

Modern Questions, Jewish Answers: Modern Jewish Responsa Literature

**Brandeis University
Fall, 2015
(Wednesday Seminar, 5 to 8)
Professor David Ellenson**

Course Description

The genre of Jewish literature known as *Sh'eilot u'teshuvot* (Questions and Answers -- Responsa) has been central to Jewish legal discourse for more than a millennium. In these writings, leading rabbinic jurist-legislators provide authoritative renderings (*piskei din*) of Jewish law (*Halakha*) to rabbinic colleagues and others for application and public dissemination in specific cases. Responsa are thus technical documents -- case discussions and their holdings in modern western jurisprudential nomenclature -- and rabbis throughout the centuries have employed them to apply the insights, meanings, norms, and precedents provided by the legal and literary texts of the Jewish past (Bible, Talmud, Codes, and Responsa) to the pressing and often novel issues of the present age. A single responsum must be seen as part of a vast body of Jewish case law that stretches over the centuries. It is the crossroads where text and context meet in the ongoing tradition of Jewish legal hermeneutics. Each responsum, as an idiomatic expression of Jewish law and values, provides an ideal lens through which to witness the role of the classical Jewish literary-legal tradition as well as the influence of contemporary social, psychological, cultural, and historical factors in the development of Judaism.

The publication of this literature has not abated with the advent of the modern world, and this genre remains a vibrant literature in which countless Jews across the globe continue to consult rabbi-scholars on a host of issues covering virtually every conceivable area of life. This course will focus on a wide spectrum of these writings composed by modern rabbis of diverse movements and viewpoints on a host of issues.

The aims of the course are several: 1) to have the student analyze how rabbis draw upon the sources of Jewish law as foundational documents even as modern contextual factors inform the rulings they hand down in diverse ways; 2) to give the student a sense of the breadth and variety of ethical, political, ritual, personal, and communal matters that occupy the modern Jewish community; 3) to have the student appreciate how responsa serve as sources for understanding the diversity of the present-day Jewish world; and 4) to have the student grasp the role that responsa play in comprehending the unfolding evolution of Judaism in the modern era. In sum, through the achievement of these aims, the students should gain significant familiarity with this genre of Jewish legal literature and understand how these sources reflect on the nature, standpoints, vitality, and history of the Jewish community in the modern era as well as the evolving development and diversity of the Jewish religion during modern times.

Class sessions will be devoted to the reading of primary sources in English translation. The syllabus itself lists more primary sources than can possibly be read in a single seminar

session. Therefore, selections from these writings will be emphasized and the instructor will provide you with guidance on which sections to read in preparation for class. Secondary readings will also be required to supply historical-sociological-ideological contexts for the responsa considered in the course.

Required Texts

1. David Ellenson and Daniel Gordis, Pledges of Jewish Allegiance
2. Ronit Ishrai, Fertility and Jewish Law: Feminist Perspectives on Orthodox Responsa Literature
3. Articles and Sources

Course Requirements

1. Each student is expected to prepare assigned texts and readings prior to class. This assumes that you will spend six hours each week preparing for class. Your class participation will constitute 25% of your grade.
2. Each student will present a twenty (20) to thirty (30) minute oral version of his/her research on a responsum/a to the seminar during the last week of the semester. The topic of the presentation should be selected in consultation with the instructor. Students who do possess knowledge in rabbinic Hebrew and texts are encouraged to use Hebrew sources, which they would translate for this presentation and for the subsequent seminar paper. However, this is not required. Your presentation will constitute 25% of your grade.
3. A ten (10) to twenty (20) page written paper, based on your research and in light of the feedback received from the instructor and your fellow students on the basis of your oral presentation, will be required on the last day written projects are to be submitted for the Spring semester. Your written work will constitute 50% of your grade.
4. If you are a student with a documented disability on record at Brandeis University and wish to have reasonable accommodation made for you in this class, please see me immediately.

Academic Integrity

Each student is expected to be familiar with, and to follow, Brandeis University policy on academic integrity. Please consult Brandeis University's Rights and Responsibilities for all policies and procedures. All policies related to academic integrity apply to in-class presentations and final writing assignments. Students may only collaborate on assignments with permission of the instructor. Allegations of alleged academic dishonesty will be forwarded to the Director of Academic Integrity. Sanctions for academic dishonesty can include failing grades and/or suspension from the university.

Course Plan

I. Text and Theory: Introductory Considerations (September 2)

- a. Esriel Hildesheimer, "*Hoda'ah*," in Hildesheimer, Gesammelte Aufsätze, pp. pp. 23-26

- b. Haim David Halevi, *'Aseh l'kha rav* 7:54
- c. Moshe Feinstein, *Iggerot Moshe, Orah Hayyim* 4:49
- d. David Ellenson, "'Jewish Legal Interpretation: Literary, Scriptural, Social, and Ethical Perspectives," *Semeia* 34 (1985), pp. 93-114
- e. Ronit Ishrai, "Epistemology, Jurisprudence, and Halakha: A Feminist Critique," in her Fertility and Jewish Law: Feminist Perspectives on Orthodox Responsa Literature.

