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Citation for published version:

Wilkes, G 2016, 'Teaching about 'War in Jewish Law' to Non-Lawyers in a European University Context', *Jewish Law Association Studies*, vol. XXVI, pp. 109-126.

Link:

[Link to publication record in Edinburgh Research Explorer](#)

Document Version:

Peer reviewed version

Published In:

Jewish Law Association Studies

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Teaching about 'War in Jewish Law'
to Non-Lawyers in a European University Context ¹

Dr. George R. Wilkes

The experience of teaching and studying Jewish Law at university has received almost no academic attention. This may be understood as a consequence of the fact that there is a surprisingly miniscule literature on any pedagogic aspect of the teaching of Jewish Law. The literature in the field of Jewish Law proceeds as if the primary consideration faced in designing Jewish Law courses is the conceptual framework that best fits the subject. The reflective essay that follows illustrates why successful teaching of Jewish Law cannot be based on a priori conceptual frameworks alone and presents the benefits of an analytical framework that works with the experiences of teachers and learners in this field.

The paucity of literature on the live issues faced in teaching Jewish Law is surprising on four counts. Two counts arise from the field of academic Jewish Law itself. First, the teaching of Jewish Law has blossomed, in particular in universities in North America and Israel. For some years, the developing literature of public and specialist interest in Jewish Law has commonly also referenced the increase in courses taught.² It is, therefore, surprising that there have been no serious studies of the issues involved in teaching Jewish Law in universities.

Secondly, the expansion of university teaching has necessarily dovetailed with the publication of appropriate textbooks. These might have been expected to present pedagogical schemas. Yet, although two useful

¹ I am grateful to Professor Tom Kuttner and colleagues in the Jewish Law Association for their insights, which have encouraged my reflections on teaching developments and challenges in contexts other than my own. I am also grateful to Professor Didier Pollefeyt of Leuven, whose collegial support and reflections on this topic have been of great value.

² See, e.g., Samuel J. Levine, "Teaching Jewish Law in American Law Schools: An Emerging Development in Law and Religion", *Fordham Urban Law Journal* 26:4 (1998), 1041-1050; Suzanne Last Stone, "In Pursuit of the Counter-Text: The turn to the Jewish legal model in contemporary American legal theory", *Harvard Law Review*, 106:4 (1993), 813-94; Yoram Dinstein, "Teaching Law in Law Schools (in association with an international collegium)", in Moshe Davis (ed.), *Teaching Jewish Civilization: A Global Approach to Higher Education* (New York, NY/London: NYU Press, 1995), 190-94.

reflections on teaching needs³ did note the need for further developments in new directions, textbooks such as Elon's *Jewish Law*,⁴ Dorff and Rossett's *A Living Tree*,⁵ and Hecht and Jackson's *An Introduction to the History and Sources of Jewish Law*,⁶ though widely used and extremely valuable, are also extremely sparing in their references to teaching issues. The academics who inspired the spread of the teaching of Jewish Law appear to have understood the practical need for publications in this area, but pedagogical realities have evidently not been a priority thus far.

The third count on which this gap in the literature is surprising arises from the texts studied in Jewish Law courses. Teaching is an important motif in the Torah and in classic Tannaitic texts, as well as in medieval and modern accounts of the nature of Judaism. This means that primary source literature on teaching rabbinic texts, particularly within Jewish institutions and rabbinic seminaries, does exist. Thus, teachers interested in discussion of the challenges presented in making texts relevant to students in these contexts may turn to Michael Rosenak, though his focus is not primarily legal.⁷ A useful entrée is provided by the Mandel Center's conference website on Teaching Rabbinic Literature,⁸ which includes contributions focused on law and on sensitivity to student experience. The growing literature on teaching Talmud also shows evidence of reflection on teaching experiences not only in Jewish but even in secular university contexts.⁹ In respect to the teaching of Jewish Law in a university context, however, this literature has yet to develop.

³ Bernard Jackson, *The Teaching of Jewish Law in British Universities* (Yarnton, Oxford: Oxford Centre for Postgraduate Hebrew Studies, 1990), and Dinstein, *op. cit.*

⁴ Menachem Elon, *Jewish Law: History, Sources, Principles* (Philadelphia, PA: Jewish Publication Society, 1994).

⁵ Elliott Dorff and Arthur Rossett, *A Living Tree: The Roots and Growth of Jewish Law* (Albany, NY: SUNY Press, 1988).

⁶ Neil S. Hecht and Bernard Jackson et al (eds), *An Introduction to the History and Sources of Jewish Law* (Oxford: Clarendon Press, 1996).

