

TAL 6150
“Humans and Other Animals in Talmudic Torts”
Prof. Beth Berkowitz
The Jewish Theological Seminary of America
Fall 2010
Monday/Wednesday 10:20-12:10

“Among nonhumans and separate from nonhumans there is an immense multiplicity of other living things that cannot in any way be homogenized, except by means of violence and willful ignorance, within the category of what is called the animal or animality in general.”

Jacques Derrida
“The Animal That Therefore I Am”

Theme of Course

Human beings have long considered themselves unique among animals. In recent decades, new research on animal cognition and the rise of the environmentalist movement have challenged the conviction that we are superior to – and have the right to exploit – other animal species. This course will explore the conceptualization of animals within classical rabbinic law. Slaughtering, sacrificing, and eating animals are the most prominent legal topics, but the Mishnah also discusses buying, selling, owning, inheriting, stealing, judging, and worshipping animals, as well as keeping them as pets, using them for labor, gambling with them, and having sex with them. Our course will focus on rabbinic laws about injury to and by animals, which is most often embodied by the “goring ox,” a legal motif inherited from the Torah (which was probably in turn borrowed from the Laws of Hammurabi). We will keep in mind the broader rabbinic discourse about animals as we ask:

- According to rabbinic assumption, what is the character of animal cognition, communication, intention, emotion? What do animals know? What can they learn? Do they change? Are they moral agents? Can they sin?
- How are human beings and other animals alike? How are they different? Is there such a thing as animal “nature” and/or human “nature”? How much individual variation is there among human beings and how much among animals?
- What is the range of relationships between animals and human beings, and how do animals have an impact on human beings’ relationships with each other?
- How are animals used in rabbinic rhetorics of dehumanization – of women, of slaves, of gentiles, of laborers? How does rabbinic rhetoric about animals work to distance humans from their own animality?

We will use contemporary philosophical writing about animals, starting with Peter Singer’s foundational *Animal Liberation*, to help us formulate questions for and critically approach rabbinic writings, and we will use historiography of animals in the rabbinic world, the Roman Empire, and early Christianity to ground our analysis in the historical setting of the texts.

Purpose of Course

The purpose of this course is to explore rabbinic legal discourse about animals at the same time that we sharpen reading skills for Talmud, Rashi, Tosafot, Rashba, and modern source criticism as represented by David Weiss Halivni. We will move through selected sugyot from the first seven chapters of Bava Kamma, with a brief detour at the end of the semester to Bava Metzia to look at its extended sugya on *tza'ar ba'ale hayim* (the suffering of creatures). We will approach texts with an eye for their language, structure, technical terminology, and characteristic method and concerns. To that end, we will develop text study guides that address these features. The ultimate goal of the course is to integrate the reading skills with the thematic exploration to produce a vibrant and meaningful interpretation of class texts and to create a model for this process that can be extended to other Talmudic texts besides Bava Kamma and to other themes besides animals.

Requirements of Course

Attendance at and preparation for each class session (10% of grade)

Presentation of one Talmud text with Rashi (with handout that includes translation, outline, and vocabulary; a handout model will be distributed; may be done in hevruta) (20% of grade)

Presentation of one comment by one rishon or modern source critic (with handout that includes translation, outline, and vocabulary; may be done in hevruta) (20% of grade)

“Integrative” project that incorporates at least one primary reading and one secondary reading from semester texts

The project might be a responsum or analysis of an existing responsum, a sermon, a curriculum or teaching plan, a theological reflection, a discussion of a contemporary Jewish writer on animals (e.g. Levinas), an artwork, theater or musical piece, a proposal for some form of Jewish animal-related activism (or actual project that you invite the class to participate in), a comparative project between rabbinic laws on animals and other religious traditions

Students will briefly present these projects in class towards the end of the semester (20% of grade)

Final exam that will address only texts we have covered in class sessions (Mishnah, Tosefta, Talmud, Rashi, Tosafot, Rashba, Halivni) and will ask basic interpretive questions about the mechanics of the text (30% of grade)

Office Hours

I do not hold set office hours, but I very much encourage and enjoy student appointments, so please email at beberkowitz@jtsa.edu to set up a time to meet. My office is 307 Unterberg.

Disability Policy

The JTS policy on disabilities may be found at www.jtsa.edu/About_JTS/Administration/Policies/Students_with_Disabilities.xml
 Please discuss with me any disabilities you have that could affect your work in class and we will make all possible accommodations (indeed, this is required by law). If events occur in the course of the semester that affect your work in class and that would be helpful for me to know about, please do not hesitate to get in touch.

Academic Integrity

Students in this class are expected to maintain academic integrity and academic dishonesty will not be tolerated in this class. JTS Student Disciplinary Procedures can be found at http://www.jtsa.edu/About_JTS/Administration/Policies/Student_Disciplinary_Procedures.xml. JTS students are expected to bear individual responsibility for their work, to learn the rules and definitions that underlie the practice of academic integrity and to uphold its ideals.