II. Conversion and Personal Status (September 9 and 16)

- a. David Zvi Hoffmann, *Melammed Le'ho-il*, *Yoreh Deah*, no. 83
- b. Yechiel Ya'akov Weinberg, *Seridei Eish* 3:50
- c. Louis Ginzberg, "The Conversion of a Gentile Woman Already Married to a Jew and Her Children," in David Golinkin, ed., The Responsa of Professor Louis Ginzberg, pp. 170-171.
- d. "Conversion for Adopted Children" and "Conversion of a Person Suffering from Mental Illness," in Mark Washofsky, ed., Reform Responsa for the Twenty-First Century, 1996-1999, pp. 121-138.
- e. Moshe Zemer, "Ambivalence About Conversion," in his Evolving Halakhah: A Progressive Approach to Traditional Jewish Law, pp. 143-156.
- f. Sampson Raphael Hirsch, *Shemesh Marpei* no. 58
- g. Zvi Hirsch Kalischer, in Esriel Hildesheimer, *She'elot u'teshuvot, Yoreh Deah*, no. 229.
- h. Isaac Klein, A Guide to Jewish Religious Practice, pp. 379-418 and 439-448.
- i. Ellenson and Gordis, *Pledges of Jewish Allegiance: Conversion, Law, and Policymaking in 19th and 20th Century Orthodox Responsa*, pp. 38-70 and 90-164.
- j. Zvi Zohar, "Caring for an Intermarried Jew by Converting His Partner: Rabbi Uzziel's Earliest Responsum on *Giyur* (Conversion)," in Michael A. Meyer and David N. Myers, eds., Between Jewish Tradition and Modernity, pp. 17-34.

September 23 (No Class)

III. Intra-Jewish Relations: Denominationalism and Jewish Religious Pluralism (September 30)

- a. Moshe Feinstein, *Iggerot Moshe, Yoreh Deah*, no. 149, 160, *Y.D.* 2:100; and *Even Haezer* 3:3 and 23.
- b. Y.Y. Weinberg, *Seridei Eish* 3:100.
- c. Moshe Zemer, "Religious Tolerance Among Jews: A Critique of Rulings by Rabbi Moshe Feinstein," in Evolving Halakhah: A Progressive Approach to Traditional Jewish Law, pp. 301-312.
- d. David Ellenson, "A Response by Modern Orthodoxy to Jewish Religious Pluralism," in his Jewish Meaning in a World of Choice, pp. 1-17.
- e.. Ira Robinson, "Because of Our Many Sins: The Contemporary Jewish World as Reflected in the Responsa of Rabbi Moses Feinstein", *Judaism* 35 (1986), pp. 35-46.
- f. J. David Bleich, "Parameters and Limits of Communal Unity from the Perspectives of Jewish Law," *Journal of Halakhah and Contemporary Society* (Fall, 1983), pp. 13-14.
- g.. Walter Wurzburger, "Law and Tradition in Judaism," Tradition (1960), pp. 82-88.

IV. Interfaith Relations: Attitudes Towards Christianity and Islam (October 7)

- a. David Hoffmann, *Melammed Le-ho'il, Yoreh De'ah*, no. 148:2.
- b. Marcus Horovitz, *Matte Levi, Yoreh De'ah*, no. 28.
- c. Moshe Feinstein, *Iggerot Moshe, Orach Hayyim*, 4:49
- d. David Frankel, "Entering Mosques and Churches," Responsa of the Va'ad Halakhah of the Rabbinical Assembly of Israel 6.
- e. David Ellenson, "A Jewish Legal Authority Addresses Jewish-Christian Dialogue: Two Responsa by Rabbi Moshe Feinstein," American Jewish Archives 52:1 and 2, pp. 113-128.
- f. Ellenson, "Rabbi Hayim David Halevi on Christians and Christianity: An Analysis of Selected Legal Writings of an Israeli Authority," in his Jewish Meaning in a World of Choice, pp. 145-164.

V. Issues of Medical Ethics

A. Abortion (October 14)

1. Basil F. Herring, Jewish Ethics and Halakhah for Our Time: Sources and Commentary, Volume 1, pp. 25-46.
2. Moshe Zemer, "Abortion is not Murder," in his Evolving Halakhah: A Progressive Approach to Traditional Jewish Law, pp. 335-338.
3. Walter Jacob, Contemporary American Reform Responsa, no. 16.
4. Proceedings of the Committee on Jewish Law and Standards of the Conservative Movement, pp. 3-37.
5. Ronit Irshai, "Halakhic Rulings on Abortion: A Historical Survey from the Rabbinic to the Modern Period" and "Abortion in Contemporary Halakhic Rulings," Chapters 3 and 4, in her Fertility and Jewish Law: Feminist Perspectives on Orthodox Responsa Literature.

