Welcome to the

Manchester JudaicaFest 2008

comprising end-on conferences of the

British Association for Jewish Studies
(on the theme "Normative Judaism")

The Jewish Law Association
(Fifteenth Biennial Conference)

and a colloquium on
Jewish Culture in the Age of Globalisation

Manchester, July 20th-24th 2008
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The Lopian Gross Barnett
Seminar on Ethics and Contemporary Halacha
_in association with_
The Centre for Jewish Studies, University of Manchester

Wednesday 23rd July 2008

Whitefield Hebrew Congregation
Park Lane
Whitefield
M45 7PB

Rabbi Shear-Yashuv Cohen
Chief Rabbi of Haifa:

_The Authority of the Rabbinical Court to Terminate a Marriage_

Rabbi Dr. Shlomo Riskin
Chief Rabbi of Efrat:

_Solutions to the Agunah Issue_

Introductory Remarks from
Rabbi Jonathan Guttentag
Whitefield Hebrew Congregation

7.45pm Mincha 8.00 Start
Admission Free All Welcome No Appeal

Sponsored by the partners of Lopian Gross Barnett & Co.

These lectures form part of the Manchester JudaicaFest 2008
for further details visit www.mucjs.org
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Venue

The venue for sessions and meals is Staff House, Sackville Street, which is Building 13 on the campus map of the University (see Appendix).

Conference accommodation is in Weston Hall (all of whose rooms have rooms all have en suite facilities, ethernet links and telephones) and the Manchester Conference Centre (Days Hotel) nearby (Building 11). This part of the campus is within easy walking distance of the city centre. For the relationship of this part of the campus to Piccadilly station and the city centre, see the map in the Appendix.

Meals

The conference food (including breakfasts and breaks) is entirely kosher, provided by I&M Caterers under the supervision of the Manchester Beth Din. We have arranged for exclusive use of the kitchen and dining room in Staff House for the week. Participants who do not wish to avail themselves of the conference food have a range of other facilities available within easy walking distance.

Reception Desk

Will operate in Room 8, Staff House, throughout the conference.

Minyonim

Shaharit 7.30 a.m. Room 8 in Staff House
Minhah 1.00 p.m. Room 8 in Staff House
Ma’ariv At the conclusion of evening sessions, on site (Wednesday evening on arrival at Whitefield
Programme

Room Locations:

Room 2: 3rd Floor, Staff House
Room 3: 3rd Floor, Staff House
Room 4/5: 3rd Floor, Staff House
Room 8: 2nd Floor, Staff House
Room 9: 1st Floor, Staff House
Common Room: 2nd Floor, Staff House
Harwood Room: 1st Floor, Barnes Wallis Building, access either at street level from Altrincham Street (pedestrian walkway parallel with the railway viaduct) or from the mezzanine level of Staff House (between 1st & 2nd Floors at the lift end of the building)
Mumford Room (for meals): 1st Floor, Staff House
Reception desk: In Room 8, 2nd Floor, Staff House

Sunday July 20th

1.00-1.45 Lunch: Mumford Room
1.45-3.30 Opening and BAJS Session 1: Room 4/5
  Philip Alexander (University of Manchester), In Defence of Normativity in the Study of Judaism
  Seth Kunin (University of Durham), Normativity in Judaism: An Essentialist Myth? A Neo-Structuralist Critique
3.30-4.00 Break: Cold drinks Room 8
4.00-5.30 BAJS Session 2: Room 4/5
  Chaired by Prof. Alexander, President of BAJS
  Sarah Pearce (Parkes Institute for the Study of Jewish/non-Jewish Relations, University of Southampton), On “the life which we live in the body”: Philo of Alexandria and ‘normative Judaism’
  Sacha Stern (UCL), Qumran Sectarianism and the Calendars
6.00-7.00 Dinner: Mumford Room
7.30-9.00 BAJS Formal Opening Session: Harwood Room
  Martin Goodman (University of Oxford), Sectarianism and the Temple in the Late Second Temple Period and its Aftermath

Monday July 21st

8.00-9.00 Breakfast: Mumford Room
  Publishers in Room 8 all day
9.00-10.30 BAJS Session 3: Room 4/5
  Chaired by Prof. Alexander, President of BAJS
  Alexander Samely (University of Manchester), Working out a literary typology for the Pseudepigrapha, Qumran texts, and rabbinic works: An AHRC research project at Manchester and Durham
  Dan Levene (University of Southampton), Normative Magical Jews in Babylonia?
10.30-11.00 Break: Cold drinks Room 8, hot drinks (pay bar) Common Room
11.00-12.30 BAJS Session 4: Room 4/5
  Chaired by Prof. Alexander, President of BAJS
George Wilkes (University of Cambridge), Is it Helpful to Identify a Normative Jewish Law of War?

Daniel Davies (University of Cambridge), Philosophy on the Margins of Judaism

1.00-1.45 Lunch: Mumford Room
1.45-2.00 Globalisation: Opening and Welcome Address
2.00-3.30 Globalisation Session 1: Room 9
   Chaired by ________
   Sander L. Gilman (Emory University), Jewish Culture in the Age of Globalization
   Yael Halevi-Wise (McGill University), The Representation of Sepharad in Modern World Literature

2.00-3.30 BAJJS Session 5: Room 4/5
   Chaired by Prof. Alexander, President of BAJJS
   Maria Diemling (Canterbury Christ Church), Judaism at the Margins: Conversion as a Pre-Modern Jewish Choice
   Gabriel Mancuso (Boston College), From Father to son: The Transmission of Jewishness in Modern Venice (1850-1950)

3.30-4.00 Tea Break: Cold drinks Room 8, hot drinks (pay bar) Common Room
4.00-5.30 BAJJS Session 6: Room 4/5
   Chaired by Prof. Alexander, President of BAJJS
   Ben Elton (LSJS), Setting the Border of Acceptability in the Modern era: The Role of Belief
   Marc Saperstein (Leo Baeck College), ‘Normative Judaism’ in the Crisis of War: Evidence from the Pulpit

Globalisation Session 2: Room 9
   Chaired by ________
   Michal Ben Ya’akov (Efrata College for Education), Shifting and Drifting: North African Migrations and Cultural Identities in a Global Community
   Moshe Behar (University of Manchester), After ‘Arab Jews’

6.00-7.00 Dinner: Mumford Room
7.30-9.00 BAJJS Session 7: Room 9
   Philip Alexander, Digitising the Manchester Genizah Fragments

Tuesday July 22nd

8.00-9.00 Breakfast: Mumford Room
Publishers in Room 8 all day
9.00-10.30 BAJJS Session 8: Room 4/5
   Chaired by Prof. Alexander, President of BAJJS
   AGM
   Hannah Holtschneider (University of Edinburgh), Are Holocaust Victims Jewish? Looking at Photographs in British Holocaust Exhibitions

Globalisation Session 3: Room 9
   Chaired by ________
   Rosana Kohl Bines (Pontificia Universidade Católica do Rio de Janeiro), Samba & Shoah – Ethnic, Religious and Social Diversity in Brazil
   Milton Shain (University of Cape Town), Jewish Cultures, Identities and Contingencies: Reflections from the South African Experience

10.30-11.00 Break: Cold drinks Room 8, hot drinks (pay bar) Common Room
11.00-12.30 BAJJS Session 9: Room 4/5
Chaired by Prof. Alexander, President of BAJS

**Ruth Rosenfelder (City College, London),** Whose Music? Ownership and Identity in Jewish Music

**Daniel Boyarin (University of California at Berkeley),** ‘The Son of Man’ and the Genealogy of Rabbinic Judaism

**Globalisation Session 4:** Room 9
Chaired by ___________

**Xun Zhou (University of Hong Kong),** Mikvah in Beijing

**Ephraim Nissan (University of Manchester),** What is Global, and What is Local? Attitudes in Italy in the First Decade of the New Millennium

1.00-1.45 Lunch: Mumford Room

1.45-3.30 **Opening and JLA Session 1:** Room 4/5
Chaired by Bernard Jackson

**Shamma Friedman (JTSA and Bar-Ilan University),** The Multiple Promulgation of the Torah

**Daniel Boyarin (University of California at Berkeley),** Endless Pleasure; Endless Strife: Monological Dialogue in the Talmudic Sugya

2.00-3.30 **Globalisation Session 5:** Room 9
Chaired by ___________

**Marc Saperstein (Leo Baeck College),** Training European Progressive Rabbis in the 21st Century: Do Changing Students Need a Changing Curriculum?

**Amos Israel-Vleeschhouwer (Tel Aviv University),** Halacha and Globalization: Conceptual Impacts, Multi-Player Interaction and Halachic Re-organization of the Jewish 'Community'

3.30-4.00 Tea Break: Cold drinks Room 8, hot drinks (pay bar) Common Room

4.00-5.30 **JLA Session 2:** Room 4/5
Chaired by Martin Golding

**Elliot Dorff (American Jewish University, Los Angeles),** Jewish Law in the Conservative/Masorti Movement Since 1975

**Daniel Sinclair (Tel Aviv College of Management Academic Studies and Fordham University),** The Natural Law Jurisprudence of R. Moses Samuel Glasner (1856-1925)

**Globalisation Session 6:** Room 9

**Cathy Gelbin (University of Manchester),** Constructing the Global Shtetl: Golem Texts and Jewish Cultural Identities

**Efraim Sicher (Ben-Gurion University of the Negev) and Linda Weinhouse (Community College of Baltimore County),** Under Postcolonial Eyes: Figuring Out the Jew in a Globalized Culture

6.00-7.00 Dinner: Mumford Room

7.30-9.00 **JLA Formal Opening Session:** Harwood Room
Chaired by Yosef Rivlin, Chairman of The Jewish Law Association
Panel Discussion on Religious Jurisdictions in Israel and the Diaspora, with

**Bernard Jackson (University of Manchester)**

**Nahum Rakover (former Deputy Attorney General of the State of Israel)**

**Sherman Cohn (Georgetown University)**

**Hussan Mahmoud**

**Wednesday July 23rd**

8.00-9.00 Breakfast: Mumford Room
9.00-10.30  
**JLA Session 3a:** Room 2  
Chaired by Elimelekh Westreich  
Yuval Sinai (Netanya Academic College and Bar-Ilan University), Halakhic Traditions enabling the coercion of the get in Oriental Jewish communities – A Possible Solution for the Problem of Agunot?  
Ayelet Segal (Bar-Ilan University), The Halitzah Contract – A Prenuptial Agreement to Protect the Wife from Iggun and Blackmail  
Elimelekh Westreich (Tel Aviv University), Interactions Between the Rabbinical Courts of Morocco and the State of Israel  

**JLA Session 3b:** Room 3  
Chaired by Arnold Enker  
Shai Wozner (Tel Aviv University), The Basis of Rabbinic Precepts  
Itamar Warhaftig (Bar-Ilan University), Torah and Democracy  

**Globalisation Session 7:** Room 4/5 (divided: larger half, other half vacant)  
Chaired by _______  
Ruth Mandel (UCL), Selective Multiculturalism: Jews, Turks and Russians in Berlin  
Jeffrey Peck (Georgetown University), The Americanization of Jewish Life in Germany Today  

10.30-11.00  
Break: Cold drinks Room 8, hot drinks (pay bar) Common Room  

11.00-12.30  
**JLA Session 4a:** Room 2  
Chaired by Nahum Rakover  
Avinoam Cohen (Bar-Ilan University), Evidence in Jewish Law: haPeh She’assar vs. Miggo  
Ilan Fuchs (Bar-Ilan University), Women as Witnesses in Jewish Law  
Michael Wygoda (Ministry of Justice, Jerusalem), The Legitimacy of Majority Decisions in Criminal Trials  

**JLA Session 4b:** Room 3  
Chaired by Harry Lesser  
Ruth Lamdan (Tel-Aviv University), Law, Local Regulations and Reality: Women’s Life in Jewish Communities following the Expulsion from Spain  
Leah Bornstein-Makovetsky (Hebrew University of Jerusalem), The Attitude of the Halakhic authorities to the phenomena of hazakah of the Rabbinate and Unfair Competition of Rabbinate in the Communities of the Ottoman Empire During the 16th-18th Centuries  

**Globalisation Session 8:** Room 4/5  
Chaired by _______  
Jean-Marc Dreyfus (University of Manchester), Towards a Globalised Holocaust Memory?  
Susan Jacobs (Manchester Metropolitan University), AntiSemitism and Other Forms of Racism: The British Context in a Globalising World  

12.30-1.00  
**Globalisation Plenary Session**  
Chaired by _______  

1.00-2.00  
Lunch: Mumford Room  

2.00-3.30  
**JLA Session 5a:** Room 4/5  
Chaired by Steven Resnicoff  
Aviad Hacohen (Hebrew University of Jerusalem), The Limits of Freedom of Speech and Knowledge  
Johnny Solomon (London), Rabbi Hayyim David Halevy as the Orthodox poseq for the non-orthodox  
Steven H. Resnicoff (DePaul University, Chicago), Da'at Torah and Censorship
JLA Session 5b: Room 2
Chaired by Samuel Wolfman

Abraham Ofir Shemesh (Ariel Center University of Samaria), Punishments for Dogs’ Damages According to Jewish Law

Amy Birkan (Hebrew University of Jerusalem), Tannaitic Legislation in Cases of Causative Damage and its Implications for the Notion of Responsibility

Samuel Wolfman (University of Haifa), Live Donor Transplantation and the Incompetent Donor: Viewpoint of the Jewish Law

JLA Session 5c: Room 3
Chaired by Leib Moscovitz

Itay Lipschits (Academic Center of Law & Business, Ramat-Gan), Consultation among Judges

Aviad Y. Hollander (Bar-Ilan University), The Limited Power of Formalistic Argumentation in Halakhic Decision Making: Rabbi Shlomo Zalman Auerbach and Rabbi Shlomo Goren as case studies

Leib Moscovitz (Bar-Ilan University), On the Internal Unity of Jewish Law in Rabbinic Literature

3.30-4.00 Tea Break: Cold drinks Room 8, hot drinks (pay bar) Common Room

4.00-5.30 JLA Session 6a: Room 4/5
Chaired by Bernard Jackson

Melanie Landau (Monash University), An examination of extra-legal arguments in Ein Tenai Be’nissuin


Shoshana Borocin-Knol (University of Manchester), Tsorekh hasha’ah and regulations regarding women and divorce

JLA Session 6b: Room 2
Chaired by George Wilkes

Yitzchak Roness (Bar-Ilan University), Halakha, Ideology and Interpretation - Rabbi Shaul Yisraeli on The Status of Defensive War

Israel Z. Gilat (Netanya Academic College), “Conquest by War”: Influences on personal status

George R. Wilkes (University of Cambridge), Military Exemption and the Authority-Obligation Gap: Solutions for a Legal-Political Conundrum in the Rabbinic Imagination

JLA Session 6c: Room 3
Chaired by Yosef Rivlin

Ron S. Kleinman (Ono Academic College Law School)), The Halakhic Validity of Civil Law in the State of Israel: Halakhah and Ideology

Joseph Fleishman (Bar-Ilan University), When is it Legitimate to sell one’s daughter, and for What Purpose?

Yosef Rivlin (Bar-Ilan University), The Proposed Amendments to the Israeli Law of Inheritance from the Viewpoint of Jewish Law

6.00-7.00 Dinner: Mumford Room

7.45 “The Lopian Gross Barnett Seminar”, at the Whitefield Synagogue (transport from the conference provided)

Chaired by Rabbi Jonathan Guttentag

Chief Rabbi Shear-Yashuv Cohen (Haifa), The Authority of the Rabbinical Court to Terminate a Marriage

Rabbi Shlomo Riskin (Efrat), Solutions to the Agunah Issue
Thursday July 24th

8.00-9.00 Breakfast: Mumford Room
9.00-10.30 **JLA Session 7a: Room 9**
Chaired by Daniel Langton

**Jonathan Burnside (University of Bristol)**, Towards a Biblical Jurisprudence

**Ari Solon (University of São Paulo, Brazil)**, The Loving Father: Different Perspectives on Luke’s Parable of the Prodigal Son

**JLA Session 7b: Room 8**
Chaired by Larry Rabinovich

**Hillel Gamoran (University of Washington)**, Should a Penalty for Late Repayment of a Debt Be Forbidden as Interest?

**Tehilla Beeri (Bar-Ilan University)**, A Solution to the “Mamzer” Problem Afforded by Recent Medical Advance

**Larry Rabinovich (New York)**, Rashi’s Metrology: Weights, Coins and Currencies from Cologne, Constantinople and the Classical Past

10.30-11.00 Break: Cold drinks Room 8, hot drinks (pay bar) Common Room
11.00-12.30 **JLA Session 8: Room 9**
Chaired by Bernard Jackson

**Michael Broyde (Emory University)**, A Proposed Tripartite Prenuptial Agreement

**Avishalom Westreich (University of Manchester)**, 'Umdena as a Ground for Marriage Annulment: Mistaken Transaction or Terminative Condition?

**Nechama Hadari (University of Manchester)**, So what kind of a get do you call this?

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Philip Alexander

In Defence of Normativity in the Study of Judaism

BAJS Session 1: Room 4/5
BAJS Session 1: Sunday 1.45-3.30, Room 4/5

My aim in this lecture will be to explore the problem of normativity in Judaism initially from a paedagogical angle, but work out from there to more controversial areas. I have taught for many years a first year BA module to some sixty students from varied religious backgrounds (Christian, Jewish and Muslim) entitled an “Introduction to Judaism”. This runs over ten weeks, and involves at most thirty hours of class contact time. I have to be selective, but on what basis should I select one topic rather than another, and how can I justify my selection? I shall argue that the only rational basis of selection is a judgement as to what is central and what is marginal within Judaism, and I shall propose ways in which this distinction can be made in an academic context. I will suggest that this analysis has implications for how the discipline of Jewish Studies should be configured within the academy. But I shall go further. I shall argue that this distinction between core and periphery entails the identification of a normative tradition, which is an essential analytical tool in understanding the character of modern varieties of Judaism, illustrating this point with a discussion of the Jewish identity of the Beta Israel (the Falashas), of the Black Hebrews, and of Messianic Jews. Most controversially I shall explore the possible implications that this academic analysis has for the faith community, and for the claims to authenticity made by various contemporary forms of Judaism.

Philip Alexander is currently Professor of Post-Biblical Jewish Studies, and Co-Director, Centre for Jewish Studies, University of Manchester. He was formerly President of the Oxford Centre for Hebrew and Jewish Studies and has published widely in the field of Judaism in Second Temple and Talmudic times, particularly on Midrash, Targum, Mysticism, and Judaism in the Graeco-Roman world. His most recent monographs have been on Targum Canticles, on Targum Lamentations and on the Mystical Texts from Qumran. He is currently working on a commentary on 3 Maccabees and, with Loveday Alexander, on a collection of studies of early Jewish and Christian Scholasticism. He was elected an FBA in 2006.

