

# Learning Law Young: What Happens When Schools Teach (Jewish) Law

■ by **MICHAEL BROYDE** and **IRA BEDZOW**

Broyde and Bedzow argue for the continued relevance of teaching Halakhah as a core subject in day schools to students of all ages, albeit for novel reasons.

*One who studies the Law as a child, to what can he be compared? To ink written on fresh paper. And one who studies the Law as an old man, to what can he be compared? To ink written on smudged paper. Mishnah Avot 4:25*

Jewish schools, like all schools, provide children with the tools that they will need in the real world. Students learn a number of subjects, as well as the means to interact socially through sports teams, drama and other clubs. Yet Jewish schools also include a tool in their curriculum that other schools do not, which gives them a unique value proposition: the methodology of Jewish law. For Jewish school students who desire to learn a skill that can help them in many different areas of life, the study of Jewish law allows them to develop a way of thinking that could help them excel in various business and academic situations long after they graduate from high school.

Unlike the study of other Jewish subjects, the study of Jewish law provides this benefit because it teaches not only content but a way of thinking. Though the development of this skill corresponds to the level of depth and breadth that students learn, this skill can be developed through the study of the Mishnah and Talmud, as long as students are learning how to think about the law and not only what the law says.

## *Is There Really a Difference Between Jewish and Secular Schools?*

Though many people consider Jewish and secular educations as distinct, even if complementary, the two curricula have more similarities than differences. The same methods used in Jewish classes are used in secular classes. While learning Hebrew provides students with the means for cognitive development that comes with learning a foreign language, any foreign language would provide this skill.



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This is not to say that Jewish subjects are not important; they are extremely important in terms of content. They give students the ability to understand Jewish texts and perform Jewish practices in a way that imbues a strong Jewish identity. Jewish education also provides a Jewish socializing environment that teaches students how to live as Jews in Jewish communities. However, in terms of functional skills which help students to live in the broader world, Jewish education

duplicates the skills learned through its secular counterpart.

Nonetheless, there is one subject which is part of the curriculum of a Jewish education that provides a unique functional benefit. When students learn Jewish law, they encounter “legal thinking,” which is not just rule obedience. They are provided with insight into how law functions generally as a thinking discipline.

