



Rothberg International School
בית הספר לתלמידים מחו"ל ע"ש רוטברג
THE HEBREW UNIVERSITY OF JERUSALEM
האוניברסיטה העברית בירושלים



Faculty of Law
Rothberg International School
Department of Summer Courses
and Special Programs

הפקולטה למשפטים
ביה"ס לתלמידים מחו"ל ע"ש רוטברג
המחלקה לקורסי קיץ
ותוכניות מיוחדות

INTRODUCTION TO ISRAELI LAW AND SOCIETY:
ANCIENT PEOPLES AND NEWCOMERS IN THE START-UP NATION

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May 1 – May 23, 2019

60 Academic Hours, 4 Academic Credits

SEMINAR SYLLABUS

Seminar Description and Objectives

The three-week seminar aims to provide Canadian business and law students with an overview of the contemporary Israeli legal system, while enabling them to discover the major social and economic challenges that Israel has grappled with in recent years. The seminar includes introductory classes designed to provide general knowledge of Israel's high-tech economy and the basic concepts and institutional framework of Israeli law and government. It also includes classes which focus on more specific issues, featuring guest lectures by leading academics and experienced practitioners, who will supply students with information on the latest developments in their fields of expertise. Areas of academic interest covered will include constitutional law, international law, Jewish law, minority rights law, and counter-terrorism law. In the course of the program, students will also participate in field trips to sites such as the Knesset, the Supreme Court, and the Yad Vashem Holocaust Museum. In addition, students will have the opportunity to meet young start-up innovators working in Tel Aviv.

Assessment

Students are required to take a four-hour exam at the end of the seminar. The grade for the seminar will be determined on the basis of the final exam only.

Class attendance and participation in all field trips is mandatory. Students who do not regularly attend class will not receive credit for the course.

Readings

The seminar is conducted exclusively in English; proficiency in spoken or written Hebrew is not a prerequisite for participation in the program. Israeli statutes and Supreme Court decisions relevant to the topics taught in class are often available online in English translation. The list of scholarly articles compiled for the seminar summarizes, in English, leading court cases and legal doctrines.

An online site administered by the International Rothberg School is available to enable easy interaction between students and the academic coordinator throughout the course of the program. By accessing the site, students will be able to obtain general information and announcements about the program. Background material and course readings will be posted online in the period leading up to the seminar, so as to give students the opportunity to familiarize themselves in advance with the various topics addressed in the course of the program.

Items marked with an asterisk are required readings. Students are expected to complete the required readings before class and be prepared to discuss them.

Course Outline and Seminar Readings List

Wednesday, May 1, 2019

- Financial Registration
- Campus Tour
- Orientation
- Setting Up Computer Account

Thursday, May 2, 2019 (13:00-16:30) (4 academic hours)

Introduction to Israel as a Society and State

Guest speaker: Dr. David Mendelsson, Senior Lecturer, Rothberg International School, Hebrew University

Thursday, May 2, 2019 (17:00-18:30) (2 academic hours)

Historical Background and Sources of Israeli Law

- Daniel Friedmann, "The Effect of Foreign Law on the Law of Israel: Remnants of the Ottoman Period" 10 *Israel Law Review* 92 (1975).
- Daniel Friedmann, "Infusion of the Common Law into the Legal System of Israel" 10 *Israel Law Review* 324 (1975).
- Daniel Friedmann, "Independent Development of Israeli Law" 10 *Israel Law Review* 515 (1975).
- Assaf Likhovski, Law and Identity in Mandate Palestine 21-45, 61-83 (2006).
- Menachem Mautner, Law and the Culture of Israel 40-44 (2011).
- Yoram Shachar, "The Dialectics of Zionism and Democracy in the Law of Mandatory Palestine" in Assaf Likhovski, Ron Harris, Alexandre Kedar and Pnina Lahav (eds) *The History of Law in a Multicultural Society: Israel 1917-1967*, 95-104 (2002).
- Shimon Shetreet and Walter Homolka, *Jewish and Israeli Law: An Introduction* 37-40 (2017).
- (*) HCJ 5/48 Lion v. Gubernick, 1 P.D. 58.
- (*) HCJ 73/53 Kol Ha'am v. Minister of the Interior, 7 P.D. 871.
- CA 113/40 Sherman v. Danovitz, 7 P.L.R. 363.
- PCA 30/39 Ayoub v. Farouqi, 8 P.L.R. 116.
- CA 29/47 London Society for Promoting Christianity among the Jews v. Orr, 14 P.L.R. 218
- M.A. Shanti v. Attorney General, [1937] S.C.J. 31.
- Cr. A 112/50 Yosifof v. The Attorney General, 5 P.D. 481.

