 **Date:** Sep. 2017

Course Name and Number:

Jewish Law and Ethics: Selected Topics

02-367-81

**Type of course:** Lecutre

**Year of Studies:** 2017-2018 **Semester:** Fall **Hours/credits**

**Course Description:**

*This course will examine selected chapters of Jewish Law and Ethics. The primary focus will be on "life and death" issues, i.e. lifeboat ethics, triage, quality of life, euthanasia, abortion, sexual ethics, privilege and obligations. The second semester will focus on general ethical issues. These topics will be analyzed from both legal and ethical perspectives, and comparisons will be made with other legal systems and other systems of ethical thought. The relationship between ethics, society, religion, and culture will also be examined.*

*Biblical and Talmudic texts will be studied alongside modern rabbinic responsa and legal decisions, in an attempt to understand the legal and philosophical underpinnings of contemporary law. A study of the basic concepts and principles of morals, values, and judgments that govern human actions, as well as various theories of ethics, will be conducted.*

*Students will be asked to familiarize themselves with both primary and secondary sources. This course is designed to help students develop their abilities to read, explicate, analyze, and evaluate moral issues, and to think critically and analytically about ethical issues. There will be an examination at the conclusion of each semester.*

*Mastery of basic texts, including commentaries, understanding of ideas.*

*Attendance, participation, and final exam*

**Detailed Lesson plan:**

1. **Introduction: What is Law? What are Ethics? What is Jewish Law?**

**Additional readings:**

* Jews, Public Policy and Civil Rights: A Religious Jewish Perspective

Rabbi Michael Broyde,

* Buck vs. Bell Trial

<http://eugenicsarchive.org/html/eugenics/static/themes/39.html>

https://supreme.justia.com/cases/federal/us/274/200/case.html#207

<https://www.law.cornell.edu/supremecourt/text/274/200>

* Eugenics and the Nazis: The California Connection

<http://www.sfgate.com/opinion/article/Eugenics-and-the-Nazis-the-California-2549771.php>

* *Notes of a Nuremberg Documentarian*

<http://today.law.harvard.edu/notes-nuremberg-documentarian/>

1. **Limited Resources in Micro Cases**

* Talmud Bavli Bava Metzhia 62a
* Sifra B’har 5:5

**Additional readings:**

* The Dreadful Shipwreck of the William Brown
* Two people in a desert with one cup of water:Bava Metzia 62a,
* משנת חיי שעה: שמחה לייזרזון 153
* Alexander Holmes Trial: 1842 - Holmes Tried For Manslaughter

http://law.jrank.org/pages/2482/Alexander-Holmes-Trial-1842.html

* Judah Goldschmiedt, “The Division of Scarce Resources and Triage in Halacha,” in [Jonathan Wiesen](https://www.amazon.com/s/ref=dp_byline_sr_book_1?ie=UTF8&text=Jonathan+Wiesen&search-alias=books&field-author=Jonathan+Wiesen&sort=relevancerank) (Ed.), *And You Shall Surely Heal* (2009: KTAV Publishing House), pp. 187-199.
* Price and Utilization: Why We Must Target Both to Curb Health Care Costs, Govind Persad, Alan Wertheimer, Ezekiel J Emanuel

1. **Limited Resources in Micro Cases – Application of Principles**

* Talmud Bavli Sanhedrin 74a
* Tosafot Sanhedrin 74a *V’ha Esther*
* Hiddushie Rav Chaim Halevi Hilchot Yesodie Hatorah 5:1

**Additional readings:**

* Rabbi Yisrael Rozen “The Shabbat Elevator” The Tzomet Institute http://www.zomet.org.il/eng/?CategoryID=198&ArticleID=286

1. **Limited Resources in Macro Cases**

* Tamud Bavli, Nedarim 80b
* *Sheiltot Rav Achai* 147, commentary *Emek Hanetziv.*

**Additional readings:**

* Avraham Steinberg, M.D., “Allocation of Scarce Resources,” *ASSIA – Jewish Medical Ethics*,  Vol. II, No. 2 (May 1995), pp. 14-21.

