

Exploring Jewish Conscientious Objection: Past, Present and Future

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This is a working outline of today's presentation. We likely will not cover all of this material but I'm sharing it for attendees to be able to refer to for additional reading through the cited sources, etc. I have also added a few extra footnotes (after the presentation) to update some content.

1. Seminar Introduction

- a. Before we delve into our learning, I thought it would be good if we began with a blessing for Torah learning:
 - i. *Baurch B'or Ha'olam, blessed is the light of the world that brings us to this moment. May all of us be ready to wrestle with Torah, and may we all be blessed with peace, lovingkindness, and curiosity. Amen.*
- b. This seminar is intended to provide an introduction to the subject of Jewish Conscientious Objection, over 3 sessions --- the first will be looking at the past --- the history of conscientious objection in Judaism and in the broader society, the second session will be looking at the theology and philosophy of conscientious objection. And then in the third section we will be looking at the future, especially how Jewish and Jewish-adjacent people can best be ready to support conscientious objection, with a special focus on the issues facing Jews in the United States and in Israel.
- c. We have the proverbial "mixed multitude" in class today including folks both online, in-person here in Oklahoma City, and of course later viewers of the recordings of these programs. But we also have a mix of generations, as well as a mix of both Jewish folks and non-Jewish folks.
- d. Most of the class will be in lecture form, but we hopefully will have time for some discussion for the last 10 minutes of each hour.
- e. First though, I do want to give a tiny bit of my background about myself, as I want you to know my biases coming into this subject. – I've been an attorney since 2006 and most of my career I have been focused on the area of military law, meaning that I represent members of the US military as a private civilian attorney. This includes in courts-martial, administrative separation board hearings, but also in the context of military discharges, including those based on conscientious objection. And finally, I do fair bit of First Amendment law in a military context, helping servicemembers to know the legal boundaries of what they can and cannot say while in the military. Sometimes the discharge is for CO, sometimes on other grounds, but always issues of morality and conscience are at play.

- f. I've worked with servicemembers from all branches (except for the Space Force!) in many posts and have been deeply moved by the courage shown by those who are willing to take the heat and seek to be discharged.
 - g. Outside of my legal work, I also serve as an Interfaith Officiant through the Oklahoma Objector Community and part of the leadership team at the Spinoza Havurah.
 - h. Lastly I do have to give a few disclaimers (especially for those watching later in record form):
 - i. This presentation is general in nature and is not a substitute for particularized legal advice.
 - ii. I am not an expert on Jewish law, particularly from a traditional perspective. I'm giving my opinions about it, but I'm very much in the Humanistic/Reform camp, and hence approach halacha from a perspective of individual choice.
2. Before we jump into the history, I do want to define a few terms:
- a. **Conscientious objector**: a legal term that refers to those who are morally opposed to all wars on the basis of conscience. It is often framed religiously in the past but current case law and statutes in the US have made it clear that non-religious folks can qualify as well, if their moral values have the same level of depth as those of religious folks.
 - b. **Selective CO**: A term to refer to those who are opposed to some wars but not all wars - this status is not currently recognized under the law, unfortunately
 - c. **War Resister** - a term used to describe those who resist a particular war, often for political, philosophical or other reasons. Some war resisters might also qualify as CO's if they are morally opposed to all wars, but some war resisters refuse to seek the status due to their objection to participation in the machinery of the draft itself.
 - d. **Civil Disobedience** – the intentional breaking of unjust laws for the sake of conscience
 - e. **Draft Dodger** - This imprecise and heavily debated term normally refers to men who found ways to avoid being drafted, most often through the use of legal exemptions, but also through going underground or by seeking refuge in third countries, including Canada and Sweden. I prefer the less pejorative term of **"Draft Resister"**

- f. **Draft Registration Resister** - These are men who have refused to register for the draft. A small number were imprisoned in the early 1980's for this, but many more suffer other collateral consequences of refusing to register.