Philip Alexander

Digitising the Manchester Genizah Fragments

BAJS Session 7: Monday 7.30-9.00 p.m., Room 9

This session will report on the AHRC Rylands Cairo Genizah project, which is currently cataloguing and digitizing all the 11,000 Cairo Genizah fragments held in the John Rylands University Library, Manchester. The database will be demonstrated, and some interesting entries from it shown. The history and character of the Rylands fragments will be explained, and their relationship to the Genizah as a whole discussed. The Rylands Project will be set in the context of the growing use of the web to foster co-operative research in Jewish Studies, and specifically the ambitious project to reassemble the whole of the scattered Cairo Genizah in cyberspace.
Tehilla Beeri

A Solution to the “Mamzer” Problem Afforded by Recent Medical Advance

JLA Session 7b: Thursday, 9.00-10.30, Room 8

The mamzerut is a tragic reality with harsh repercussions, and remains a painful issue even today. Thus, we must keep searching for halakhic solutions for the mamzer. Specifically we must enquire whether the recent medical advances in the field of artificial insemination (in vivo or in utro), create new possible solutions that are coordinated with the fundamental principles of the issue. The halakhic sources demonstrate situations where the child does not inherit the father’s lineage, and therefore the mamzerut is not transferred. Another halakhic situation in which the link between the lineage of the parent and that of the child is possibly broken, is the case of artificial insemination (in vivo or in utro). We must examine whether according to the halakha the child is related to the donor of the sperm/ the donor of the egg / the birth mother, or is not related to them at all. Then we must examine a possible solution for the offspring of the mamzer according to the different poskim.

To conclude the discussion, we will examine the developing trends in the Israeli courts concerning genetic tests in situations that might lead to announcing mamzerut.

Born in Jerusalem 1974, Tehilla Beeri holds an LLB and an LLM from Bar-Ilan's Faculty of Law. A graduate of Matan's 3 years “Advanced Talmudic Institution”, she is currently writing a doctoral thesis addressing “The State of Mind Needed to Constitute Kiddushin” as part of Bar Ilan's presidential scholarship program and the Mozes S. Shupf Fellowship Program for outstanding doctoral students. She reaches Jewish law at Shaarei Mishpat College and Contract Law at the Open University.

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Moshe Behar

After ‘Arab Jews’

Globalisation Session 2: Monday 4.00-5.30, Room 9

Until the conclusion of the first Arab-Israeli war in 1948 there were roughly 750,000 Jews living in the territories that in the 20th Century became the states of Algeria, Egypt, Iraq, Lebanon, Libya, Morocco, Syria, Tunisia, Yemen and Palestine/Israel. An electronic survey of over 900 academic journals reveals that when scholars referred to these individuals collectively during the last 200 years, they employed a vast array of collective signifiers including Sephardim; Oriental Jews; non-Ashkenazi Jews; Jews of Islam; Arab Jews; Jewish Arabs; Sephardic Jews; Jews of Arab lands; Middle Eastern Jews; Arabic-speaking Jews; North African Jews; non-European Jews; Arabic Jews; Third World Jews; Eastern Jews; Levantine Jews; Jews of the Mediterranean; and Maghribi/Mashriqi Jews. The question my paper addresses is simple but potentially foundational: what collective signifier can define and capture most accurately, inclusively and comprehensively the socio-political and cultural experiences of those who comprised the Arab Middle East's ten Jewish minority communities prior to their dispersal in the post-1949 armistice period? I propose that the label 'Arabised-Jews' contains explanatory properties that outweigh – either quantitatively or qualitatively – those of its nearly twenty alternatives. That is the case as far as the historical quest of the Middle East is concerned as well as in relation to the otherwise slim prospects to spawn some positive effects into the Israel/Palestine matrix for the 21st Century.
Moshe Behar is Pears lecturer in Israeli and Middle Eastern Studies in the school of languages, linguistics, and cultures at the University of Manchester. He received his PhD in comparative politics from Columbia University and previously taught at the Hebrew university in Jerusalem and the Sapir college in Sderot. Moshe studies theoretical aspects associated with the phenomenon of nationalism and their manifestation in the 20th Century Middle East. His work was published in such journals as Nationalism and Ethnic Politics; Politika: the Israeli Journal of Political science and International relations; and the International Journal of Middle East

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Michal Ben Ya‘akov

Shifting and Drifting: North African Migrations and Cultural Identities in a Global Community

Globalisation Session 2: Monday 4.00-5.30, Room 9

For over a century, beginning in the mid-nineteenth century, Jews from the various communities of North Africa were increasingly on the move. Political, economic, social and religious factors motivated them to leave and directed their choice of destination, be it to larger towns within the region, destinations farther flung within the Mediterranean Basin (including Eretz-Israel) or overseas to Europe and the Americas. By the 1960s most Jews had left North Africa, and established themselves in new communities. In the last two decades migration has once again increased, similar to world trends, facilitated by ever-changing modes of communications. In tandem with trends in migration, resettlement, acculturation and assimilation, cultural paradigms, ethnic identities and individual affiliation have been continually created and redefined, by simultaneously broadening group identity beyond geographical borders, as well as reinforcing specific ethnic cohesion. This presentation will examine various expressions of cultural identity among North African Jews in Israel and in other centers of North African diasporas, using both their historical antecedents as well as theoretical models for socio-demographic changes.

Dr. Ben Ya‘akov holds a B.A. in history from the University of Wisconsin, Madison (1972), M.A. from the Institute of Contemporary Jewry at the Hebrew University of Jerusalem (1984) and Ph.D. in historical geography from the Hebrew University of Jerusalem (2002). She has taught at various levels, as well as in-service training workshops for history teachers. Since 1989 she has been a senior lecturer in modern history at the Efdrata College of Education in Jerusalem, and since 2005 chairperson of the department. She has published numerous articles. Her research on North African immigration and settlement in Israel will soon be published by the Yitzhak Ben Zvi Institute, Jerusalem. Her academic work centers around 19th and 20th century Eretz-Israel, with special emphasis on North African and Sephardi Jewry. In recent years she has focused on Jewish women, particularly, but not exclusively in those communities. Multi-disciplinary research approaches characterize her work, integrating the humanities and social sciences, particularly history, geography, demography and anthropology.

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Rosana Kohl Bines

Samba & Shoah – Brazilian Cultural Anthropophagy

Globalisation Session 3: Tuesday 9.00-10.30, Room 9

The provocative title “Samba & Shoah” has recently made the headlines in Brazil and it spread throughout the global internet press. The polemic affair concerned a lawsuit by the Jewish Federation of
Rio de Janeiro against a popular samba group that planned on parading during Rio’s famed Carnival with a float depicting a dancing Hitler on top of naked mannequins, posing as Holocaust victims. The controversy will serve as a case study for examining the notion of Cultural Anthropophagy, which emerged in Brazilian Modernism in the 1920s, to become the current main strategy for dealing with the country’s enormous ethnic, religious and social diversity. The graphic depictions of the Brazilian natives swallowing, digesting, incorporating and expelling whatever was left of the foreign elements consolidated a critical representation of cultural encounters that pay tribute to Brazil’s capacity to synthesize the external sources into a genuine cultural mixture, best glorified through Carnival, when peoples of different social classes, ethnicities, religions and genders dance together in a festive communion. This paper will look into Brazil’s rejection of hyphenated identities through cannibalistic cultural strategies, by probing what is at stake when samba culture wants to swallow Jewish memory.

Rosana Kohl Bines is a Professor of Comparative Literature at the Pontifícia Universidade Católica do Rio de Janeiro (PUC-Rio), where she has taught several courses on Jewish topics. She also works as a consultant for the UNESCO Chair in Reading at PUC-Rio. She is part of the International Research Group on “The Writings of Violence”, devoted to comparative work in literature, examining the art produced in the context of the Shoah and under the Latin-American dictatorships. She holds a Ph.D in Comparative Literature from the University of Chicago (2001). She was awarded a Fuerstenberg Fellowship (1998-2001) to write her doctoral dissertation “Post-Shoah Identity Between Languages”. In 2001, her dissertation received the “Best Dissertation Manuscript” award, granted by the Latin American Jewish Studies Association. Her most recent publication is an anthology of essays by Jewish-Brazilian author Samuel Rawet, which she co-organized and prefaced with Prof. José Leonardo Tonus (Paris IV, University of Sorbonne).

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Amy Birkan

Tannaitic Legislation in Cases of Causative Damage and Its Implications for the Notion of Responsibility

JLA Session 5b: Wednesday, 2.00-3.30, Room 2

The goal of this paper is to examine the concept of responsibility and its parameters as it is reflected through the Tana’aic rulings in three types of causative damage: Contributory negligence, coexisting circumstances and acts done under provocation. In these forms of harm the defendant’s wrongful act is adjoined by a third party (either human or natural agency) to produce the harm to the plaintiff, requiring the law to refine who or what is considered the source of the harm. Does the cooperating agency or circumstance relieve the defendant of her harm, reduce her liability, or is the harm from her wrongful act traced through the contributions of the additional agency? The rulings reflect the boundaries between a defendant’s responsibility for harm she causes, and a plaintiff’s legal obligation not to allow himself to be harmed. The category of “acts done under provocation” sheds light on the conception of an animal as an autonomous agent that is held the legal cause of its acts.

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Leah Bornstein-Makovetsky

The Attitude of the Halakhic authorities to the phenomena of "hazakah" of the Rabbinate and Unfair Competition of Rabbinate in the Communities of the Ottoman Empire During the 16th-18th Centuries

JLA Session 4b: Wednesday, 11.00-12.30, Room 3

The tendency of causing Rabbinate inheritance and of possession of Rabbinate in the Ottoman Empire communities ("Kehilot") and congregations ("Kehalim") existed as a prominent phenomenon, especially from the last decades of the 16th century until the 18th centuries. But many communities and congregations objected the ideas of "Hezkat Rabbanot" (possession of the Rabbinate) and "Yerushat Rabbanut" (Rabbinate inheritance). The influx of scholars in the communities caused many quarrels between candidates to the office of a communal rabbi, and in most cases the claims for possession and inheritance were not dominant in the Jewish communities, in contrary to the system of Rabbinate possession and Rabbinate inheritance which were practiced in Ashkenaz from the 15th century onward. This situation in the Ottoman Empire communities caused many cases of "Hasagat Gevul" (trespassing) and many Rabbis were threatened by such trespassing Rabbis. The Responsa literature written in the Ottoman Empire communities throughout the 16th-19th centuries relates to these topics, and teaches us a lot about the many practical ways which were done by Rabbis to protect their rights of holding the possession, on the one hand, and about their descendants who wanted to inheritance the offices of their parents, on the other way. Sometimes they used physic and verbal violence, turning to the Ottoman authorities or to the Moslem court-of-law and also interfered their supporters in the communities. The rabbis who wanted to overtake the office used the same ways of their opponents.

But in the majority of strifes about these affairs, Rabbinate possession and Rabbinate inheritance, the two sides asked the decisions of the great deciders of the communities. In this paper I relate to the decisions of many deciders, and concentrate in their perceptions in regard to the two subject. I show their acceptance of the ideas of Rabbinate possession and Rabbinate inheritance, especially from the 17th century onward, and relate also to the changes of these topics in the 19th century. The fact that almost the majority of the deciders and communities were Sephardic give us also the opportunity to compare their response with the Ashkenazic responses in that period.

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Shoshana Borocin-Knol

Tsorekh hasha'ah and regulations regarding women and divorce

JLA Session 6a: Wednesday, 4.00-5.30, Room 4/5

Throughout the ages halakhic changes have been made, sometimes as a result of tsorekh hasha’ah, the needs of the time, or sha’at hadekhaq, times of danger. This is visible in rulings regarding women and divorce as well. Many of these changes reflect a negative view on women’s morality as a result of influences of the secular society, which is often expressed in terms of “women in our generation are loose” (Maharam miRothenburg, Rosh). Also in modern day divorce cases the (lack of) religious observance of the woman is taken into account on deciding the case, often to such an extent that women are not believed due to the fact that they are not “one of the kosher daughters of Israel” (e.g. Piskei Din Rabbani’im 4/342-346). However, some halakhic changes made because of tsorekh hasha’ah have proven to be positive for women, such as the takkanat ha-Geonim.

This paper aims to show different halakhic changes regarding women and divorce which have occurred throughout the ages as a result of tsorekh hasha’ah and will conclude with today’s situation.
Daniel Boyarin

Endless Pleasure; Endless Strife: Monological Dialogue in the Talmudic Sugya

JLA Session 1: Tuesday, 1.45-3.30, Room 4/5

In this lecture, I wish to make a case for a shift in discursive practice between the earlier rabbinic literature and the final redactional level of the Babylonian Talmud. Several examples will be adduced to indicate that one of the projects of that crucial textual level is the effecting of the final triumph of rabbinic authority over all other forms of authority current within the Jewish world. This discursive project eventually made possible the hegemony of the Talmud as it developed in the Middle Ages.

Daniel Boyarin is the Taubmann Professor of Talmudic Culture at the University of California at Berkeley. Recipient of two NEH fellowships and a Guggenheim, he is a fellow of the American Academy of Arts and Sciences. He has just completed a manuscript entitled Socrates and the Fat Rabbis, to be published by the University of Chicago Press.

Daniel Boyarin

‘The Son of Man’ and the Genealogy of Rabbinic Judaism

BAJS Session 9: Tuesday 11.00-12.30, Room 4/5

In this lecture, I shall engage with the work of Philip Alexander on the relation between 3 Enoch and the Babylonian Talmud in order to produce a somewhat revised hypothesis regarding the genesis of rabbinic Jewish theology.

Michael Broyde

A Proposed Tripartite Prenuptial Agreement

JLA Session 8: Thursday, 11.00-12.30, Room 9

This tripartite document sews together three basic approaches found in the poskim to address the decision by a husband to refuse to authorize a get when his wife requests one. The first is conditional marriage, the second is authorization at the inception of marriage to give a get, and the third is annulment of marriage based on communal decree. Many, many contemporary poskim support one of these three approaches.

Even more significantly, these approaches interlock with each other so that the whole is stronger than the sum of the parts. The main problem with hafka`ah is that it can be implemented only when some kind of get is given as well; here, one is. The main weaknesses with kitvu u’tnu are subsequent cohabitation and possible revocation at a later date; the text of this document explicitly builds in survival following cohabitation and also limits the cancellation problem through hafka’ah. And the main objection to tenai
be-kiddushin is *ein adam oseh be’ilato be’ilat zenut* (which is not a problem, we assume, after death; hence the Rama’s lenient position in the chalitzah context); but one can argue that if hafka’ah could work in this context, the sevara of *ein adam*… can then be employed to presume that there is no real cancellation of the *kitvu u’tnu*, since the husband would prefer the implementation of the conditional *get* in order to avoid the *hafka’ah* and resultant *be’ilat zenut*. The woman’s conditional acceptance makes this even clearer.

Having said all this, I remain a deeps supporter of the standard prenuptial agreement drafted by Rabbi Mordechai Willig, endorsed by countless poskim, and distributed under the letterhead of the Beth Din of America. The prenuptial agreement I have drafted is much more halachically complex, and thus, far less ideal than the agreement of the Beth Din of America. Nonetheless, the approach of this agreement — which incorporates many formulations within it is, I think, vastly superior to any other self-effectuating agreement that presently exists. Many contemporary halachic authorities of the last hundred years would have ruled that a woman freed by operation of this agreement is divorced al pi din. I am not aware of a single halachic authority who has discussed this type of composite agreement, or all the separate components therein, and disapproved of each of them.

Michael Broyde is a professor of law and Emory University School of Law, and a dayan in the Beth Din of America.

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**Jonathan Burnside**

**Towards a biblical jurisprudence**

JLA Session 7a: Thursday, 9.00-10.30, Room 9

This paper explores the question of normativity and authority in Jewish law in the biblical period. It asks whether there is such a thing as ‘biblical jurisprudence’ and, if so, what its main contours might be. The paper seeks to make connections between issues in biblical law and contemporary legal theory in the following ways. It explores how biblical law: (1) provides an integration between the particular and the universal; (2) enables biblical society to choose its future; (3) provides society with a pole of attraction and a sense of purpose; (4) is interpreted in the light of an ongoing narrative; and (5) is part of a ‘virtuous circle’ of legal reasoning. This enables us to identify where biblical law fits into the wider landscape of legal pluralism and also to appreciate some of the ways in which biblical law offers a different approach to questions of normativity and authority.

Jonathan Burnside is Reader in Biblical Law at the School of Law, University of Bristol. He has explored the relationship between law, theology and criminology in several projects including *Relational Justice* (1994/2004, Waterside Press) and *My Brother's Keeper: Faith-based units in prisons* (2005, Willan Publishing). His PhD in biblical law was supervised by Bernard Jackson. Published work in biblical law includes *The Signs of Sin* (2003, Continuum) and *God, Justice and Society* (forthcoming in 2009, Cambridge University Press), the latter based on a unit in Jewish Law which he teaches at the University of Bristol.
Avinoam Cohen

Evidence in Jewish Law: "ha'Peh she'assar" vs. "miggo"

JLA Session 4a: Wednesday, 11.00-12.30, Room 2

In Jewish Law, certain incidents are recognized as legitimate evidence although they lack any eye witness or circumstantial proof. The lecture will discuss and illustrate two legal rules of this type: The Hebrew-Tannaitic one, "ha'Peh she'assar" ("The mouth that forbade is the mouth that permitted") and Aramaic-Amoraic term "miggo" ("For had he wished to lie, he could have used a better lie"), which have been used by Rabbinic Courts and authorities ever since the first century A.D.

Contrary to common Rabbinic and scholarly hypothesis (Tosafists, Ritva Meiri, etc.), the lecture will suggest that these two rules are not identical. Although there are many elements in common to both terms, several distinctions between them could be found upon analyzing its original meaning (the early Talmudic, not the late Rabbinic one!), such as: How many claims are examined at the time of the adjudication of the case? Indeed, had the "miggo" been the same as the previous "ha'Peh she'assar", the Amoraim would not have had any reason to use a new term. It seems that it was one of the late Talmudic sugya which later caused the confusion of these two legal terms.

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Shear-Yashuv Cohen

The Authority of the Rabbinical Court to Terminate a Marriage

The Lopian Gross Barnett Seminar (Wednesday Evening)

Rabbi Shear-Yashuv Cohen was born in Jerusalem in 1927 to the "Nazir" Rabbi David Cohen, Dean of The Central Yesivah of Harav Kook in Jerusalem. He participated in the battles for the Old City of Jerusalem in 1948 and fell into Jordanian captivity in the Independence War. He is a graduate of the Hebrew University of Jerusalem, where he received the Master of Jurisprudence in 1955. He studied in Merkaz HaRav Kook Yeshiva, Petach-Tikvah Yeshiva and Machon Harry Fischel and received Semicha from Israel’s Chief Rabbi Dr. Isaac Halevy Herzog and other leading Rabbis. He has been Chief Rabbi of Haifa since 1976, and is President of its District Rabbinical Courts and President of Ariel United Israel Institutes. He is also President and Dean of Harry Fischel Institute, Jerusalem - for Research in Talmud and Jurisprudence and the preparation of Rabbinic Judges, Founder and Chairman of the board of the Institute for Science and Halacha, and Founder and President of the Midrasha-Jerusalem Seminary. He has been a Member of the Israeli Bar since 1958. He has served as a Chaplain in the Israel Defense Force 1948-53; Chief Chaplain to the Israel Air Force 1953-54; a Member of Jerusalem Municipal Council 1955-73’ and for many years was vice-mayor of Jerusalem, in charge of its educational and cultural departments. He has published research work and various books and articles on Halachic Subjects, the History of Jerusalem, Jewish Thought and Jewish Law. He is Editor of Halacha Pesuka (Code of Jewish Jurisprudence) and Rashi Hashalem (Ariel Chumash: six volumes have appeared to date). In 1988 he received Israel’s “Prize for Tolerance” at the Knesset, and in 1999 an Honorary Doctorate from Bar-Ilan University. He also received the First Jerusalem Jubilee Prize for Jewish World Spiritual Leaders selected by the Center for Religious Affairs in the Diaspora - World Zionist Organization, presented by the President of the State of Israel in his official residence.

