Prof. Jonathan Cohen Spring 2020

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**Jewish Law**

I. Course Overview

This seminar explores the development of Jewish law from Biblical times to modern day.  Attention will be paid both to general thematic issues (e.g., the interplay between narrative and law, the concept of obligation, and ritual vs. non-ritual law) as well as to particular topics (e.g., criminal law, provision for the poor, conflict resolution, dietary rules, divorce, healthcare, the treatment of prisoners, and same-sex marriage).  At times, comparisons will be made with the American legal system. No prior background in Jewish law is required.

II. Materials

The course textbooks are Menachem Elon et al, *Jewish Law (Mishpat Ivri): Cases and Materials* (Mathew Bender/LexisNexis, 1999) and Jill Jacobs, *There Shall Be No Needy: Pursuing Social Justice Through Jewish Law and Tradition* (Jewish Lights, 2010). While I recommend purchasing the books, I have placed each on reserve at the law library. For several topics there will be other readings assigned, usually available via the internet.

I have placed on reserve in the law library some additional books that may possibly be of use to you depending on your interests. For a basic introduction to Judaism, see Robert S. Ellwood & Barbara A. McGraw, *Many People, Many Faiths*, ch. 7, “Keeping Covenant with God in History” (Pearson, 2014). For a basic overview of Jewish law from a traditional perspective, see Steven A. Resnicoff, *Understanding Jewish Law* (LexisNexis, 2012). On the general historical development of Jewish law, see Elliott N. Dorff & Arthur Rosett, *A Living Tree: The Roots and Growth of Jewish Law* (SUNY Press, 1988). For an overview of Jewish law and modern treatment of different topics from an Israeli perspective, see Menachem Elon’s four-volume treatise, *Jewish Law: History, Sources, Principles* (Jewish Publication Society, 1994). For an overview of Biblical law through the lens of modern legal categories, see Richard H. Hiers, *Justice and Compassion in Biblical Law* (Continuum, 2009). For an introduction to Jewish ritual law, including topics such as prayer, holidays, dietary restrictions and marriage, see Isaak Klein, *A Guide to Jewish Ritual Practice* (Jewish Theological Seminary, 2013)(writing from the Conservative movement). On classic Jewish texts generally, including classic Jewish legal sources, see Barry W. Holtz, ed., *Back to the Sources: Reading the Classic Jewish Texts* (Simon & Shuster, 1984). For an introduction to Biblical criticism, see Richard E. Friedman, *Who Wrote the Bible?* (Simon & Shuster, 1997). For students interested in comparing Jewish law to other legal systems, two helpful books may be H. Patrick Glenn, *Legal Traditions of the World: Sustainable Diversity in Law* (5th ed., Oxford, 2014) and Raj Bhala, *Understanding Islamic Law* (2nd ed., Carolina Academic Press, 2016).

There are many excellent internet and non-internet resources available containing both primary and secondary resources for those interested in Jewish law, and the Resnicoff text above has extensive bibliographies in appendixes 4 and 5. I will not try to replicate Resnicoff’s work here, but let me simply mention a few internet resources. For a searchable datable of Israeli Supreme Court cases, go to <http://elyon1.court.gov.il/eng/home/index.html>. For links to many English translations of the Hebrew Bible, see <http://www.biblestudytools.com/bible-versions/>. For the Hebrew Bible itself and a linear translation by the Jewish Publication Society, see <http://www.mechon-mamre.org/p/pt/pt0.htm>. For English translations of many of the classic Jewish legal texts, see <http://www.sefaria.org/> (click on “explore our texts”). You can also find an English translation of the Babylonian Talmud at <http://halakhah.com/> and an English translation of the Mishnah (and many other links too) at <http://www.rabbinics.org/>. For responsa literature of the American Reform movement, see <http://ccarnet.org/rabbis-speak/reform-responsa/>, and for the American Conservative movement, see <http://www.rabbinicalassembly.org/jewish-law/committee-jewish-law-and-standards>. The websites <http://torah.org/> and <http://www.chabad.org/> each contain numerous materials related to Jewish law from an Orthodox perspective, including a translation of Maimonides’s Mishnah Torah at <http://www.chabad.org/library/article_cdo/aid/109864/jewish/Classic-Texts.htm>. Though not focused on Jewish law, Prof. Jay Treat of the University of Pennsylvania maintains an excellent website on Judaism and Christianity gathering links to sacred texts and historical resources at <http://ccat.sas.upenn.edu/~jtreat/rs/resources.html>. Finally, for a wide collection of Jewish resources generally, see <http://shamash.org/trb/judaism.html>.