1. **Triage:**

* Nefesh HaHayim 1:8
* Fred Rosner, "The Rationing of Medical Care” The Journal of Halacha and Contemporary Society, Vol. 6, pg. 21.
* קול צופיך 235 (Ransoming captives)

**Additional readings:**

* Barry Freundel “Health Care and Tikkun Olam,” in Shatz, Waxman, & Diament (eds.), *Tikkun Olam*: Social Responsibility in Jewish Thought and Law (1997: Jason Aronson), pp. 309-337

1. **Allocating Resources – Redeeming Captives**

* Mishna Sanhedrin 4:5
* Mishna in Jerusalem Talmud Sanhedrin 4:9
* Talmud Bavli Gittin 45a
* Rambam, Laws of Gifts to the Poor, Chapter 8: 10,12

**Additional readings:**

* Rabbi Yirmiyohu Kaganoff, “Explaining the Mitzvah of Pidyon Shevuyim.”

http://rabbikaganoff.com/tag/redeeming-captives/

* Blidstein, Gerald J. “The redemption of captives in halakhic tradition: problems and policy”, pages, 20-31
* Simcha Emanuel, “Did Rabbi Meir of Rothenburg Refuse to Be Ransomed?” *Jewish Studies Quarterly* 24:1 (March 2017): 23-38,
* Eitam Henkin (HY”D), “Revisiting the Issue of the Incarceration of Maharam of Rothenburg and His Redemption for Burial,” *Yerushateinu* 5 (2011): 311-318 (Hebrew)
* David Goldschmidt, *Yerushateinu* 7 (2013): 388-389 (Hebrew),
* Joseph Isaac Lifshitz, “The Maharam of Rothenberg and the Ransom Which Was Never Realized,” in Merav Mack, ed., *Shevuyim* (Jerusalem: Van Leer, 2014), 133-147 (Hebrew),

1. **Transplants: (Autopsies/ Experimentation)**

* Responsa Rekanati, section 470.
* Responsa Radvaz 3:627.
* Noda Beyehuda MT YD 219.
* Responsa Binyan Zion 170.

**Additional readings:**

* J. DavidBleich, *Contemporary Halakhic Problems,* vol. 1, chapter 16, page 372.
  + Volume 4, page 316 "Of Cerebral, Respiratory, and Cardiac Death"
* Reuven Fink "Halachic Aspects of Organ Transplantation," The Journal of Halacha and Contemporary Society, Volume 5, page 45.
* Fred Rosner and Moshe Tendler, "Determining the Time of Death," The Journal of Halacha and Contemporary Society, Volume 17, page 14.
* Herschel Shachter, "Determining the Time of Death," The Journal of Halacha and Contemporary Society, Volume 17, pg. 32.
* Aharon Soloveichik, "Determining the Time of Death" The Journal of Halacha and Contemporary Society, Volume 17, page 41.
* קול צופיך 374-397, "משנת חיי שעה" שמחה לייזרזון
* J. DavidBleich, *Contemporary Halakhic Problems,* vol. 1Chapter 5 p. 93ff,
  + "Delayed Burial;" page 197,
  + Cannibalism page 179\*,
* Alfred Cohen, "Animal Experimentation," The Journal of Halacha and Contemporary Society, Volume 11, pg.19.

1. **Smoking, Drugs and Danger**

* Talmud Bavli Shabbat 129b
* R. Moshe Feinstein, *Iggerot Moshe,* *Yoreh Dayeh* 2:49
* M. Slae, Smoking and Damage to Health in the Halacha.
* Fred Rosner, "Cigarette Smoking and Jewish Law," The Journal of Halacha and Contemporary Society, Volume 4 pg.33

**Additional readings:**

* B. Herring, *Jewish Ethics and Halakha For Our Time* (1984: Ktav), pp. 221-241.

1. **When Law and Ethics collide: May Shabbat be Desecrated in Order to Save a Life?**

* Talmud Bavli Yoma 85b
* R. Moshe Sofer, *Responsa Hatam Sofer*, Yoreh Deah 131, Hoshen Mishpat 194;
* R. Yisrael Lifschitz, *Tiferet Yisrael*, Avodah Zarah 2:6;
* R. Hayim Halberstam, *Responsa Divrei Hayim* vol. 2 Orah Hayim 25;
* R. Shalom David Ungvar, *Responsa Yad Shalom* 57;
* R. Mordekhai Ya'akov Breisch, *Responsa Helkat Ya'akov* vol. 2 54;
* R. Moshe Feinstein, *Iggerot Moshe* vol. 4, 49;
* R. Yitzhak Ya'akov Weiss, *Responsa Minhat Yitzhak*, vol. 1 53, vol. 3 20, vol. 10 31:14;
* R. Eliezer Yehudah Waldenburg, *Responsa Tzitz Eliezer*, vol. 8 15:6;
* R. Ovadia Yosef, *Responsa Yabia Omer*, vol. 8 Orah Hayim 38;
* R. Shlomo Zalman Braun, *She'arim Metzuyanim Bahalakhah*, 92:1;
* R. Zvi Hirsch Shapira, *Darkhei Teshuvah*, 158:3;
* R. Yehoshua Yishayahu Neuwirth, *Shemirat Shabbat Kehilkhatah* ch. 40 n. 42;
* R. Simhah Benzion Rabinowitz, *Piskei Teshuvot*, 390:2