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Daniel Davies, Cambridge

Philosophy on the Margins of Judaism

BAJS Session 4: Monday 11.00-12.30, Room 4/5

Jewish philosophers have long struggled with the question of normativity. Their insistence on trying to understand their beliefs and the purposes of their actions often force them to operate on the edges of their traditions. Some of the greatest thinkers may have been great system builders or synthesizers: bricoleurs. In his book about al-Ghazal, Ebrahim Moosa argues that the source of the great Muslim thinker's originality was his inhabiting the dihl__z, a 'threshold' which constitutes the liminal space between different cultures and systems of thought. The same is true of Jewish thinkers who were influenced by their host cultures, and often exerted influence on those cultures. Maimonides himself stated that there is no new science or philosophy to be found in his Guide for the Perplexed. Jose Faur argues that in medieval Spain, those who were open to 'external' philosophy created dynamic systems of thought which contributed to the continuance of Spanish Jewry, while those who closed themselves o_ from outside thought facilitated a stagnation of that great community, and ultimately to its demise. In our day, Kenneth Seeskin has called for Jewish thinkers to engage deeply with secular philosophy and other non-Jewish forms of theology. Through an examination of some medieval Jewish philosophers, I intend to map out some of the issues facing Jewish philosophers who propose to take up the challenge.

Daniel Davies holds the Spalding Research Fellowship at Clare Hall College in Cambridge. He read Theology at the University of Birmingham before moving to Cambridge to pursue postgraduate work in philosophical theology. Daniel recently completed his doctoral thesis entitled The Unity of Metaphysical Vision in the Guide for the Perplexed: A Study in Maimonides’ Methods of Presentation. He is presently engaged in research on some mediaeval critics of Maimonides.

Maria Diemling

Judaism at the Margins: Conversion as a Pre-Modern Jewish Choice

BAJS Session 5: Monday 2.00-3.30, Room 4/5

In Jewish historiography, apostasy has often been depicted as the ultimate betrayal of Judaism. Jews who left the community and converted to another religion have been portrayed as traitors and informers, weakening and sometimes severely threatening the community they left behind. The negative image of converts in medieval Ashkenaz is documented in a wide range of Jewish sources, but is has influenced the way conversion was seen well beyond the Middle Ages.

In recent times, a more nuanced assessment of Jewish conversions has stressed the diversity of the conversion experience. While the majority of studies still focuses on the biographies of a relatively small
sample of more or less educated male converts, we have gained a much better understanding of what led individual Jews - men and women, and from all social and economic backgrounds - to this momentous turn in their biographies. Jews are now understood as active agents whose decision can and should be understood in the specific context of Jewish culture.

Focusing on a number of early modern Central European case studies, I shall argue that the study of conversions can tell us much about pre-modern Jewish identity. The options available to those Jews who contemplated conversion and the leaving of the community were as much part of Jewish culture as the alarmed and sometimes hostile reactions of their families, the legal discourse about economic and social contacts with converts, the rather frequent maintaining of such links after baptism and the availability of ways back into the community should converts wish to do.

Maria Diemling is Senior Lecturer in Religious Studies at Canterbury Christ Church University, Kent. Her research interests include Jewish-Christian relations and Jewish history in early modern German lands. She has published on Jewish converts and Christian ethnographic writings of Judaism and is currently working on perceptions of the “Jewish body” in the Early Modern Period. She is the co-editor (with Giuseppe Veltri) of The Jewish Body: Corporeality, Society, and Identity in the Renaissance and Early Modern Period, to be published by Brill later this year.

Elliot Dorff

Jewish Law in the Conservative/Masorti Movement Since 1975

JLA Session 2: Tuesday, 4.00-5.30, Room 4/5

Over the last three decades, changes have occurred in the structure by which the Conservative/Masorti movement makes halakhic decisions, in the ways in which its decisions are published, and in the content of the decisions themselves. This paper will trace those changes, including, in its last section, a description of the major decisions that have been made on such topics as the status of women and homosexuals and a range of bioethical issues.

Elliot Dorff, Rabbi (Jewish Theological Seminary of America, 1970), Ph.D. (Columbia, 1971), is Distinguished Professor of Philosophy at the American Jewish University and Visiting Professor at the UCLA School of Law. He is Chair of the Conservative Movement's Committee on Jewish Law and Standards. His most recent books on Jewish law are The Unfolding Tradition (Aviv Press, 2005), a discussion on a variety of theories of Jewish law, and For the Love of God and People: A Philosophy of Jewish Law (Jewish Publication Society, 2007).

Jean-Marc Dreyfus

Towards a Globalised Holocaust Memory?

Globalisation Session 8: Wednesday 11.00-12.30, Room 4/5

In January 2005, the UNO General Assembly unanimously voted to recognise the Holocaust as a major event in world history. Other international organizations, such as the Council of Europe, UNESCO and the European Commission, have also taken initiatives to commemorate the Holocaust. The inauguration of the new museum of Yad Vashem, in April 2005, saw dozens of Heads of State or Government gathering in Jerusalem. References to the Holocaust are constant in many spheres, from politics to the
humanities. The example of China, where the attention given to the Shanghai “ghetto” grows every day, shows that even in Asia Holocaust consciousness is developing rapidly. In this sense, Shanghai could be seen as one of the “hubs” in a globalised memory. Does this mean that, 63 years after the liberation of Auschwitz, the Holocaust has become a global “site of memory”, in which all human beings recognize the most profound evil in history? In the light of the present gap in perception of the Holocaust between Eastern and Western Europe, it may be argue that the destruction of European Jews is not considered the same way in every country. The relationship between Holocaust memory and the defence or criticism of the State of Israel also demonstrates that the uses and interpretations of the Holocaust is far from being unanimous. This presentation will consider both how Holocaust memory and commemoration developed into a global recognition and also the many limits of its use.

Jean-Marc Dreyfus is Lecturer in Holocaust Studies in Religions and Theology, The University of Manchester and a Fellow of the Centre for Jewish Studies. He is an historian, specialising in the economic aryanization of property during the Holocaust. A graduate of the University of Paris 1 – Panthéon – Sorbonne, he wrote his dissertation on the confiscation of “Jewish-owned” banks in France and the restitution policies in post-war years. He is the author of four books, the last published in September 2007, written together with Jean Samuel, *Il m’appelait « Pikolo ». Un compagnon de Primo Levi raconte* (He called me Pikolo. A companion of Primo Levi tells his story).

Ben Elton

**Setting the Border of Acceptability in the Modern era: The Role of Belief**

BAJS Session 6: Monday 4.00-5.30, Room 4/5

This paper will explore the role of dogma in establishing an individual or community as either inside or outside the pale of acceptability in the eyes of the most traditional. It will argue that a certain amount of divergence in practice by communities or religious leaders, even beyond what was commonly considered halakhically permissible, was tolerated by the most traditional, without the consideration that these groups and individuals were within the parameters of normative Judaism being withdrawn, as long as certain theological beliefs were upheld. It will take examples from Germany, France, Britain and America in the 19th and 20th centuries. It will suggest that although Judaism has often been considered a religion of practice, in the modern period belief was actually given more weight as certain sections of the community decided what was ‘normative’.

Benjamin J. Elton read History at Queens' College Cambridge and received a PhD. for a thesis on the British Chief Rabbis 1880-1970 from Birkbeck College, University of London. He has published in *Jewish Historical Studies* and his first book *Britain's Chief Rabbis and the religious character of Anglo-Jewry* will be published by Manchester University Press in 2009. He is a Postdoctoral Research Fellow of the London School of Jewish Studies, and a civil servant working at the Ministry of Justice.
Joseph Fleishman

When is it Legitimate to sell one’s daughter, and for What Purpose?

JLA Session 6c: Wednesday, 4.00-5.30, Room 3

The Talmudic Sages negated a father's right to sell his daughter as a slave "unless he became poor," that is, he was forbidden to sell her for the sake of profit. Despite this prohibition, if he did sell her, the act was considered valid (Tosefta, Arakhin, Zukermandel, 5, 7). Why did the Tannaim validate the prohibited act?

We contend that in order to mitigate the harshness of the social consequences of selling a daughter into slavery, the Sages linked the sale in some way to marriage. Also, originally they nullified the sale of a daughter not intended to stave off starvation.

The link between the sale and marriage, however, most likely motivated the Sages to reconsider their strict limitation. Subsequently, they did not annul the sale of a daughter even if not meant to save a family from starvation. Their opposition to the sale of the daughter under circumstances other than dire poverty became a purely moral position having no legal implications.

Shamma Friedman

The Multiple Promulgation of the Torah

JLA Session 1: Tuesday, 1.45-3.30, Room 4/5

In his definitive work Jewish Law, Menachem Elon addresses sources of Jewish Law – literary, historic and legal.

What is the basic norm of Jewish law? It is the fundamental norm that everything set forth in the Torah, i.e., the Written Law, is binding on the Jewish legal system. The basic norm of Jewish law is thus more than the source of a chain of authority. It is also intertwined with the substantive content of the Written Law as the permanent constitution of the Jewish legal system (p. 232).

Even though Elon spells out all aspects of the rabbinic conceptualization regarding the Oral Law, his conceptual presentation of the Written Law is largely as above. The current paper undertakes to flesh out some of the rabbinic conceptualization regarding the Written Law. This will be done in reference to the well-known baraita:

R. Ishmael says: General laws were proclaimed at Sinai and particular laws in the Tent of Meeting. R. Akiba says: Both general and particular laws were proclaimed at Sinai, repeated in the Tent of Meeting, and for the third time in the plains of Moab (Hagigah 6b, Sotah 37b, Zevahim 115b).

This passage has been standardly treated synchronically and dogmatically, as representing the historical views of these two central tannaim. It will be claimed however, that it is in reality a final stage of literary and conceptual development. It distils and crystallizes approaches in the Sifra and elsewhere, and in the process both gives concrete expression to some of their underlying currents, and also carries them several steps forward. In its final form it presents the rabbinic anticipation and reaction to issues which surfaced centuries later in the Pentateuchal Documentary Hypothesis.
We hope thereby to attempt an application to this passage and its antecedents of the principle aptly voiced by Bernard S. Jackson:

Some scholars may choose to focus on the significance of the supposed original document, outside its present literary context, others on its final form within that literary context. But any full account must attempt not only both of these but also explain the process from beginning to end.

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Hillel Gamoran

Should a Penalty for Late Repayment of a Debt Be Forbidden as Interest?

JLA Session 7b: Thursday, 9.00-10.30, Room 8

The Bible strictly forbade an Israelite from charging his fellow interest on a loan, but was a penalty for repaying the loan later than the due date considered interest?

The Bible did not deal with this question, but the Mishnah allowed a lender to stipulate that if a borrower who had repaid part of his debt did not repay the rest of the loan within a specified time period then the borrower would have to repay the entire debt, and, as his penalty, even the part that he had already repaid.

Several rabbis of the 12th and 13th centuries agreed that the penalty should not be considered interest for if the borrower had repaid his debt on time, there would have been no penalty and the lender would have gained no profit. But R. Solomon ben Adret, in the second half of the 13th century objected to this conclusion. After all, he pointed out, the Mishnah prohibited actions taken to circumvent the usury ban. In Ben Adret's view, a penalty clause in a loan contract was a means to circumvent the prohibition against interest.

This paper will explore the efforts of later sages to deal with ben Adret's concerns. It will show how they found ways to allow lenders to profit by stipulating that borrowers must pay a price for delaying timely repayment of their debts.

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Ilan Fuchs

Women as Witnesses in Jewish Law

JLA Session 4a: Wednesday, 11.00-12.30, Room 2

As a general rule, *halacha* does not allow women to serve as witnesses. However an historical analysis of this topic will identify certain situations where women were allowed to testify in Jewish legal cases. One such "exception to the rule," allowing women to serve as witnesses in monetary issues, originated in Ashkenaz in the Middle Ages. In time, while some opinions wanted to minimize new interpretations of Jewish law in this matter, others were in favor of establishing and extending legal precedents to new situations, thus allowing women to offer testimony in other Jewish legal cases. Using this case as a springboard, my research examines the relationship between these two opposing opinions in today's Israeli Rabbinical courts' case law. The opinions offered today demonstrate diverse approaches to understanding the relationship between changes in Jewish cultural norms and how Rabbinic decisors perceive these changes, thus influencing *halacha*. Examining the role of women in Jewish law, and specifically as witnesses, highlights the development of Israel's new Jewish society and the changing role of women.
Cathy Gelbin

**Constructing the Global Shtetl: Golem Texts and Jewish Cultural Identities**

Globalisation Session 6: Tuesday 4.00-5.30, Room 9

The paper explores the post-1945 formation of a global paradigm of Jewish culture through the Golem, and the tensions of this globalised construct with the Ashkenazi parameters of the Golem story. Read through Hall (1990) and Boyarin’s (2002) dynamic views of cultures of cultures of migration and Diaspora, I look at how new Golem texts cast contemporary Jewish self-constructions in terms of a playfulness and fluidity beyond the national and racialized delineations of the past.

Cathy S. Gelbin (PhD, MA in German Studies, Cornell University) is Lecturer in German Studies at the University of Manchester, UK. She specializes in German-Jewish culture, Holocaust Studies, gender and film. Her publications include *An Indelible Seal: Race, Hybridity and Identity in Elisabeth Langgässer’s Writings* (2001), as well as *Archiv der Erinnerung: Interviews mit Überlebenden der Shoah* (co-ed., 1998) and *AufBrüche: Kulturelle Produktionen von Migrantinnen, Schwarzen und jüdischen Frauen in Deutschland* (co-ed., 1999). She has written on postwar Jewish authors and artists such as Esther Dischereit and Tanya Ury, and is currently preparing a monograph on the cultural history of the Golem trope from German Romanticism to global Jewish texts.

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Israel Z. Gilat

**“Conquest by War”: Influences on personal status**

JLA Session 6b: Wednesday, 4.00-5.30, Room 2

The Torah contains a number of accounts of wars between the Israelites and their enemies. Questions on the nature of possessive occupation and the justification of looting do not cause many difficulties. Furthermore, cattle, sheep, and tools can be rightly looted, as can the lands of those conquered, while enemies can be turned into slaves.

The Talmud deals with the results of war and conquering from a different perspective, and compares original property owners who have been looted by others to current owners who "conquered" assets after the war.

In my opinion the personal status has a same issue as "war assets". The change of personal status as a result of war is analogues to "war assets". This can be deduced from the case of "beautiful woman" ("אשה יפה וזרה") which is not only a description of a situation of human weakness, but also breaks a number of bans associated with personal status, both that of the conqueror who has intercourse and that of the "beautiful woman" who is conquered. Part of these bans comes from the Torah, and some originate from later clauses by Talmud scholars.
Sander L. Gilman

Jewish Culture in a Globalized World

Globalisation Session 1: Monday 1.45-3.30, Room 9

Globalization is often defined as our contemporary malaise: people move for economic and political reasons across continents and oceans, pursuing a better life or fleeing persecution. In doing so they bring their practices, beliefs, and habits with them and confront new beliefs, habits and practices in the worlds they come to inhabit. Certainly since the destruction of the first Temple (if not the expulsion from the Garden of Eden) the Jews were seen as and understood themselves "globalized" in the Galut. In a world that is now self-consciously globalized, the Jews remain the model for the twenty-first century and its globalization. What does this mean in practice for the experiences of Jews in this present world as well as for the meanings attached to these experiences?

Sander L. Gilman is Distinguished Professor of the Liberal Arts and Sciences and Professor of Psychiatry at Emory University, where he is the Director of the Program in Psychoanalysis and the Health Sciences Humanities Initiative. A cultural and literary historian, he is the author or editor of eighty books. His Oxford lectures Multiculturalism and the Jews appeared in 2006; his most recent edited volume, Diets and Dieting: A Cultural Encyclopedia appeared in 2007. He is the author of the basic study of the visual stereotyping of the mentally ill, Seeing the Insane, (John Wiley and Sons, 1982. reprinted 1996) as well as the standard study of Jewish Self-Hatred, the title of his Johns Hopkins University Press monograph of 1986. He has been a visiting professor at numerous universities in North America, South Africa, The United Kingdom (including the Weidenfeld Visiting Professor of European Comparative Literature at Oxford University), Germany, and New Zealand. He was president of the Modern Language Association in 1995. He has been awarded a Doctor of Laws (honoris causa) at the University of Toronto in 1997, elected an honorary professor of the Free University in Berlin (2000), and an honorary member of the American Psychoanalytic Association (2007).

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Martin Goodman, Oxford

Sectarianism and the Temple in the Late Second Temple Period and its Aftermath

BAJS Opening Session

The paper will examine the relationship of different Jewish groups in Judaea in the first century CE to the Jerusalem Temple, which functioned both as a unifying focus for such groups and as the focus for the public display of disputes and of competing claims to legitimacy in the interpretation of the Torah. The paper will argue that it is wrong to see most, and perhaps any, of these groups as sects. It will argue that many groups had reasons to be deeply troubled by the way that the Temple cult was conducted, and to believe that the priests were failing to observe what they saw as the correct interpretation of the laws governing sacrifices, purity and the calendar, but that for any group to separate itself from the Temple as a result was much rarer than is commonly assumed by historians, and that the standard picture of the relationship of these groups to the Temple has been too much influenced by later trends in rabbinic Judaism and Christianity. The paper will then investigate the impact on these groups of the destruction of the Temple in 70 CE, exploring the possibility (or even probability) that the same groups continued to maintain their distinct identities but that, deprived of a shared institution in which their disagreements were visible on a public stage, they ignored each other's specific teachings, simply characterising as wrong or wicked all alternative interpreters of the Torah.
Martin Goodman is Professor of Jewish Studies at Oxford University and a Fellow of Wolfson College. He was trained as a Roman historian in Oxford and taught Roman history in the University of Birmingham before moving back to Oxford in 1986 to a post at the Oxford Centre for Hebrew and Jewish Studies. Among his books are *Rome and Jerusalem* and *Judaism in the Roman World: Collected Essays*, both published in 2007. The *Oxford Handbook of Jewish Studies*, which he edited in 2002, was awarded a National Jewish Book Award for Scholarship. He was elected a Fellow of the British Academy in 1996.

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**Aviad Hacohen**

**The Limits of Freedom of Speech and Knowledge**

JLA Session 5a: Wednesday, 2.00-3.30, Room 4/5

In the modern era, there is a notion that Freedom of Speech and Freedom of Knowledge are fundamental human rights. Without a justified reason, a person should not be restricted from acquiring as much knowledge as he desires, and making use of it both in the written word and in speech.