⁷ See, *inter alia*, Michael Rosenak, *Commandments and Concerns: Jewish Religious Education in Secular Society* (Philadelphia: Jewish Publication Society, 1987), and *Roads to the Palace: Jewish Texts and Teaching* (New York NY/Oxford: Berghahn, 1995).

⁸ Mandel Center for Studies in Jewish Education, Brandeis University, Conference on Teaching Rabbinic Literature: Bridging Scholarship and Pedagogy, January 27-28, 2008

<http://www.brandeis.edu/mandel/teachingrabbinics/videos.html>.

⁹ See, e.g., the valuable overview provided by Pinchas Hayman, "On The Teaching Of Talmud: Toward A Methodological Basis For A Curriculum In Oral-Tradition Studies", *Religious Education*, 92:1 (1997), 61-76, and the series of contributions given at the 2014 Drisha Institute, Why Learn Talmud?, <http://drisha.org/whylearntalmud/>.

The fourth count on which this sparsity is surprising arises from the abundance of self-reflective material within Jewish Law sources, which presents great potential for the teaching of law in wider, non-Jewish contexts, both for the researcher and for the teacher in a secular university. It presents the Jewish Law instructor within the law school with natural opportunities for reflection and comparison. Similarly, for a wider spectrum of humanities disciplines in which the study of the teaching of Jewish Law is also a natural subject of interest,¹⁰ this material can present a rich scholastic parallel to the university's Christian antecedents; it can present a resource for institutions seeking an enriched, multi-disciplinary, liberal arts education. Yet, very few publications extend an enquiry into the teaching of Jewish Law from a legal, pedagogical or humanities perspective.¹¹

The present reflection approaches this subject of university teaching of Jewish Law primarily through the author's teaching experiences. These occurred outside the contexts of Jewish institutions, in which a straightforward approach to teaching may appear obvious and unproblematic, and in which there also is an agreed conceptual framework for legal judgment. The courses taught also took place outside of law faculties, in which it can be easier to put aside humanistic questions. The author has taught courses on war in Jewish Law in academic options designed for students concentrating on religious studies, theology and ethics, peace studies, international relations and political science. The courses were designed for honours level undergraduates (in their third and fourth year); for masters students studying international relations, political science, religious studies or theology, at universities in the United Kingdom, in Belgium, and the USA; and as short, focused contributions to undergraduate and masters level Peace Studies courses in Ireland and the USA. Although the courses were aimed at different student groups, they share the trait of being primarily outside both law and Jewish studies faculties.

The design and delivery of course offerings were in each case altered by a process of negotiation between the author, colleagues, students and the available literature. The aspiration to teach a coherent conceptual framework was effectively only a starting point for planning these courses. The essay illustrates the ways in which that starting point may develop in practice, and elaborates on the implications this can have for planning and delivering Jewish Law courses. Admittedly, the focus here is on particular types of course, and the author recognizes that the study of Jewish Law inherently

¹⁰ Bernard Jackson, *The Teaching of Jewish Law*.

¹¹ For an interesting article suggestive of what this may offer, see Daniel Reifman, "Teaching Talmud and Halakah Using a Semiotic Model of Law", 2010, http://www.brandeis.edu/mandel/pdfs/Bridging_working_papers/ReifmanPaper_rev51810.pdf.

means different things in different contexts¹² – as this essay illustrates. Nonetheless, lessons are suggested which apply beyond the fields discussed, beyond the primary location of these courses in European universities, and beyond the approach taken here to discipline and inter-disciplinarity.

The essay is divided into three parts, three facets of the teaching experience which determine the application of conceptual frameworks to the teaching of Jewish Law: collegial interest, student needs and the availability of published materials. The first focuses on the role played by collegial relationships in the delivery of Jewish Law related courses in these university contexts. The second elaborates on student experience and attitudes. The third turns to the availability and adaptability of reading resources. Those teachers of Jewish Law who have written, thus far, met the demand for published teaching resources have intended primarily to improve and expand teaching provision. It is suggested here that more clarity about teaching needs may also help to encourage attention to the quality and range of academic literature on the subject.

In short: The essay combines comments based on a set of teaching experiences with observations about the literature that has been designed to support the teaching of Jewish Law, developing a case for renewed attention to the framing and delivery of courses on Jewish Law. The essay aims to encourage renewed attention to the teaching of Jewish Law in universities as a research subject. Its observations about European university teaching on Jewish Law and war are intended to be useful in additional university contexts. Its success will be measured by the degree that the essay inspires further publications which reflect seriously on university and seminary experiences and perspectives which diverge from those covered here.

