



האוניברסיטה העברית בירושלים
THE HEBREW UNIVERSITY OF JERUSALEM



Faculty of Law

Rothberg International School
Department of Summer Courses
and Special Programs

הפקולטה למשפטים

ביה"ס לתלמידים מהו"ל ע"ש רוטברג
המחלקה לקורסי קיץ
ותוכניות מיוחדות

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

Dr. Daniel Ohana and Prof. Bryan Schwartz

E-mail: Daniel.Ohana@mail.huji.ac.il

Phone: 052-5410673 (Office hours: by appointment)

May 4 – May 25, 2017

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, often 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 visit the offices of international high-tech business enterprises and meet young start-up innovators working in Jerusalem and 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 read the required readings before class and be prepared to discuss them.

Course Outline and Seminar Readings List

Wednesday, May 3, 2017

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

Thursday, May 4, 2017 (10:30-14:00)

Introduction to Israel as a Society and State (4 academic hours)

Guest speaker: Dr. David Mendelsson, head of Israel Studies at the **Hebrew Union College**-Jewish Institute of Religion in Jerusalem

Thursday, May 4, 2017 (14:30-16:00)

Historical Background and Sources of Israeli Law (2 academic hours)

- 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).
- (*) 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

Thursday, May 4, 2017 (16:30-18:00)

The Israeli Court System and Judicial Appointment Process (2 academic hours)

- (*) Suzie Navot, *The Constitutional Law of Israel* 137-167 (Hague: Kluwer, 2007).

Sunday, May 7, 2017 (13:00-18:00)

Judicial Review and the Constitutional Revolution (6 academic hours)

- (*) 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 98/69 Bergman v. Minister of Finance 23(1) P.D. 693
- (*) HCJ 6821/93 United Mizrahi Bank v. Migdal Cooperative Village 49(4) P.D. 221.
- (*) HCJ 7146/12 Adam v. The Knesset.
- (*) HCJ 5239/11 Avneri v. The Knesset
- (*) HCJ 8665/14 Desta v. Minister of the Interior.
- (*) HCJ 4374/15 Movement for Quality Government v. Prime Minister.
- HCJ 3809/08 [Association for Civil Rights in Israel v. Israel Police](#).
- (*) HCJ 3429/11 Alumni Association of the Arab Orthodox School in Haifa v. Minister of Finance.
- Ruth Levush, "Israel: New Basic Law on Requirements for Approval of Territorial Concessions" Library of Congress: Global Legal Monitor (May 22, 2014) available online at: http://www.loc.gov/lawweb/servlet/lloc_news?disp3_1205403990_text
- [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).
- Hanna Lerner, *Making Constitutions in Deeply Divided Societies* 51-80 (Cambridge University Press, 2011).
- Daniel Friedmann, *The Purse and the Sword: The Trials of Israel's Legal Revolution* 303-337 (New York: Oxford University Press, 2016).

Monday May 8, 2017 (8:00-12:00)

FIELD TRIP – SUPREME COURT + MEETING WITH JUSTICE SALIM JOUBRAN

Tuesday, May 9, 2017 (11:00-12:30)

The Challenges of Defining Israel as a Jewish and Democratic State from a Constitutional Law Perspective (2 academic hours)

- Aviad Bakshi, "Basic Law Proposal: Israel as the Nation State of the Jewish People –The Liberal Justification" The Institute for Zionist Strategies (October 2013) available at: http://www.izs.org.il/eng/?father_id=205&catid=451
- 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), available at: <http://en.idi.org.il/analysis/articles/basic-law-israel-as-the-nation-state-of-the-jewish-people/>
- [Chaim Gans, "Jewish and Democratic: Three Zionisms and Post-Zionism" in Gideon Sapir, Daphne Barak-Erez and Aharon Barak \(eds\) Israeli Constitutional Law in the Making 473 \(Oxford: Hart, 2013\).](#)
- [Aviad Bakshi and Gideon Sapir, "A Jewish Nation-State: A Discussion in Light of the Family Reunification Case" in Gideon Sapir, Daphne Barak-Erez and Aharon Barak \(eds\) Israeli Constitutional Law in the Making 484 \(Oxford: Hart, 2013\)](#)
- Ruth Gavison, "Constitutional Anchoring of Israel's Vision: Recommendations Submitted to the Minister of Justice", available at: <http://marginalia.lareviewofbooks.org/defining-israel-forum-recent-attempts-determine-israels-character/>

Tuesday, May 9, 2017 (13:30-15:00)

The Israeli Electoral System and the Disqualification of Political Parties Hostile to Jewish and Democratic Character of the State of Israel (2 academic hours)

- (*) 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.
- Suzie Navot, "Fighting Terrorism in the Political Arena: The Banning of Political Parties" 14 *Party Politics* 745-762 (2008).

Tuesday, May 9, 2017 (16:00-18:30)

FIELD TRIP – THE KNESSET

Wednesday, May 10, 2017 (10:30-12:00) (2 academic hours)

Jewish and Religious Law in the Israeli Legal System

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

Thursday, May 11, 2017 (10:00-13:30) (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).