According to this notion, freedom of knowledge and speech may be restricted only by explicit law, for an appropriate purpose and only to the degree necessary and required.

The lecture will examine the limits of freedom of expression and knowledge in Jewish law in comparison to rulings in modern legal systems.

Dr. Aviad Hacohen is Dean of the Sha’arei Mishpat Academic College, and Senior Lecturer in Constitutional Law and Jewish Law at the College and at the Faculty of Law of the Hebrew University of Jerusalem. His current research interests include: Constitutional Law, Administrative Law, Communication Law, Religion and State, Human Rights and Jewish Law, the Jerusalem Talmud, the responsa literature, etc. He has published scores of articles and research studies, and is serving on the editorial board of several publications: *The Official Supreme Court Opinions of the State of Israel*, *the Yearbook of Jewish Law*, *Machanayim*, *Sha’arei Mishpat*, and *Masechet* (MATAN Institute). His book, *The Tears of the Oppressed – an examination of the Agunah problem: background and Halakhic Sources* (New York: Ktav) was published in 2004. He has served as a consultant to the Codification Commission of the Ministry of Justice in Israel and is currently a member of the committee on legal terms at the Academy of the Hebrew Language. He founded and heads Mosaica, the Institute for the Study of Religion, Society and State.

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**Nechama Hadari**

**So what kind of a get do you call this?**

JLA Session 8: Thursday, 11.00-12.30, Room 9

The Broyde proposal insists that in order for a terminative condition to be rendered effective, a get, albeit pasul, must also be written and delivered. My paper examines Broyde's claim and argues in contradiction that not only is there no halakhic reason to require a get; in fact, the existence of such a get may be counter-productive. My paper goes on to posit various possible meta-halakhic reasons behind Broyde's
(and others') insistence on a get in all cases and to examine how the reactions of various halakhic authorities to a get which is pasul or batel may enrich our understanding of what the get actually is, and how different strands in the halakhic tradition have understood the end of marriage.

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Yael Halevi-Wise

Representations of Sepharad in Modern World Literature

Globalisation Session 1: Monday 1.45-3.30, Room 9

Over the centuries, Jewish and Gentile novelists have selectively drawn on Judeo-Spanish history to reflect upon contemporary sociopolitical concerns regarding the image and status of minority groups in the modern world. Occurring especially during moments of cultural revisionism, this sometimes-unlikely fascination with Sepharad can be found in a wide variety of nations and periods from 18th Century Europe to contemporary Latin America.

After surveying salient examples of this phenomenon in different cultural contexts, this paper will focus on the fascinating case of contemporary Latin American novels that historicize the Spanish picaresque novel (the rogue) to convey the plight of Spain’s Jews and conversos in the Iberian Peninsula and its colonies before and after 1492.

Historicized picaresque novels by contemporary Latin American novelists are particularly interesting in light of the fact that the picaresque genre itself was invented in the 16th Century by Spanish authors of converso origin, who were thus able to convey their experience of curtailed freedom in a coded manner. The recent re-harnessing of the picaresque genre to now openly decode and publicize the conflicted nature of early modern Spanish culture enables Latin American authors from Mexico to Argentina to call for a more tolerant, pluralistic, and democratic environment in Latin American polities today.

Yael Halevi-Wise is Associate Professor of English and Jewish Studies at McGill University. Trained in comparative literature, she specializes in history and theory of the novel. In recent years, she has been working on a literary history of the representation of Sepharad in modern world literature from 19th C England to contemporary Latin America.

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Aviad Y. Hollander

The Limited Power of Formalistic Argumentation in Halakhic Decision Making: Rabbi Shlomo Zalman Auerbach and Rabbi Shlomo Goren as case studies

JLA Session 5c: Wednesday, 2.00-3.30, Room 3

Are Halakhic problems truly first decided based upon value judgements, or ideological considerations, and only subsequently translated into the formalistic language of Halakhic discourse?

To better evaluate this claim, I will compare the reaction of two prominent twentieth century decisors, to the rejection of their formalistic argumentation by their peers.

Rabbi Auerbach relied upon a well known Halakhic view, while greatly expanding its purview, in order to propose a lenient solution to a woman's difficult situation of infertility. Rabbi Auerbach's novel suggestion led to a flood of responses from other leading authorities opposing his lenient ruling. Bowing to the opposition, Rabbi Auerbach retracted his proposed solution, maintaining thereby his standing as a leading authority.
Rabbi Goren's involvement in the Langer case, provides a stark contrast. Hoping to clear the Langer siblings of their status as bastards, Rabbi Goren argued for the disqualification of their father's conversion. Rabbi Goren refused to back down in the face of fierce Rabbinic opposition, and subsequently many leading authorities publicly declared all his Halakhic decisions to be null and void.

Aviad Hollander wrote his M.A. thesis in the Talmud Department at Bar-Ilan University, under the guidance of Prof. Aharon Shemesh. The thesis examined the Tannaitic Halakhic Exegesis of the Bible, noting the different schools, as well as Qumranic influences. He is presently working on a doctoral dissertation under the guidance of Prof. Chaim Milikowsky and Dr. Chaim Burgansky, focused on the adjudicatory deliberations and the modes of argumentation in Rabbi Shlomo Goren's Halakhic writings. Aviad is currently studying at the Bar Ilan Institute for Advanced Torah Studies.

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Hannah Holtschneider

Are Holocaust Victims Jewish? Looking at Photographs in British Holocaust Exhibitions

BAJS Session 8: Tuesday 9.00-10.30, Room 4/5

What techniques do Holocaust exhibitions use to establish the ethnic and/or cultural identity of victims? This question will be explored through an analysis of the photographic displays in the permanent Holocaust exhibition in the Imperial War Museum, London and Beth Shalom, Nottinghamshire. Both exhibitions define the Holocaust as a ‘Jewish event’ which also had other victims. The question then arises how these exhibitions clarify what ‘Jewish’ may mean to the visitor. Artefacts and text are significant, but also photographs. Focusing on the photographic display, this paper seeks to understand how depictions of Jews in Holocaust exhibitions communicate views of Jewishness current in the broader social context in which the exhibitions are located.

Hannah Holtschneider is lecturer in Modern Judaism at the University of Edinburgh. She received her PhD from the University of Birmingham in 2000. Her research is located at the interface of religion, culture and identity, focusing on Jewish-non-Jewish relations in Germany, and Holocaust representation in the Western world. Publications include German Protestants Remember the Holocaust (Lit. Verlag, 2001), and “Victims, Perpetrators, Bystanders? Witnessing, Remembering and the Ethics of Representation in Museums of the Holocaust”, Holocaust Studies: A Journal of Culture and History 13:1 (2007), 84-104.

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Amos Israel-Vleeschhouwer

Halacha and Globalization: Conceptual Impacts, Multi-player Interaction and Halachic Reorganization of the Jewish 'Community'

Globalisation Session 5: Tuesday 2.00-3.30, Room 9

Globalization and post-modernity challenge accepted views of Halachic authority and legitimacy and change the geographical and temporal scope of Halachic rulings, discourse and influence. As well, they influence religious practice, community life and the posek's philosophical, ideological and political weltanschauung. I will question the adequacy of previous adaptations of the Halachic community to modernity and the state for coping with these challenges. I will argue against merely adding the "Jewish
X and Globalization" paradigm to the existing ones. I propose that the present and future of the "Halachic community in its context" can best be thought of (in practice and research) in the framework of a *multi-player model* of discourse, politics and law, that should replace current prevailing paradigms. Finally, I will argue that the problem of agency on the external level (representing Jewish community and Halacha vis-à-vis other players) coincides with the internal Jewish Halachic and political question of pluralism in Judaism. I will compare the apparent adaptive advantage of diversity with the political advantage of a unified voice, and offer a win-win structural strategy.

Amos Israel has an MA in Social Psychology from Tel Aviv University (*magna cum laude*), and an LL.M. from Tel Aviv University (*magna cum laude*) and is currently undertaking a Ph.D. on “The Attitude of Halacha towards International Law and the Interaction between them” under the supervision of Profs. Arye Edrei and Orna Ben-Naftali. He is also a Volunteer on a rape crisis center hotline for male victims.

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**Bernard Jackson**

**Panel Discussion on Religious Jurisdictions in Israel and the Diaspora**

JLA Formal Opening Session: Harwood Room

Bernard Jackson has been Alliance Professor of Jewish Studies and Co-Director of the Centre for Jewish Studies at the University of Manchester since 1997. His books include *Theft in Early Jewish Law* (Clarendon Press, 1972); *Essays in Jewish and Comparative Legal History* (Brill, 1975); *Studies in the Semiotics of Biblical Law* (Sheffield Academic Press, 2000); *Wisdom-Laws: A Study of the Mishpatim of Exodus 21:1-22:16* (Oxford University Press, 2006); *Essays on Halakhah in the New Testament* (Brill, 2008). He was the founder editor of *The Jewish Law Annual* and is a past President of BAJS and The Jewish Law Association. He directs the Agunah Research Unit at the University of Manchester.

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**Susan Jacobs**

**AntiSemitism and other forms of racism: the British context in a globalising world**

Globalisation Session 8: Wednesday 11.00-12.30, Room 4/5

This paper discusses anti-Jewish racism in the context of other forms of racism in a ‘multicultural’ British society, shaped by globalisation and varying migration streams. In Britain, analyses of Jews as an ethnic group have been sidelined for analyses based on religious affiliation. Until the recent acknowledgement of Islamophobia, discussions of racism have concentrated on ‘colour’-based racism, as indicated in the ‘black/white’ dichotomy. Contemporary anti-Semitic discourses in Britain emanate from different political ‘directions’ – some old, some newer. On one hand, anti-Semitism may be seen as ubiquitous and unchanging; alternatively, it may be denied (or downplayed) as a distinct form of racism. The paper explores some of the factors shaping racisms (e.g. social class; racialised discourses; political debates; violent attacks) among various groups and briefly compares anti-Semitism with other forms. The paper finds that no absolute or sharp divide exists differentiating forms of racism; rather, some features are emphasised and others downplayed within varying discourses and manifestations. Thus, some features of racism affecting Jews are common to other racist discourses, but others such as conspiracy theory, occur less commonly. The latter in particular, has been reinforced by globalising discourses.
Dr. Susie Jacobs is a Senior Lecturer at Manchester Metropolitan University, where she lectures on sociology of development, sociology of gender and of ‘race’ and ethnicity; her main research has concerned gender issues, particularly gender and globalisation, gender rights and land issues, and gender and conflict. Susie led a research project, 'Ethnicity and Gender in Degree Attainment: An Extensive Survey of Views and Activities in English HEIs' and participated in another, the Intensive Review of HEIs, as part of the Higher Education Academy [HEA's] and the Equality Challenge Unit's wider project on this topic (funded by DIUS), in 2007. She gave the lead paper at a recent ESRC seminar on gender and intersections with race and ethnicity. Her publications involving antisemitism and other racisms include co-editor of States of Conflict: Gender, Violence and Resistance (2000); “Issues and Dilemmas: the Teaching of Race in Higher Education” (with Hai) in Anthias and Lloyd: Rethinking Anti-Racism (2002); and (ed.), Pedagogies of Teaching 'Race': British and European Experiences (2006). She is currently completing Gender and Agrarian Reforms, for Routledge.

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Ron S. Kleinman

The Halakhic Validity of Civil Law in the State of Israel: Halakhah and Ideology

JLA Session 6c: Wednesday, 4.00-5.30, Room 3

According to Jewish law, monetary customs have Halakhic validity (“Everything is like the custom of the city” [hakol ke-minhag ha-medinah], etc.). Monetary customs are usually shaped by the civil law. The logical conclusion has to be, that the civil legislation in Israel – like the laws of contract, land law etc. – has Halakhic validity based on the fact that the custom (minhag) in Israel is to obey the law.

Indeed, Posekim and Judges in rabbinical courts grant Halakhic validity to various civil laws. But if so, almost all the rules of the Shulchan Aruch, Hoshen Mishpat, will become irrelevant in our time!

In this presentation I will introduce the approaches of Rabbi Dov Lior, the chief Rabbi of Kiryat-Arba and of Rabbi Zalman Nechemya Goldberg, a dayyan in the high rabbinical court in Israel. Both, it seems, were aware of this problem and tried to avoid the conclusion that Halakhah rulings must be decided according to civil law rather than according to Jewish law (Shulchan Aruch).

During my presentation I will explore if these Halakhic attitudes are influenced also by ideological considerations.

Dr. Ron S. Kleinman is a senior lecturer in the Faculty of Law in The Ono Academic College. He teaches Jewish law and torts. His research is focused mostly on two issues in Jewish law: (A) Merchant customs relating to methods of acquisition (Kinyan Situmta): This research focuses on the post-talmudic period until nowadays (this was the topic of his 2000 PhD in Bar-Ilan University). Recently he has written about the halakhic validity of acquisition by credit card and via internet (e-commerce). (B) Customs (minhagim) pertaining to monetary laws (dinei mamonot), and the relations between customs, Halakha and the laws of the state. He has also written about various issues in Jewish law, e.g.: "Conflicts of Interests of Public Officials"; "Coercion of Public Authorities to Adopt Norms of ‘beyond the strict letter of the law’ (lifnim mishurat ha-din)"; "Early Interpretations of the Bible and Talmud as a Reflection of Medieval Legal Realia".

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Seth Kunin, Durham

Normativity in Judaism: An Essentialist Myth? A Neo-Structuralist Critique

BAJS Session 1: Sunday 1.45-3.30, Room 4/5

This paper will examine the nature of underlying structure within both historical and modern Judaisms. It will demonstrate that although traditional structuralism has tended to support an essentialist view of culture, neo-Structuralist analysis challenges this view. It suggests that both on the synchronic and diachronic levels there are variations within what are often considered single cultures. It argues that while there are ideologically dominant forms of structure within a synchronic context, even within that frame, these structures only achieve a relative and temporary degree of normativity. Normativity within this context is thus an expression of power and extension of power rather than something essential or inherent to Judaism.

Ruth Lamdan

Law, Local Regulations and Reality: Women's Life in Jewish Communities following the Expulsion from Spain

JLA Session 4b: Room 3

The century which followed the Expulsion from Spain (1492) was characterized by social and demographic changes in the Jewish world. The encounter of the Iberian refugees with the traditions of Ashkenazi Jews and the Jews of North Africa, the Balkans and the Levant, had wide-range influence on various aspects of Jewish life in the generations which followed.

My paper will concentrate on Jewish women’s status in this period, especially through examining halachic ruling and communal regulations (takkanot) concerning women.

Three main types of regulations were of relevance to women: regulations concerning daily life, regulations concerning matrimonial and inheritance laws, and economical regulations. The tension between law and actual practice, between the attempts of Jewish society to restrict and protect women, and a reality in which women sometimes acted independently, was apparent in all three areas of regulations.

I’ll show that in spite of restrictive Jewish and Muslim traditions, and in spite of communal regulations whose aim was to control the public conduct of women and minimize their involvement in the male world, the Jewish women of the Ottoman Empire took a surprisingly active part in the social and economic life of their era. They often displayed a degree of independence which stood defiantly against social expectations and halakhic law. They were not totally powerless if they insisted on their rights, particularly if they had support from their family. Also, if they disregarded the mainstream social climate that condemned recourse to gentile litigation, they frequently found a sympathetic ear in the Muslim courts.

Ruth Lamdan is a Lecturer in the Department of Jewish History, Tel Aviv University, and a Research-Member of its Goldstein-Goren Diaspora Research Center. Her main fields of teaching and research are: Mediterranean Jewish society after 1492; Palestine (Eretz Israel) during the Ottoman period; The Jews in the Ottoman Empire, from the 15th to the 18th centuries; Women and family in Jewish society; Genizah documents and Jewish legal bills (shetarot) from the Ottoman period; The Jews of Italy from the 15th to the 18th centuries. Her book, A Separate
People - Jewish Women in Palestine, Syria and Egypt in the 16th Century (Brill: Leiden-Boston-Koln 2000), was based on her PhD thesis about the status of women in Jewish society following the Expulsion from Spain. She is currently preparing an introduction to a printed edition of Sefer Tikkun Sofrim, a volume of Hebrew bills and contracts that was copied in Jerusalem in the year 1635.

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Melanie Landau

An examination of extra-legal arguments in Ein Tenai Be’nissuin

JLA Session 6a: Wednesday, 4.00-5.30, Room 4/5

As is well documented by Rabbi Dr Yehudah Abel, Rabbi Yehudah Lubetsky’s collection Ein Tenai Be’nissuin published in Europe in 1930 is a collection of arguments by various rabbis against the proposed innovations to the area of marriage law, specifically the introduction of conditional marriage, by French rabbis motivated by the problems arising after the introduction of civil divorce in France in 1884. This paper presents an analysis of the extra-legal arguments in this collection. These arguments are read not only as pertaining to the matter at hand - most of them do not refer to the substantive halakhic questions - but as representing a certain interpretive mode of halakha and resistance to major historical changes in the Jewish and wider European environment which nevertheless significantly determine the self-imagining of these communities. This paper underscores the importance of non-formalist approaches to halakha and concomitantly the ethical imperative upon the jurist in determining Jewish law and the moral and educative value that can be ascribed to halakhic decision-making.

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Dan Levene

Normative Magical Jews in Babylonia?

BAJS Session 3: Monday 9.00-10.30, Room 4/5

The Babylonian Talmud, which is thought to have received its final redaction some time in the 7th century, forms the halachic foundation of rabbinic Judaism. In contrast, however, the magic bowls, which are dated c 4th-7th cent CE, have been referred to as 'membra disjecta' and 'out-of-the-way texts' (Montgomery, 1913). Much of the reason for this is the fact that these texts contain material that make these texts, quite often, appear less than Jewish. Were they or were they not Jewish? This paper will present some of the more blatant examples while making the case that despite appearances this aspect of magical culture was in fact nestled, quite comfortably, at the heart of Jewish Mesopotamian culture.
Itay Lipschits

Consultation among Judges

JLA Session 5c: Wednesday, 2.00-3.30, Room 3

The judicial contemplation process, which occurs post-trial but pre-judgment, is rather obscure. Very little is known about the factual and mental processes which occur in judges’ minds during the “in-between” period after they have heard litigants’ arguments and until they present their decision to the public. How do they make up their minds? Do they talk with each other? Do they talk with other judges not sitting in their panel? In modern law, this “in-between” judicial contemplation process is shrouded in mystery. Neither the parties, nor the lawyers, nor for that matter, anyone else who cares about the justice system knows what goes on in that time. Moreover, the judges do not find it important to, indeed they never do, explain the process which led them to their decision. But this is puzzling. After all, there is probably no other stage in the trial which is more detrimental to parties’ faith, as well as to the integrity of the entire justice system. How come this “black box” is left unopened? How come there are no rules governing this “in-between” period?