III. Course Objectives & Learning Outcomes

Students will gain an understanding of basic elements of Jewish law from Biblical times to the present, including the linkage between Scripture and law. Students should be able to describe numerous examples illustrating the evolution and development of Jewish law, as well as different approaches that have been taken toward its development. As Jewish law provides an alternative legal system to American law addressed in most law school courses, students will be able to articulate some basic contrasts between Jewish law and American law, for example, concerning a jurisprudential focus on obligations versus rights, the extent of the regulation of personal conduct, and maximalist versus minimalist conceptions of law. Through their research papers, students will develop their skills in conducting independent research, their analytical skills, and their skills in producing legal writing.

IV. Requirements

Attendance. Students are permitted to miss two class meetings for any reason. Students missing more than two classes may be dropped from the course at my discretion. For additional information about attendance and related university regulations, see <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/academic-policies>.

Preparation and Participation. For most sessions, there will be assigned readings. You are expected to have read these assignments carefully and to have begun thinking about them on your own before class. In class, you are expected to participate constructively in the discussion. The success or failure of the class will largely depend upon whether you are prepared to discuss the materials. Please note that ABA Standards require that students devote approximately 120 minutes of out-of-class preparation for each class hour of instruction. In addition, for many of our class meetings, I will ask that assigned students play a special role to begin our analysis of the readings by presenting the material in the readings. I will discuss this further in class.

Academic Honesty. Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

Presenting Your Research. A number of class sessions toward the end of the course will be devoted to students presenting their own research. The goals of these presentations are that the other students learn from your research and that you receive input from them that may be of help in writing your paper.

Research Paper. All students are required to write a final research paper. The topic you choose should require some independent research. Central in assessing your paper will be the quality of your analysis of your given topic. For students using the paper to fulfill the Advanced Writing Requirement, the paper should be approximately 25 pages, double-spaced. For other students, the paper should be approximately 20 pages, double-spaced. The papers should be of professional quality with citations conforming to “bluebook” format for law review articles. Please put footnotes at the bottom of the page rather than at the end of the paper. As I will discuss in class, students are required to submit in a first draft of their paper at whatever stage the paper is in by March 30, 2020. While students are welcome to submit their final papers earlier if they wish, final papers are due by 10:00 a.m, on Friday, April 24, 2020 (the first day of exams). I ask that students both (a) turn in a hard copy of their final paper to my secretarial assistant, Ms. Betty Donaldson*,* in Holland 323 and (b) email me ([cohenjr@law.ufl.edu](mailto:cohenjr@law.ufl.edu)) a copy of their final paper. Except in extraordinary circumstances, papers handed in late will receive automatic grade reductions.

Miscellaneous. At times, there may be miscellaneous assignments or modifications to the assigned readings announced via the email list that the university maintains for the course. For this reason, all students should have a valid “@ufl.edu” email address.

V. Use of Electronic Devices

No taping of class in any form is allowed without my prior written permission. Except for students making presentations or other times specifically instructed, the use of laptop computers is not permitted.

VI. Disability Accommodations

Students requesting classroom accommodation should register with the Office of Disability Resources.  The UF Office of Disability Resources will provide documentation to the student who must then provide this documentation to the Law School Office of Student Affairs when requesting accommodation. For further information, see <https://www.dso.ufl.edu/drc/>.

VII. Grading

The course will be letter graded. Grades will be based 50% upon class participation and other miscellaneous assignments and 50% upon the final research paper. There is no final exam. For questions about grading, delays in submitting work, and other academic policies, please refer to the law school’s academic policies, available at <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/academic-policies>. The grading scale for the course is:

Grade Point Grade Point Grade Point

A (Excellent) 4.0 C+ 2.33 D- 0.67

A- 3.67 C (Satisfactory) 2.00 E (Failure) 0.0

B+ 3.33 C- 1.67

B (Good) 3.00 D+ 1.33

B- 2.67 D (Poor) 1.00

VIII. Student Course Evaluations

Students can provide feedback on the quality of instruction in this course by completing online evaluations at <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, but students will receive notice of the specific times when they are open. Summary results of these assessments are available to students at <https://evaluations.ufl.edu/results/>.