B. Artificial Insemination, In Vitro Fertilization, and Surrogacy (October 21)

1. Ronit Irshai, "Artificial Insemination, In Vitro Fertilization, and Surrogacy in Liberal and Feminist Approaches" and "Artificial Insemination, In Vitro Fertilization, and Surrogacy: Halakhic Analysis," Chapters 5 and 6, in her Fertility and Jewish Law: Feminist Perspectives on Orthodox Responsa Literature.
2. Moshe Zemer, "Artificial Insemination," in his Evolving Halakhah: A Progressive Approach to Traditional Jewish Law, pp. 339-344.
3. "In-Vitro Fertilization and the Status of the Embryo" and "In-Vitro Fertilization and the Mitzvah of Child-Bearing," in Mark Washofsky, ed., Reform Responsa for the Twenty-First Century, pp. 159-184.
4. Aaron Mackler, "In Vitro Fertilization," in Responsa, 1991-2000: The Committee on Jewish Law and Standards of the Conservative Movement, pp. 510-525.
5. David Ellenson, "Artificial Fertilization and Procreative Autonomy," in his After Emancipation, pp. 452-470.

C. Euthanasia (October 28)

1. Basil F. Herring, Jewish Ethics and Halakhah for Our Time: Sources and Commentary, Volume 1, pp. 67-90, and Volume II, pp. 39-84.
2. Elliot Dorff, "Assisted Suicide," in Responsa, 1991-2000: The Committee on Jewish Law and Standards of the Conservative Movement, pp. 379-397.
3. Walter Jacob, American Reform Responsa, no. 86, and Contemporary American Reform Responsa, no. 78.
4. Dorff, "Gaining Moral Guidance from the Jewish Tradition," in Michael A. Meyer and David N. Myers, eds., Between Jewish Tradition and Modernity, pp. 35-50.

VI. Issues of Gender and Arabs, War and Peace in Israel

A. The Extension of Suffrage to Women and Their Right to Hold Public Office (November 4)

1. Rav Kuk, *Ha-Ivri* (May 28, 1920), pp. 11-13.
2. Rabbi Ouziel, *Mishpetei Uziel, Hoshen Mishpat*, no. 6.
3. Rabbi Herzog, *T'hukah l'yisrael 'al pi ha-torah* 1:7.
4. Moshe Zemer, "Is a Woman Permitted to Hold a Public Position," in Evolving Halakhah: A Progressive Approach to Traditional Jewish Law, pp. 241-248.
5. David Ellenson and Michael Rosen, "Gender, Halakhah, and Women's Suffrage: Responsa of the First Three Chief Rabbis on the Public Role of Women in the Jewish State," in Ellenson, After Emancipation, pp. 344-366.
6. Zvi Zohar, "Traditional Flexibility and Modern Strictness: Two Halakhic Positions on Women's Suffrage," in Harvey Goldberg, ed., *Sephardi and Middle Eastern Jewries*, pp. 119-133.

B. The Obligation of a Government Towards its Minority Citizens (November 11)

1. Haim David Halevi, *'Aseh l'khah rav* 7:70-71
2. Zvi Zohar, "Sephardic Religious Thought in Israel: Aspects of the Theology of Rabbi Haim David Halevi," in Avruch and Zenner, eds., Critical Essays on Israeli Society, Religion, and Government, pp. 115-136.
3. Ellenson, "Jewish Legal Interpretation and Moral Values: Two Responsa by Rabbi Hayyim David Halevi on the Obligations of the Israeli Government towards Its Minority Population," *CCAR Journal* 48:3 (Summer, 2001), pp. 5-20.

C. The Conduct of War (November 18)

1. Haim David Halevi, *'Aseh l'khah rav* 4:2
2. Shlomo Goren, "*Hamatzor 'al Beirut l'or ha-halachah* (The Siege of Beirut in the Light of Jewish Law)," in his *Torat ha-Medinah*, pp. 402-423.
3. Michael Walzer, "War and Peace in the Jewish Tradition," in Terry Nardin, ed., The Ethics of War and Peace: Religious and Secular Perspectives, pp. 95-114.
4. Aviezer Ravitsky, "'Prohibited Wars' In Jewish Religious Law," Meorot Journal 6:1 (2006), pp. 2-17.

5. Mark Goldfeder, "Defining and Defending Borders; Just and Legal Wars in Jewish Thought and Practice," Touro Law Review (2014) 30:3, pp. 631-653.

November 25 (No Class)

D. Ransoming Captives (December 2)

1. Moshe Zemer, "Ransoming Captives," in Evolving Halakhah: A Progressive Approach to Traditional Jewish Law, pp. 225-230.
2. David Golinkin, "*Pidyon Shvuyim* (The Redemption of Captives): How Far Should Israel Go in Order to Redeem Captives from Terrorist Organizations," Insight Israel (Schechter Institute) 4:2 (October, 2003).
3. Shlomo Goren, *Sefer Torat Hamedinah*, pp. 424-436.
4. Haim David Halevi, '*Aseh L'kha Rav* 7:53.
5. David Ellenson, "Interpretive Fluidity and *Psak* (Legal Ruling) in a Case of *Pidyon Shvuyim*," in Ellenson, After Emancipation, pp. 425-451.

VII. Summary and Class Presentations (December 9)

Ellenson and Gordis, *Pledges of Jewish Allegiance*, pp. 165-170