Friday, May 3, 2019 (8:30-10:00) (2 academic hours)

The Israeli Court System and Process of Appointment of Judges and Attorney General

- (*) Suzie Navot, *The Constitutional Law of Israel* 137-167 (Hague: Kluwer, 2007).
- Daniel Friedmann, *The Purse and the Sword: The Trials of Israel's Legal Revolution* 29-31, 52-63, 197-211, 237-251 (New York: Oxford University Press, 2016).
- Yael Levy Ariel, *Judicial Diversity in Israel: An Empirical Study of Judges, Lawyers and Law Students* Faculty of Laws, University College London, Thesis Submitted for the degree of PhD (April 2018).

Friday, May 3, 2019 (10:30-12:00) (2 academic hours)

Judicial Review in the High Court of Justice

- (*) Suzie Navot, *The Constitution of Israel* 1-47, 193-219 (Hart, 2014).
- (*) HCJ 910/86 Ressler v. Minister of Defence 42(2) P.D. 441.
- HCJ 4797/07 Association for Civil Rights in Israel v. Airports Authority (2015).
- Shimon Shetreet and Walter Homolka, *Jewish and Israeli Law: An Introduction* 103-121, 131-134, 187-199, 213-227 (2017).

Sunday, May 5, 2019 (9:00-10:30) (2 academic hours)

Jewish and Religious Law in the Israeli Legal System

Guest speaker: Dr. Benny Porat, Faculty of Law, Hebrew University of Jerusalem

Sunday, May 5, 2019 (10:45-12:15) (2 academic hours)

The Constitutional Revolution

- (*) HCJ 98/69 Bergman v. Minister of Finance 23(1) P.D. 693
- (*) HCJ 6821/93 United Mizrahi Bank v. Migdal Cooperative 49(4) P.D. 221.
- (*) HCJ 6055/95 Tzemach v. Minister of Defense (1999).
- Hanna Lerner, *Making Constitutions in Deeply Divided Societies* 51-80 (Cambridge University Press, 2011).
- Shimon Shetreet and Walter Homolka, *Jewish and Israeli Law: An Introduction* 40-53 (2017).

Sunday, May 5, 2019 (12:30-14:00) (2 academic hours)

Special Event: Meeting and group discussion with Nisreen Alyan, Adv. together with students involved in the Multiculturalism and Diversity Clinic at the Clinical Legal Education Center, Faculty of Law of the Hebrew University of Jerusalem

Sunday, May 5, 2019 (14:30-16:00) (2 academic hours)

