

Course Name and Number:

Contemporary Halacha

Jewish Law and Ethics: Selected Topics

02-368-81

**Type of course:** Lecture

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

Rabbi Ari D. Kahn

Ari.kahn@biu.ac.il

***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. **Abortion: Is the Jewish Approach Monolithic? -Reasons for stringency**

* Mishna Ohalot 7:6 .
* Talmud Bavli Sanhedrin 72b, Rashi *ad loc.*
* Rambam, Laws of Murder 1:9
* R. Moshe Feinstein, *Iggerot Moshe,* *Hoshen Mishpat* 2:69,71

**Additional readings:**

* J. DavidBleich, *Contemporary Halakhic Problems, vol. 1* chapter 15, page 325

1. **Abortion: Is the Jewish Approach Monolithic? Reasons for leniency**

* Talmud Bavli (Mishna) Arakhin 7a
* Maharit (Rabbi Joseph ben Moses Trani), 1:99
* *Havat Yair* (Rabbi Yair Chaim Bachrach) section 31
* Rabbi Joseph Chaim of Baghdad, *Rav Pe’elim*, Even HaEzer section 4
* *Tzitz Eliezer* 9:51

**Additional readings:**

* David M. Feldman, Marital Relations, Birth Control, and Abortion in Jewish Law (1974: Schocken Books).
* Avraham Steinberg, "Induced Abortion in Jewish Law,” The Journal of Halacha and Contemporary Society, Vol. 1 page 29.
* B. Herring, “Jewish Ethics and Halakha For Our Time” (1984: Ktav) 25-46.

1. **Separating Conjoined Twins**

* “So One May Live: Siamese Twins,” Unpublished Responsum by Rav Moshe Feinstein zt"l, Translated and annotated by Rabbi Moshe Dovid Tendler, *Care of the Critically* *Ill*, Vol. 1.
* Rambam, Laws of Murder 1:9.

**Additional readings:**

* Colleen Davis, “The spectre of court-sanctioned sacrificial separation of teenage conjoined twins against their will,” Journal of Law and Medicine, 21(4) (June 2014), pp. 973-83.
* C. Davis, “Separating conjoined twins: a medical and criminal law dilemma.” Journal of Law and Medicine, 17(4) Feb. 2010, pp. 594-607.
* C. Murphy-O'Connor, “The conjoined twins Mary and Jodie: ethical analysis of their case.” Origins. [Washington, National Catholic News Service] Oct 52000; 30(17):269-72.

1. **Truth and Falsehood**

* Exodus 23:7
* Talmud Bavli Shavuot 31a
* J. DavidBleich, *Contemporary Halakhic Problems, vol. 2;* page 108: "Cheating."

**Additional readings:**

* Alfred Cohen, "On Maintaining a Professional Confidence," The Journal of Halacha and Contemporary Society, Vol. 7, pg. 73.
* B. Herring, “Jewish Ethics and Halakha For Our Time” (1984: Ktav), 47-66.

1. **Love your Neighbor**

* Leviticus 19:18
* N. Lamm, “Loving and Hating Jews as Halachik Categories,” in Jacob J. Schachter (Ed.), “Jewish Tradition and the Non-Traditional Jew” (1992: Aronson), pp. 138-176.

**Additional readings:**

* J. Newman, The Dimension of Jewish Ethics (1987: Council of Young Israel Rabbis)
* Y. Amital, “Rebuking a Fellow Jew: Theory and Practice,” in Jacob J. Schachter (Ed.), “Jewish Tradition and the Non-Traditional Jew” (1992: Aronson), pp. 119-138
* N. Rabinovitch, “All Jews are Responsible for One Another,” in Jacob J. Schachter (Ed.), “Jewish Tradition and the Non-Traditional Jew” (1992: Aronson), pp. 176-204.

1. **Obligations and Privileges: Can One Lose the Status of “Jew”?**

* Rambam, Laws of Teshuva Chapter 4, Mamrim Chapter 3.
* *Chazon Ish* Yoreh Dayeh 2:16.

**Additional readings:**

* A.S. Ferziger, ‘Ashes to Outcasts: Cremation, Jewish Law, and Identity in Early Twentieth-Century Germany’, AJS Review (2012), 36(1), pp. 71–102.
* A.S. Ferziger, “From Demonic Deviant to Drowning Brother: Reform Judaism in the Eyes of Orthodoxy, 1983-2007," Jewish Social Studies 15, 3 (Spring/Summer 2009), pp. 56-88.
* J. DavidBleich, "Extending Sabbath Invitations to the Non-Observant,” *Contemporary Halakhic Problems, vol. 4,* page 92.
* David Friedman "The Status of Non-Halachic Marriages," The Journal of Halacha and Contemporary Society,Vol. 8 page 118
* Moshe Weinberger, "Attitudes and Methods in Jewish Outreach" The Journal of Halacha and Contemporary Society, Vol. 20, page 77.
* Moshe Weinberger, "The Baal Teshuva and the Jewish Community: Re-entry Problems,” The Journal of Halacha and Contemporary Society, Vol. 12, page 69.
* Jacob J. Schachter (ed.), Jewish Tradition and the Non- Traditional Jew, pp. 3-115.

1. **Judaism and Racism; The Challenge of Amalek**

* Deuteronomy Chapter 25:17-19
* Commentary R’ Chaim Paltiel Deuteronomy Chapter 25:19
* Commentary Ha’amek Davar Deuteronomy Chapter 25:19
* Rambam Laws of Kings 6:1,3,4

**Additional readings:**

* Rabbi Ari Kahn Emanations “Amalek a question of Race” 301-307

1. **The Ethical Dilemma of Esther; Use of Sexuality to Save a life**

* Talmud Bavli Sanhedrin74b
* Talmud Bavli Pesachim 25a
* Rabbi Joseph ben Solomon Colon, *Responsa Maharik* 167
* Rabbi Jacob ben Joseph Reischer, *Responsa Shvut Yaakov* Vol. 2, 117.
* Rabbi Ezekiel ben Judah Landau, *Responsa Noda b’Yehuda* (First Edition), 161.