3. A look at some history

a. Pre-History/Biblical Times

- i. This gets into the tricky territory of sorting out what is historical and what is legendary. Since we'll be discussing some of the Biblical texts that touch on CO in the second session, we won't discuss this in detail quite yet, but rather just read this verse, Deuteronomy 20:8 – *"The officials shall go on addressing the troops and say, 'Is there anyone afraid and disheartened? Let him go back to his home, lest the courage of his comrades flag like his.'"*

b. Maccabean War

- i. Following the teaching from Deuteronomy (which will discuss in our next hour), we have this important reference in 1 Maccabees 3:56, where Judas Maccabee gave this instruction- "In keeping with the Law, he told all who were building houses or were about to get married or were planting a vineyard or were fainthearted to go home." (CEB).
- ii. This exemption went away under his successor, Jonathan Maccabee.¹

c. Roman Empire

- i. Jews were often granted exemptions from conscription in the early days of the empire, often due to the "unusual" scruples of Jews regarding marching behind imperial imagery, but this was not universal in scope and tended to be either extended to individual communities or to individual people.
- ii. Many Jews did serve in the Roman military until the 5th century CE when Jews were banned from service by Emperor Theodosius II.² This prohibition became the norm throughout the succeeding centuries throughout Europe.³

d. Medieval Era

- i. In many parts of the world during this era, citizenship and military service were tied together. Since Jews were often treated as non-citizens, this

¹ Kasher, Aryeh "The Changes in Manpower and Ethnic Composition of the Hasmonaean Army (167-63 BCE)" *The Jewish Quarterly Review* (Jan. - Apr., 1991, Vol. 81, No. 3/4), p. 325-352, 336 (University of Pennsylvania Press) - Stable URL: <https://www.jstor.org/stable/1455323>

² <https://bmcr.brynmawr.edu/2022/2022.11.25/>

³ The Jews in the Defence of Britain: Thirteenth to Nineteenth Centuries Author(s): Cecil Roth Source: *Transactions* (Jewish Historical Society of England), 1939-1945, Vol. 15 (1939- 1945), pp. 1-28
Published by: Jewish Historical Society of England Stable URL: <https://www.jstor.org/stable/29777839>
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meant that Jews were largely barred from military service and hence not subject to being drafted.

- ii. This all began to shift with the Enlightenment, which led to Jews receiving full rights of citizenship in many countries, but also now being subject to conscription.
- iii. I also must note in passing that I have not yet researched the history of conscientious objection as it relates to the lives of Sephardic and Mizrahi Jews.

e. **Meanwhile across the pond** – a different type of society was brewing, leading to the American Revolution. There were Jews in Colonial North America, but they were a small part of the society.

f. **Revolutionary War era**

- i. Some states called up civilians to serve in militias but there was no nation-wide draft during this war.

g. **War of 1812**

- i. The President wanted one, but it was successfully shot down in Congress, mostly thanks to Congressman Daniel Webster's leadership

h. **Civil War**

- i. Drafts were called in both the North and South, but followed the previous pattern of being implemented by the states.
- ii. Significant unrest and conflict over the draft - widespread evasion but also rioting in NYC
- iii. Famously, Frederick Douglass opposed the draft, saying in 1865 "What is freedom? It is the right to choose one's own employment. Certainly it means that, if it means anything. And when any individual or combination of individuals, undertakes to decide for any man when he shall work, where he shall work, at what he shall work, and for what he shall work, he or they practically reduce him to slavery."⁴
- iv. The draft laws in both the North and South allowed for some limited exemptions, but also specifically allowed draftees to pay for someone else to serve in their place.
- v. As to the Jews in the Civil War --- we were involved in both sides of the conflict (but with greater numbers in the North), but haven't found any sources that discussed the issue of conscientious objection during this time in the Jewish community.

i. **World War I**

⁴ **Later note added during editing:** Douglass did say these words, but it is not clear what his position was on military conscription. I recall seeing another source saying this quote showed he was opposed to the draft, but I haven't found that quote since then, and most other sources focus on Douglass' role in encouraging Black military recruitment.

- i. First time a nationwide, federally administered draft was called.
- ii. Wildly unpopular in many places, but especially in my home state of Oklahoma, where there was actually an armed rebellion against the draft called “The Green Corn Rebellion” which happened in August of 1917, 108 years ago. The rebellion was a triracial movement of poor whites, Blacks and Native Americans who saw the draft as a tool of oppression by the rich. The rebellion was quickly put down, leading to a time of terror in Oklahoma in which leftists of all stripes, but also religious pacifists (who weren’t involved in the rebellion) were targeted.⁵
- iii. To give a small taste of the revolutionary spirit that the draft sparked, I have one short reading to share. An elderly Seminole-Muscogee Creek woman relayed to author [Roxanne Dunbar-Ortiz](#) that her uncle had been imprisoned after the rebellion, and shared this: "The full moon of late July, early August it was, the Moon of the Green Corn. It was not easy to persuade our poor white and black brothers and sisters to rise up. We told them that rising up, standing up, whatever the consequences, would inspire future generations. Our courage, our bravery would be remembered and copied. That has been the Indian way for centuries, since the invasions. Fight and tell the story so that those who come after or their descendants will rise up once again. It may take a thousand years, but that is how we continue and eventually prevail."^[20]

