

A Teacher's Book

for

Jewish Law

*The
first volume
in
THE
CHAIN OF
TRADITION
SERIES*



A Teacher's Book

prepared by REBECCA LISTER

for

Jewish Law

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In memory of my father

MAX LEVITIN

my first teacher of Judaism

A word about law

REBELLION and revolution, uprising and unrest, assassination and riot — these have suddenly made the teaching of law, of Talmud, Codes and Responsa, a matter of the most immediate relevance.

Our age is desperate for greater freedom. Adults want more leisure and recreation. Youths want society not to force them to kill or oppress or be silent about everyday viciousness.

But freedom requires some sort of structure within which to operate. Without some sort of order, individual liberty soon means nothing. If good men are not to be shot down at whim and if a society is to be strong enough to enfranchise its downtrodden, there must be form and pattern. That is where the law comes in. It is the medium by which society seeks to give structure to its inter-relations. When the law works it is a beautiful thing, organizing countless thousands into productive wholes, permitting the best of each to find its place in the company of all. For some societies, for the law to “work” it is enough for it to control and dominate, to delimit and restrain.

For a Jew, the only way law can be said to “work” is when it works for justice, for righteousness and goodness among men. The law must serve not itself but the God who gave it, and because He is good, that law will be good for man.

What our rabbis have sought to do is to arrange the day to day patterns of living in such a way that human beings will have a chance to be more human, to be able to be truer to the God who created them in His image. And that means worrying about fences on roofs, having operations that are dangerous, hiring laborers.

And that is what our youth and adults need desperately to learn today: that it is in the day to day patterns of existence that justice must be done and freedom established. What is law for society needs to be disciplines and habits for the individual.

We must be careful not to teach this material as a means of restraining our people's rightful concern for greater freedom, nor should it ever be considered a means of telling young people to cool their moral passion. Laws must change and move and grow to give us greater freedom. This was the genius of Jewish law, that under the institutional forms and needs, in terms of its texts and its own system of logic, it sought to build and adapt not just a law, but a law of holiness. And studying the documents of that law today we can gain something of the rabbis' sense of what law can do as it grows to confirm freedom.

That is what this book is all about and why your keeping this theme in mind as you teach lesson after lesson is so critical.

EUGENE B. BOROWITZ

Foreword

A JEW is bound by a code of religious laws to live in a moral and ethical way. It is a sin to do otherwise. Rabbi Abba Hillel Silver defined sin as “the failure to live up to the highest moral potentialities in one’s self in any given situation.”

Basic Judaism has not changed. The laws of the Torah are still its authority. This is not to say that contact with other peoples and cultures had no effect on how the Jew observed the mitzvot. His outlook on life was always very pragmatic and he sought to live by his Torah under all conditions. Rather than fade with the passage of time, the Torah glowed with increasing strength in succeeding generations. In the periods of darkness and persecution, it drew K'lal Yisrael more closely together. It became a haven for the tortured soul of our people.

What other people can be proud of a heritage that has been transmitted unaltered and unedited, yet served most effectively as a guide in times of increasing world knowledge? Its eternal message can be summed up in the words of Beruria, wife of Rabbi Meir: “Pray not that sinners be destroyed; pray rather that sin perish from the earth, and that sinners repent and mend their ways.”

The purpose of this guide is to show how the illustrations given in the text can still be applied to modern behavior in the same moral manner as long ago. The source materials are easily available in most libraries. The problems and material for discussion as presented in this Teacher’s Book are current and vital, providing an opportunity for a “new look at the old law.”

Levi Yitzhak asked, “Why is it that the tractates of the Talmud are printed in a manner different from other books? Each book of the Talmud begins on page two instead of page one.” When no one replied, he answered, “In order that one should know that no matter how much he has learned — he still has not even begun.”

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Introduction

THE COURSE OF STUDY is based on Jewish law and its interpretation and application in the many countries in which the Jewish people lived, and where the cultures and mores in those countries created problems for Jews who sought to live their lives Jewishly. It reviews the work of the leaders of the Jewish community, who knowing the law and its original intent, brought it up to date so that Jewish life could continue along Jewish ideals.