**Additional readings:**

* Aryeh Kaplan, “Judaism and Martyrdom,” in *The Handbook of Jewish Thought*, Vol. 2.
* <http://www.aish.com/jl/m/pm/48936542.html>
* ארי יצחק שבט גילוי עריות למען בטחון המדינה, תחומין ל' 68-81

1. **The Ethical Dilemma of Esther; Rape by Fraud, Coercion and Consent**

* Rabbi Jacob Ettlinger, *Responsa Binyan Zion* 154.
* Talmud Bavli Sanhedrin74b
* Rabbi Eliezer Horowitz, *Responsa Yad Eliyahu* 109
* Rabbi Joseph Saul Nathanson, *Responsa Sheol Umeshiv Mehdura Kamma* 3:48

**Additional readings:**

* BEN A. MCJUNKIN, “DECONSTRUCTING RAPE BY FRAUD” Columbia Journal of Gender and Law, Issue: Volume 28, Number 1 (2014) 1-47
* Kim Shayo Buchanan, “RAPE BY FRAUD” University of Chicago Law School, Workshop on Regulating Sex and Gender: 1-30

http://www.law.uchicago.edu/files/files/kim\_shayo\_buchanan\_1.14.15.pdf

1. **Honoring and Caring for Parents with Dementia**

* Talmud Bavli Kedushin 31b
* Rambam Mishna Torah *Mamrim* 6:10

**Additional readings:**

* Jotkowitz, Alan B., Clarfield, A. Mark & Glick, Shimon. (2005). The Care of Patients with Dementia: A Modern Jewish Ethical Perspective - DEMENTIA AND JEWISH ETHICS Journal of the American Geriatrics Society, 53(5), 881-884. doi:10.1111/j.1532-5415.2005.53271.x
* Zorowitz,RA. (2004). Ethical issues in end-of-life geriatric care: the approach of three monotheistic religions-Judaism, Catholicism, and Islam. Journal of the American Geriatrics Society, 52(7), 1224-5; author reply 1225.
* Clarfield, A. M., Gordon, M., Markwell, H. and Alibhai, S. M. H. (2003), Ethical Issues in End-of-Life Geriatric Care: The Approach of Three Monotheistic Religions—Judaism, Catholicism, and Islam. Journal of the American Geriatrics Society, 51: 1149–1154. doi:10.1046/j.1532-5415.2003.51364.x
* Barber, Clifton E. & Lyness, Kevin P.. (2001). Ethical Issues in Family Care of Older Persons with Dementia: Implications for Family Therapists Home Health Care Services Quarterly, 20(3), 1-26. doi:10.1300/J027v20n03\_01

1. **Honoring and Caring for Wicked Parents**

* Talmud Bavli Yevamot 22a
* Talmud Bavli Bava Kamma 24b
* *Massekhet Semakhot* (2:10),
* Maimonides (M.T., *Hilkhot Avel*, 1:10)
* R. Joseph Caro (*Shulhan Arukh*, *YD*, 345:5) (*YD*, sec. 340:5)
* Dratch, Mark, “Honoring Abusive Parents,” Hakira 12 (Fall 2011), pp. 105-119.
* Sorotzkin, Benzion, “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.

**Additional readings:**

* Bleich J. David “Aliya against Parental Objections," in Contemporary Halakhic Problems vol. 1.
* Shmuel Singer, "The Challenge of Honoring Parents in Contemporary Social Conditions,” The Journal of Halacha and Contemporary Society, Vol. 14, page 85.
* B. Herring, *Jewish Ethics and Halakha For Our Time* (1984: Ktav), pp. 197-220.
* Warhaftig Alon Shvut
* Frimer, Aryeh 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.

1. **Legal Fictions, Pruzbol, Eruv, Shabbat Clocks,**

* Mishna Shevi’it chapter 10
* Talmud Bavli Gitten 36a
* Halachic "Deceit" <http://www.zomet.org.il/eng/?CategoryID=199&ArticleID=56>
* Rabbi Tzvi Price, “The 'Magical Power' of the Rabbis -How Does The Pruzbul Really Work?”

<http://www.thehalachacenter.org/journal-links/5775/devarim/ki-savo/the-magical-power-of-the-rabbis.php>

**Additional readings:**

* John Dewey, “The Historic Background of Corporate Legal Personality,” Yale Law Journal, Vol. XXXV, April 1926, pp. 655-673.

1. **Legal Fictions, Sale of Chametz on Passover, Sale of the Land of Israel Sabbatical Year**

* Tosefta Pesachim 2:12
* Talmud Bavli Pesachim 6b
* R. Moshe Feinstein, *Iggerot Moshe,* Aruch Haim 1:149, 2:91

**Additional readings:**

* Alan Dundes The Shabbat Elevator and other Sabbath Subterfuges:

1. **The International Date Line – Real or Fiction?**

* D. Pahmer, “The International Date line and Related Issues” RJJ Journal of Halacha and Contemporary Society (1991) XXI: 60–83

**Additional readings:**

* Willie Roth, “The International Date Line and Halacha,”

<http://www.koltorah.org/ravj/The%20International%20Date%20Line%20and%20Halacha.htm>

* Edgar Allan Poe, Three Sundays in a Week

(1850) <http://www.online-literature.com/poe/2131/>

**Select 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