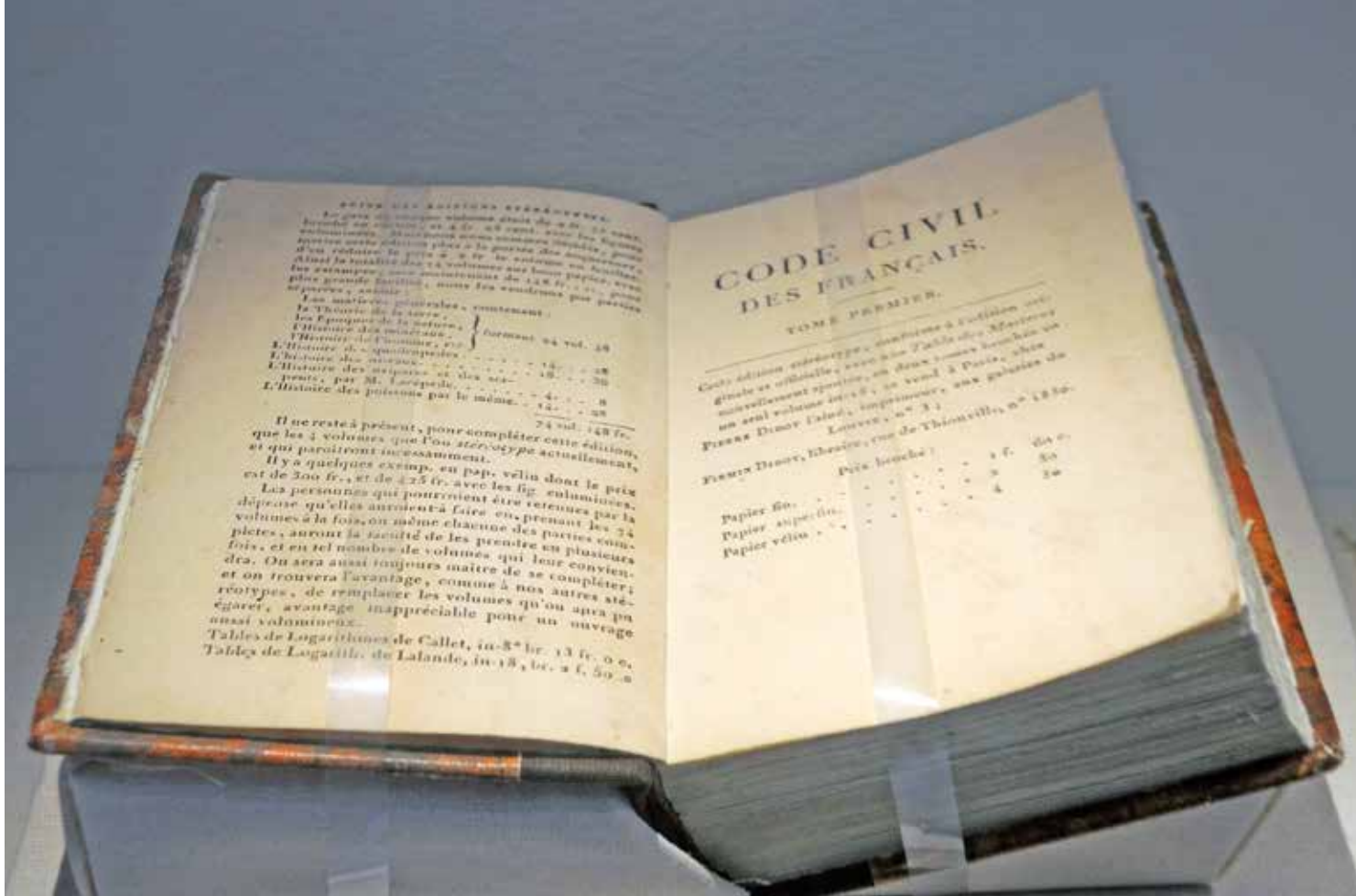
## *Tools of Legal Thinking*

The law is never black or white. A legal education is not about learning how to directly apply a rule to a situation or how to find a conclusion given certain premises. Moreover, the law is messy, since it

is about determining norms from experience.

In the real world, people need to do more than just identify correct answers or justify their opinions. In fact, the real world is seldom so clear and linear to allow for a “correct” answer. More often than not, decisions are the result of nuance and the negotiating between opposing, or even contradictory, views. There is hardly ever just one right answer

This article is an expansion of an ELI talk given by Michael Broyde entitled “Learning Law Young: What Happens When Elementary Schools Teach (Jewish) Law.” The talk can be found at <http://elitalks.org/video/michael-broyde/>.



or one perspective to consider.

The ability to think dialectically is key to achieving success in the world, and it is this skill that students learn through the study of Jewish law. Two major tools which “legal thinking” provides is the ability to produce incompletely theorized agreements and analogical reasoning.

### Incompletely Theorized Agreements

Incompletely theorized agreements allow people to agree upon a particular outcome without demanding that they agree as to why that outcome is best. A broader range of people can come together with a shared sense of commitment and purpose, even though they may disagree as to the reason to pursue the shared goal.

The technique of trying to find incompletely theorized agreements also allows for questions to be localized to a specific context, without needing the answer to fit into a more general, abstract theory. This makes decision-making more effective

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and productive, while at the same time more applicable to the particular situation.

### Analogical Reasoning

Analogical reasoning allows people to check their intuitions against another, similar situation, rather than against a rule that covers all situations. Also, when learning a new concept, the use of analogies can give students a firmer grasp of what the teacher is trying to convey through its comparison to what they already know. Analogical reasoning differs from deductive reasoning, in which the governing rule is given first, and the student derives particularities from the rule.

In analogical reasoning, reasoning itself helps a person to identify the rule. Outside of school, people most often have to

learn the “rules of the game” as they are playing it; seldom do people get a rulebook in advance. Analogical reasoning helps a person identify the rules of the game by comparing situations as he or she experiences them.

### Legal Thinking Leads to Cooperation

Because of these two aspects of legal thinking, discussions of cases will also be exercises in considering others’ perspectives and learning to appreciate that there may be more than one answer to a question. This in turn will help students develop intellectual humility and honesty and will make them open to others’ opinions, both inside and outside the classroom. Students may also become more comfortable with ambiguity and compromise, thereby allowing them to approach the

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outside world with self-assurance even when their surroundings are different from what they know.