The scholar today recognizes that Jewish law, although it deals frequently with outdated problems, is essentially a code of ultimate values. All Jewish law is basically religious law. It concerns itself with the many daily experiences of man, woman and child and their relationships in every aspect of life. Not fulfilling one's personal responsibility and not assuming one's communal responsibilities is deemed to be a failure to live according to the Jewish religion. This is the fault for which man must say, "Hatati — I have sinned!"

The Jewish Values examined in this book can best be measured by the effect this material and discussions based upon it will have on the character development of the students. Will they gain a deeper insight into the wisdom of our rabbis as they develop a broader outlook on their problems of Jewish life? How will they change in attitude and behavior so that they might be considered to be good Jews?

The Text — Dr. Jacobs has selected from the vast body of Jewish law illustrative material that runs the gamut of human experiences. Some of the illustrations are very serious and philosophic: Chapter 11 — The Scope of Human Reasoning — How can men know what God wants them to do when everything they decide is human? Then in a lighter mood, Chapter 29 deals with A Question of Luck: What are the conditions which invalidate a raffle? The presentation and discussion are real, practical and modern.

Who is wise? Pirke Avot identifies the wise person as one who learns from his fellow man. A 20th century "perek" might ask, "Who is scholarly?" and in a similar vein, answer: "He who knows how to read between the lines, a judge not only of words but of character and intent as well." See Chapter 14 — Sincerity and Insincerity in Praise: How can one tell the truth when one does not want to hurt people, or knows they want fine compliments? The amenities with which our forefathers struggled in ancient times are not much different from those we face in our own time. Here, too, the discussion is lively, amusing and revealing.

The Use of the Text — A thorough prior reading is essential for the best use of the material. Before the actual distribution of the book, introductory comments about law, legal interpretation and the art and science of jurisprudence should be made and discussed. The nature of the future discussions along such lines should be mentioned. Show sample pages, read a sentence or two that will illustrate style, and content. Review the Table of Contents. Which area of law (topic) interests the students immedi-

ately? It might be wise to select this topic for the first unit. Note that the work plan does not need to follow the sequence of the book, but rather the interest of the students.

The chapters are arranged so that illustrations are given and commentaries immediately follow. Each example may be examined in its entirety before proceeding to the next item.

There is sufficient material in the text to satisfy every student's interest. Every possible effort should be made for students to become familiar with the text quickly. Some students will enjoy reading the book for its style, examples and illustrations, and for the use of language. Others may prefer a review of the material after class or committee discussions. Some will read page after page. Others will merely skim over the specific assignments. Teachers will recognize individual abilities, tastes and habits of the students and should make use of this knowledge when giving assignments for home and class study.

It is essential for the teacher or group leader to read with utmost care the text which forms a lesson, prior to any discussion about it; to fully understand the law as it is illustrated and its interpretation or relation to experiences within modern life; to find ideas and material to motivate the lessons. This will help determine whether it is better to give the assignment for reading the text before or after the lesson. It might be decided that certain pages should be read aloud in class, for the full flavor and appreciation — or silently, for comprehension and extraction of the basic ideas and Jewish values.

The Lesson — Read the pages that form a unit of work. A whole chapter may be too much. Or, parts of one chapter may be combined with those of another containing similar ideas. (For example, chapter 30 may form an interesting supplement to chapter 22.) It is important to decide what fundamental idea will be the lesson. How can it be restated in modern terms? For example, although there is no real material concerning sacrifices in the text (pages 5 and 6), what might be the purpose of introducing a discussion about sacrifices? Can it clarify ideas about offerings, involvement, participation or patterns of worship? In what way do sacrifices (offerings) help us better understand man's relationship to God? Have the fundamental ideas about this relationship changed because sacrifices were supplanted by other types of offerings?