In this paper I attempt to critically evaluate society’s hands-off approach in the “in-between” period. Specifically, my research focuses on the procedural aspects of this "black-box" in Jewish law versus modern Israeli law. I examine the process of consultation among the judges in the panel. In Jewish Law the consultation of judges prior to their judicial decision is obligatory: after the final hearing of all the witnesses the judges were required to discuss the case among themselves and only thereafter each of them was allowed to make up his mind. But, are judges allowed to discuss the merits of the case, or the credibility of a witness prior to the end of trial? If yes, what is the appropriate manner to do so? If a judge has doubts about the credibility of a witness, can he share his view with his colleagues during the witness’s testimony or immediately thereafter? Or should he keep his opinion to himself until the consultation period which occurs only when all testimonies were heard? Moreover, should the consultation among the judges be made public or should it indeed be concealed from the public’s eyes as is the custom in modern law? More generally, my research explores the kinds of arguments that are relevant for analyzing these questions. It attempts to strike the balance between procedural justice and substantive justice in such cases. Is the quest for truth the only criteria? Or are other criteria, like the public trust in the judicial system and in its judges, also relevant?

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Hussan Mahmoud

Panel Discussion on Religious Jurisdictions in Israel and the Diaspora

JLA Formal Opening Session: Harwood Room

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Gabriel Mancuso

From Father to son: The Transmission of Jewishness in Modern Venice (1850-1950)

BAJS Session 5: Monday 2.00-3.30, Room 4/5

Venice hosts one of the oldest and culturally most important Jewish communities of northern Italy. Since the beginning of the 20th century and after the Jews of Italy were given full citizenship, the number of
mixed marriages increased dramatically, reaching a peak of 60%-70% shortly before WWI (1905-1915). In spite of this and the growing cases of conversion to Catholicism (together with those who officially abjured Judaism), the Jewish community of Venice, as well as many other Jewish centres in northern Italy, not only did not decline but saw the number of its member to grow. This was due to a policy concerning the babies born from mixed couples which the rabbinical courts of Italy had (unofficially) adopted at the beginning of the century: Jewishness could be transmitted not only by the mother but also by the father, even though a ceremony of acceptance of the new member (mikveh bath) had to be performed. This “peculiar” – totally heterodox, according to modern orthodox view – form of transmission of the Jewishness allowed Italian Judaism to survive and confront assimilation. This practice mirrored a much older unwritten social law, well known in Venice until recent times: in case of mixed marriage, the son – no matter whether male or female – had to follow the religion of the father, no matter whether he was Catholic or Jew. This explains why virtually all the present Jewish population in northern Italy still bear old Jewish Italian surnames (Sacerdoti, Mariani, Silva, Orefice, etc...), even though many of the Italian Jewish families had mixed marriages. Aim of the paper is to offer a detailed explanation of this social and religious phenomenon, with examples and testimonies (e.g. Venetian rabbi Adolfo Ottolenghi’s writings on this issue).

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Ruth Mandel

Selective Multiculturalism: Jews and Turks and Russians in Berlin

Globalisation Session 7: Wednesday 9.00-10.30, Room 4/5

The politics of immigration in Germany are laden with paradoxes. Some of the problems derive from a racialist notion of what it means to be 'German,' while other contradictions stem from historically motivated impulses attempting to deal with the problematic place of Jews in German society. The paper focuses on three groups: Jewish immigrants from the former Soviet Union; Turks, descendants of the original Gastarbeiter, guestworkers from the 1960s; and the Aussiedler the so-called 'ethnic Germans settlers' from the former Soviet Union; all occupy vastly different places and possibilities in the German imaginary. This paper will attempt to unpack some of the complexities surrounding the triangulation of three different immigrant groups in terms of the cultural politics and problematic discourse of multiculturalism.

Ruth Mandel teaches anthropology at UCL. Her book Cosmopolitan Anxieties: Turkish challenges to citizenship and belonging in Germany was recently published by Duke University Press. She has published widely about migration in Germany, primarily focusing on Turks, Islam, and the new Jewish migration from the former Soviet Union. She is also engaged in research and writing about international development aid in the former Soviet Union, based on long-term research in Central Asia. She has been a Berlin Prize Fellow at the American Academy in Berlin (2000), and was a fellow at the Woodrow Wilson International Center for Scholars, in Washington, D.C. (2004-05).

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Yehezkel Margalit

"Freedom of Contract" in Halachic Family Law? –
A Comparison of the Babylonian and the Palestinian Talmudim

JLA Session 6a: Wednesday, 4.00-5.30, Room 4/5

Recently we have been witness to an increasing interest in the field of contractual regulation of spousal relationship, both in Jewish law and in Civil law. The central discussion is the possibility and the limits of "Freedom of Contract" given by marital partners who were married according to Jewish law to arrange the financial relationship between them when they enter into marriage partnership. Halachic contracts of this kind are traditionally called "Prenuptial Agreements".

In this lecture, I intend to inquire into the broad question of "Freedom of Contracts", as it exists in the Talmudic family law, according to the perception of the Babylonian and the Palestinian Talmud.

The main focus of the discussion will be on examination of the various Issura elements (all those issues which are not defined as Mamona in the Halachic sense of the word) which are involved or derived from the Halachic marital status. Inter alia, I will discuss – the ability to stipulate a condition, that if the husband dies childless and the widow is required to marry her late husband's brother, the marriage will expire due to the explicit or tacit condition imposed on them; the question of the ability of the wife to initiate a divorce due to hate of her husband in light of an explicit condition such as this imposed upon her marriage. Also, the ability to condition the various obligations and rights derived from the marital status, as the 'Onah' obligation (lit. periodic obligation) of the husband to his wife; the obligation of the husband to pay for his wife's Ikar Ketubah and the right of the husband to inherit his wife following her death.

In concluding the lecture, I want to examine if these Talmudic diverse viewpoints are derived from a different Halachic definition of the rule - "Whoever attaches a mitigating condition to a statement from the Torah, his condition is invalid."

Adv. Rav Yehezkel Margalit is a Ph.D. candidate in the Law Faculty at Bar-Ilan University. He is writing his thesis on the subject "Freedom of Contract in Determining Legal Parentage", which combines modern family and contract laws, supervised by Dr. Shahar Lifshitz. His M.A. thesis was entitled “Public Regulation and Private Agreement of Spousal Conjugal Privileges in Jewish Law”, supervised by Prof. Berachiya Lifshitz and Dr. Shahar Lifshitz. He is Lecturer in the Ono Academic College and Associate Fellow of the Center for Health Law & Bioethics at the Ono Academic College and an Associate Fellow of the Agunah Research Unit at The University of Manchester.

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Ephraim Nissan

What is Global, and What is Local? Attitudes in Italy in the First Decade of the New Millennium

Globalisation Session 4: Tuesday 11.00-12.30, Room 9

For Italy, even more than for other countries, attitudes, local or global, to Jewish matters can be best evaluated by looking at the present as answers to the past or continuations of past arguments and images. How do attitudes in Italy towards the Jews and towards Israel, as displayed since 2000, fit in the global scene? It is important to realise that as history shows (Italy’s in particular), local regional realities contributed at the national level, and national-level attitudes in turn have been reflecting international moods well before the era of ‘globalisation’.

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The Italian discourse on Jews and globalisation mirrors the prior debates on Jewish attitudes to regionalism. There is a vocal sector, whose latest (not most representative) response was relative acquiescence to Ahmadinejad, notwithstanding (or because?) at the FAO meeting of June 2008 in Rome he blamed the Zionists for the food crisis worldwide, apart from his mantra about deleting Israel. This is not unrelated to processes whose nadir was in 1982, and that are ultimately rooted in the way of both radical sectors and the mainstream in Italy, of only belatedly really acknowledging the Holocaust, and her role in it, and then not by way of owning up, but through the fiction that they were innocent (making up, if anything, with buonismo, and 'Italiani brava gente'). And it is not unrelated to the Left’s attitude, a legacy of religious attitudes, that one who becomes a leftist is ipso facto born again and innocent. But the very fact that the Shoah took centre stage is due to globalisation. Our focus, however, is to show how the decline of Risorgimental doxa, and the emergence of different ideological attitudes, ended the special relation with the Jews of the post-Unification, pre-Fascist leadership of what had been the most integrationist country in the West. Newer attitudes latched on to worldwide processes.

Dr. Ephraim Nissan is joint editor of "Melilah, New Series: The Manchester Journal of Jewish Studies". Of his ca. 250 publications, ca. 100 are relevant to Jewish studies. He moved to London in 1994, and also has Italy and Israel in his background. He has published ca. 80 articles in journals, and been a guest editor for international journals almost 20 times. Within Jewish studies, he has addressed various topics, in the remit of both ancient and modern studies. For example, in ancient studies, he has authored papers in rabbinic zoology, and folk narratives. In modern studies, he has been writing about the Hebrew lexicon and word-formation (this was the topic of his 1989 PhD), about the cultural experience in the Near East, and about, e.g., blood libels. He has also applied his formalism, "episodic formulae", to various social narratives.

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Leib Moscovitz

On the Internal Unity of Jewish Law in Rabbinic Literature

JLA Session 5c: Wednesday, 2.00-3.30, Room 3

Various passages in rabbinic literature indicate that different legal domains, e.g., civil and ritual law (mamona vs. issura) should be treated differently – generally, because of readily comprehensible substantive differences between these legal realms. For example, doubts dealing with monetary matters (safeq mamona) are generally decided leniently, in accordance with the widely accepted principle that the burden of proof rests upon the claimant, whereas doubts pertaining to ritual matters, where the aforementioned principle is irrelevant, are generally decided stringently.

However, the question arises: were civil and ritual law (inter alia) treated by the Talmudic rabbis as fundamentally distinct and disparate legal “operating systems,” even in the absence of substantive considerations of the sort mentioned above? For example, did the rabbis maintain that it is unjustified to draw inferences or extend legal rules from the realm of civil law to that of ritual law simply because these are distinct legal domains? In this paper, I shall argue that some rabbinic sources do adopt such a position, which I shall analyze at great length.

Leib Moscovitz is Associate Professor of Talmud at Bar-Ilan University. His research interests center on the Talmud Yerushalmi and the history of rabbinic halakhah, particularly the analysis of jurisprudential aspects of rabbinic literature. He is a member of the editorial boards of Dinei Israel and JSIJ – Jewish Studies, an Internet Journal, and has published and lectured widely in English and Hebrew. His books include Talmudic Reasoning: From Casuistics to Conceptualization, and The Terminology of the Talmud Yerushalmi: The Principal Terms (Magnes, in press).
Sarah Pearce

On “the life which we live in the body”: Philo of Alexandria and ‘normative Judaism’

BAJS Session 2: Sunday 4.00-5.30, Room 4/5

In the modern study of ancient Judaism, Philo of Alexandria has occupied a central place in questions about orthodox or normative Judaism, and that place has often been evaluated in very different ways (usually by comparing Philo with other sources for ancient Judaism). This paper will focus on the question of ‘normative Judaism’ from the perspective of Philo and his contemporaries in so far as this may be reconstructed from the evidence of Philo’s own writings. What, in particular, did Philo regard as crossing beyond the acceptable boundaries of practice and belief for membership of the Jewish community? What does Philo reveal about existing community boundaries or norms; about their significance for what he calls ‘the life which we live in the body’ (On the Migration of Abraham 88); and about how they were policed or enforced? On the last point, to what extent does Philo provide evidence that his contemporaries in Alexandria supported ‘zealotice establishment violence’ (cf. Torrey Seland’s Establishment Violence in Philo and Luke: A Study of Non-Conformity to the Torah and Jewish Vigilante Reactions, 1995) against particular violations of the Torah?

Sarah Pearce (B.D. University of London; DPhil University of Oxford) is a member of the Parkes Institute for the Study of Jewish/non-Jewish Relations, and Ian Karten Senior Lecturer in Jewish history in the Department of History, University of Southampton, specialising in the history and culture of the Jews of the Hellenistic world. Recent publications include: The Land of the Body: Studies in Philo’s Representation of Egypt (Mohr Siebeck, 2007) and (with Tessa Rajak, James Aitken and Jennifer Dines, Jewish Perspectives on Hellenistic Rulers (University of California Press, 2007).

Jeffrey Peck

The Americanization of Jewish Life in Germany Today

Globalisation Session 7: Wednesday 9.00-10.30, Room 4/5

The massive immigration of former Soviet Jews to Germany has attracted much attention since it began in 1989-90, and then particularly in the last five years. The subsequent, so called "rebirth" of the Jewish Community in Germany brings, especially to Berlin, journalists, students, tourists, and Jewish religious and lay leaders, interested or even invested in this transformation. But while the official Community remains still rather conservative and strictly religious in its orientation, many of these new visitors, many of whom are Americans, Canadians, and Israelis, are quite secular as to how they define themselves as Jewish. In fact, a broader Jewish cultural discourse is developing in Berlin that increasingly sets off the indigenous official Jewish Community (with a large "C") in Germany from this more globalized American oriented and unorganized Jewish community (with a small "c"). My presentation will explore these differences and what they might mean for the future of Jewish life in Germany.

Jeffrey Peck holds the DAAD Walter Benjamin Chair in German Jewish History and Culture in the Department of Cultural Studies at the Humboldt University and is also the Academic Director of the new Leo Baeck Summer University in Jewish Studies (LBSU) at Humboldt University. He
is currently on leave as a Professor in the Program in “Communication, Culture and Technology” at Georgetown University in Washington, D.C. As of August 1, 2008 he will be the Dean of the Weissman School of Arts and Sciences at Baruch College, City University of New York. His research focuses broadly on the relationship of religion, ethnicity, culture and politics in a transatlantic and global context, and in particular, on questions of national and minority identities, particularly German-Jewish life since unification. His most recent book is Being Jewish in the New Germany (2006), published in paperback 2007.

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Larry Rabinovich

Rashi’s Metrology:
Weights, Coins and Currencies from Cologne, Constantinople and the Classical Past

JLA Session 7b: Thursday, 9.00-10.30, Room 8

In his commentary to Ex 21:32, which mandates a fine of thirty shekels of silver for one whose ox goeses a neighbor’s servant, Rashi translates the ancient weight into contemporary terms.

The comment presents significant challenges for modern readers, but it may not have been completely clear to even the first readers of the commentary. It is noteworthy that the standard cited by Rashi was a German measure and, as the French Tosafists cogently comment, it must have been one which he received from his teachers (in Worms and Mayence). He did not attempt a conversion into French standards.

Moreover, Rashi in other settings presents alternate explanations of the “sela,” which tradition viewed as equivalent to the biblical shekel. Three comments in Rashi’s Talmud commentary, which appear to complement one another, focus not on Cologne but on Constantinople.

These, too, require explanation.

In fact, Rashi is working with two separate traditions, both of which he learned from his teachers. Whether those traditions were consonant depends, in part, on which of the many issues of penny (peshittin are pennies) Rashi was referring to. We can not know for certain if Rashi was as aware, as R.
Isaac of Vienna appears to have been a century and more later, that there had been a complete break between the Roman and medieval systems of weights and coinage.

This paper—which is meant to lay the groundwork for analysis of numismatic issues in responsa and other halakhic writings—will attempt to decode the comments of Rashi set out above and compare them with yet another weight system which was formulated by the Babylonian geonim in the context of Arab metrology and passed on to Sephardic scholars.

Larry Rabinovich (ljrab@sfl-legal.com) is a partner at the New York firm Schindel, Farman, Lipsius, Gardner & Rabinovich. His involvement in Jewish Law research began at New York University Law School in 1984-85 where he served as a research assistant to Judge Menachem Elon. He has published in Jewish Law Association Studies and elsewhere, and currently serves as JLA treasurer.

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Nahum Rakover

Panel Discussion on Religious Jurisdictions in Israel and the Diaspora

JLA Formal Opening Session: Harwood Room

Nahum Rakover served as Deputy Attorney General of the State of Israel from 1983-1999 and is now a Professor at the Sha'arey Mishpat Law College. He has semikhah from the Rabbi Kook Seminary and a doctorate from the Hebrew University. For many years he was Adviser on Jewish Law at the Ministry of Justice, providing Jewish Law commentaries on proposed legislation, and he has published many books and reports on different aspects of mishpat ivri, often under the aegis of The Jewish Legal Heritage Society. He is the current President of the Jewish Law Association.

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Steven H. Resnicoff

Da'at Torah and Censorship

JLA Session 5a: Wednesday, 2.00-3.30, Room 4/5

The precise parameters of the doctrine known as "Da'at Torah" are murky and unsettled. Its alleged import is that a religiously committed Jew ought to defer, at least as to some issues and in some degree, to the wisdom of leading Torah sages. Recent censorship controversies over the past few years, however, have importantly eroded the confidence that some have had in pronouncements issued in the names of many of the most prestigious rabbinic leaders. In light of these developments, this paper re-examines the role of censorship in Jewish law, asks whether its use is frequently counter-productive to respect for Da'at Torah and suggests that censorship be employed cautiously and sparingly, if at all.

Steven H. Resnicoff, J.D., Yale; B.A., Princeton; Woodrow Wilson School Scholar (Princeton); Phi Beta Kappa; Rabbinic Degree, Bais Medrash Govoha (Lakewood Yeshiva); Advanced Rabbinic Ordination (yoreh yoreh yadin yadin) from Rabbi Moshe Feinstein, zt"zl, is Professor of Law and Founding Co-Director, DePaul University College of Law Center for Jewish Law and Judaic Studies and has been Wicklander Chair for Business and Professional Ethics (2000-1); Former Chair, AALS Section on Jewish Law; Former Chair, Executive Committee of Jewish Law Association (JLA). He is the initiator and Editor of the JLA e-newsletter.
Yosef Rivlin

The Proposed Amendments to the Israeli Law of Inheritance from the Viewpoint of Jewish Law

JLA Session 6c: Wednesday, 4.00-5.30, Room 3

For a full English text of this lecture, which will be delivered in Hebrew, see below, pp. 59-63.

The Knesset Committee dealing with legislation recently completed the preparation of a new civil codex for the State of Israel. The preparations included an examination of the Law of Inheritance - 1965 and the Committee recommended a number of amendments.

In this lecture we will examine some of the amendments from the point of view of Jewish law.

1. The Committee suggested a new and wider definition of the term “marital partner” and many changes in legislation result from the new definition. The changes relate to same-sex partners and to couples known as “common-law” husbands or wives, who are halakhically married to other partners. These changes are of course unacceptable from the point of view of Halakhah. However, one of the suggestions deprives the husband of the right to inherit his wife if he has lived apart from her for a period of more than three years prior to her death. Jewish law deals with the right of inheritance of estranged partners.

2. The Committee suggested amendments where the heir killed his legator. The changes included granting more independence to the court regarding the murderer’s intentions and regarding the question of the distribution of the assets of which the murderer has been deprived. Jewish law discusses these two points.

3. The Committee discussed the question of inheritance in the case of adoption. The question has been discussed in the Rabbinical courts in Israel.

4. The Committee wants to recognize a 15 year old minor’s will. How does Jewish law see the matter?

5. The Committee suggests recognizing a will recorded on video. How does Jewish law see the matter?

Yosef Rivlin is Professor in (and from 1997-1999 Head of) the Department of Talmud, Bar-Ilan University, and a member of the Israel Bar. His research areas are: Jewish Family Law; Cairo Geniza Legal Documents; Wills and Inheritance; Bills and Contracts in Jewish Law. He is the author of five books: Jonah with the commentary of Rabbi Elijah of Vilna (Hebrew: Sefer Yona, Be'ur Ha'gra) Bnei-Braq, 1986; 1995 (second edition); Kol Ha'tor (Hebrew: from R. Hillel Rivlin from Shklov), Bnei-Braq, 1994; Bills and Contracts from Lucena, Ramat-Gan, 1995 (translated into German: Judentum 64); Inheritance and Wills in Jewish Law, Ramat-Gan, 1999; The Poems of R. Yoshe – Brit Avot Bivsarat Eliyahu, Jerusalem 2004. He also edited The Vilna Gaon and his Disciples, Ramat-Gan 2003, and Shirat Shemuel (R. S, Rivlin songs), Bnei-
Rabbi Shaul Yisraeli - one of the premier Religious-Zionist Halakhic authorities of the past generation – was known for his consistent attempts to evaluate the life experiences of the modern Jewish state through the prism of Halakha.