Current Trends in the Jurisprudence of the Israeli High Court of Justice

- (*) HCJ 7146/12 Adam v. The Knesset (2013).
- (*) HCJ 5239/11 Avneri v. The Knesset (2015).
- HCJ 8665/14 Desete v. Minister of the Interior (2015).
- HCJ 4374/15 Movement for Quality of Government v. Prime Minister (2016).
- (*) HCJ 3429/11 Alumni Association of the Arab Orthodox School in Haifa v. Minister of Finance (2012).
- Yoav Dotan, "Constitutional Adjudication and Political Accountability: Comparative Analysis and the Peculiarity of Israel" in Gideon Sapir, Daphne Barak-Erez and Aharon Barak (eds) Israeli Constitutional Law in the Making 91 (Hart, 2013).
- Joshua Segev, "Justifying Judicial Review: The Changing Methodology of the Israeli Supreme Court" in Gideon Sapir, Daphne Barak-Erez and Aharon Barak (eds) Israeli Constitutional Law in the Making 105 (Hart, 2013).
- Daniel Friedmann, The Purse and the Sword: The Trials of Israel's Legal Revolution 189-196, 303-337 (New York: Oxford University Press, 2016).

Monday May 6, 2019 (10:30-12:00) (2 academic hours)

The Nature of Jewish Law

Prof. Bryan Schwartz, University of Manitoba Law Faculty.

Monday May 6, 2019 (13:00-18:00)

FIELD TRIP – YAD VASHEM HOLOCAUST MUSEUM

Tuesday, May 7, 2019 (10:00-14:00) (4 academic hours)

The Challenges of Defining Israel as a Jewish and Democratic State from a Constitutional Law Perspective

PART I- Basic Law: Israel as the Nation-State of the Jewish People

- Ruth Gavison, "Constitutional Anchoring of Israel's Vision: Recommendations Submitted to the Minister of Justice" (2013).
- Sammy Smootha, "Israeli Democracy: Civic and Ethnonational Components" in Eliezer Ben-Rafael, Julius H. Schoeps, Yitzhak Sternberg and Olaf Gloeckner (eds) Handbook of Israel: Major Debates, Vol. 2, 672-690 (2016).
- Alain Dieckhoff, "What Kind of Democracy is Israel?" in Eliezer Ben-Rafael, Julius H. Schoeps, Yitzhak Sternberg and Olaf Gloeckner (eds) Handbook of Israel: Major Debates, Vol. 2, 691-704 (2016).
- Mordechai Kremnitzer and Amir Fuchs, Basic Law: Israel as the Nation State of the Jewish People – A Danger to the Zionist Enterprise, Israel Democracy Institute (May 2014).
- Aviad Bakshi, "Basic Law Proposal: Israel as the Nation State of the Jewish People – The Liberal Justifications" Institute for Zionist Strategies (October 2013).
- Benyamin Neuberger, "From Liberal Democracy to Ethnocracy: Different Conceptions of Israel's Democracy" in Eliezer Ben-Rafael, Julius H. Schoeps, Yitzhak Sternberg and Olaf Gloeckner (eds) Handbook of Israel: Major Debates, Vol. 2, 705-740 (2016).

PART II – Religion, State and Jewish Identity: Key Issues and Recent Challenges

- Yedidia Stern, Religion, State and the Jewish Identity Crisis in Israel (Washington, D.C.: Brookings Institution, 2017).
- Dov Halbertal, "Religion and State, One and the Same" in Eliezer Ben-Rafael, Julius H. Schoeps, Yitzhak Sternberg and Olaf Gloeckner (eds) Handbook of Israel: Major Debates, Vol. 1, 122-130 (2016).
- Avi Sagi, "Religion and State" in Eliezer Ben-Rafael, Julius H. Schoeps, Yitzhak Sternberg and Olaf Gloeckner (eds) Handbook of Israel: Major Debates, Vol. 1, 166-180 (2016).
- Mordechai Kremnitzer and Amir Fuchs, "The Non-Separation of Religion and State in Israel: Does it Support the Racism and Nationalism Wave" in Eliezer Ben-Rafael, Julius H. Schoeps, Yitzhak Sternberg and Olaf Gloeckner (eds) Handbook of Israel: Major Debates, Vol. 1, 181-195 (2016).
- Ariel Bendor, "The Constitutional Significance of the Jewishness of Israel" in Fania Oz-Salzberger and Yedidia Z. Stern (eds) The Israeli Nation-State: Political, Constitutional, and Cultural Challenges 118-134 (2014)
- Aviad Bakshi and Gideon Sapir, "Israel as a Nation-State in Supreme Court Rulings" Fania Oz-Salzberger and Yedidia Z. Stern (eds) The Israeli Nation-State: Political, Constitutional, and Cultural Challenges 164-190 (2014)

