

PROFESSIONAL ETHICS

- 857 31] Obligation and Supererogation in Jewish Law, Aaron Kirschenbaum, *Equity in Jewish Law*
- 916 32] Profession Confidences, Michael Broyde, *The Pursuit of Justice and Jewish Law* (1996)
- 922 33] Billing by the Hour, Michael Broyde, *The Pursuit of Justice and Jewish Law* (1996)
- 929 34] Lying and Lawyering, Steven Resnicoff, *Notre Dame Law Review* (2002)
- 963 35] Contracts in Jewish and American Law, Steven Weiner and Michael Broyde (unpublished)

- 975 36] Is there a Concept of Individual Rights in Jewish Law, David Novak, *Jewish Law Association Studies VII* (1994)

FAMILY LAW

- 1001 37] Child Custody In Jewish Law: A Pure Law Analysis, Michael Broyde, *Jewish Law Association Studies VII* (1994)
- 1021 38] Women in Judaism from the Perspective of Human Rights, Michael Berger and Deborah Lipstadt, *Human Rights in Judaism: Cultural, Religious, and Political Perspectives* (1996)
- 1068 39] Marriage -- Independent of Procreation, David Feldman, *Birth Control and Jewish Law* (3rd Ed., 1995)
- 1081 40] Some Thoughts on Marriage: Diverse Models of Marriage in the Jewish View, and the Return to Monogamy in the Modern Era, Michael Broyde (unpublished)
- 1127 41] Jewish Marriage, Michael Broyde, *Marriage, Divorce and the Abandoned Wife in Jewish Law: A Conceptual Approach to the Agunah Problems in America*. (Ktav, 2001)
- 1169 42] “The Duty to Educate in Jewish Law: A Right with a Purpose,” Michael Broyde, *Religious Human Rights in Global Perspective: Religious Perspectives* (Martinus Nijhoff, 1995).

WAR

- 1183 43] “Fighting for Peace: Battlefield Ethics, Peace Talks, Treaties and Pacifism in the Jewish Tradition,” Patout Burns, ed., *War and its Discontents: Pacifism and Quietism in the Abrahamic Traditions*, 1-30

Individual Class Assignments and Readings

Since we have 90-minute classes, it will not be unusual for class meetings to begin (or even complete) the readings for the class ahead of the assigned reading. It is expected that students will stay at least one full reading ahead of class (i.e., for class 5 students will have read readings 1-10, and not 1-8.)

Class number	Reading	Date	Topic
1	1	Monday, January 7	Introduction
2	2-3	Wednesday, January 9	History
3	4-5	Monday, January 14	American Public Policy
4	6-7	Wednesday, January 16	Abortion
MLK Holiday	No Readings	Monday, January 21	
5	8	Wednesday, January 23	PreEmbryos
6	9-10	Monday, January 28	Separating Twins
7	11-13	Wednesday, January 30	End of Life
8	14	Monday, February 4	Organ Donation
9	15-16	Wednesday, February 6	Assisted Reproduction
10	17, 18	Monday, February 11	Suicide
11	19-20	Wednesday, February 13	Proselytism
12	21-22	Monday, February 18	Business Ethics I
13	23	Wednesday, February 20	Business Ethics II
14	24 (skip 25)	Monday, February 25	Ethics
15	26-27	Wednesday, February 27	Ethics and Community
16	28-30	Monday, March 4	Criminal Law

17	31	Wednesday, March 6	Beyond Ethics
Spring break	No reading	Monday & Wednesday, March 10-12	
18	32-34	Monday March 17	Professional Ethics
19	37, 42	Wednesday, March 19	Child Custody
20	38-39	Monday, March 24	Marriage
21	40	Wednesday, March 26	More Marriage
22	41	Monday, March 31	More Marriage
23	35	Wednesday, April 2	Contracts
24	36	Monday, April 7	Individual Rights
25	43	Wednesday, April 9	War
26	(Skim 10, 18, 23, 27, 34 and 37)	Monday, April 14	Review and Make up class
27	No Readings	Wednesday, April 16	Review
NO CLASS		Monday, April 21	

(BY LAW SCHOOL RULES, 90-MINUTE CLASSES NEED ONLY ACTUALLY MEET 25 TIMES.)