Collegial interest and the framing of courses

The first influences that a lecturer on Jewish law encounters in devising a course are collegial interests and concerns. Obviously, their degree of influence differs for established faculty versus younger academics or by external invitees, and the nature of colleagues' interests and concerns can differ in European, North American or Israeli universities. In each case, a teacher will have different forms of leverage vis-à-vis those colleagues and will respond to a different set of expectations from colleagues. Although the more senior invited lecturer may be freer to give more attention to their own iconoclastic choices about the aspects of Judaism presented, more junior

¹² Samuel J. Levine, "Teaching Jewish Law in American Law Schools: An Emerging Development in Law and Religion", *Fordham Urban Law Journal*, 26:4 (1998), 1041-1050; Samuel J. Levine, "Teaching Jewish Law in American Law Schools – Part II: An Annotated Syllabus", *Chicago-Kent Journal of International and Comparative Law* 2:1 (2002) 1-13; Bernard Jackson, *The Teaching of Jewish Law*, 1990.

invitees, climbing the academic ladder, are likely to be expected to cater more to the department's expectations for teaching and learning resources which enable students to contextualize information and arguments.

Based on my experiences of teaching in the European university context, invitations to provide a course on Jewish Law are likely to carry an expectation that the lecturer will provide a window into authentic Jewish religious self-perceptions for students who are wholly unfamiliar with Jews and Judaism. For some colleagues that raises an expectation of new content and of different approaches to familiar subjects. For other colleagues that raises concerns about disciplinary boundaries, procedures, and the challenges of demonstrating academic rigour in a stand-alone course. These approaches do not proceed from the subject itself. Rather, they express subjective institutional and personal interests in and concerns about the subject.

One example will suffice to give a sense of what may be at stake here: The inspiration for this essay lay in the experience of teaching a series of courses on Jewish Law and war. Although the first motivation for these lectures lay in the author's research and teaching interests, the initiation of these courses was also affected by the extent to which Jewish Law is an underdeveloped interest in a wide range of European institutions. Under these conditions, the lectures were first initiated in each case by invitations from colleagues from a range of disciplines. Some invitations were to focus on teaching Jewish Law for students who are not insiders to the Jewish tradition (the preference of departments focused on religious studies) and some were to compare Jewish, Christian, Muslim and secular legal literatures (the preferred focus of colleagues in international relations and political science faculties). In other words, colleagues had course expectations even before any classroom encounters demonstrated that these expectations were appropriate or necessary.

Two of the courses gave me the greatest reason to consider the subjectivity of the relationships at play already at the outset of being invited to think about potential course offerings. These were an invitation to teach a full course at the Theological Faculty in the Catholic University of Leuven (the Katholieke Universiteit Leuven) and an invitation to make a contribution to a Master's degree in Peace Studies at the Irish School of Ecumenics in Dublin. Both opportunities arose because of the institutions' expressed desire for teaching about Jewish perspectives in historically Christian contexts.

The Theological Faculty at Leuven has a body of scholars committed to promoting teaching on Jewish-Christian relations, and a commitment to theological teaching provided from a Jewish perspective. Over some years it has extended to a series of Jewish scholars an invitation to teach a course on a Jewish theological topic, presented from a Jewish perspective, and it has done so with a deliberate openness to the specialist interests and perspectives of those teachers. The faculty member initiating the invitation

gave guidance as to their interest in challenging a Christian student body to think about Jewish perspectives as they are understood by Jews, without reference to Christian thought. Yet, a focus on problems in Jewish-Christian relations remained important in the development of appropriate course content, requiring an attention to substantive considerations that do not derive from internal Jewish discussions or considerations. The faculty's particular Jewish studies interests also created interest in a Jewish Law course of angles that are not primarily related to Jewish legal concerns; the faculty's body of expertise on Emmanuel Levinas and on appropriate theological responses to Levinas' work feeds a vibrant ethical and philosophical interest which frames Jewish Law in very particular ways. There is a further interest in Jewish post-Holocaust theology within the faculty, and experience has taught faculty that responses to the Holocaust will be of particular concern to students. In addition, collegial discussions underlined that student learning needs are broader than would be suggested by the specialist concerns represented in the academy. Faculty sought to have the student body reflect on the impact of their personal understandings of what it means to be Christian on their perceptions of Jews and Judaism. These do not develop as a straightforward consequence of the acquisition of approved biblical or doctrinal knowledge. These collegial expectations were further expanded by the fact that the courses on ethics, war and peace at the Theological Faculty attract students of peace studies and just war ethics from the International Relations Department of the Social Sciences Faculty – a connection that is encouraged. In short: my experience with the Theological Faculty at Leuven reflects the reality that the impact of collegial interest is not only a matter of constraints set by academic expectations and needs. Collegial impact can also impact a course on Jewish Law in having it provide positive opportunities for student engagement which arise from the contexts in which teaching is delivered.