PART III- The Disqualification of Political Actors Hostile to the Jewish and Democratic Character of the State of Israel

- (*) Suzie Navot, *The Constitution of Israel* 93-109 (Hart, 2014)
- (*) EA 23/84 Neiman v. Chairman of the Central Elections Committee, 39(2) P.D. 225.
- EA 1/88 Kach v. Central Elections Committee for the Twelfth Knesset (1988).
- Suzie Navot, "Fighting Terrorism in the Political Arena: The Banning of Political Parties" 14 *Party Politics* 745-762 (2008).
- Ruth Levush, "Israel: Constitutionality of Removal from Parliament for Incitement to Racism or Support for Armed Struggle Against the State" (June 7, 2018), Library of Congress, Global Legal Monitor, available at: <http://www.loc.gov/law/foreign-news/article/israel-constitutionality-of-removal-from-parliament-for-incitement-to-racism-or-support-for-armed-struggle-against-the-state/>
- Ruth Levush, "Israel: Knesset Authorizes Eligibility Restriction on Knesset Candidates Convicted of Terrorism or Security Offenses (May 25, 2018), Library of Congress, Global Legal Monitor, available at: <http://www.loc.gov/law/foreign-news/article/israel-knesset-authorizes-eligibility-restriction-on-knesset-candidates-convicted-of-terrorism-or-security-offenses/>

Wednesday, May 8, 2019

MEMORIAL DAY – NO CLASS

Thursday, May 9, 2019

INDEPENDENCE DAY – NO CLASS

Friday, May 10, 2019

EXTRA-CURRICULAR TRIP TO MASADA AND DEAD SEA

Sunday, May 12, 2019 (8:30-12:00) (4 academic hours)

International Law Issues pertaining to the Arab-Israeli Conflict

Guest speaker: Prof. Guy Harpaz, Faculty of Law, Hebrew University of Jerusalem

(*) Guy Harpaz and Yuval Shany, "The Israel Supreme Court and the Incremental Expansion of the Scope of Discretion under Belligerent Occupation Law", 43 *Israel Law Review* 514 (2010).

Sunday, May 12, 2019 (13:00-17:00) (4 academic hours)

The Israeli-Palestinian Conflict from the Perspective of International Criminal Law

- Eugene Kontorovich, 'Israel/Palestine – The ICC's Uncharted Territory' (2013) 11 *Journal of International Criminal Justice* 979.
- Yael Ronen, 'ICC Jurisdiction over Acts Committed in the Gaza Strip: Art. 12(3) of the ICC Statute and Non-State Entities' (2010) 8 *Journal of International Criminal Justice* 8.
- Yael Ronen, 'Israel, Palestine and the ICC – Territory Uncharted but Not Unknown' (2014) 12 *Journal of International Criminal Justice* 7.
- Daniel Benoliel and Ronen Perry, 'Israel, Palestine and the ICC' 32 *Michigan Journal of International Law* 73 (2010).
- Marco Longobardo, 'Everything is Relative, Even Gravity: Remarks on the Assessment of Gravity in ICC Preliminary Examinations and the Mavi Marmara Affair' 14 *Journal of International Criminal Justice* 1011 (2016).
- Yael Ronen, 'Taking the Settlements to the ICC? Substantive Issues' 11 *American Journal of International Law* 57-61 (2017).
- Eugene Kontorovich, 'When Gravity Fails: Israeli Settlements and Admissibility at the ICC' *Israel Law Review* 47 *Israel Law Review* 379 (2014).
- Hannes Jobstl, 'An Unlikely Day in Court? Legal Challenges for the Prosecution of Israeli Settlements under the Rome Statute' 51 *Israel Law Review* 339 (2018).
- Amichai Cohen and Yuval Shani, "Israel's Military Advocate General Terminates 'Black Friday' and Other Investigations: Initial Observations" *Lawfare* (August 27, 2018).
- Yuval Shani, "A Question of Time: Israel's State Comptroller Finds Flaws in the IDF's 'Protective Edge' Investigations" *Lawfare* (April 4, 2018).