While dealing both with theoretical issues such as the Halakhic attitude towards defensive or preemptive war, as well as evaluating actual events such as the Kibyeh incident in the fifties, the Entebbe rescue, or the siege on Beirut, Rabbi Yisraeli repeatedly returned to a number of core issues relating to the Halakhic definition of the war "to help Israel from the hand of an oppressor", as well as the general question of the permissibility of endangering oneself to save another.

A careful reading of his Halakhic deliberations, as he revisits these issues time and time again, reveals an ongoing hermeneutic exercise involving a constant reworking of the central concepts. The purpose of our presentation will be to unravel the intricate interplay between textual and ideological constraints as Rabbi Yisraeli constructs a unified picture containing the different sources while allowing for the Halakhic conclusion needed to meet changing circumstances.

Yitzchak Avi Roness has completed an MA in Jewish History at Touro College, where he wrote his thesis on The State of Israel in Rabbi Herzog's Halakha. Yitzchak is currently working on a doctoral thesis in the Talmud department at Bar Ilan university, while concurrently studying for Semicha in the Bar Ilan Kollel. The doctoral thesis, focusing on the Halakhic figure of Rabbi Shaul Yisraeli, is being written under the guidance of Prof. Leib Moscovitz.

The specific effect of music on the human mind is demonstrated by clinical psychiatrist Oliver Sacks, whilst responses to music are explored by psychoanalysts such as Jacques Lacan and social philosophers such as Theodor Adorno. Their findings reveal the importance of music both on a personal level and as a social indicator. It would therefore seem axiomatic that music is a defining constituent in the taxonomy of any culture, whilst religious music, with integrated elements of spirituality, is particularly powerful in evoking direct and profound response and recognition.

Biblical text indicates the centrality of music in all aspects of daily as well as religious life, but there continues an absence in the discovery of musical notation or any evidence of the sounds of chant or melody, sacred or other. The post-Biblical addition of a 2000 year Diaspora in which Jewish communities were established throughout the world, implies an additional absorption of the musics of a variety of host societies. Nevertheless, the tropes of Ashkenazi liturgy as well as genres such as Klezmer and the folk music of both Ashkenazi and Sephardi European Jewry are generally regarded as identifiably ‘Jewish’.

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Yitzchak Roness

Halakha, Ideology and Interpretation - Rabbi Shaul Yisraeli on The Status of Defensive War

JLA Session 6b: Wednesday, 4.00-5.30, Room 2

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This paper explores attitudes to musical appropriation and intercultural exchange in religious, para-liturgical and domestic music; and also considers notions of ‘sacred’ and ‘profane’ in a Jewish musical context.

Ruth Rosenfelder is Visiting Lecturer in Jewish Music Studies, Department of Music, City University, London. Her early training was as a pianist, studying with composer/pianist Julius Isserlis (grandfather of cellist, Steven Isserlis) and composer/pianist Franz Reizenstein. She gained her LRAM at the Royal Academy of Music. Her PhD thesis, on the subject of women’s music in London’s Hasidic community, was awarded by City University. Her current research interests include song and dance within the Jewish community with particular emphasis on the strictly religious groups, and she has recently contributed a chapter to a volume concerning power.

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Alexander Samely

**Working out a literary typology for the Pseudepigrapha, Qumran texts, and rabbinic works: An AHRC research project at Manchester and Durham**

BAJS Session 3: Monday 9.00-10.30, Room 4/5

This talk will summarise the goals and methodological assumptions of a 4-year research project which started in September 07 at Manchester and Durham Universities. It deals with the basic literary structures of all complete anonymous or pseudepigraphic Jewish texts of antiquity, from the post-biblical pseudepigrapha and apocrypha to the Dead Sea Scrolls and the rabbinic literature up to the end of the Talmudic period. One outcome will be an entry for each complete text of this type in an on-line database. The project will also provide a new conceptually unified framework for the description of the wide variety of genres found across the three corpora, using a number of key literary components as foci of analysis. I shall briefly address those components and say something about initial results after the first nine months of the project.

Alexander Samely was born in 1960 and studied Philosophy, Jewish Studies and Greek and Roman History at Frankfurt University (MA 1985) and Jewish Studies at Oxford (DPhil 1989). His main research interests are rabbinic text structures and hermeneutics; phenomenology of reading; Spinoza, Husserl, and 20th century Jewish philosophy. His two recent books are *Forms of Rabbinic Literature and Thought. An Introduction* (Oxford University Press, 2007) and *Rabbinic Interpretation of Scripture in the Mishnah* (Oxford University Press, 2002).

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Marc Saperstein

"Training European Progressive Rabbis in the 21st Century: Do Changing Students Need a Changed Curriculum?"

Globalisation Session 5: Tuesday 2.00-3.30, Room 9

The Leo Baeck College was established in 1956, primarily by refugee Liberal Rabbis from Germany who had settled in the UK. Its purpose was to train rabbis for the needs of the UK Progressive Jewish communities (Reform and Liberal). Currently, the College has rabbinical students not only from the UK, but from FSU, France, Holland, Denmark, Italy, Germany, US and Canada; next year's incoming class will include a student from Hungary. More than half are women, a substantial number are making a career
change; the percentage of Jews-by-choice and gay students is significantly higher than in the general Jewish population.

What kind of curricular changes are required to meet the needs of this kind of student body and the communities they will serve? Does their diversity required accommodation, or does it make the traditional focus on classical texts all the more important? Should the European setting make the curriculum significantly different from that of the American Hebrew Union College? What role should Israel play in rabbinic training? What role should Israel play?? Rather than providing definite answers, this paper will outline the difficult decisions that need to be made.


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Marc Saperstein

‘Normative Judaism’ in the Crisis of War: Evidence from the Pulpit

BAJS Session 6: Monday 4.00-5.30, Room 4/5

This presentation will be a spin-off from my book, Jewish Preaching in Times of War, 1800-2001, published by the Littman Library in January 2008. It will focus on unpublished sermons delivered by two acclaimed Jewish preachers—the Orthodox Abraham Cohen of Birmingham and the Liberal Israel Mattuck of London—between the outbreak of the Great War and the Armistice. These important and often deeply moving texts have never, to my knowledge, been studied; they did not come to my attention until the book was in press. I will address similarities and differences in the two bodies of homiletical material, including sermons delivered on national ‘Intercession Services’ throughout the war, in order to test the conception of ‘normative Judaism’ facing what was perceived as unprecedented crisis. In order to expand the purview of this question, I hope to draw brief comparisons between these British preachers and selected reference to sermons by German and French rabbis, and perhaps also to sermons by East European immigrant preachers.

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Ayelet Segal

The *Halitzah* Contract – A Prenuptial Agreement to Protect the Wife from *Iggun* and Blackmail

JLA Session 3a: Wednesday, 9.00-10.30, Room 2

The *halitzah* contract is a contract written by the groom's brother for the bride just before the marriage. In it, the brother gives an undertaking to perform *halitzah* for his sister-in-law in the event of his brother dying without offspring, immediately and for no charge.

Similarly to the act of giving a *get*, the performance of *halitzah* must be a voluntary act and in the event of the *yabam* being illegally forced to give *halitzah*, the possibility of *halitzah under duress* arises, rendering it invalid.

The *halitzah* contract is intended to protect the widow who requires *halitzah* and to improve her legal position in relation to the *yabam*. The contract facilitates the possibility of compelling the *yabam* to perform *halitzah* because the compulsion devolves on the fulfilling of an obligation and not the *halitzah* itself. The monetary obligation included in the contract is intended to prevent the possibility of blackmailing the wife in return for *halitzah* – a phenomenon which had gained acceptance over the generations.

The contract was used by the Ashkenazic communities as of the fifteenth century for a period of about five hundred years. The sources attest to the contract's crucial role in the protection of the *yebama*.

Ayelet Segal is a doctoral student at Bar-Ilan University's Department of Talmud and the recipient of the four year President's scholarship for outstanding doctoral students. The subject of her research is: "Prenuptial Agreements in Jewish Law". She is a certified graduate of the Lindenbaum Institute for Rabbinical Advocates and has represented women denied a *Get* in the Rabbinical Courts. Ms. Segal is a graduate of the *Matan* (The Women's Institute for Torah Studies).

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Milton Shain

*Jewish cultures, identities and contingencies: reflections from the South African experience*

Globalisation Session 3: Tuesday 9.00-10.30, Room 9

Although Jews have been a global people for millennia with identities and cultures informed by transnational processes, contingency and context have always played a formative role. It will be argued that, notwithstanding specific and new features of globalization in the twenty-first century, national context continues in important ways to mould culture and identity.

The argument will be made by reflecting on the South African Jewish experience, looking in particular at the impact of contingency and wider cultural and political patterns. Attention will be given to Anglo-German and Litvak origins, the absence (to a great degree) of an emancipation struggle, anti-alienism and antisemitism, Zionism and the Holocaust, the impact of a ‘white frontier’ that included Jews as beneficiaries of an inequitable society primed by race and ethnic-based legislation, and the legacy of an authoritarian but non-assimilationist political culture.

Changing forms of identity will be identified through an exploration of historiographical moments as well as contemporary Jewish efforts to construct a useable past for a ‘new’ democratic and inclusive post-apartheid South Africa. The contested nature of Jewish cultures and identities is illustrated by tracing debates within a multicultural or ‘rainbow’ nation-state in the making that celebrates diversity amidst advancing globalization with important consequences for Jewish self-definition and for the ways in which Jews are seen and understood.
Professor Milton Shain teaches Modern Jewish History and is Director of the Isaac and Jessie Kaplan Centre for Jewish Studies and Research at the University of Cape Town. He has written and edited several books on South African Jewish history and the history of Antisemitism. These include Jewry and Cape Society. The Origins and Activities of the Jewish Board of Deputies for the Cape Colony (Historical Publication Society, Cape Town, 1983); Antisemitism (Bowerdean Press, London, 1998). His latest edited book Opposing Voices: Liberalism and Opposition in South Africa Today, was published by Jonathan Ball in March, 2006. In addition he has published numerous scholarly articles, chapters in books, and encyclopaedia entries. Professor Shain has been the recipient of a number of awards, including Fellowships at the International Centre for the University Teaching of Jewish Civilization, Jerusalem, and Yale University. His book The Roots of Antisemitism in South Africa (University Press of Virginia, Charlottesville, 1994) was awarded the University of Cape Town Book Prize for 1996.

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Abraham Ofir Shemesh

Punishments for Dogs’ Damages According to Jewish Law

JLA Session 5b: Wednesday, 2.00-3.30, Room 2

The attitude of Jewish law towards raising dogs has been discussed frequently. The specific issue of dogs’ damages, however, has not been discussed enough. Talmudic and rabbinic literatures mention many kinds of dogs’ damages: property damages (attacking animals, damage to fields and objects) and human body damages (biting, scars, castration, and miscarriage because of barks).

The literary sources deal with the legal implications of two kinds of dog attacks: spontaneous and incited. In the Mishnaic period death which was caused by dogs was considered to be under the legal jurisdiction of the Sanhedrin. Execution of animals that killed human beings was practiced by the Sanhedrin and also over hundreds of years in non-Jewish courts in Europe. After the abolishment of the Sanhedrin there was no Jewish legal body that could judge capital cases.

In order for a rabbinic court to have authority to impose a fine for bodily damages it must be composed of expert judges (‘Dayanim Mumhim’) that are authorized by proper ‘Semikhah’ or ordination, which is also not considered to exist today. Hence, in comparison to the civil law that obliges payment for body damages, the legal authority of rabbinic courts, which cannot rule on monetary fines, is very restricted.

Abraham Ofir Shemesh is a Senior Lecturer and conducts research in the Department of Israel’s Heritage at the Ariel Center University of Samaria, Israel. He has rabbinic ordination and is currently a communal rabbi. His doctoral dissertation at Bar Ilan University is entitled “Flora Blessings in Halacha and Tradition from the Sixteenth Century until Today”. He conducts research on nature and medicine issues though the ages, such as history of animals and plants, materia medica and history of food and nutrition. Two of his recent articles are: “Biology in Rabbinic Literature: Fact and Folklore”, CRINT, Amsterdam 2006 and “Syphilis in Jewish Scripture: Medical and Ethical Aspects”, Journal of Jewish Medical Ethics and Halacha (JME).
Under Postcolonial Eyes: Figuring Out the Jew in a Globalized Culture

Globalisation Session 6: Tuesday 4.00-5.30, Room 9

We wish to show the ways in which the figure of the “Jew” in contemporary British fiction by writers of Asian and Caribbean origin relates to the construction of the Other in a multiethnic and multicultural society. With the dissolution or delegitimization of the nation-state, the rise of fundamentalism, and the changing views of the British nation, the archetypal protean alien raises basic cultural and literary issues. This paper aims to demonstrate that the figure of the “Jew” has been appropriated in postcolonial and postmodern discourse in order to test culturally ascribed, attributed or assumed “fake” identities, and in so doing often perpetuates anti-Semitic stereotypes or uses them as “screens” for negative self-images.

Andrea Levy, herself of mixed Jewish and Caribbean descent, in her *Small Island* (2004), chooses the significant context of World War Two and the struggle against racism. The main characters come back after the war to find a racist England, an island as small minded as the small island of Jamaica. Zadie Smith’s *The Autograph Man* (2002) deals with mixed heritage, Chinese and Jewish, and her *White Teeth* (2000) brings the offspring of Pakistani immigrants into contact with a Jewish family. Hybridity, however, may not always offer a happy mix or even a palatable brew, and Salman Rushdie embraces it with mixed feelings and some suspicion in *The Moor’s Last Sigh* (1995). Though set in India, Rushdie’s novel playfully represents the anti-Semitic figure of the Jew as a Shylock lurking behind the multiethnic ideal of mixed race and brilliantly parodies the dual image of the Jew that has become a stock type of English literature.

In these texts the figure of the “jew” is used in the exposure of race prejudice, a kindred fake or mask that reflects discrimination and social hypocrisy. The postmodern figure of the “Jew,” then, would be a metaphor for the problematics of passing and for the complexities of color and race in social masks, something that must make us rethink Fanon’s model in *Black Skin, White Masks*. While the Jew is significant in collective memory of immigrant experience that marks the possibility of difference within British society (or even within “Englishness”), the figure of the “jew” has also been taken as a model of hybridity that has proven to be complex and problematic.

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Yuval Sinai

*Halakhic Traditions enabling the coercion of the get in Oriental Jewish communities – A possible Solution for the Problem of Agunot?*

JLA Session 3a: Wednesday, 9.00-10.30, Room 2

The Aim of the Proposed Paper is to demonstrate the possible methods that have been proposed within halakhic traditions in different times and places to solve the *agunot* problem, either partially or totally, by way of a coerced *get*, or otherwise, to pressure the husband to divorce his wife in cases in which she finds
him repulsive ("moredet ma’is alay"). The foremost precedent in this realm is Rambam’s renowned ruling (and of the Geonim who preceded him) on the issue of moredet, that if the woman declares that she finds her husband repulsive, he is coerced to divorce her, “for she is not as a slave to be compelled to have intercourse with one who she finds repulsive” ("The Rise and Decline of the Law of the Rebellious Wife", Shenaton Ha-Mishpat Ha-Ivri, 21 (2000) p.149). The general assumption is that most of the Poskim disputed Rambam’s position, ruling that a get cannot be coerced in the case of moredet – ma’is alay. The resulting, painful reality is that many women remain agunnot despite it being absolutely clear that they abhor their husbands, while their husbands persist in their refusal to grant a get. Rambam’s view is the only one that enables the termination of the relationship, and in cases of total revulsion, he is coerced to give a get.

Professor Westreich in his article “The Rise and Decline of the Law of the Rebellious Wife”, Shenaton Ha-Mishpat Ha-Ivri, 21 (2000) p.149, claimed that “Rambam’s stature, and the fact that his ruling regarding the claim of mais al’ay was deeply entrenched in the North African communities could not withstand the pressure of the two halakhic luminaries – Rivash and Tashbetz, who introduced the Spanish Christian tradition into this predominantly Muslim area”. From Westreich’s perspective, this signified the final discontinuation of ma’is alay in Spanish communities. The question is whether the Rambam’s ruling really fell into desuetude in the tradition of North African Jewry, and in the traditions of Eastern Jewry in general. I contend that this is not the case, and in my study, I intend to substantiate that contention.

I will show that echoes of Rambam’s ruling are discernible in many of the Eastern Jewish communities, even in periods later than the 15th century. It is well known that Yemenite Jews preserved the Rambam’s ruling of moredet ma’is alay until our generation (=see Rav Ratzon Arusi, “The Ethnic Factor in Halakhiic decisions – Coercion of a Get on the grounds of “Mais Alay” in Yemenite Jewry, Dinei Yisrael 10 – 11 (5743-5761) p. 125 – 175.). The question is whether similar traditions and practices were also extant in other locations, such as the communities of North Africa, the Land of Israel, Greece and Turkey-Syria. Are there historical differences between the practices of Ashkenazi and Oriental communities, and if so, what are their roots? Another question we will deal with: Did the Shulkhan Arukh’s ruling enjoining coercion of a get based on ma’is alay, lead to a rejection of the traditional ruling in accordance with Rambam in Jewish communities all over the world?

We will argue that there are a number of important testimonies of rulings of coercion of get based on ma’is alay in the responsum of the Aharonim, the majority of which were given after the dissemination of the Shulkhan Arukh, whose author, Rabbi Yosef Karo, rejected Rambam’s position (Shulhan Arukh, Even HaEzer, 72.2).

Finally, we will analyze practical proposals, raised by contemporary Poskim, for the Solution of the Agunot problem by Coercion of Get.

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Daniel B. Sinclair

The Natural Law Jurisprudence of R. Moses Samuel Glasner (1856-1925)

JLA Session 2: Tuesday, 4.00-5.30, Room 4/5

The theory of natural law developed in his traditional commentary on tractate Hullin (Dor Revi'i) by this great-grandson of the Hatam Sofer, and Transylvanian rabbi with strong Mizrahi leanings, features both systemic elements and practical legal rulings, the effect of which is to make halakhic rulings subservient to enlightened moral standards. The present paper analyses R. Glasner's arguments with special emphasis on his rejection of non-natural law principles in Jewish law, the application of which may very well have achieved the same practical result. General natural law jurisprudence is discussed with a view to aligning
R. Glasner with classical theological natural law as opposed to the modern secular version. It is also argued that the ideal place for natural law doctrine is alongside a normative religious one.

The paper includes some comparison with the more mystical concept of "natural morality" discussed by R. Abraham Hacohen Kook, who was a close friend of R. Glasner's in the latter's final years.