The Peace Studies option is one of the flagship courses of the Irish School of Ecumenics (ISE) in Dublin. Although students taking the course come from across the world and are expected to have an interest in Western Christian theological reflections on peacebuilding and on ethics in war, ISE also has an established interest in broadening its perspective beyond the Christian churches, particularly reflecting theological trends identified with the Second Vatican Council. ISE classes for postgraduates have long included Jewish classes, taught by a Jewish scholar, to fit their postgraduate teaching needs with respect to the topics of peacebuilding and of ethics in war. In terms of their research, too, the academic staff also have an interest in course material on alternatives to the Christian and to the secular just war literatures. In addition, an interest in Jewish responses to the Holocaust was also evident, both in colleagues' research and within the curriculum presented to postgraduates. Thus, here, too, the academic context for a Jewish Law offering encouraged a lecturer to engage with collegial interests that are not inherent to the field.

This reality, that the academic context for a Jewish Law offering can influence a lecturer to engage with collegial interests and concerns that are not inherent to the field, was evident even in Leuven and in Dublin, both of which have an established interest in Jewish perspectives and both of which have deliberately invited teaching from a Jewish perspective. All the more so is this true when colleagues desire to have the Jewish legal discussion merely to provide interesting illustrations without any systematic attention being given to how to expand the perspectives through which issues are framed. This can occur due to a multitude of causes, one of which may reflect a more secular context for teaching about law and war and collegial wariness of teaching about religion in this context. When the author taught a summer semester course for University of California International Relations and Political Science students, the religious dimension of the course met with challenges within the departmental committee responsible for the course. Although the collegial context proved supportive and the challenges were easily overcome, the discussions nevertheless illustrated both the scope for misunderstandings and also, once again, the role of collegial interests in the approval process.

To summarize: the first issue that one faces when choosing to teach Jewish Law in non-Jewish universities is that one teaches courses that address colleagues' interests and concerns which extend beyond the realm of Jewish Law. These affect preparatory decisions about student learning in ways that may also have little to do with face-to-face classroom learning opportunities and challenges. They exist even when one is invited to teach Jewish Law from an internal perspective and all the more so when one is invited to offer Jewish Law for mere enrichment purposes. Collegial interest is not simply a constraint against which to guard, but also a source of opportunities the consequences of which are worth keeping in mind.

Student interest

The previous section highlighted the impact of colleagues' interests and concerns on the teaching of Jewish Law. In this section, we will see how students' needs and the lecturer's interactions with students may affect how Jewish Law can be taught in universities. This is a strikingly different picture. We will see how student reception may depart from the expectations and concerns raised in collegial conversations.

University students – and this may be particularly evident in Europe – are commonly unfamiliar with basic features of Jewish life and thought. They realize this and many express uncertainty about how they will find a speedy orientation in what is to them an entirely new sphere of knowledge. They often live in an environment in which they rarely directly encounter Jews, and they are much more frequently presented with notions of Jews and Judaism through public discourse about the Holocaust and the State of Israel than they are through face-to-face exchange with Jewish peers. Without any expectation that students will hold antisemitic attitudes, a course naturally will still address Jewish legal discussions with the expectations that knowledge can be expected to be minimal and that sometimes it will relate more to

external debates about particular Jewish experiences or to that which is held in common across Jewish, Christian, Islamic and secular traditions, rather than to viewing Jewish perspectives in their own terms. This is the case in spite of the fact that students who have reached the point of taking an advanced course encompassing any specialist component on Jewish Law are likely to be in their third or fourth year of an undergraduate degree – or are already taking a postgraduate degree. Although many students taking a Religious Studies degree will at that level have taken introductory overview courses focused on Judaism, few other students at that level will have engaged in the study of Judaism at university level. Therefore, even in a context which includes Jewish students, a Jewish Law option will need to be designed for students with a very low level of knowledge about Judaism.

Low levels of background knowledge affect class design, preparation and delivery in many ways. Reading time is likely to be constrained and insufficient to deal with obscure texts. This makes it difficult to introduce a diverse class to the challenging philosophical texts which would provide students with rewarding intellectual material toward a humanities degree. The essays of Franz Rosenzweig or Emmanuel Levinas, for instance, which undercut easy assumptions about the straightforward application of Jewish Law in war, require considerable background elucidation before their bearing on Jewish legal traditions becomes clear enough to discuss. By contrast, introductory texts which present a simple portrait of Jewish laws of war and which avoid discussion of interpretive issues prove much easier to grasp. This favours legal texts of a positivist approach with a clear agenda. Students are drawn to introductory discussions by J.D. Bleich¹³ or Michael Broyde,¹⁴ for instance, because of their clarity – even as these authors embrace perspectives that these students may otherwise identify as uncompromising, polemical, or partisan.