Schedule of Sessions with Assignments

Subject to change

		PREPARATION
Mon	Sept 13	Introduction to Course Bible on Animal Injury Exodus 21-23 with JPS and Anchor Bible, to be studied during class
Wed	Sept 15	Bible continued Mishnah Bava Kamma Chapters 1-7 Hayim Lapin translation JJ Finkelstein, <i>Ox That Gored</i> , pp. 20-39
Mon	Sept 20	Tosefta Bava Kamma Selections; Judith Hauptman, <i>Rereading the Mishnah</i> , 1-2, 34-36, 164-188
Wed	Sept 22	NO CLASS
Mon	Sept 27	Scholarship Part 1: Animal Philosophy
Wed	Sept 29	NO CLASS
Mon	Oct 4	Bava Kamma 2a-3a: Categories of Damage by Animals
Wed	Oct 6	Bava Kamma 2a-3a
Mon	Oct 11	Bava Kamma 2a-3a
Wed	Oct 13	Bava Kamma 2a-3a
Mon	Oct 18	Bava Kamma 16a-b: Dangerous Animals
Wed	Oct 20	Bava Kamma 16a-b
Mon	Oct 25	Bava Kamma 24b: Inciting a dog to bite
Wed	Oct 27	Scholarship Part 2: Animals in Rabbinic Literature
Mon	Nov 1	Bava Kamma 34b-35a: Liability for one's own actions versus liability for one's animal's actions
Wed	Nov 3	Scholarship Part 3: Animals in the Roman Empire

Mon	Nov 8	Bava Kamma 37a-37b: Goring habits
Wed	Nov 10	Bava Kamma 37a-37b
Mon	Nov 15	Bava Kamma 38a-39a: A Jew's ox gores a gentile's ox
Wed	Nov 17	Bava Kamma 38a-39a
Mon	Nov 22	Bava Kamma 40b-41a: The "stadium" ox (if extra time: continue on 41a with shor muad) Bava Kamma 54a-b: The intelligent ox
Wed	Nov 24	Bava Kamma 79b-80b: Raising sheep and goats in Israel/ The vicious cat
Mon	Nov 29	Bava Kamma 82b-83a: Raising dogs and pigs
Wed	Dec 1	Project Presentations
Mon	Dec 6	Bava Metzia 32a-33a: Is the suffering of animals a de-oraita concern?
Wed	Dec 8	Bava Metzia 32a-33a
Mon	Dec 13	Bava Metzia 32a-33a
Final Exam Date TBA		

ANIMAL STUDIES READING LIST

De Waal, Frans. *The Ape and the Sushi Master: Cultural Reflections of a Primatologist*. New York: Basic Books, 2001. Pp. 37-84.

Diamond, Cora. "Eating Meat and Eating People." In *Animal Rights: Current Debates and New Directions*, edited by Cass R. Sunstein and Martha C. Nussbaum. New York: Oxford UP, 2004. Pp. 93-107. (first published 1978)

Epstein, Richard. "Animals as Objects, or Subjects, of Rights." In *Animal Rights: Current Debates and New Directions*, edited by Cass R. Sunstein and Martha C. Nussbaum. New York: Oxford UP, 2004. Pp. 143-161.

Foer, Jonathan Safran. *Eating Animals*. New York: Little Brown, 2009. Pp. 21-41.

Singer, Peter. *Animal Liberation: A New Ethics for Our Treatment of Animals*. New York: New York Review Book, 1975. Pp. 1-27.

Singer, Peter. "Animal Protection and the Problem of Religion: An Interview with Peter Singer." In *A Communion of Subjects: Animals in Religion, Science and Ethics*, edited by Paul Waldau and Kimberley Patton. New York: Columbia UP, 2006. Pp. 616-618.

ANIMALS IN RABBINIC LITERATURE READING LIST

Aptowitz, Avigdor. "The Rewarding and Punishing of Animals and Inanimate Objects: On the Aggadic View of the World." *Hebrew Union College Annual* 2 (1927): 117-155 (read only until p. 141).

Diamond, Eliezer. "Lions, Snakes and Asses: Palestinian Jewish Holy Men as Masters of the Animal Kingdom." In *Jewish Culture and Society under the Christian Roman Empire*, edited by Richard Kalmin and Seth Schwartz. Leuven: Peeters, 2003. Pp. 251-283.

Schwartz, Joshua. "Dogs and Cats in Jewish Society in the Second Temple, Mishnah and Talmud Periods. In *Proceedings of the Twelfth World Congress of Jewish Studies (Jerusalem, July 29-August 5, 1997), Division B: History of the Jewish People*. Jerusalem: World Union of Jewish Studies, 2000. Pp. 25-34. (and two articles in JJS, one on dogs and one on cats)

Shemesh, Abraham. "Biology in Rabbinic Literature: Fact and Folklore." In *The Literature of the Sages, Second Part: Midrash and Targum*, edited by Shmuel Safrai, Zeev Safrai, Joshua Schwartz, and Peter Tomson. Minneapolis/Assen, The Netherlands: Fortress/Van Gorcum, 2006. Pp. 509-520.

Shochet, Elijah Judah. *Animal Life in Jewish Traditions: Attitudes and Relationships*. New York: Ktav, 1984. "Part II: A Rabbinic Portrait," pp. 83-194.

Stern, Sacha. *Jewish Identity in Early Rabbinic Writings*. "Non-Jews As Animals." Leiden: Brill, 1994. Pp. 33-39.

ANIMALS IN THE ROMAN EMPIRE READING LIST

Digest of Justinian. Selections from Book 9.

Gilhus, Ingvild Sælid. *Animals, Gods and Humans: Changing Attitudes to Animals in Greek, Roman and Early Christian Ideas*, New York: Routledge, 2006. Chapter 1, "Animals in the Roman Empire," pp. 12-36, "Consequences," pp. 262-270.

Jackson, Bernard. "Liability for Animals in Roman Law: An Historical Sketch." *Cambridge Law Journal* 37/1 (April 1978): 122-143 (pp. 138-143).

Jennison, George. *Animals for Show and Pleasure in Ancient Rome*. Philadelphia: University of Pennsylvania Press, 2005 (first published 1937). Pp. 1-9, 83-98, 126-136, 165-173.

Toynbee, J. M. C. *Animals in Roman Life and Art*. London: Thames and Hudson, 1973 (originally published). Pp. 15-31, pp. 148-166.