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Johnny Solomon

Rabbi Hayyim David Halevy as the Orthodox poseq for the non-orthodox

JLA Session 5a: Wednesday, 2.00-3.30, Room 4/5

David Halevy (1924-1998). One of the reasons his contributions interest both scholars and laypeople is that despite being a prolific writer on a range of topics, it was his ability to communicate with both religious and secular Jews – in person, writing and on the radio – that separated him from other Rabbis of his time. He not only understood the concerns of the modern world, but also at times agreed with them, which is why his teachings resonate so well.

Despite living in the modern world, Halevy received a traditional upbringing with an appreciation for the importance of living according to the Talmud and Jewish Legal Codes. Furthermore, given his Sephardic background, he was heavily influenced by the mystical tradition which he cites both in his theological and halakhic writings.

As such, Halevy was committed to halakhic innovation but only if it took place within the framework of the halakhic process. Yet unlike other poseqim of his period, there is little evidence that Halevy’s primary agenda included the defence of traditional Judaism from non-Orthodox reforms. As a result, Halevy’s rulings often stand out from many of his contemporaries as being both bold and innovative. In fact, I believe that it is this creative spirit evidenced in Halevy’s writing that has led many modern scholars in the Diaspora to either dismiss or ignore his conclusions.

In his lifetime, Rabbi Halevy influenced Jews of all types; but since his death, his teachings have carried more and more weight, in particular, amongst the non-Orthodox. In fact, were non-orthodox Rabbis to choose an Orthodox role model, I believe Halevy would be the first and perhaps only choice.

In this paper I hope to provide examples of how Rabbi Halevy’s rulings have been employed in the legal teachings of the non-orthodox movements, whilst at the same time highlight where the conflict between Rabbi Halevy’s commitment to rationalism and mysticism has led non-orthodox thinkers to challenge his rulings. In so doing, I hope to explain what has led Rabbi Hayyim David Halevy to be crowned the Orthodox poseq for the non-orthodox.

Johnny is a Major Scholar at the Judith Lady Montefiore College where he is studying towards Semicha in addition to being the Jewish Curriculum Partnership (JCP) Team Leader. Previously, he was the Head of Jewish Studies at Immanuel College. Johnny has a keen interest in the contemporary responsa literature and in particular, the writings of Rabbi Hayyim David Halevy about whom he has lectured widely.

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Ari Solon

The Loving Father: Different Perspectives on Luke’s Parable of the Prodigal Son

JLA Session 7a: Thursday, 9.00-10.30, Room 9

This paper article seeks to show how the parable can present four different interpretations (Greco-Roman, Jewish, Christian and philosophical, this last based on the concept of justice). It uses the example of the
prodigal son’s return home in order to create a dialogue between the moral topos of Greco-Roman rhetoric, the legacy of Israel, Christian exegesis and, finally, philosophic hermeneutics.

Ari Solon has an LL.M. (1987) and Ph.D. (1993) from the University of São Paulo, where he has taught since 1989, and has been as Associate Professor (part-time) since 2000, dividing his time with legal practice. He is also a Full Professor of Law at Mackenzie University. His core research interests are general legal and state theory in the XIX century and semiotics in ancient law systems, ranging from political theology and ancient justice to specific themes within Jewish law, such as “just war” and the Covenant Code, as well as competition law in the Middle Ages.

Sacha Stern, UCL

Qumran Sectarianism and the Calendars

BAJS Session 2: Sunday 4.00-5.30, Room 4/5

The theory that the calendar at Qumran was sectarian, and that it was in fact one of the prime causes of Qumran’s sectarian schism, is one of few tenets of the first generation of Qumran scholars that has not been subjected since to critical scrutiny. It is true that the calendar assumed in Qumran sources is based on a 364-day year, and differs sharply from the lunar calendar that was widely used by Jews in Judaea and everywhere else. But the question is whether this difference should be interpreted as ‘sectarian’. It is debatable whether the 364-day calendar was ever used in practice at Qumran – as it is significantly discrepant from the seasonal year – but even if it was, we need to assess whether the celebration of festivals on different dates would have been sufficient for the Qumran group to become isolated from mainstream society and assigned the status of a ‘sect’.

Calendar diversity was very common in Antiquity, not least among the Jews, because of the empirical nature of their lunar calendar based on new moon sightings and ad hoc decisions about whether to intercalate the year. Several Jewish communities could typically celebrate Passover one month apart of each other because of disagreement as to the month when aviv (ripeness of the crops) occurred. Such disagreements were not a matter of principle or ideology, but rather of practice and sometimes accident. In the ancient world, calendar diversity was a fact of life and not considered problematic. Not surprisingly, therefore, in his detailed description of Judaean ‘sects’ such as Pharisees, Sadducees, and Essenes, Josephus makes no mention of the calendar – suggesting a silentio that this was not considered a divisive issue. So long as the festivals were observed – no matter the exact date – the Law of Moses would have been observed.

On close examination, few texts from Qumran (if any) suggest that the calendar was either a polemical issue (as it is in Jubilees) or a sectarian one. The Qumran calendar should not be given a privileged position with regard to Qumran sectarianism. The sectarian character of Qumran was not necessarily the outcome of its interpretations of Jewish law and practices, even if these often appear original or different from what is attested in Jewish sources elsewhere.

Sacha Stern studied Ancient History and Jewish Studies at Oxford University, and social anthropology at UCL. He is currently Reader in Jewish Studies at UCL. He has published widely on ancient Jewish history, with a special interest in calendars and time in ancient society. Among his publications are Calendar and Community: a history of the Jewish calendar, 2nd cent. BCE - 10th cent CE (Oxford 2001) and Time and Process in Ancient Judaism (Oxford 2003). He is currently writing a book on Calendars in Antiquity, and directing an AHRC-funded major research project on Medieval Monographs on the Jewish Calendar.
Itamar Warhaftig

Torah and democracy. The Conflict and Its Resolution

JLA Session 3b: Wednesday, 9.00-10.30, Room 3

Today, the Torah finds itself in the throes of a struggle of values with liberal Western democracy (using the term “democracy” as a world view rather than as a form of government. As a form of government, there are a variety of possible approaches in our times. See the article by Yitzhak Geiger, *Tehumin* 20. The discussion here, however, is on the ideological level, especially with its liberal aspect as accepted today. Obviously, the two are connected – see the entry, “Democracy,” *Encyclopaedia Hebraica* [Hebrew], 14. 769, and this is not the context for elaboration. We will mention in passing that the discussion of philosophers on the eve of the modern period (Rousseau, Hobbes, Locke, and others) focused on the tension between the values of freedom and equality (occasionally referred to as “natural rights”), and their concrete implementation in a given form of government). As a world view, the latter claims to focus on human welfare and well-being, as opposed to traditional Jewish teaching, a large part of which is seen as irrelevant in our times. We are directly confronted with the legal-political dimension of the conflict with respect to the nature and character of the State of Israel, but it is essentially a spiritual-cultural struggle.

There are three possible approaches to this struggle:

1. The Torah is all inclusive, and nothing else is of any real value.
2. Democracy takes precedence, and the Torah should only be referred to where it is consonant with the values of democracy.
3. A synthesis is possible between the two and, despite the primacy of the Torah, democracy also has positive elements, albeit a tremendous effort is required in order to decide what to absorb and what to reject.

The secular public clearly endorses the second approach, whereas the religious public is divided between the first and the third approaches. Both approaches have specific ramifications regarding the relationship towards the state. The Ultra-Orthodox (*Haredim*) have principled and fundamental reservations regarding the State, insofar as it is secular and democratic, while simultaneously cooperating with it on a practical level in order to safeguard the interests of the religious public. The “national-religious” public, on the other hand, ascribes great value to the state, fights its battles, and actively bears the burden of its existence and its prosperity, while on a practical level preferring the values of democracy to those of Torah. The question is: How can a public committed to Torah reconcile itself to the values of democracy? Is there a need to find a bridge between the two worlds, and why? And if so – how is this to be achieved?

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Avishalom Westreich

'Umdena as a Ground for Marriage Annulment: Mistaken Transaction or Terminative Condition?

JLA Session 8: Thursday, 11.00-12.30, Room 9

In the Babylonian Talmud (Bava Kamma, 110b – 111a) we find a case which is introduced (as *hava amina* only, although later *poskim* applied it in practice in some circumstances) as a possible case for retroactive annulment of marriage. In that case a new circumstance which did not exist at the time of the marriage is the reason for voiding the marriage, and this ruling is justified by a legal presumption: had the wife known that this circumstance would develop she would never have married her husband ("*ad'ata de-"
hachi lo kidsha nafsha", literally: on this assumption she did not get married). Such a case is defined in the rabbinic literature as a case of 'umdena (literally: an assessment).

But what legal construction is created by the 'umdena? We find in halakhic literature three conceptual understandings of it: an implicit condition ("tenay"), a mistaken transaction ("kidushey ta'ut"), and, very surprisingly, an integration of both these notions. This paper explores each approach, and discusses the main halakhic writings which adopted each view. One responsum will be examined separately: a responsum of Rabbi Moshe Feinstein, who makes a unique and in my view brilliant use of the integrated approach to 'umdena.

Dr. Avishalom Westreich is a Research fellow in the Agunah Research Unit at the University of Manchester. In 2008 he was appointed as a visiting lecturer at the Leo Baeck College in London in Talmud, Midrash and Rabbinic Literature. Dr. Westreich has been awarded his PhD on Hermeneutics and Development in the Talmudic Theory of Torts at Bar-Ilan University and holds degrees in Hermeneutic Studies, in Talmud and in Jewish History. He was also a research fellow in the Shalom Hartman Institute in Jerusalem where he dealt inter alia with halakhic solutions to the problem of agunot.

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Elimelech Westreich

Interactions Between the Rabbinical Courts of Morocco and the State of Israel

JLA Session 3a: Wednesday, 9.00-10.30, Room 2

No abstract

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George Wilkes

Military Exemption and the Authority-Obligation Gap:
Solutions for a Legal-Political Conundrum in the Rabbinic Imagination

JLA Session 6b: Wednesday, 4.00-5.30, Room 2

The exemptions from military service listed in Deuteronomy 20 have long divided Jewish commentators, never more so than in relation to conscientious objection in the State of Israel. The confusion surrounding the conditions and reasons for these exemptions have nevertheless received little attention from scholars seeking to revive the Jewish politico-legal tradition. In this paper I argue that rabbinic debate over the exemptions constitutes a useful counterpoint to contemporary legal and political theory directed at the perennial authority-obligation gap.

The paper addresses first the literature according to which the exemptions are evidence of a voluntarist, communitarian or covenantal tradition, in both a legal and political sense. Viewed in this light, the exemptions may constitute a binding legal recognition of the limits to executive authority, albeit a recognition vulnerable to objections on the grounds of social solidarity.

A plain reading of the text in Deuteronomy, however, confronts any purely voluntarist reading with points on which authority and obligation are construed without regard for wider political solidarity. This presents a particular challenge to the standard identification of the exemptions with a milhemet reshet, in which the demand for community or consensus is already addressed by the political mechanisms which precede the call at the onset of battle for disqualified soldiers to return home. The paper examines practical, legal and political arguments advanced to account for the conditions in which
the exemptions are given, concluding that the search for a reason-based explanation of the exemptions is unlikely to fill the authority-obligation gap in the foreseeable future.

George R. Wilkes is a Fellow of St. Edmund's College, Cambridge, and Director of the VHI Programme on Religion and Ethics in War and Peace-Making. He is an Affiliated Lecturer of the Divinity Faculty at the University of Cambridge, and his teaching, work and publications cover a range of war and peace related issues in Jewish thought, history and contemporary politics.

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George Wilkes

Is it Helpful to Identify a Normative Jewish Law of War?

BAJS Session 4: Monday 11.00-12.30, Room 4/5

The project of identifying a Jewish law of war has become the object of increasing academic dispute in recent years. This paper examines the scope for more rigorous examination of the ‘normative’ dimension of such a law, with particular focus on Maimonides’ *Mishneh Torah*. It concludes with a discussion of the implications of this study for current debate about ‘normative Judaism’. The paper addresses the manner in which rabbinic texts couch normative discourse about war, leaving room for dispute over the ways in which the texts give evidence of a coherent law of war. Where the texts offer a pragmatic, contextual teaching, focused on political competence, necessity and expediency, the suggestion of a distinctive, timeless teaching or legal obligation is inevitably questioned. Problems of interpretation raised by the relationship between norms and power have been redoubled by the political context for contemporary attempts to ‘recover’ a law of war. The common contention that Jewish powerlessness is a key cause of the problems of identifying rabbinic laws of war will be discussed here in relation to the purposes of a law of war. Commentators in this field continue to divide over the extent to which war is a proper subject of law and/or ethical exhortation. The paper concludes with a review of the consequences of the competing approaches for broader theories of normativity in Judaism. This paper presents work which lies at the core of a newly-established research programme on ‘Religion and Ethics in War and Peace-Making’.

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Samuel Wolfman

Live Donor Transplantation and the Incompetent Donor: Viewpoint of the Jewish Law

JLA Session 5b: Wednesday, 2.00-3.30, Room 2

Organ transplantations, both from cadavers or from living donors, have developed much faster than any legislation that should provide rules of do and don't do in this area, which may involve medical considerations, as well as legal, ethical, moral and religious ones.

When transplanting from a competent donor, there's no question that fully informed consent is a must. However when the donor is a minor or incompetent, there are quite a few legal, ethical and moral dilemmas regarding the consent of such donor, even when it may be presumed with a very high probability that the donor would have absolutely consented. Moreover, the situation may be even more problematic when such organ donation may be of benefit to the donor, in cases that the candidate recipient is the caretaker of the donor.

The purpose of this paper is to present the standpoint of the Jewish Law to the general question of "self mutilation" for the purpose of saving the other, as well as the question of organ donation of an incompetent donor, whose consent cannot be considered an informed consent.
The presentation will refer also to a few court cases in Israel and the US and will argue that, in all three legal systems, the Jewish Law, the Israeli and the US system, it is very difficult to set rigid black and white rules for harvesting organs from non-competent donor.

The author is a lecturer in Medical and Psychiatric Law at the Tel Aviv University Sackler Medical School as well as the Faculty of Law of the Haifa University, Israel. He is also a managing partner at the Tel Aviv Law Firm Wolfman – Shaked & Co., specializing in Medical Law.

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Shai Wozner

The Basis of Rabbinic Precepts

JLA Session 3b: Wednesday, 9.00-10.30, Room 3

The legal origins of rabbinic precepts and the obligation to heed them, was already discussed by the Talmudic sages. They say that rabbinic authority is derived from biblical law, specifically from the verse "thou shall not deviate from all their instructions", which calls for obeying rabbinic legislation. This view was adopted by Maimonides. On the other hand, Nahmanides, in The Book of Precepts argues that this verse relates only to the decisions of the Great Court, but not to rabbinic legislation or enactments. His opinion leaves open the question of the origins of rabbinic legislation.

I would like to discuss two lines of thought for the solution. The first is that of Rabbi Simeon Skop (1859-1939) who argues that the origin of the duty of obedience of any command, divine or human, is based on the autonomous considerations of the addressee. Hence, the duty to obey the sages is also based on the "mental acquiescence" of the addressees, and in this respect there is no difference between biblical or rabbinic laws.

I would like to investigate another line of thought which argues that obeying the sages is not a categorical but a hypothetical duty required as the condition of entry to belong to the community who subordinates itself to the halakhic sages. One who does not obey the sages, does not infringe on a duty but regarded as one who "disassociates himself from the community" and no longer belongs to the halakhic community.

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Michael Wygoda

The Legitimacy of Majority Decisions in Criminal Trials

JLA Session 4a: Wednesday, 11.00-12.30, Room 2

Recently, claims have been made that majority decisions do not accord with the principle that a criminal court may not convict a defendant if his guilt has not been proven beyond a reasonable doubt. It has been argued that the very existence of a minority opinion demonstrates the existence of a reasonable doubt regarding the defendant's culpability. In my lecture I will discuss three Jewish law sources apparently supporting the idea of unanimous judicial decisions. However, I will distinguish those sources and also explain the justification of majority decisions within the criminal law.

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Xun Zhou

Jewish Mikvah in Beijing

Globalisation Session 4: Tuesday 11.00-12.30, Room 9

No abstract
The Halakhic Validity of Civil Law in the State of Israel: Halakhah and Ideology
Dr. Ron S. Kleinman, Ono Academic College Law School

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<th>Rabbi M. Feinstein, Resp. Igrot Moshe, Hoshen Mishpat, 1, #72</th>
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| “It is clear and straightforward that in the case of any law connected with local custom ... there is no need for the ruling to be in accordance with that of Torah scholars and not necessarily even according to Jewish practice, for even non-Jews adopted certain practices and they are the majority in that city – then that custom is binding according to Torah law.

For it is assumed that when an agreement was made it was implied that the agreement should be consonant with local custom... and therefore it is certain that state law is not inferior to custom...” |

|---|---|
| “There are people in error, who think that civil law has the status of custom, G-d forfend, and you have to know that a person who thinks so is making a serious mistake in principle.

However, if elements of the law are practiced in the country, they are valid halakhically, not because of the civil law, but because this is local practice” |

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<td>“One cannot ignore the employer's claim, that this is not the custom in this specific place of work. He claims that this is a specific custom of</td>
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this place of work which differs from the general custom, and this custom is not only of this place of work, but also of a whole sector who does not apply all the labor laws (without commenting on this custom)


"Are there any limitations and if so what limitations on regulations which are not in accordance with Torah law?

… it is easier to recognize the validity of state laws in area which is strongly influenced by custom. For this reason, contracts and other deals which are not in accordance with the halakhic laws of acquiring property are valid…

The General System and Specific Area

…One must also distinguish between a specific regulation in a defined area, such as labor laws or consumer protection and between a general regulation like contract laws for example.

We must not uproot the Torah, and place it in a corner and accept new laws, as the Bet Yosef in the name of the Rashba writes at the end of chapter 26 of the Hoshen Mishpat. But we can certainly accept a regulation and a legal system for a specific area… [i.e. on the basis of custom], however the acceptance of a general system of new law even if it is not based on an alien legal system… endangers us, leading to us being cut-off from our law and the source of our life…”


"[a] According to this theory it seems, that they use to write a declaration of intent, in order to ensure that it would
If we claim that acquisition of goods through the civil courts [according to civil law] is *situmta* – in every place where there is a difference of opinion among halakhic decisors in property laws ... let us check who is right according to civil courts, and consequently we will have acquisition using *situmta*?

[c] however if we distinguish between their time [that of halakhic decisors] which was a righteous generation which did not use civil courts, and who therefore did not have such a custom, which is not the case in our generation.

[d] … *If we would say so* [that in our generation civil law is valid and recognized as custom] **you have abolished all those parts of the Hoshen Mishpat** which deal with the acquisition of goods.”

“However to learn from this to follow the ways of the non-Jews and adopt their laws, G-d forbid that a holy people should behave in this way... if we should say so, you have abolished the inheritance of the eldest son… and, in general you have uprooted all the laws of the complete torah.