Nevertheless, after their experience of exposure to new fields of knowledge in their first years at university, students are now far more practiced at producing work that adopts a discriminating approach to reading sources. Judging by exam performance, students can make sense of Jewish texts by using their knowledge of subjects closer to them – whether that be discussions of related topics in legal and political ethics, in the development of Christian thought or secular philosophy, or in modern and contemporary culture. By this advanced level, many are well prepared to read texts carefully and to reflect on perspectives presented in these texts. They are prepared to compare these to Christian, secular and in some cases to Muslim writers. Many are prepared to grapple with historical and political context, and with divergent perspectives on what can and cannot be justified using different normative traditions.

¹³ J.D. Bleich, *Contemporary Halakhic Problems* (3 vols, New York: Ktav/Yeshiva University Press, 1977-89).

¹⁴ Michael Broyde, “Just Wars, Just Battles, and Just Conduct in Jewish Law”, in Lawrence Schiffman and Joel B. Wolowelsky (eds), *War and Peace in the Jewish Tradition* (New York, NY: Yeshiva University Press, 2007), 1-44.

Moreover, as Bernard Jackson¹⁵ and Tom Kuttner¹⁶ have noted, students from a range of backgrounds in British and Canadian secular universities often experience a Jewish Law option course empathetically, as a space in the curriculum in which they can explore the significance of their own and their background cultures' ideas about law. Similar to university level Talmud classes,¹⁷ the Jewish Law lecturer faces the ways in which students receive aspects of Jewish Law as being of personal relevance in their lives.

In other words, although students are starting their learning from a sense of uncertainty about the subject, they are able to make sense of the subject by connecting it to their lives and to their previous knowledge. Thus, the problematic reality – that more balanced contextual accounts on a reading list make less impact on insecure students' essays than the short arguments written without regard for issues of interpretation – can be addressed to some degree. The challenge is to prompt students to reflect on connections across the specialist courses or modules that students have taken.¹⁸ Classroom debate in these conditions requires deliberate and creative attention, alive to the sense of insecurity students have with the texts they are presented with, but also to the opportunities to make use of the learning and intelligence that students bring.

There is a cost, however, to the aforementioned attempts to address the problem of students' low knowledge of Judaism and of Jewish texts. Students whose learning is primarily framed by this approach do not naturally engage with the challenges of understanding discourse as it is used within the Jewish community. This is clarified when we examine each of the two directions that these attempts can take. One direction a lecturer can choose is to help students to frame Jewish discussions about war and law independently, free of any other texts, secular or Christian. For example, the author has found, in seeking to provoke classroom reflection on ethical discourses about the use of force, that the world of superheroes often proves eagerly and confidently grasped. This direction carries the price, however, of students tending to locate past Jewish laws in contemporary political terms that make sense to the student; students may fail to compare judgements made in Jewish texts contextually to the development of just war literature in the period in which most of the Jewish authorities cited wrote, and to the fact that there was a general development in Christian and secular legal thought. The other direction a lecturer can choose is to tackle the relationships between Jewish

¹⁵ Jackson, *The Teaching of Jewish Law*, 26.

¹⁶ Tom Kuttner, "Jewish Law in Canadian Law Schools and Courts", unpublished presentation at the Jewish Law Association conference, Berlin, 2013.

¹⁷ As discussed at the 2014 Drisha conference, see further in <http://drisha.org/whylearntalmud/>.

¹⁸ This was also noted by Bernard Jackson in *The Teaching of Jewish Law*, 26.

and other literatures. This direction carries the price, however, of the students being tempted to understand Jewish perspectives from within the categories of Christian or secular literature. The difference between the approaches of Nahmanides and Maimonides becomes an exam essay, of questionable veracity, on realist versus idealist perspectives on war; the difference between Maimonides and Michael Walzer becomes an essay on medieval versus modern or postmodern philosophical ethics, or on clerical, statist and communitarian political ethics.

To summarize: European students' low knowledge of Jewish Law modifies the teaching of this subject. Students are insecure with this field that is new to them and may not deal with it at the same level of sophistication that they bring to their other courses. This means that they are more drawn to a presentation of Jewish Law and its debates as fixed concepts. This problem can be addressed by having them think about the Jewish Law issues under consideration free of other academic conceptual framings, such as reflecting on how a superhero should ask instead of on value and concept framings from other disciplines. That solution, however, raises the problem that students may find themselves unprepared also to read with a sensitivity to context. An alternative is to have them address the problem by comparing the Jewish sources to framings with which they are already acquainted. That solution, however, raises the problem that students may not engage with the conceptual framework and vocabulary deployed within Jewish discursive contexts.