Jewish Law

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**Tentative Schedule of Topics**

**Week 1: Central Themes**

-Genesis, chs. 1-4

-Exodus, ch. 20

-Robert Cover, “Obligation: A Jewish Jurisprudence of the Social Order,” *Journal of Law and Religion* 5, 65-74 (1987), available at (login under Off-Campus/Remote Access using "University of Florida" as the institution): [https://heinonline.org/HOL/Page?handle=hein.journals/jlrel5&id=75&collection=usjournals&index=journals/jlrel](https://heinonline.org/HOL/Page?handle=hein.journals/jlrel5&id=75&collection=usjournals&index=journals/jlrel" \t "_blank)

**Week 2: An Introductory Example: Voting Rights**

-Elon, 1-12

**Week 3: Authorship, Authority and Morality**

-Genesis 2: 4-25 then Genesis 1:1-2:3

-Elon, 12-24, 33-39

-Jonathan R. Cohen, “Judaism without Ordinary Law: Toward a Broader View of Sanctification,” 71 *The Reconstructionist* 50-56 (Fall 2006), available at <http://www.therra.org/Reconstructionist/Fall2006.pdf>.

**Week 4: Duties to Assist (Good Samaritan)**

-Elon, 222-246

**Week 5: Treatment of Prisoners**

-Elon, 246-262, 567-584

-Jacobs, 192-213

**Week 6: Dietary Laws**

-Exodus, 23:19, 34:26

-Leviticus chs. 11, 18-21

-“Kashrut” <https://en.wikipedia.org/wiki/Kashrut>

-Mary Douglas, “The Abominations of Leviticus”, from *Purity and Danger: An Analysis of the Concepts of Pollution and Taboo* (London: Routledge and Kegan Paul, 1966), 41-57, available at <http://prophetess.lstc.edu/~rklein/Documents/douglas.htm>

-Spend 15 minutes on the web finding out something about Jewish dietary laws you didn’t already know.

**Week 7: Divorce and Same-Sex Marriage**

-Elon, 25-31

-“Civil Marriage for Gay and Lesbian Jewish Couples”, Union for Reform Judaism, Nov. 2, 1997, available *by searching for this title at*<http://urj.org//about/union/governance/reso//?syspage=article&item_id=2000>

-Elliot N. Dorff et al, “Homosexuality, Human Dignity & Halakhah: A Combined Responsum for the Committee on Jewish Law and Standards” (Dec. 6, 2006), available at <http://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/20052010/dorff_nevins_reisner_dignity.pdf>

-Steven Greenberg, “New Hope for Gay Orthodox Jews,” *The Jewish Week* (Oct. 1, 2013), available at <http://www.thejewishweek.com/editorial-opinion/opinion/new-hope-gay-orthodox-jews>

**Week 8: Conflict Resolution**

-Elon, 361-368

-Robert A. Baruch Bush, “Mediation and ADR: Insights from the Jewish Tradition,” 28 *Fordham Urban Law Journal* 1007 (2001), available at <http://scholarlycommons.law.hofstra.edu/faculty_scholarship/393>

-Jonathan R. Cohen, “A Genesis of Conflict: The Zero-Sum Mindset,” 17 *Cardozo Journal of Conflict Resolution* 427 (2016), available at [http://cardozojcr.com/volume-17-2/](http://cardozojcr.com/volume-17-2/" \t "_blank).

**Week 9: Ethics & Poverty**

-Jacobs, 1-78

-Jonathan R. Cohen, “Two Directions toward Ethical Peoplehood,” *CCAR J: Reform Jewish Q.* 65 (Winter 2018), available at <https://scholarship.law.ufl.edu/facultypub/807/>

**Week 10: Social Obligation, Employment & Homelessness**

**-**Jacobs, 79-158.

**Weeks 11-12: Student Presentations**

**Week 13: Healthcare & Environment**

-Jacobs, 159-191, 214-22.