When a law is promulgated, it is generally based on a single aim or idea, or intent. Subsequent interpretations of the law are influenced by contemporary conditions, and sometimes lead to an application which violates or perverts the original design. It may be the purpose of the serious student to examine the law, the commentaries, opinions, as well as the conditions which led to its enactment, in order to understand how it came to be.

The material must be evaluated carefully. This helps to determine the true purpose of the lesson. Although the lesson may deal with an ethical matter, the law under study reveals many other things: social practices, ritual, manners, mores, etc. All these comprise Jewish law for Jewish people. Consider what effect these discussions and activities must have on the students, and which techniques and teaching methods will most likely help to achieve the desired results. A Hall of Fame? A panel of experts?

A period newspaper? A dramatization? A grand jury inquiry? A "Congressional Committee" hearing?

Examine the situations presented in a unit. Do similar situations occur today? Which are within the comprehension of the students?

What are the problems presented in the unit? How are the problems resolved? Can there be more than one solution to the problem? If so, is one more just than the others? Do you disagree with any proposed solutions? How would such problems be treated in a modern law court? Compare the solution of long ago with a "modern" approach. Was it better for Judaism when Jews settled their affairs in a Bet-Din (Jewish Court)? Is everything that concerns a Jew, a Jewish affair?

Use the Jewish Encyclopedia to learn about the Bet-Din. Invite the rabbi or other informed person to discuss the Bet-Din and its role in Jewish life today.

Role-play the situations that lend themselves to such technique. Examine the ideas students introduce. List the ideas from the text and compare them. How have people and ideas changed?

What value is there in knowing what "they" did long ago? Who are "they"? Are there any new personalities, unfamiliar to the students? Write a biographical sketch, or better still, the students may do so, using an encyclopedia or any good Jewish history book. Include in this sketch the contributions each may have made to Jewish life; to the general community. Compare with other outstanding personalities and their role in the making of history. For which of these personalities have filmstrips been produced?

Does the period of history need to be reviewed? To be related to world history? What advantages or disadvantages did the Jewish people have?

Lessons may be planned according to the pattern on page 15.

Supplementary materials include texts and articles from other sources, recordings, films and filmstrips, as well as slides. How should these materials be used? — To introduce a lesson! To review a discussion! To emphasize an idea! To relate and coordinate the work of several lessons!

Which filmstrips or films are available? Are scripts provided for these? For which filmstrips might students write an original script or description? Can the group, or a committee, do the research and create material for a new filmstrip?

Is there a nearby museum that contains a permanent exhibit of special interest for the topic under study? Will a special exhibit be on display in the future? Write for information, outlining your needs and arrange for a trip with a guided tour of the museum. Is there a scholar in residence nearby, or a parent or relative, who would enjoy meeting a group studying Jewish law. Who would be able to answer questions or provide enrichment?

"Where a people is held together, not by physical boundaries but by a system of law and tradition, the most distinguished students of the law are the ones upon whose

wisdom and learning the fate of the group depends. People turn to them for guidance and express to them their fears and their doubts. The answers — the responsa — are therefore reflections of the Jewish people's search for the proper religious expression of life."

(from book jacket of A Treasury of Responsa, by
Solomon B. Freehof, JPS)

See the Introduction to the Book of Leviticus, page 409, in the Soncino Edition of the Pentateuch and Haftorahs, ed. Dr. J.H. Hertz. In the same text, see also pp 928 ff. for a discussion of Ethical Foundations. Women will find additional interest in section E, pp. 930 ff. on the Position of Women in Judaism.

The punishment for stealing

The different classes of stealing and their appropriate punishments.

INTRODUCTION

An example to motivate discussion might be a fictitious notice from a "Lost & Found" column as follows:

OX—gentle 3 yr. old
wandered off farm in
Emes, Pa. Reward.
Call XYZ—1234

An immediate thought or two might be: Who uses an ox these days? Why doesn't the farmer get a tractor?

Additional questions might be: Do oxen wander? Could the animal have been stolen? Why would anyone steal an ox? How could the owner prove the ox was his?

Are there laws which provide punishment for stealing an ox? Would the laws be different for oxen and other animals, domestic or wild? Where does one seek information? (Farm bureaus, rural newspapers, farmers' journals.)