The literature

In the preceding sections, we discussed both how the university teaching of Jewish Law requires taking into account colleagues' interests and concerns and how it is modified by the combination of students' ignorance of Jewish contexts with their strong intellectual skills. In this section, we discuss how the university teaching of Jewish Law is modified due to the difficulty of accessing resources on Judaism, on Jewish Law, and on Judaism and war. Even the resources available are generally referenced within works that either are both politically inclined and not methodologically reflective or are framed at one and the same time by comparison with secular or Christian thought and in narrow theological, philosophical or historical terms.

Students seeking an introduction to Jewish legal texts on war might start well enough with a choice of contrasting book chapters which cast the law on the subject differently. They may be encouraged to contrast the determinedly positivist essays written by Bleich and Broyde¹⁹ with the introduction to a range of historical and philosophical framings of the texts presented by

¹⁹ See, e.g., the essays by J.D. Bleich or by Michael Broyde in footnotes 11 and 12.

Norman Solomon,²⁰ which will demonstrate something of the divergent approaches to legal hermeneutics. In an introductory session for a course outside a law department, any of these essays might instructively be compared to selected chapters from the book-length arguments by Reuven Firestone²¹ or Robert Eisen,²² which critique a range of Orthodox and just war discourses from an outsider perspective, in order to focus on Jewish ethics more than on Jewish legal hermeneutics. These types of contrasts between approaches can indeed inform the student experience.

Without further guidance, however, a student may well find it difficult to divine how the different authors can be used as models for divergent methods used for reflecting on Jewish Law. In the experience of the author of the present article, students coming to the subject with no background in Jewish Law or in political philosophy are likely to find the clear presentation of key points by Broyde attractive, regardless of their affinity to the methodological or political orientation suggested by his framing of the topic. Although in European religious terms his approach would appear 'fundamentalist', in class and in coursework many students do not pose questions about his approach to Jewish Law. The same applies to positivist literature of a more liberal bent, too. To enable students to pose questions with confidence, a different kind of literature is needed than is currently easily accessible for these students.

Moreover, even the blossoming literature on Judaism and war, in response to growing public interest in the role of religion in contemporary debates about making peace and fighting wars, is often of limited benefit in the classroom. The political context of this public interest has encouraged essayists to write books and articles for a particular group of interested readers, to write from a particularist position.²³ Students, and their teachers, have a different need. They need to be able to study and discuss the multiple ways that Jewish Law has been thought about and can be brought to bear on the subject of war.

The extent to which the existing literature has developed in response to current political developments is visible in the argumentative framing of essays designed to show how Jewish texts fit with wider debates about the legitimacy or illegitimacy of war. There is a political dimension to this, which can be detected in a number of essays which debate Jewish legal or ethical

²⁰ Norman Solomon, "The Ethics of War: Judaism", in Richard Sorabji and David Rodin (eds), *The Ethics of War: Shared Problems in Different Traditions* (Aldershot: Ashgate, 2006), 108-37.

²¹ Reuven Firestone, *Holy War in Judaism: The Fall and Rise of a Controversial Idea* (New York, NY: Oxford University Press, 2012).

²² Robert Eisen, *The Peace and Violence of Judaism: From the Bible to Modern Zionism* (New York, NY: Oxford University Press, 2011).

²³ Further discussion will be found in George Wilkes, "Ambivalent Normativity: Reasons for Contemporary Jewish Debate Over the Laws of War", *Melilah*, special issue on 'Normativity', 8, 2012, 66-81.

foundation for understanding the legitimacy and limits of justified warfare. At one pole of the debate, writers show how Jewish thought fits with just war theory, and pacifist readings are viewed as a distortion of the tradition.²⁴ At the other end of the spectrum, essays are designed to explore the distinctive contexts for modern fundamentalisms that promote religious arguments for violence, though the essence of Judaism is commonly taken in this literature either to be more to the pacifist end of the spectrum or to be ambivalent about violence.²⁵