iv. Role of exemptions

- 1. Buying one’s way out was banned, instead all decisions were made by local draft boards. These local boards tended to call up poor men, because they saw them as unskilled and not needed at home.
- 2. Many sought exemptions, often based on economic reasons or due to family hardship — I found in researching my family tree that three of my four male ancestors who were of draft age during WW1 sought exemptions from the draft.
- 3. What about conscience? - WW1 era draft laws only recognized claims by a limited number of religious traditions, but even these exemptions were disallowed by local draft boards.

v. Where were the Jews in these debates?

- 1. In the UK (which had a much longer involvement in the war), major Jewish institutions largely supported conscription but many individual Jews and some leaders opposed it, with some facing severe consequences for refusing induction.⁶
- 2. In the US and Canada - I haven’t yet found anything written about draft resistance in the Jewish community during WW1, but I did find [this 1917 resolution by the CCAR](#) (from the Reform movement) which

⁵ <http://www.Greencorn.org>

⁶ <https://www.jewsforww.uk/jewish-conscientious-objectors-717.php>

took a hostile position towards conscientious objection: “While the mission of Israel is Peace, yet when one’s country is at war in behalf of righteousness and humanity, the individual Jew who claims this hope of Judaism as a ground of exemption from military service, does so only as an individual inasmuch as historic Judaism emphasizes patriotism as a duty as well as the ideal of peace.”

j. Inter War Years

- i. Conscription was off the table for a time, but US immigration laws still prevented immigrants from becoming US citizens if they conscientiously refused to participate in war. - Jews did speak out in opposition to this law, but also in support of conscientious objection more generally.
- ii. **1929 & 1930** - CCAR calls for the US government to not bar immigrants from naturalization who would refuse to bear arms in defense of the nation.⁷
- iii. **1931** - CCAR says “It is in accord with the highest interpretation of Judaism for a Jew to conscientiously object to personal participation in warfare. We oppose any legislation designed to penalize adherents of any religion who conscientiously object to personally engaging in military operation.”⁸
- iv. **1932, 1936** - CCAR calls for the rights of Jewish CO’s to be recognized alongside those of the traditional peace churches.⁹

k. World War 2

i. Social changes

1. WW2 was backed by the public in ways that WW1 never was, hence there was popular support for conscription even before the US entered the war.

ii. Legal changes -

1. Current selective service system was established in 1940. Problems of WW1 Draft system were well-recognized.

iii. Resistance still occurred

1. About 4% of those drafted evaded it by showing up, with a small number of those eventually being prosecuted.
2. 72,000 men registered as conscientious objectors. Almost 52,000 received the status with 25,000 of those going into the military in noncombatant roles, and 12,000 going to the Civilian public service

⁷ <https://www.ccarnet.org/ccar-resolutions/conscientious-objectors-1889-1972/>

⁸ <https://www.ccarnet.org/ccar-resolutions/conscientious-objectors-1889-1972/>

⁹ <https://www.ccarnet.org/ccar-resolutions/conscientious-objectors-1889-1972/>

program. Of those who were rejected as CO's, nearly 6,000 went to prison.

iv. The Jewish part of the equation

1. Many Jews participated in WW2, but a small number sought exemption as CO's or other refused induction.¹⁰
2. Jewish Peace Fellowship was formed in 1941 to "to support Jewish conscientious objectors to the military, to help educate local draft boards --accustomed only to the Christian roots of conscientious objection--of the theological basis of the Jewish position on conscientious objection, grounded in Torah, Talmud, and other sacred and religious texts." (from JPF website)
3. The formation of JPF in time led to increased Jewish engagement with other religiously-oriented peace organizations, which set the stage for the future.
4. Besides JPF, there also was some degree of support of conscientious objection by mainstream Jewish organizations. Here are a few examples I have found:
 - a. **1940, 1942** - CCAR called for continued respect for rights of CO's, including those from minority traditions.¹¹
 - b. **1946, 1956** - CCAR called for removal of all sanctions on those previously imprisoned for refusing to comply with the draft.¹²