Thursday, May 11, 2017 (14:00-15:30)

Legal Aspects of Countering Terrorism (Part I) – Interrogation Techniques and Human Rights Violations (2 academic hours)

- (*) HCJ 5100/94 Public Committee against Torture v. The State of Israel, P.D. 53(4) 817.
 - 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).

Thursday, May 11, 2017 (16:00-17:30)

Legal Aspects of Countering Terrorism (Part II) – House Demolition as a Strategy of Counter-Terrorism (2 academic hours)

- 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).

Thursday, May 11, 2017 (18:00-19:30)

The Israeli-Palestinian Conflict from the perspective of International Criminal Law (2 academic hours)

- 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.
- Yuval Shany, 'In Defence of a Functional Interpretation of Article 12(3) of the Rome Statute' (2010) 8 Journal of International Criminal Justice 329.
- Eugene Kontorovich, 'When Gravity Fails: Israeli Settlements and Admissibility at the ICC' (2014) 47 Israel Law Review 379.

Friday, May 12, 2017

NO CLASS: EXTRA-CURRICULAR TRIP TO EIN GEDI AND THE DEAD SEA

Monday, May 15, 2017 (10:30-14:00)

The Rise of the Israeli Knowledge Economy and the Challenges Ahead (4 academic hours)

Guest speaker: David Rosenberg, business journalist and author of *Israel: The Knowledge Economy and its Costs* (Forthcoming: Palgrave Macmillan, 2017).

Tuesday, May 16, 2017 (9:30-11:30)

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

Tuesday, May 16, 2017 (13:00-14:30)

Integrating the Ultra-Orthodox Community into Israeli Society and Economy (2 academic hours)

Guest speaker: Dr. Gilad Malach, Israel Democracy Institute

Tuesday, May 16, 2017 (15:00-16:30)

Integrating the Arab Minority into Israeli Economic and Social Life (2 academic hours)

Guest speaker: Aiman Saif, Head of the Authority for the Economic Development of the Arab, Druze and Circassian Sectors, Prime Minister's Office

Tuesday, May 16, 2017 (16:45-19:45)

The Right to Equality and the Military Draft Deferment for Ultra-Orthodox Jews (4 academic hours)

- (*) Ruth Levush, “Israel: Supreme Court Decision Invalidating the Law on Haredi Military Draft Postponment” Library of Congress: Current Legal Topics (March 2012) available online: <http://www.loc.gov/law/help/haredi-military-draft.php>
- (*) HCJ 910/86 Ressler v. Minister of Defence 42(2) P.D. 441.
- (*) HCJ 3267/97 Rubinstein v. Minister of Defence 52(5) P.D. 481.
- (*) HCJ 4124/00 Ornan ekutieli v. The Minister of Religious Affairs.
- HCJ 6298/07 Ressler v. Minister of Defense.

Wednesday, May 17, 2017 (10:00-13:30)

FIELD TRIP: MEETING WITH ASYLUM-SEEKERS FROM AFRICA AND TOUR OF SOUTHERN TEL-AVIV NEIGHBORHOODS

"Immigration and Refugee Law in Israel: Current Challenges and Responses"

Guest speaker: Reut Michaely, Adv., Executive Director, Hotline for Refugees and Migrants

Wednesday, May 17, 2017 (14:00-16:00)

FIELD TRIP: TAGLIT-BIRTHRIGHT ISRAEL STATE OF MIND INNOVATION CENTER, TEL AVIV CENTER STOCK EXCHANGE

Wednesday, May 17, 2017 (18:00-20:00)

FIELD TRIP: SOSA TLV INNOVATION WORK SPACE FOR HIGH-TECH START-UPS

Sunday, May 21, 2017 (14:30-16:00) (2 academic hours)

Israel as a Start-Up Nation: "The Lifecycle of an Israeli Start-Up: From Boom to Bust to Boom Over and Over"

Guest speaker: Avner Halperin, CEO of *EarlySense* and Adjunct Lecturer, Rothberg International School, Hebrew University of Jerusalem.

Monday, May 22, 2017 (12:00-17:00)

FIELD TRIP – YAD VASHEM

Tuesday, May 23, 2017 (10:30-12:00) (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

Tuesday, May 23, 2017 (13:30-15:00) (2 academic hours)

Legal Issues relating to Bedouin Community in Israel

- (*) HavatzeletYahel, "Land Disputes between the Negev Bedouin and Israel" *Israel Studies* 11 (1) 1-22 (2006).
- HCJ 2887/04 Abu-Madigam v. Israel Land Administration.
- PCA 3094/11 Al-Qi'an v. State of Israel.

Tuesday, May 23, 2017 (16:00-17:30) (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.

Tuesday, May 23, 2017 (18:00-20:00) (2 academic hours)

Special Event: Meeting and group discussion with Inbar Peled, 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

Wednesday, May 24, 2017

STUDY DAY – NO CLASS

Thursday, May 25, 2017 (10:00-14:00)

FINAL EXAM