A further constraint on the extent to which current literature can present internal Jewish discussions derives from the extent to which many of the most interesting essays on Judaism and war frame Jewish Law by comparing it with secular or Christian thought. The academic literature on the topic ends up framed by two poles, similarity and difference, where Jewish perspectives are cast as either fundamentally similar to secular or Christian ethics or as differing in some areas. While the literature provides useful material for classroom discussion about comparisons between these bodies of legal thought, students are encouraged by their reading to adopt a dualistic framework ('Jewish views are similar in this way / Jewish views are different because...'): Do Jewish texts fit 'just war' categories, or not? Is the chain of Jewish texts used to represent a Jewish equivalent to just war theory founded on justice, and if so on what kind of justice? Is there a distinctively 'religious' rationale for Jewish texts about 'holy war' or 'commanded war',²⁶ or are the precedents provided by Jewish textual tradition better seen as a basis for the kind of continued reflection which Jewish and non-Jewish just war theorists now hold in common?²⁷

Similarly, whereas a number of texts have been published on the importance of peace in Judaism, they provide little more than an introduction to the comparative issues they imply. Even as the academic literature on these topics may include a wide range of comparisons between Jewish, Christian and Muslim literatures, it is often framed in narrow theological, philosophical or historical terms. It excludes reflection on questions such as in what ways varied Jewish texts on 'peace' mean something similar to the work on peace published by Christian academics and in what ways the development of a Jewish textual emphasis on peace differ from the development of comparable Christian literatures. One example will show the limitations of the academic field at present: Richard Sorabji and David Rodin, in a sustained discussion of the relationship between Jewish, Christian and Islamic philosophers, offer the hypothesis that Christians approached moderation in the conduct of war from

²⁴ Broyde and Solomon make this point.

²⁵ Eisen, *op. cit.*

²⁶ As Firestone argues, *op. cit.*

²⁷ As was argued in Michael Walzer, "Commanded and Permitted Wars", in Michael Walzer, ed., *Law, Politics and Morality in Judaism* (Princeton NJ: Princeton University Press, 2006), 149-168.

the opposite perspective from that adopted by Jews and Muslims, the former inclined to pacifism, the latter to warrior traditions²⁸ – a hypothesis which begs as many questions as it answers. A number of important Jewish commentaries on the subject²⁹ assert that Jewish approaches diverged because for millennia Jews have lacked a state and an army – relying on the assumption that Christian and other legal literatures developed through association with states and armies, rather than through a critical interest in states and armies.

A deeper sense of the limitations of the literature in English can be gained from the following facts:

- (1) There is no sustained exploration of the common view amongst writers of all denominational backgrounds that the *halakhah* provides a framework which encourages moderation in judgements about political action.
- (2) A reader seeking an introduction to the full spectrum of positions taken throughout the development of the Jewish textual tradition will find large gaps:
 - a) In essays on medieval rabbinic texts, Maimonides and Nahmanides receive much attention while other medieval writers receive very little, and early medieval writers in the preceding centuries strikingly little. (For now, the books by Firestone and Eisen present introductory discussions that students new to the subject may find useful.)
 - b) There is no English language discussion of early modern Jewish literature.
 - c) With the exception of a few treatments of certain dimensions of changing modern attitudes to war and peace,³⁰ literature on the late modern to contemporary period is marked by a tendency to focus on Israeli and not changing American or European Jewish attitudes.

²⁸ Richard Sorabji and David Rodin (eds), *The Ethics of War: Shared Problems in Different Traditions* (Aldershot: Ashgate, 2006), 5.

²⁹ E.g. David Biale, *Power and Powerlessness in Jewish History* (New York: Schocken Books, 1986); Michael Walzer, "Commanded and Permitted Wars", in Michael Walzer (ed.), *Law, Politics and Morality in Judaism* (Princeton NJ: Princeton University Press, 2006), 150; Stuart A. Cohen, "The Re-Discovery of Orthodox Jewish Laws Relating to the Military and War in Contemporary Israel: Trends and Implications", *Israel Studies*, 12:2 (2007), 1–28; Arye Edrei, "Law, Interpretation, and Ideology: The Renewal of the Jewish Laws of War in the State of Israel", *Cardozo Law Review*, 28:1 (2006), 188–227.

³⁰ Notably Mark Saperstein, *Jewish Preaching in Times of War, 1800-2001* (Oxford: Littman, 2008); the essays in *European Judaism* 48:1 (2015) on rabbinic writing in World War One; Judith Bleich, "Military service: Ambivalence and contradiction", in Lawrence Schiffman and Joel Wolowelsky (eds), *War and Peace in the Jewish Tradition* (New York: Yeshiva University Press, 2007), 415-476; and Derek Penslar, *Jews and the Military: A History* (Princeton, NJ: Princeton University Press, 2013).

(3) Moreover, none of the books about attitudes to political action and to war within discourse about Jewish Law provides a broad introduction to the historical development of halachic and other relevant Jewish literature from which students may develop their own independent contextual or interpretive explorations.