I. Korean War and the Cold War Era Peacetime draft

- i. Many WW2 era policies continued, but the exemptions were tweaked...
 1. The paternity exemption for married men was removed.
 2. An exemption for college students was added, but only for the current semester.
 3. Also a doctor's draft was created which drafted medical doctors who were past traditional draft age. --- a good example of this from popular culture was Major Winchester on the TV show MASH, who was not happy to be drafted from his elite job in Boston to work in a mobile army surgical hospital.
- ii. There continued to be a small number of Jewish CO's and draft resisters during the Korean War but I've found little written about this history. It does look like the [Murray Polner papers at Bryn Mawr college has some materials on this that I hope to read some day.](#)

¹⁰ For one example of a Jewish draftee who sought CO status, was denied, and the sent to prison for it, see Robert Lowell: "Peace and the Jews" Author(s): Evelyn Wilcock Source: *European Judaism: A Journal for the New Europe*, Winter 88/Spring 89, Vol. 22, No. 1, *THE INTERFAITH ENCOUNTER* (Winter 88/Spring 89), pp. 31-38 Published by: Berghahn Books Stable URL: <https://www.jstor.org/stable/41444364>.

¹¹ <https://www.ccarnet.org/ccar-resolutions/conscientious-objectors-1889-1972/>

¹² <https://www.ccarnet.org/ccar-resolutions/conscientious-objectors-1889-1972/>

m. Vietnam War

- i. The war was wildly unpopular, particularly among young adults.
- ii. Resistance took many forms including overt action (burning of draft cards, going underground in the USA, fleeing other countries).
- iii. A groundswell of organizing by ordinary people of all walks of life to be trained to serve as draft counselors.¹³
- iv. The end result is that many draftees were able to escape the draft...
 1. Some did alternative service as CO's
 2. Some went to prison
 3. Some found other forms of exemption
 4. Some did noncombatant service in the military
- v. The Jewish story
 1. The institutional Jewish world had a variety of responses, including:
 - a. **1969**
 - i. The Rabbinic Council of America's President condemned the burning of draft cards, as "'clear violation of the basic process of democracy.'" ¹⁴
 - ii. United Synagogue Youth convention "voiced opposition to draft because of Vietnam conflict and asked Jewish agencies and rabbis to offer direct counseling on military service, conscientious objection and pacificism"¹⁵
 - iii. The case of John Scott Ruskay gets attention. He is a JTSA student who was denied his CO claim by his draft board because a board member said "Jews can't be CO's."¹⁶
 - b. **1970**
 - i. Synagogue Council (representing Reform, Conservative and Orthodox Jewish organizations) calls for equal treatment of Jews in draft boards, saying that CO can be a legitimate Jewish position.¹⁷

¹³ For a discussion of what draft counseling looked like in Jewish context in 1968, see ("Diary of a Los Angeles Jew", 1942–1972 (An Excerpt Author(s): MARC LEE RAPHAEL Source: *American Jewish History*, September 2004, Vol. 92, No. 3 (September 2004), pp. 299-311 Published by: The Johns Hopkins University Press Stable URL: <https://www.jstor.org/stable/23887301>

¹⁴ "THE AMERICAN JEWISH COMMUNITY RESPONDS TO ISSUES OF THE DAY: A COMPENDIUM" Author(s): Geraldine Rosenfield Source: *The American Jewish Year Book* , 1969, Vol. 70 (1969), pp. 247-259 Published by: American Jewish Committee; Springer Stable URL: <https://www.jstor.org/stable/23603409>

¹⁵ "THE AMERICAN JEWISH COMMUNITY RESPONDS TO ISSUES OF THE DAY: A COMPENDIUM" Author(s): Geraldine Rosenfield Source: *The American Jewish Year Book* , 1969, Vol. 70 (1969), pp. 247-259 Published by: American Jewish Committee; Springer Stable URL: <https://www.jstor.org/stable/23603409>

¹⁶ <https://yalestandard.com/can-a-jew-be-a-conscientious-objector/>

¹⁷ <https://www.jta.org/archive/jews-can-be-conscientious-objectors-selective-service-system-told>

- ii. CCAR “asked affiliated congregations to support college-student Vietnam protest, asserting “right to petition for redress of grievances is fundamental to democratic process”¹⁸
 - iii. Hadassah “expressed support for responsible opinion in favor of right to dissent, and for speedy end to Vietnam war and Arab war against Israel”¹⁹
 - iv. B'nai B'rith Hillel Foundations “asserted ‘right and obligation’ of campus chaplains to counsel students on “conscientious objections and the draft”²⁰
2. There were many, many Jews who resisted the draft. To provide an example of the thinking that animated some of these Jewish CO's and resisters, I'm going to read a short excerpt from the book *Wrestling with Conscience: A Guide for Jewish Draft Registrants and Conscientious Objectors*. This passage was written by an anonymous Jewish young adult as part of his essay for his CO application packet:

