SYLLABUS

SEMINAR ON JEWISH LAW (563.01)
Spring 2006 Wed 3-4:50
Room 4040
Offices: 4028
Prof. Golding
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This syllabus is tentative. Roman numerals indicate topics, not weeks; some topics may require more than one class meeting. Many of the listed readings are optional; these will be designated in class. [* = handout] For each class meeting, students are expected to prepare a one or two page report on any aspect of the reading assignment (to be handed in). A short bibliography is given.

TEXTS FOR COURSE:

L. Jacobs, Jewish Law (ppb)
A. Cohen, An Introduction to Jewish Civil Law

HANDOUTS (short selections from the Talmud)
BOOKS AND ARTICLES ON RESERVE

RESERVE:

Bible
M. Elon (ed.), The Principles of Jewish Law
M.P. Golding (ed.), Jewish Law and Legal Theory
G. Horowitz, The Spirit of Jewish Law
A. Steinsaltz, The Essential Talmud

ARTICLES BY VARIOUS HANDS

Spring 2006 SYLLABUS SEMINAR ON JEWISH LAW

I. Methodological issues in the investigation of Jewish Law (Halakhah, Mishpat Ivri)

The first two meetings will mainly deal with how the contents of the Halakhah (Jewish Law) are to be identified and interpreted in their investigation. For the first meeting, read (copy on WEB and at library Desk):

(1) ELON, Menachem: "The Ethiopian Jews: a Case Study in the Functioning of the Jewish Legal System," in
II. Historical Introduction

literary and formal sources of Jewish Law
periodization of Jewish Law

(1) Cohen, 1-90, 262-279 OR Steinsaltz, 1-88
(2) Elon, Menachem: "The Legal System of Jewish Law." [also in Golding]
(3) (Recommended: Feldman, D.: "The Structure of Jewish Law") [also in Golding]

III. Juristic Interpretation of Biblical Texts

Interpenetration of "Religious" and "Civil" Law

"Eye for an Eye" *Exodus, 21; Leviticus, 24
*B. Talmud, Bava Kama, 83b-84a [and another translation on WEB]
Enker, "Lex Talionis: The 'Plain Meaning' of the Text"
*Maimonides, Code, Torts, Wounding and Damaging, Ch. V
*Deuteronomy 21 [the Captive Woman]

Halakhic Exegesis

Steinsaltz, Chapters 27-30
Jacobs, 1-20
Lamm and Kirschenbaum, "Freedom and Constraint in the Jewish Judicial Process" (also in Golding)

Law of Agency

*Babylonian Talmud, Tractate Kiddushin 41a-42a
Horowitz, Secs. 288-296
Povarsky, "The Theory of Agency in Jewish and American Law."

IV. Harms (Nezikin)

*B. Talmud, Bava Kama, 2a ff.
Horowitz, Title Ten (Obligations by Wrongful Conduct)
Elon (ed.), Principles, 319-329
*Maimonides, Code, Torts, Property Damage, selections
Steinsaltz, Chapter 19
V. Domains, Premises (Reshuyoth) in re Harms

*B. Talmud, Bava Kama, 9b ff.
Cohen, 91-126

VI. Causation (Gerama and Garme)

*B. Talmud, Bava Kama, 23b ff.
*Responsa of R. Simon b. Zemach Duran (Liability of an expert who gives his opinion gratis)
Jacobs, "Patur mi-diney adam ve-hayyav be-diney shamayim: cases where there is liability in the eye Courts cannot enforce payment."
Shilo, "On One Aspect of Law and Morals in Jewish Law: Lifnim Mishurat HaDin."

VII. Morality and Law [some items from the readings below will be assigned]

Jacobs, 106 - 118
Cohen, 145 - 184
Shilo, "Kofin Al Midat S'dom: Jewish Law's Concept of the Abuse of Rights."
Kirschenbaum, "Jewish Law and the Abuse of Rights."
Dratch, "His Money or Her Life? Heinz's Dilemma in Jewish Law."

VIII. The Duty to Rescue

Kirschenbaum, "The Bystander's Duty to Rescue in Jewish Law." (also in Golding)
Weinrib, "Rescue and Restitution." (also in Golding)

IX. Labor Law (contracts of employment)

*Leviticus, 25
*B. Talmud, Kiddushin, 20a f.
*B. Talmud, Bava Metzia 76a ff.
Horowitz, Secs. 78-81, 286-287
Elon (ed.), Principles, 309-319
Jacobs, 57-61

X. Marriage and Divorce; Levirate Marriage

*Deuteronomy, 24 and 25
*Book of Ruth (Bible)
Steinsaltz, Chapters 17 and 18
Horowitz, Chapters 17-19
*Responsa of R. Yom Tov b. Ashbili (Forcing a gambler to divorce his wife at her insistence)
*B. Talmud, Gittin 10b f., 24a f. (Writs of Divorce)
*Maimonides, Women, Marriage, Ch. 1; Divorce, Ch. 1-2
XI. Usury [may skip this unit]

*Mishnah, Bava Metzia, Chapter 5
Horowitz, Secs. 262-269
Elon (ed.), 500-505
Maimonides, Code, Civil Laws, Creditor and Debtor Ch. 4
*Biblical passages
Cohen, 185-22

XII. Jewish Public Law and Other Legal Systems

Rakover, "The 'Law' and the Noahides."
Enker, "Aspects of Interaction between the Torah Law, the King's Law, and the Noahide Law in Jewish Law"
Shilo, Shmuel: "Maimonides on 'Dina de-Malkhuta Dina' (The Law of the State is Law)"
Kirschenbaum, "The Role of Punishment in Jewish Criminal Law: a Chapter in Rabbinic Penological Theory"
Cohen, 195 -206
Stone, Suzanne Last: "Siniatic and Noahide Law: Legal Pluralism in Jewish Law"

XIII. "Deciding" a Case: Bleich, "The Controversy Concerning the Sotheby Sale"