Monday, May 13, 2019 (9:00-12:30) (4 academic hours)

Legal Aspects of Countering Terrorism

- (*) HCJ 5100/94 Public Committee against Torture v. The State of Israel, P.D. 53(4) 817.
- (*) HCJ 8090/14 Hamoked: Center for the Defense of the Individual v. Minister of Defense (2014).
- (*) HCJ 9018/17 Tbeish v. Attorney General (2018).
- C.A. 124/87 Nafsu v. Chief Military Advocate (1987).
- HCJ 428/86 Barzilai v. Government of Israel (1987).
- Mordechai Kremnitzer and Re'em Segev, "The Legality of Interrogational Torture: A Question of Proper Authorization or a Substantive Moral Issue?" 34 *Israel Law Review* 509 (2000).
- Miriam Gur-Arye and Florian Jessberger, "The Protection of Human Dignity in Interrogations – Reflections in Light of Recent German and Israeli Experiences" 44 *Israel Law Review* 229 (2011).

- The Public Commission to Examine the Maritime Incident of 31 May 2010, Second Report – The Turkel Commission, Israel's Mechanisms for Examining and Investigating Complaints and Claims of Violations of the Laws of Armed Conflict According to International Law (2013).
- Guy Harpaz, "Being Unfaithful to One's Own Principles: The Israeli Supreme Court and House Demolitions in the Occupied Palestinian Territories" 47 Israel Law Review 401 (2014).
- Daniel Friedmann, *The Purse and the Sword: The Trials of Israel's Legal Revolution 79-97* (New York: Oxford University Press, 2016).
- Michael Sfar, *The Wall and the Gate: Israel, Palestine, and the Legal Battle for Human Rights 198-257* (2018).
- Yuval Shany, "Back to the Ticking-Bomb Doctrine" Lawfare (December 27, 2017).
- Yuval Shany and Mordechai Kremnitzer, "Two Small Steps on the Long Road to Suppressing Unlawful Security Interrogations in Israel" Lawfare (March 6, 2018).
- Mordechai Kremnitzer and Yuval Shany, 'Special Interrogations,' Confessions and the Duma Arson Attack" Lawfare (July 9, 2018).

Monday, May 13, 2019 (13:00-16:00)

FIELD TRIP: VISIT TO KNESSET (ISRAELI PARLIAMENT)

Monday, May 13, 2019 (16:00-18:00)

VISIT TO SUPREME COURT – MEETING WITH THE HONOURABLE JUSTICE ALEX STEIN

Tuesday, May 14, 2019 (8:30-12:00) (4 academic hours)

The Rise of the Israeli Knowledge Economy and the Challenges Ahead

Guest speaker: David Rosenberg, business journalist and author of Israel: The Knowledge Economy and its Costs (Palgrave Macmillan, 2018).

Tuesday, May 14, 2019 (12:30-14:00)

FIELD TRIP: JESTHUB HI-TECH ENTREPRENEURSHIP CENTER IN EAST JERUSALEM

Tuesday, May 14, 2019 (15:00-16:30)

FIELD TRIP: HUSTART – HEBREW UNIVERSITY ENTREPRENEURSHIP CENTER, GIVAT RAM CAMPUS

Wednesday, May 15, 2019 (12:00-13:30)

FIELD TRIP – TEL AVIV/YAFFO: VISIT TO PERES CENTER FOR INNOVATION AND PEACE

Wednesday, May 15, 2019 (14:00-15:30) (2 academic hours)