In modern times, stealing cattle (rustling) is punishable by fines and imprisonment, or both. In the days of the Wild West, rustlers rarely reached the courtroom—they were shot or hung on the spot. Why was rustling such a terrible crime?

In ancient days, our people were shepherds and farmers, too. What were some of the early laws about cattle and beasts of burden?

Read the text, pages 3-7. List the items and discuss them.

Does all this discussion about an ox or a sheep seem irrelevant, obsolete and unimportant to life in our times? Especially a farm animal like an ox that many of us have never seen except on a visit to a farm-zoo.

An ox had been an absolute necessity for farmers, a help with the many heavy jobs! Is it too much to-do about a sheep which provides wool for clothing, unless you wear miracle man-made fabrics? or like mutton? Long ago the sheep served the farm folk in many ways, besides being placed on the altar for sacrifices.

Perhaps a few slight changes will clarify the discussion and help the reader see it all as a basic problem of law which confronted man every day long ago, and confronts us every day now as well.

THE LESSON – MODERN APPLICATION

Suppose we change the beast of burden from ox to truck. Read the statement on page 3 this way:

When a man steals a truck or a sedan, and sells it, or damages it, he shall be liable for the full value of the truck, or sedan, and pay a penalty besides, according to the LAW.

How does the logic of the arguments apply now? Would a farmer place a different value on his tractor than on his truck or family car? Why?

There may be countless conditions which would call for special inquiry and examination, procedure and punishment. Note especially that stealing is a crime in all societies. The final judgment takes into account many things: the motives, the circumstances, the damages, the nature of the stolen item, as well as the hardship suffered by the owner for the loss of the item.

The following questions will help to determine whether the operator of the truck was negligent by putting temptation before the thief:

1. "A truck or a sedan" (as above)
 - a) Did the owner leave the keys in the ignition lock?
 - b) Did the owner leave the cab of the truck unlocked?
 - c) Is the driver also the owner of the truck?
 - d) For how long was the truck unattended?

2. How would judgment be influenced in each of the following circumstances:
 - a) An adolescent took the truck for a short ride to see if he could drive it.
 - b) The truck was blocking a parked car whose owner drove the truck away in order to remove his car.
 - c) The truck was hi-jacked for a criminal act and then abandoned.
 - d) The truck was stolen and sold.
 - e) When the truck is a mail truck, the contents being parcel post, the law states
 - f) When the truck is an armored car, and the contents is money and securities
 - g) When contents of the truck is perishable.
 - h) When only the contents is stolen.
 - i) If the driver of the truck had been injured in an accident and was unable to move the truck.
 - j) If the driver of the truck became ill suddenly.
 - k) If the driver had caused an accident and left the scene.

3. Punishment differs for the stolen item; the truck, the tractor or the family car. Punishment also differs for the adolescent, the petty thief, the professional hi-jacker, and the hardened criminal.

Should they all be judged the same way? in the same court? Should the court consider whether the driver contributed to the crime by leaving the truck unattended? unlocked? illegally parked?

Should the court take into consideration the fact that the driver may lose his job and be held personally responsible because the truck was stolen? the merchandise lost or ruined? damages to the truck?

4. “For the dog—or the horse ...”

There are countless advertisements and notices in the “Lost & Found” columns for animals that might have strayed or been stolen. Why are these animals taken? How does the law differentiate between a mutt and a breed-animal? between a “nag” and a race-horse? What is the penalty for stealing such animals?

ACTIVITIES

Each member of the group may write an opinion on any or all the points mentioned, as well as on any others that arose during the discussion. Collect the material, compare the opinions on several items, and put them together as they might appear in the Mekhilta.

Invite a law student, a lawyer, or a member of the local police to describe the steps the law takes when any of the above occur. Discuss: In terms of jurisprudence, how dated is the Talmud?

SUMMARY

Students may create original problems to which any part of the text may be applied and suggest ways to resolve the problems and prescribe the punishment that may be administered.