What is the purpose of all the holy books composed by Rabbi and after him by Rabbina and Rav Ashi, they shall teach their children the laws of the non-Jews... No! And no! No such thing will happen among Jews, lest the Torah will go into mourning”.
Some New Suggestions for Reforming the Israeli Law of Inheritance
in the Light of Jewish Law

Yosef Rivlin – Bar-Ilan University

1. Background

A committee has been examining the Israeli Law of Inheritance, 1965 (to be referred to either as the Law of Inheritance or The law). The committee, chaired by retired high court judge Yaakov Tirkel, recently discussed the provisions of the law and considered possible revisions. The committee has completed its work, and its recommendations will be incorporated as a separate unit within the civil code – monetary law. This lecture aims to discuss the committee's recommendations in the light of Jewish law.

2. Common Law Partners

With regard to Common Law Partners, an additional sub-section 2 defines them as couples, thereby treating them in a more respectful manner. However, in the Law of Inheritance, they are not treated as a married couple, but under paragraph 55, they receive their inheritance in an indirect manner: “a man and woman who are living together as a family in the same household and are not married, if one of the couple dies, and if at the time of death, neither of the partners was married to a different partner, the surviving partner is considered as if the deceased had left him what he would have been entitled to, if they had been married.” This amendment improves the status of the “common law partner” and compares it to that of a married couple, thereby defining them as a 'couple'.

It goes without saying that Jewish law has a completely different approach. Not only does the halakha forbid a conjugal tie without marriage, but also the whole basis of the Jewish law of inheritance derives from the ketubbah – the Jewish marriage contract and without the legal marriage there is no ketubbah and there are no grounds to claim an inheritance.

3. Inheritance after Separation

We want to consider another section in the same paragraph, which deals with the rights of inheritance of a separated couple. The amendment suggests the annulment of the right of inheritance in the case of a couple who are divorced under civil law, but the religious act of divorce (get) has not yet been consummated and in the case of a couple who are separated and intend to be divorced. What is the position under Jewish law?

The Jewish law distinguishes between the situation where the husband dies first and the situation where the wife dies first. If the husband dies first, the wife does not inherit his estate but is entitled to her ketubbah (the monies promised at the time of the marriage). The husband, however, does inherit his wife. We will therefore consider the husband's right to inherit his wife where they have quarrelled shortly before her death. Rabbi Moshe Isserles [Shulhan Arukh, Even ha-Ezer, chapter 90, para. 5] quotes Hagahot Mordechai: “Whoever rebels against his wife and does not fulfill his marital obligations, some say that he is not entitled to inherit her.” It is sufficient that the husband does not carry out his marital obligations for him to lose the rights of inheritance. However Rabbi Isserles had previously expressed an apparently different opinion: “As long as they are not yet divorced, even if the husband intends to divorce his wife, he is still entitled to inherit her.”

The commentators explain that Rabbi Isserlees is discussing two different approaches, which depend on a dispute in the Babylonian Talmud relating to a woman without a sense of smell. The talmud states [Tractate Baba Batra 146b] that in a case where the husband follows his wife into a ruin in order to verify that she has no defects and the ruin falls upon her and kills her, the husband cannot inherit her estate. The reason being, that the husband followed his wife into the ruin in order to verify that she had no defects and if he had found any defect, he would have divorced her. The Rashbam assumes that we are dealing with a married woman and therefore reaches the conclusion, that “whoever was estranged from his wife and contemplated divorcing her at the time of her death cannot inherit her.” He relies on the Babylonian Talmud (Tractate Gittin 18a), “As soon as he contemplated divorce he is not entitled to the produce of his wife's fields”. The Ba’ale Tosafot [see Baba Batra reference, comment beginning 'Nikhnas shareah' [he enters behind her], the Rosh and other early commentators are of the opinion that we are discussing a betrothed woman and the entry into the ruin in order to examine her was a preliminary to a decision as whether to marry her or not. The Rosh therefore concludes, “and therefore there is no longer a basis for the Rashbam's decision that if the wife dies when she and her husband are estranged, the husband is not entitled to inherit her.” [ibid Baba Batra, chapter 16]. The Rosh objects to the Rashbam's second proof
derived from Tractate Gittin, “what is the relevance of 'enjoying the produce' which is a Rabbinic decree and it is very possible that they did not grant the husband the right to enjoy the produce after he had initiated divorce proceedings, to inheritance, which is Torah law and who may interfere with his rights because he hated her, does not a son who hates his father still inherit him?

It would thus seem that the question as to whether the husband loses his right of inheritance to his wife's property if she dies when they are estranged would depend on the nature of the right of inheritance. If the right is Torah based, he will not lose it whereas if it is based on Rabbinic decree, he may lose his right to inherit.

This question has been disputed for quite some time. Rabbi Shimon ben Gamliel was of the opinion that inheritance was Torah based, and could therefore not be annulled, as to do so would be “to make conditions which contradict Torah law” [Mishnah, Tractate Ketubot, 9, 1]. Rabbi Shimon ben Lakish disagrees: “A husband does not inherit his wife because of ‘Torah law’ [Talmud Yerushalmi, Tractate Ketubot chapter 5, halakha 5, 32b]. The geonim, Rabbi Saadiah, Rabbi Sherira and Rabbi Hai adopt Rabbi Shimon ben Gamliel's approach. Maimonides [Rambam] sees inheritance as of Rabbinic origin [Nahalot, chapter 1, halakha 18].

After considering the Rosh's opinion, the author of the book Avne Miluim concludes that if inheritance is based on Torah law, then the husband is considered a relation, whereas if the basis is Rabbinic decree, then the basis for inheritance is the marital bond. Therefore, if we accept Maimonides' halakhic ruling, a husband who “has rebelled” against his wife, could possibly lose the inheritance [chapter 67, paragraph 5]. However, many of the early halakhic authorities rejected Rashbam's approach, which we have presented and rule that the husband only loses his inheritance after the divorce has been completed, but since Rashbam's approach does have some support, it could be possible to rule this way [see Mishpatecha le-Yaakov by Rabbi Zvi ben Yaakov, part 5].

Dr. Zerah Warhaftig used an a fortiori argument based on apostacy. “If we fine and annul rights of inheritance of a person who betrays G-d's Torah, then we should certainly annul rights of a person who betrays his testator. If, in the case of a Torah inheritance, where a son inherits his father, we fine the son who betrayed his religion, there is all the more reason in the case of the husband as heir where there is a dispute as to whether we are dealing with Torah law or Rabbinic decree [Zerihat ha-Shani, 169-170].

Conclusion: There are sources in Jewish law, which are in agreement with the suggested amendment.

4. Augmenting one of the Partner’s rights

An additional proposal is augmentation of the rights to inherit of one of the partners in those spheres where he or she is entitled to inherit especially in the case of a second marriage. As we have already mentioned, the rights of the spouses differ radically under Jewish law. On the one hand if the wife pre-deceases the husband, he inherits her estate. He is the first and only heir without any partners. He thus does not need any additional privileges. On the other hand, if the husband pre-deceases the wife, she is entitled to the sums specified in her ketubbah, but does not inherit her husband.

Conclusion: the basic rights of inheritance differ between Jewish and general law.

5. The Murder of the Testator

The committee refers to what it considers to be two important changes in the case of an heir who sins against his testator, a situation which is referred to as “Hast thou killed, and also taken possession?” [Kings I, 21, 19]. The first amendment empowers the court to reconsider the annulment of the right of inheritance. As the committee claims: “…there are also situations where it would be unfair to annul the rights of somebody who killed or tried to kill the testator... it is therefore suggested that the court will be empowered in the appropriate cases not to annul rights of inheritance and on the basis of paragraph 3 in the code to give instructions for the partial annulment of rights of inheritance.” In this context, Maimonides' ruling about an apostate is relevant. He wrote: “and if the court saw fit to confiscate his property and to fine him, annulling his inheritance... it is permitted.” [Nahalot, chapter 6, halakha 12]. The second amendment relates to who will receive the assassin's part. The committee suggests: “In this context, we would like to suggest an amendment to paragraph 15 of the law, which states that where a person's right to inherit has been annulled, his line of inheritance will be blocked, and the property will be divided between the other heirs, and thus his children will not be able to inherit. This ruling seems unfair, since there is no reason to surmise that the testator was interested in depriving the children of the potential heir who killed him, of their inheritance (for example, where a son killed his father, the grandchildren would be deprived of their inheritance). We would therefore suggest that the sins of the fathers not be visited on the children and to allow them to inherit instead of their father. Again Maimonides refers to the case of the apostate and writes: “if he has Jewish children, they should receive the property of their father, the apostate” [see also Teshuvot ha-Rambam, edited by Blau, vol. 2, chapter 375].

Conclusion: In both cases the recommendations are consistent with Jewish law.
6. A Couple's Reciprocal Will

Another proposal deals with the 'reciprocal will.' The question was raised a few years ago and substantial changes were made, the Israeli legislator showed himself more flexible regarding the principle of freedom with regard to the testament. The amendment to the law stated that in the case of a reciprocal will, there will be limits on the freedom of each side to annul the will, the partner wishing to annul the will is required to notify the other side. Annulment by one side automatically annuls the other side's provisions. In the case where the will was being executed after the death of one of the sides, if the other side annuls his or her will, that heir will be required to return any benefits received under the reciprocal will.

The new amendment would give the court the right to reconsider the automatic annulment. Annulment of one side of the will would not automatically lead to the annulment of the reciprocal will, but that decision would be left to the court's discretion.

There are very few sources in Jewish law which deal with reciprocal wills. The Rosh was asked to rule on a case where four sisters made reciprocal wills in order to exclude their brothers. Each of the sisters made a will in which she transferred all her possessions to her three sisters. In his ruling, the Rosh pointed out that there was in fact no reciprocity. Since we are talking about a healthy person's will which is intended to be effective from “today until after the person's death”, then in fact from the moment that the will became effective the ownership of the possessions was transferred to the heirs. The last sister to make her will had in fact transferred all her possessions to her sisters [Responsa by the Rosh, Principle 84, paragraph 4]. On the basis of this responsum, it is impossible to know if the reciprocal will should be drafted as one document or as several. The Ribba was asked about a will which was phrased, “A man and woman made a condition at their wedding ... if Clara would pass away or if Siman tov would pass away.” The will was immediately annulled because it dealt with a hypothetical situation [Ribba responsa, chapter 180]. As a matter of principle, there is no problem in making a reciprocal will which would be valid under Jewish law. The following conditions are necessary. a) the text of the will should include accepted forms of the following nature, “the will should be effective immediately and until one hour before my death”, or “immediately and as long as I do not annul it” or “immediately and for as long as I want.” b) the will requires a transfer of possession before two witnesses. c) the formulae for acquiring property should be appropriate even for property that cannot be acquired. d) reciprocal wills are valid both in the form of separate documents and in the form of a single document. e) if, as is customary, the wills include a chain of inheritance, each partner lists the people who will inherit after the death of the second partner, the list of additional heirs must appear in a valid manner.

The previous amendment to the law and the re-examination by the committee only seems revolutionary in the light of the lack of flexibility regarding freedom of inheritance as the committee points out. In fact, the principle itself is not revolutionary at all and is regarded as natural in any system of law including Jewish law. Reciprocity is a basic principle in any system of law.

We would like to present some examples from Jewish law. In the case of a reciprocal agreement, it is clear that when one of the sides annuls the agreement without consultation with the other signatory to the agreement, that side loses all his rights under the agreement and must return any property that he already enjoys under the agreement which he annulled. [Responsa of Rabbi Akiva Eiger, 2nd edition, if he did not receive a dowry, he need not fulfill his obligations under the ketubbah (apart from the basic sum fixed by Rabbinic decree) “that was not his intention when he undertook to pay the sums;” Responsa of Rabbi Akiva, ibid, chapter 90 discusses a husband and wife's reciprocal will and he draws the following conclusions: a) there is no legal problem whatsoever in making a reciprocal will. b) it is important to follow the appropriate legal formulae, for example, transferring the possessions prior to death, ensuring that the woman enters into possession of the property and is not left only as a trustee, and the necessity to include possessions acquired after the will has been finalized. c) in the case which he discusses, there were legal problems in the phrasing and he concludes, “since he did not acquire from her, she did not acquire from him, since the entry into possession has to be reciprocal, annulment by one side causes annulment by the other side” therefore if the reciprocal will was drafted as one document and the reciprocity was emphasized when the agreement was validated, unilateral annulment means annulment of the whole agreement. The question is how to deal with reciprocal wills, drafted in two separate documents with no formal connection between the two documents. We would suggest the use of the rule umdana (a reasonable assumption regarding a person's purpose) and assume that both sides intended a connection between the agreements and neither of the sides would be interested in carrying out the agreement after the annulment by the other side [See Rama (Isserlees) Hoshen Mishpat 206, 4, in the case of presents there is no need for strong umdana, the regular umdana would be sufficient, one should take account of intentions.

Conclusion: The amendment has common features with Jewish law.
7. Inheriting One’s Father-in-law and Mother-in-law

This amendment relates to the infrastructure of inheritance. The committee recommends the addition of an extra layer of heirs to the infrastructure of inheritance. The spouses of the son or daughter would be entitled to inherit. In the opinion of the committee, the deceased would prefer the transfer of the money to his son-in-law or daughter-in-law if the alternative is to transfer the inheritance to the state because of lack of closer heirs. As regards this relationship, the committee does not enfranchise the son or daughter-in-law’s heirs, even if they have children from previous marriages the children have no rights to this property.

The rules in Jewish law differ and the son-in-law or daughter-in-law have no rights under Jewish law.

Conclusion: In this case the law differs from Jewish law.

8. The Rights of Inheritance of an Adopted Child

This section deals with inheritance and adoption. The current law is ambivalent since it leaves some connection between an adopted child and his or her biological relations and does not give the adopted child the same rights to inherit as those of a biological child. There is indeed a mutual right of inheritance between the adopter and the adopted, but the adopter's relations do not inherit the adopted child nor does the adopted child inherit the adopter's relations. An adopted child inherits his biological relations but they do not inherit him. The committee wants to treat the adopted child in the same way as a biological child.

In Jewish law, right of inheritance are based on biological relationships and therefore there are no rights of inheritance between adopter and adopted and vice versa. Lately there have been some suggestions that the adopted child should inherit his adopter. There are three sources for this approach. 1) Nachmanides in his commentary to Numbers 26, 46. Serah was not Asher's daughter but his wife's daughter. He adopted her, reared her and she inherited a portion. 2) Rabbi Yaakov Emden wrote a responsum dealing with the disinheriting of children and the responsum includes the following sentence, “If the aforesaid had no children and reared a child to inherit him” [Responsa of Rabbi Yaakov Emden, chapter 1, paragraph 165]. We see that an adopted child inherits his adopter where the adopter has no children. 3) In a responsum by the Hatam Sofer [Even ha-Ezer, chapter 1, paragraph 76], he writes, “when a man has no sons of his own, because of his affection he will call him [his wife's son from a previous marriage] his son and he does not feel that it matters that he harms his own heirs if this adopted son will inherit him and he may even prefer that the son of his beloved wife will inherit his possessions rather than his brothers and other relations.” There are additional proofs [see: A. Dvorkes, Al ben imatzta lach] however many distinguish between the different cases and under Jewish law an adopted child does not inherit his adoptive parent. There have, however, been some developments. Some rabbinical judges relied on a special contract of adoption which included rights of inheritance [the judge Kister drafted such a document] and wanted to rule that an adopted son should inherit especially in the case when the adopter was childless and his possessions would become the property of the State under the existing law.

Conclusion: in this case there is a vast difference between Jewish and Israeli law.

9. A will recorded using visual media

The committee recommends an additional means of making a will: a visual will: the aim is to permit the making of a will using a recording device which includes both audio and visual elements, such as a video.

What is the status of such a will under Jewish law? In the event of an appeal, the will would probably be voided. Should one follow its provisions where there is no appeal? Should it be treated as a regular will?

Jerusalem Piske Din (Verdicts), Finance, vol. 3, p. 63 discusses the use of recorded evidence to decide how many people were present at a wedding. A Beraita from the Talmud, tractate Rosh Hashana 24a is referred to. The sight of new moon through water or glass is insufficient evidence for the declaration of the start of a new month by the High Court. Many commentators are of the opinion that this restriction is only valid in the case of the new moon, which is based on a verse, “This month shall be unto you the beginning of months,” requiring a high standard of proof. The Shulhan Aruh, Hoshen Mishpat (30, 14; 90, 6) considers the standard of proof in financial matters and is ready to rely on knowledge even without seeing. It is of course necessary to take measures to ensure that the picture is real and not a forgery.

Conclusion: a Rabbinical court may accept such a will. The question requires additional consideration.

10. The Age of the Testator

According to the Law of Legal Fitness and Guardianship a person is a minor until the age of 18. A minor cannot make a will under the current law. The committee recommends that a child over 15 may make a will under the guidance of the court.
Babylonian Talmud, Tractate Nidah, 41a, “a one day old baby inherits and bequeaths. In the Responsa, Torat Hayim, chapter 1, paragraph 96, discusses the validity of a 12 year old's will, but it would seem that there is no problem whatsoever with the will of a thirteen year old or somebody older. This is also the ruling with regard to the right to bestow.

Maimonides [Laws of Sale, chapter 29] halakha 6: “a minor of less than six cannot transfer ownership and between six years and thirteen years if he understands the nature of business transactions, his acquisitions are acquisitions and his sales are sales and his presents are valid, whatever the value and whatever the state of his health... This is the case for portable goods, but he cannot sell or buy real estate while he is a minor.” Halakha 7: “this is the case for a minor without a guardian, but if he has a guardian, even the sale of portable property requires the guardian's approval...”

Halakha 12: “a minor who grew up and is both sexually mature and over 13 in the case of the male, or sexually mature and over 12 in the case of the female and even if he does not understand the nature of business transactions, his acquisitions are acquisitions and his sales are sales and his presents are valid in the case of portable property but in the case of real estate, his actions are not valid until he is both mature and understands the consequences of his acts.”

Halakha 13: “This is the case for his own property but property inherited from his father or other testators cannot be sold until he reaches the age of 20, even though he is sexually mature and understands the nature of business. He may sell cheaply because he is interested in ready money and does not yet understand the ways of the world.”

Halakha 14: “The giving of a present by somebody under 20, whatever the state of his health is valid, since if there was no advantage in giving the present, he would not do it, and since the situation is not common, our wise men said let his present be valid so that he will have influence.”

Conclusion: the Lowering of the age when it is permissible to make a will, will bring Israeli Law closer to Jewish law.

11. General Conclusion
The lecture deals with a number of new topics relating to inheritance and wills and testaments. The discussion was stimulated by proposals by the Tirkel Committee to reform the Israeli Law of Inheritance. The proposals were discussed in the light of Jewish law. The research reveals the differences in principle between the structure of inheritance in Israeli general law and in Jewish law, especially with regard to the mutual rights of a couple, in the light of the extension of the legal definition of 'couple' which is unacceptable under Jewish law. Similarly, in the case of the legal aspects of adoption, which contradict the approach of Jewish law based on biological ties. Interestingly, in the case of hypotheses regarding people's intentions and the expansion of the court's powers and discretion, Israeli law is moving closer to Jewish law, see for example the case of an heir who kills his testator and the one-sided annulment of a reciprocal will.
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Members of the Association come from many nations, from Israel to Argentina, from Canada and the United States to Australia, from Western Europe to South Africa.

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