**Additional readings:**

* R. Immanuel Jakobovits, “A Modern Blood Libel – L’Affaire Shahak,” Tradition, vol. 8 no. 2 (Summer 1996), pp. 58-65.
* Noah Feldman, “Orthodox Paradox” New York Times Magazine, July 22, 2007.
* Gil Student, “Shabbat and Gentile Lives,”

http://www.aishdas.org/student/shabbat.htm

1. **Suicide:**

* Talmud Bavli Avoda Zara 18a, Gittin 57b.

**Additional readings:**

* B. Herring, *Jewish Ethics and Halakha For Our Time* (1984: Ktav), pp. 67-90.

Haym Soloveitchik, *Collected Essays*, Volume 2 (2014:The Littman Library of Jewish Civilization, Oxford), chapters 10 & 11, pp. 223-287: “Between Cross and Crescent,” “Halakhah, Hermeneutics and Martyrdom in Ashkenaz.”

1. **Euthanasia:**

* Talmud - Kethuboth 104a, Nedarim 40a, and commentary of Ran, ad loc.
* Sefer Hassidim section 723

**Additional readings:**

* Fred Friedman, "The Chronic Vegetative Patient: Torah Perspective" The Journal of Halacha and Contemporary Society, Vol. 26 p. 88.
* Zev Schostak "Ethical Guidelines for the Treatment of the Dying Elderly," The Journal of Halacha and Contemporary Society, Vol. 3 p. 72.
* Jeff Ifrah, “The Living Will," The Journal of Halacha and Contemporary Society, Vol. 24, p. 121.
* Jeffrey L. Rubenstein, "Can a *Goses* Survive for More Than Three Days? The History and Definition of the *Goses*," Journal of Jewish Ethics 2, no. 2 (2016): 1-37.
* B. Herring, “Jewish Ethics and Halakha For Our Time” (1984: Ktav), pp. 67-90.
* קול צופיך 330

1. **Is Elective Surgery “Ethical”? Jewish Law and Ethics in a World of Personal Autonomy**

* Talmud Bavli 90b, 91b.
* Rambam, *Hovel uMazik* Chapter 5 Halacha 1.
* R. Moshe Feinstein, *Iggerot Moshe,* *Hoshen Mishpat* 2:66
* *Responsa Helkot Yakov* Hoshen Mishpat 31.
* *Responsa Mishne Halchot* 4:246, 247.
* *Responsa Tziz Eliezer* 11:41.

**Additional readings:**

* S. Mousavi, The Ethics of Aesthetic Surgery. Journal of Cutaneous and Aesthetic Surgery, (2010:3, 38–40. http://doi.org/10.4103/0974-2077.63396
* Rabbi Chaim Jachter, “Cosmetic Surgery - A Review of Four Classic Teshuvot” Parts 1, 2.

**Course requirements:**

*Course requirements: attendance to frontal lecture, preparation, and mastery of basic texts. There will be a final administered after each semester.*

*required material for the exam, all primary texts and commentaries, including material discussed in class.*

