



האוניברסיטה העברית בירושלים
THE HEBREW UNIVERSITY OF JERUSALEM

בית הספר לתלמידים מחו"ל ע"ש רוטברג
Rothberg International School



**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 3 – May 21, 2015

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 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

Sunday, May 3, 2015

- Financial Registration
- Setting-Up Computer Account

Monday, May 4, 2015 (11:00-14:30)

1. 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

Monday, May 4, 2015 (15:00-18:30)

2. 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 31-53 (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.

3. The Israeli Court System (2 academic hours)

- (*) Suzie Navot, *The Constitutional Law of Israel* 137-150 (2007).

Tuesday, May 5, 2015 (12:00-18:00)

4. The Process of Judicial Review (2 academic hours)

- (*) Suzie Navot, *The Constitution of Israel* 1-47, 193-219 (2014).
- (*) HCJ 910/86 Ressler v. Minister of Defence 42(2) P.D. 441.
- Menachem Mautner, *Law and the Culture of Israel* 31-53 (2011).
- 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 (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 (2013)
- Ori Aronson, "The Democratic Case for Diffuse Judicial Review in Israel" in Gideon Sapir, Daphne Barak-Erez and Aharon Barak (eds) *Israeli Constitutional Law in the Making* 121 (2013).

5. The Constitutional Revolution and the Protection of Individual Rights in Israeli Law (4 academic hours)

- (*) 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
- 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
- Daphne Barak-Erez, "From an Unwritten to a Written Constitution: The Israeli Challenge in American Perspective" 26 *Columbia Human Rights Law Review* (1995) 309.
- Tsvi Kahana, "Majestic Constitutionalism? The Notwithstanding Mechanism in Israel" in Gideon Sapir, Daphne Barak-Erez and Aharon Barak (eds) *Israeli Constitutional Law in the Making* 73 (Oxford: Hart, 2013).

Wednesday, May 6, 2015 (9:00-15:00)

FIELD TRIP – ISRAELI KNESSET AND SUPREME COURT

Thursday May 7, 2015 (9:00-11:00) (2 academic hours)

6. The Israeli Electoral System and the Relationship Between the Executive and Legislative Branches

- (*) Suzie Navot, *The Constitution of Israel* 93-109 (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).
- Raphael Cohen-Almagor, "Disqualification of Lists in Israel (1948-1984): Retrospect and Appraisal" 13 *Law and Philosophy* 43 (1994).

7. Basic Law Proposal: Israel as the Nation-State of the Jewish People

- 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 (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 (2013)

Thursday, May 7, 2015 (11:30-13:00) (2 academic hours)

8. **Panel Discussion: Israeli Constitutional Democracy at a Crossroads?**

Guest participants: Dr. Emmanuel Navon, Tel Aviv University, IDC Herzlya;

Yuval Yoaz, Adv., Legal Affairs Correspondent for the Israeli financial daily *Globes*;

Prof. Bryan Schwartz, University of Manitoba.

Thursday, May 7, 2015 (14:30-16:00) (2 academic hours)

9. **Jewish and Religious Law in the Israeli Legal System**

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

Friday, May 8, 2015: FIELD TRIP TO MASADA, EIN GEDI & DEAD SEA

Sunday, May 10, 2015 (10:15-13:45) (4 academic hours)

10. **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* (Forthcoming: Palgrave Macmillan, 2015).

Sunday, May 10, 2015 (14:30-16:00) (2 academic hours)

11. **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 *Early Sense* and Adjunct Lecturer, Hebrew University of Jerusalem.

Sunday, May 10, 2015 (16:30-18:00) (2 academic hours)

12. Cyber-Defence: Assessing, Managing and Responding to Cyber-Security Risks

Guest speaker: Shay Zandani, CEO, Cytegitic.

Monday, May 11, 2015 (11:00-21:00)

FIELD TRIP TO TEL AVIV: "START-UP CITY" TOUR AND VISIT TO SOSA TLV INNOVATION WORK SPACE FOR HIGH-TECH START-UPS

Guest speaker: Tomer Shani (Schwartz), Adv. Meitar Liguornik Geva Leshem Tal, Law offices.

Tuesday, May 12, 2015 (8:30-12:00) (4 academic hours)

13. International Law Issues related to the Arab-Israeli Conflict

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

Wednesday, May 13, 2015 (12:00-18:00) (4 academic hours)

14. Legal Aspects of Countering Terrorism

- (*) HCJ 5100/94 Public Committee against Torture v. The State of Israel, P.D. 53(4) 817.
- (*) HCJ 769/02 Public Committee against Torture v. The Government of Israel.
- 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).
- David Kretzmer, "Targeted Killings of Suspected Terrorists: Extra-Judicial Executions or Legitimate Means of Defence" 16 *European Journal of International Law* 171 (2005).

SPECIAL EVENT: "THE GATEKEEPERS" A DOCUMENTARY ABOUT THE ISRAELI SECURITY SERVICES. (2 academic hours)

Thursday, May 14, 2015 - NO CLASS

Sunday, May 17, 2015 (11:00-12:30) (2 academic hours)

15. 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

Sunday, May 17, 2015 (13:00-14:30) (2 academic hours)

16. Integrating the Ultra-Orthodox into the Israeli Society and Economy

Guest speaker: Dr. Gilad Malach, Israel Democracy Institute

(* Aharon Rose, "The Haredim - a Defense" *Azure* 25 (2006).

Sunday, May 17, 2015 (15:00-18:30) (4 academic hours)

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

- (*) Ruth Levush, "Israel: Supreme Court Decision Invalidating the Law on Haredi Military Draft Postponement" 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 6298/07 Ressler v. The Knesset.
- (*) HCJ 4124/00 Ornan Yekutieli v. The Minister of Religious Affairs.
- HCJ 746/07 Naomi Ragen v. Ministry of Transport.
- HCJ 1067/08 Noar Kehalacha v. Ministry of Education.

Monday, May 18, 2015 (12:00-18:00)

FIELD TRIP — YAD VASHEM HOLOCAUST MUSEUM

Tuesday, May 19, 2015 (10:30-12:00) (2 academic hours)

18. Legal Issues relating to Bedouins in Israel

Guest speaker: Havatzelet Yahel, Adv.

(*) Havatzelet Yahel, "Land Disputes between the Negev Bedouin and Israel" *Israel Studies* 11 (1) 1-22 (2006).

Tuesday, May 19, 2015 (13:30-15:00) (2 academic hours)

19. Integrating the Arab Minority into Israeli Economic and Social Life

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 19, 2015 (15:30-18:00) (3 academic hours)

20. The Right to Equality and the Arab Minority in Israel

- (*) HCJ 6698/95 Kaadan v. Israel Lands Administration, P.D. 54(1) 258.
- (*) HCJ 727/00 Committee of Heads of Local Arab Councils in Israel v. Ministry of Construction and Housing, P.D. 56(2) 79.
- (*) HCJ 1113/99 Adalah Legal Center for Arab Minority Rights in Israel v. Minister of Religious Affairs, P.D. 54(2) 164.
- (*) HCJ 11163/03 Supreme Monitoring Committee for Arab Affairs v. Prime Minister of Israel.
- 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).

Wednesday, May 20, 2015 – STUDY DAY – NO CLASS

Thursday May 21, 2015 – FINAL EXAM