Students are able to attain these characteristics through learning Jewish law because legal reasoning is applicable to any problem. It is not just a tool to examine a specific subject, like what to do when your friend's ox damages your own. It is a tool that one can use when deliberating about life.

### *Learning "Legal Thinking," not Rules*

One may challenge our premise by saying that all schools have rules which students are expected to follow, and teaching students to obey school rules is part of the education process. One could even think to argue that in reviewing classroom rules and through their enforcement, students learn "legal thinking," since they appreciate the rules as being reasonable, rather than being based solely on the teacher's or school's authority. In response, we would say that students may learn some form of "legal thinking" through their interaction with school rules. Yet the manner in which they develop this skill is ad hoc, since they learn it primarily on their own and informally. The difference between Jewish schools and others is that students in Jewish schools learn legal reasoning as part of the official curriculum. They are therefore given the guidance and pedagogical support to develop the skill most effectively.

The uniqueness of a Jewish legal education is that it teaches a person to think about problems in a different way than is currently taught in other schools. That is not to say that legal thinking should be seen in contrast to other ways of thinking. On the contrary, legal thinking incorporates many of the skills that other subjects also impart, such as reading comprehension and critical reading, deductive and inductive logic, and even the scientific method. However, in addition, it also provides students with a "law way" to think about problems, which builds on these other skills and applies them in different ways.

The fact that the subjects which Talmud classes usually cover tend to be irrelevant to today is actually more beneficial to students than studying more contemporary topics. By learning about subjects whose details have no relation to day-to-day life, students are able to concentrate on the Talmudic process and not jump straight to the conclusion. If the topics were more relevant, students would have a greater inclination to skip to the end in order to find out "what to do." They would then be sacrificing the ability to think for the opportunity to have the correct answer. By teaching subjects with only theoretical interest and not practical consequences, students become interested in the thinking process itself and not with how the process ultimately tells them what to do.

### *Law Obedience not Avoiding Punishment*

Another aspect to a Jewish legal education that benefits students outside of the classroom is that learning about the law leads to greater law obedience. Learning Jewish law not only provides the means for students to formally learn how to think about school rules, it also gives them the tools to similarly interpret and reflect on the laws of the communities in which they live. Instead of falling into blind compliance and potential disdain for the law, they may become active participants in democratic society due to the healthy respect for the law that they gained in school. Obedience to the law corresponds to their appreciation and participation in it.

### *Improved Test Scores*

Recently, Sam Favate wrote a piece in *The Wall Street Journal* ("Study Shows Why Lawyers Are So Smart," August 28, 2012) about a new research study which showed that studying for the law school entrance exam alters a person's brain structure - and could make him or her smarter. The study focused on fluid reasoning, which is the ability to tackle a novel problem. It is also the major component of what IQ tests measure, as well as being a measure for

predicting academic performance and the potential for success in a demanding career. That is how LSAT tests, in general, are able to assess how well a person may succeed in law school. If Jewish schools are providing this tool to students from an early age, it would seem that Jewish schools have the ability to make their students smarter than their secular counterparts.

### *Conclusion*

Learning "legal thinking" is an underappreciated virtue of Jewish education. It provides an important thinking skill set that students will carry with them their whole lives. Most importantly, it is a skill that benefits its owner both within Judaism and outside of it; it changes how one practices medicine, lives in one's marriage, argues with friends, analyzes business deals, and generally solves complicated problems.

Jewish schools are training students in an analytic skill that they get nowhere else. Yet rather than recognizing the benefits of learning Jewish law for the future success of our children, there is currently a deep sentiment in Jewish education, both in Israel and in America, against the teaching of Talmud. There is a similar disdain for the study of Mishnah or Halakhah in a manner that seeks to build skills rather than simply learn content. The shared sense of frustration is driven by the popular notion that most students do not acquire self-sufficient learning skills, or retain any useful knowledge, and as a result they do not experience the deep spiritual uplift or joy which we might believe makes it worth learning Talmud.

Due to this concern, many Jewish schools are modifying their curriculum to give greater focus to the teaching of relevant, practical Halakhah and to the study of Bible, while the vestige of Talmud study is relegated to focusing on language skills rather than conceptual analysis. We hope that Jewish education will not give away its key and primary tool for raising independent and responsible Jewish adults who are prepared for success in the real world. ■