The result of the current state of the literature on Judaism and war is that, although there is much that could go on a reading list, there is little which can give students a critical introduction from which they can argue with the literature with confidence.

Worse, the existing range of published essays often repeat points made in other essays, to the potential frustration of students. Nor is this situation unique to war. This is true of other subjects that catch public attention, such as new aspects of medical or environmental ethics. Because of this, the further development of the literature on Jewish legal topics is of critical interest for the development of balanced, accessible teaching which is relevant and capable of supporting courses which draw in a wide range of students from different backgrounds. This problem was emphasised in Bernard Jackson's 1990 essay, and it remains of signal importance even after twenty five years in which teaching on Jewish Law has expanded greatly.

A first recourse to addressing this problem would be the publication of textbooks which join topical concerns with a multi-levelled approach to the contextual and interpretive tools students need – political, historical, methodological,³¹ and topical. A textbook is a natural starting point for such a course, and the absence of such reading makes the student's entry into the subject all the more challenging. This can be accomplished most easily by including chapters on all these subjects in introductory English-language textbooks on Jewish Law, such as a textbook on Jewish Law and war. Currently, however, these discussions are included at best merely tangentially.

The state of conditions is even worse for the field of Jewish Law and war. Even the series of books which have sought most to give coherence to the developing academic field of Jewish political theory³² – whose authors have all written in other publications on the ethics of war, blending Jewish references into philosophical enquiries designed for secular contexts – do not significantly engage with war as a topic of interest, let alone as a focus for

³¹ Jackson, *The Teaching of Jewish Law*.

³² Michael Walzer, Menachem Lorberbaum, Noam Zohar and Yair Lorberbaum, *The Jewish Political Tradition* (Vols 1 and 2, New Haven/London: Yale University Press, 2000, 2003).

further study. War has been included at best as an essay topic in a series of probing essays designed for political philosophers.³³

In short: a textbook development of this critical literature is a desideratum for the student interested in unfolding further historical and hermeneutical avenues for enquiry. The predominance of argumentative essays in the existing literature does not give students the contextual and hermeneutical tools that would facilitate more independent enquiry.

A second desideratum for the development of Jewish Law courses is the provision of primary source readers.³⁴ For the European or North American university this will be of particular value to those students with limited Hebrew. It is currently the case that a number of pertinent primary texts on war exist in translation, in English, German³⁵ and other European languages. Some key original texts in Hebrew are accessible through European and North American university libraries and on the world wide web. These, however, do not suffice for most European students. It is still difficult to find a range of relevant primary sources, and particularly in reliable translations together with Hebrew original.

In the field of Jewish Law and war the situation is worse. A well-informed student will find only with difficulty even contemporary relevant statements, policies and activities of the various American Jewish denominations (which are much clearer about their interfaith and Israel related programmes than their European counterparts). European Jewish organisations also offer no website which presents relevant materials, and students will not find links to such information by looking at websites which present general reflections on religions and the ethics of war, such as the educational section of the BBC's website. The nature of the problem can be seen in a concrete sense in relation to attitudes to humanitarian intervention. A student interested in the programmatic responses of Jewish organisations to humanitarian interventions from the 1990s will find some sources from American Jewish organisations in libraries and on the web, but will find it difficult to gauge the genesis and development of American Jewish opinion, and more difficult to get a sense of Jewish attitudes and organisational activities in European countries, or amongst Israeli Jewish religious authorities. Therefore, a primary source reader which gathers together materials likely to be used in teaching and learning on the topic would be a valuable addition to existing internet resources.

³³ Michael Walzer, "Commanded and Permitted Wars", in Michael Walzer (ed.), *Law, Politics and Morality in Judaism* (Princeton NJ: Princeton University Press, 2006), 149-168.

³⁴ Jackson, *The Teaching of Jewish Law*.

³⁵ See, e.g., Johann Maier, *Kriegsrecht und Friedensordnung in jüdischer Tradition* (Stuttgart: Kohlhammer, 2000).

To be clear: For a European university context, the need is less for a reader or a textbook which gives students a sense of selected representative texts and judgements than it is for a set of resources which encourage critical reflection. This is unlikely to be a product of conference publications or stand-alone articles, dominant in the literature to date. Although these do seek to plug a gap in the literature, they leave the student susceptible to absorbing uncritically a politically partisan approach. It is only with new contextual resources and discussions from a wider range of Jewish legal experts that the teaching of contentious areas of Jewish Law, such as Jewish law and war, can flourish in the European university setting. It will allow for the introduction of teachers focused on translating classes into wider learning experiences, instead of being limited to teachers who focus on transmitting specialists' differing senses of the most intellectually appealing or appropriate conceptual frameworks.