**Grade Components :Number grade**

*30% based on attendance and participation, 70% based on the final exam*

**Bibliography**

* Amsel, Norman, The Jewish Encyclopedia of Moral and Ethical Issues (1994: Aronson).
* Bleich, J. David, Contemporary Halakhic Problems, Volumes 1-5 (1983: Ktav).
* Blidstein, Gerald J. “The redemption of captives in halakhic tradition: problems and policy” Organizing Rescue; National Jewish Solidarity in the Modern Period. Ed. by Selwyn Ilan Troen and Benjamin Pinkus. London: Frank Cass, 1992 pages, 20-31
* Broyde, Michael, Jews, Public Policy and Civil Rights: A Religious Jewish Perspective
* Dewey, J. “The Historic Background of Corporate Legal Personality,” Yale Law Journal, Vol. XXXV, April 1926, pages 655-673.
* Dratch, M, “Honoring Abusive Parents,” Hakira 12 (Fall 2011), pp. 105-119.
* Feldman, David M., Marital Relations, Birth Control, and Abortion in Jewish Law (1974: Schocken Books).
* Dundes, Alan, The Shabbat Elevator and other Sabbath Subterfuges (2002 Rowman & Littlefield)
* Ferziger, A.S. “From Demonic Deviant to Drowning Brother: Reform Judaism in the Eyes of Orthodoxy (1983-2007)," Jewish Social Studies 15, 3 (Spring/Summer 2009), 56-88.
* Ferziger, A.S. (2012) “Ashes to Outcasts: Cremation, Jewish Law, and Identity in Early Twentieth-Century Germany,” AJS Review, 36(1), pp. 71–102.
* Frimer A. A., "Review Essay: Insights into Mourning. A Review of Dr. Joel B. Wolowelsky's The Mind of the Mourner: Individual and Community in Jewish Mourning," Tradition, 44:4 (Winter 2011), pp. 41-46.
* Govind Persad, Alan Wertheimer, Ezekiel J Emanuel, “Principles for Allocation of Scarce Medical Interventions,” The Lancet, Department of Ethics, www.thelancet.com  Vol 373 January 31, 2009.
* Herring, B., Jewish Ethics and Halakha For Our Time (1984: Ktav).
* <http://www.jlaw.com/Articles/jewspublic.html>
* Jachter, Chaim “Cosmetic Surgery - A Review of Four Classic Teshuvot- Part 2” <http://www.koltorah.org/ravj/14-18%20Cosmetic%20Surgery%20-%20A%20Review%20of%20Four%20Classic%20Teshuvot%202.htm>
* Jachter, Chaim, “Cosmetic Surgery - A Review of Four Classic Teshuvot - Part 1” <http://www.koltorah.org/ravj/14-17%20Cosmetic%20Surgery%20-%20A%20Review%20of%20Four%20Classic%20Teshuvot%201.htm>
* Kahn, Ari, Emanations (2002 Targum Press)
* Katz, Jacob, “Exclusiveness and Tolerance,” Studies in Jewish Gentile Relations in Medieval and Modern Times (1961: Oxford University Press).
* Mousavi, S. (2010), “The Ethics of Aesthetic Surgery.” Journal of Cutaneous and Aesthetic Surgery, 3(1), 38–40. <http://doi.org/10.4103/0974-2077.63396>
* Newman, J., The Dimension of Jewish Ethics (1987: Council of Young Israel Rabbis).
* Rozen, Yisrael “The Shabbat Elevator” The Tzomet Institute (found on website no other bibliographic information)
* http://www.zomet.org.il/eng/?CategoryID=198&ArticleID=286
* Schachter, Jacob J. (Ed.), Jewish Tradition and the Non-Traditional Jew (1992: Aronson)
* Shatz, Waxman, & Diament (eds.), *Tikkun Olam*: Social Responsibility in Jewish Thought and Law (1997: Jason Aronson).
* Soloveitchik, Haym, Collected Essays, Volume 2 (2014: The Littman Library of Jewish Civilization, Oxford).
* Sorotzkin, B, “Honoring Parents Who Are Abusive,” Parts 1-3, The International Network of Orthodox Mental Health Professionals - NEFESH News (2004), note 10 therein; available online at: http://www.drsorotzkin.com/ honoring\_abusive\_parents.html.
* Spiro T, Lee E.O., Emanuel, E.J., “Price and Utilization: Why We Must Target Both to Curb Health Care Costs,” Annals of Internal Medicine 2012;157:586-590.
* Steinberg, Avraham, “Allocation of Scarce Resources,” ASSIA – Jewish Medical Ethics, Vol. II, No. 2, May 1995, pp. 14-21.[http://98.131.138.124/articles/JME/JMEB2/JMEB2.24.asp#](http://98.131.138.124/articles/JME/JMEB2/JMEB2.24.asp)
* Tendler, M.D., “So One May Live: Siamese Twins," Unpublished Responsum by Rav Moshe Feinstein zt”l, Translated and annotated, in Care of the Critically Ill, Vol. 1 (1996: Ktav).
* Weisen, Jonathan (ed.), And You Shall Surely Heal (2009: KTAV Publishing House).
* שבט, ארי יצחק "גילוי עריות למען בטחון המדינה" תחומין ל' 68-81
* תחומין 1-35 (English translation: "Crossroads" volumes 1-3)
* חיי שעה שמחה לייזרזון
* קול צופיך יהודה גרשוני, מוריה תש"ם
* קדושת החיים וחירוף הנפש עורכים י. גפני א. רביצקי מרכז שזר תשנ"ג