

Course Name and Number:

Contemporary Halacha

Jewish Law and Ethics: Selected Topics

02-367-81

**Type of course:** Lecture

**Year of Studies:** 2021-2022 **Semester:** Fall **Hours/credits**: 2

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***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.*

**Course Requirements/Assignments**

*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.*

***Course Goals*** *– for students to learn how to analyze and negotiate with moral quandaries, and how to use both ancient and modern sources in this quest.*

***Learning Outcomes***

*Familiarity with the major issues in Jewish and world ethics, and what Jewish sources add to the discussion.*

**Components of the course grade**

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

*Attendance, participation, and final exam*

***Prerequisites***

*Ability to deal with basic rabbinic texts in Hebrew of translation.*

***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.*

**Components of the course grade**

*30% based on participation, 70% based on the final exam/assignment*

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),
* Cooper, Levi “The Assimilation of Tikkun Olam” *Jewish Political Studies Review* Fall 2013, Volume 25, Numbers 3–4 pages 10-42

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.