¹⁸ THE AMERICAN JEWISH COMMUNITY RESPONDS TO ISSUES OF THE DAY: A COMPENDIUM
 Author(s): Geraldine Rosenfield Source: The American Jewish Year Book , 1970, Vol. 71 (1970), pp. 330-339, 341-343 Published by: American Jewish Committee; Springer Stable URL:
<https://www.jstor.org/stable/23604049>

¹⁹ THE AMERICAN JEWISH COMMUNITY RESPONDS TO ISSUES OF THE DAY: A COMPENDIUM
 Author(s): Geraldine Rosenfield Source: The American Jewish Year Book , 1970, Vol. 71 (1970), pp. 330-339, 341-343 Published by: American Jewish Committee; Springer Stable URL:
<https://www.jstor.org/stable/23604049>

²⁰ THE AMERICAN JEWISH COMMUNITY RESPONDS TO ISSUES OF THE DAY: A COMPENDIUM
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<https://www.jstor.org/stable/23604049>

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The process by which I arrived at the beliefs which I now hold was a continuous development, and to a certain extent I feel that they have always been a part of my life. I grew up in a house where the values of human dignity and equality were always emphasized. My parents have always worked, each in their own way, to further the causes of human freedom and brotherhood. They were probably the most important influences on me in my early life - especially my father, a lawyer concerned with civil rights and equal opportunity.

My early religious training in the Jewish tradition was also important, particularly since the educators and Rabbis with whom I came into contact through my participation in Jewish youth groups were very much concerned with problems of interfaith and interracial understanding and cooperation. Although I am no longer a practicing member of any congregation, and although I do not accept many specific tenets of Jewish theology, I continue to regard myself as Jewish.

I would align myself with those ancient and modern Jewish thinkers who have held that the true basis of Jewish faith is adherence to the law. "What is hateful to thee, do not to thy fellow man." I believe that the humanistic tradition of Judaism, with its emphasis on brotherhood and the dignity of the individual, supports me in my beliefs, and in my opposition to war. Martin Buber, a great contemporary Jewish theologian, has said, "No one who counts himself in the ranks of Israel can desire to use force." I believe that.

n. Post Vietnam

- i. Draft registration begins again under Jimmy Carter
- ii. Some early prosecutions of resisters — including of my friend Ed Hasbrouck who ended up doing time in federal prison. And there were Jewish draft registration resisters as well.
- iii. **1980** - CCAR calls for respect for CO's if draft is called again.²¹
- iv. **1981** - Reconstructionist Rabbinic Association calls for respect of CO's, including even selective objectors²²
- v. **1982** - CCAR calls for an end to draft registration, opposes draft more generally.²³
- vi. **Also worth noting** – while the draft is no longer in operation, there are a growing number of servicemembers (active duty and reserves) who are being discharged on the grounds of CO. Others (especially during the Gulf War, Iraq War, Afghanistan War, and related conflicts) have engaged in acts of war resistance, including the step of fleeing to another country to seek asylum. I'm not aware of Jewish people who were resisters during this era, but there were many Jewish people involved in the support of these resisters.

o. Today

- i. There are very few prosecutions but instead the Selective Service seeks to use coercion and trickery to get as many young men as possible to be registered. --- This includes undocumented men, ironically.
- ii. At the same time, the Selective Service Administration is understaffed. Currently, the SSA doesn't have sufficient numbers of people on local draft boards, which would further impair the likelihood of registration being actually used if a draft is called, which may make the government more likely to make use of commercial databases or even IRS tax data to find draft-aged people.
- iii. The current administration is very unlikely to draft women, but there could be an exception for a special skills draft targeting medical or other technical professionals.
- iv. One other development - many thought that SCOTUS would rule that the male-only draft was unconstitutional but the most recent ruling punted the issue back to Congress. While drafting females is currently politically unpopular, future circumstances may change things.
- v. Finally, the infrastructure needed by the activist and religious communities to respond to a possible future draft is nearly non-existent --- this concern will be the primary focus of our third hour.

²¹ <https://www.ccarnet.org/ccar-resolutions/draft-1980/>

²² <https://therra.org/resolutions/conscientious-objectors.pdf>

²³ <https://www.ccarnet.org/ccar-resolutions/draft-1982/>