Legal issues pertaining to the LGBT community in Israel

GUEST LECTURE: HAGAI ALKALY, ADV. THE AGUDA – AN ORGANIZATION FOR THE EMPOWERMENT OF THE LESBIAN, GAY, BISEXUAL AND TRANSGENDER COMMUNITY IN ISRAEL

Wednesday, May 15, 2019 (16:00-17:30) (2 academic hours)

Legal issues pertaining to Asylum seekers in Israel

GUEST LECTURE: TAL STEINER, ADV. THE HOTLINE CENTER FOR REFUGEES AND MIGRANTS

Wednesday, May 15, 2019 (18:30-20:00)

SPECIAL MEETING: ADI ZAMIR, CO-FOUNDER OF WMN – WORKING SPACE AND ECOSYSTEM FOR WOMEN-LED ENTREPRENEURIAL VENTURES

Monday, May 20, 2019 (9:00-10:30) (2 academic hours)

The Status of the Arabic Language under Israeli Law

- Ilan Saban, “Minority Rights in Deeply Divided Societies: A Framework for Analysis and the Case of the Arab-Palestinian Minority in Israel” 36 *New York Journal of International Law & Politics* 885 (2004).
- (*) HCJ 4112/99 Adalah – The Legal Center for Arab Minority Rights in Israel v. City of Tel-Aviv Jaffe.
- (*) CA 4926/08 Wael & Co. v. National Water and Sewage Authority (2013).

Monday, May 20, 2019 (10:45-12:15) (2 academic hours)

Legal Issues relating to the Bedouin in Israel

- Havatzelet Yahel, "Land Disputes between the Negev Bedouin and Israel" *Israel Studies* 11(1) 1-22 (2006).
- CA 9535/06 Abu-Massad v. The Water Commissioner.
- (*)H CJ 2887/04 Abu-Madigam v. Israel Land Administration.
- (*) PCA 3094/11 Al-Qi'an v. State of Israel.
- (*) CA 218/74 Al-Huashela v. State of Israel.
- State of Israel, Regularization of Bedouin Communities in Israel, Summary of the Public Hearing on the Draft Law and recommendations for policy and for amendments to the Draft Presented to the Cabinet by Ze'ev B. Begin (January 23, 2013).

Tuesday, May 21, 2019 (12:00-13:30) (2 academic hours)

Integrating the Ultra-Orthodox Community into the Israeli Society and Economy

Guest speaker: Dr. Gilad Malach, Israel Democracy Institute

Tuesday, May 21, 2019 (14:00-17:30) (4 academic hours)

The Right to Equality and the Military Draft Deferment for Ultra-Orthodox Jews

- (*) H CJ 910/86 Ressler v. Minister of Defence 42(2) P.D. 441.
- (*)H CJ 3267/97 Rubinstein v. Minister of Defence 52(5) P.D. 481.
- H CJ 4124/00 Ornan Yekutieli v. The Minister of Religious Affairs (2014).
- (*) H CJ 6298/07 Ressler v. Minister of Defense (2012).
- Yedidia Stern, Religion, State and the Jewish Identity Crisis in Israel (Washington, D.C.: Brookings Institute, 2017).
- Ruth Levush, "Israel: High Court Strikes Down Draft Exemption for Ultra-Orthodox" Library of Congress: Global Legal Monitor (Sept. 25, 2017) available online: <http://www.loc.gov/law/foreign-news/article/israel-high-court-strikes-down-draft-exemption-for-ultra-orthodox/>

Wednesday, May 22, 2019 (10:00-11:30) (2 academic hours)

The Protection of Minority Rights and the Integration of Ethiopians in Israel

Guest speaker: Fentahun Assefa-Dawit, Executive Director of *Tebeka*: Legal Aid Organization for Ethiopian-Israelis

Thursday, May 23, 2019

FINAL EXAM (10:30-14:30)