Mishpatim: Israeli and International Law

(SPLW401- 48790)

Dr. Daniel Ohana

Office hours: by appointment
January 8 – January 26, 2017
60 Academic Hours, 4 Academic Credits

SYLLABUS

Seminar Description and Objectives

This three-week seminar aims to provide Australian students with an overview of the contemporary Israeli legal system, while enabling them to explore the major challenges it has grappled with in recent years. The first week of the seminar includes introductory classes designed to impart knowledge of the basic concepts and institutional framework of Israeli law and government. Classes during the remainder of the seminar focus on more specific areas of Israeli law. They feature guest lectures by leading academics and experienced practitioners, who provide students with information on the latest developments in their fields of expertise. In the course of the program, students will also participate in field trips to the Supreme Court of Israel, the Knesset (the Israeli Parliament) and the Yad Vashem Holocaust Museum.

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

Some graduate (JD or LLM) students may be required to write an essay (7,500–10,000 words) instead of, or in addition to, the exam in order to receive accreditation from their university or college for participation in the seminar. Students within this category are requested to notify the instructor at the beginning of the seminar of the requirements that apply to them. JD and LLM students from the University of Western Australia are required to submit a 2,000 word paper (worth 20% of the final grade) in addition to writing the exam (worth 80%). The essay may be written following the completion of the seminar, and students will be expected to submit it to the instructor by e-mail following their return to Australia. The topic of the essay will be selected in agreement with the instructor from a list of proposed subjects pertaining to Israeli law and related to the material taught in the seminar. Evaluation of the essay will be based on the following criteria: thoroughness of research; presentation and organization (including references and a bibliography); quality and style of writing; and the strength of the presented argument, including demonstrated comprehension of pertinent materials, clarity of reasoning, and originality of the ideas developed in the paper.

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 Israeli legal texts and judicial decisions discussed 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
Sunday, January 8, 2017

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

Monday, January 9, 2017 (9:00-12:30)
Introduction to Israel as a Society and State (4 academic hours)

Guest speaker: Dr. Ophir Yarden, Jewish and Israel Studies
Brigham Young University – Jerusalem Center

Monday, January 9, 2017 (13:00-14:00) (2 academic hours)

Opening Address: Dean of the Faculty of Law

"Between Idealism and Realism:
The Unique Challenges Faced by Israel in Securing Human Rights"

Monday, January 9, 2017 (14:30-16:00)
Historical Background and Sources of Israeli Law (2 academic hours)

- 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.
- CA 29/47 London Society for Promoting Christianity among the Jews v. Orr, 14 P.L.R. 218
Monday, January 9, 2017 (16:30-18:00)

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


Tuesday, January 10, 2017 (13:30-18:00)

Judicial Review and the Constitutional Revolution (5 academic hours)

• (*) 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 Mizrachi Bank v. Migdal Cooperative Village 49(4) P.D. 221.
• (*) HCJ 7146/12 Adam v. The Knesset.
• (*) HCJ 5239/11 Avneri 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_l205403990_text

Wednesday, January 11, 2017 (8:00-16:00)

FIELD TRIP ─ KNESSET AND SUPREME COURT

Wednesday, January 11, 2017 (16:00-17:30)

Jewish and Religious Law in the Israeli Legal System (2 academic hours)

Guest speaker: Dr. Benny Porat, Faculty of Law, Hebrew University of Jerusalem
Thursday, January 12, 2017 (10:15-11:45)

Basic Law Proposal: Israel as the Nation-State of the Jewish People (2 academic hours)


Thursday, January 12, 2017 (12:00-13:30)

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

Guest speaker: Prof. Ruth Gavison, Faculty of Law, Hebrew University of Jerusalem


Thursday, January 12, 2017 (14:00-15:30)

The Israeli Electoral System and the Disqualification of Political Parties (2 academic hours)

- (*) EA 23/84 Neiman v. Chairman of the Central Elections Committee, 39(2) P.D. 225.

Friday, January 13, 2017

NO CLASS: EXTRA-CURRICULAR TRIP TO EIN GEDI AND THE DEAD SEA
Sunday, January 15, 2017 (8:30-11:45)

International Law Issues pertaining to the Arab-Israeli Conflict (4 academic hours)

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


Sunday, January 15, 2017 (12:00-13:30)

International Law Issues pertaining to the Conflict between Israel and Hamas in the Gaza Strip (2 academic hours)

Guest speaker: Prof. Robbie Sabel, Faculty of Law, Hebrew University of Jerusalem

Sunday, January 15, 2017 (15:00-16:30)

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


Monday, January 16, 2017 (10:00-12:00)

SPECIAL EVENT: "THE GATEKEEPERS" A DOCUMENTARY ABOUT THE ISRAELI SECURITY SERVICES. (2 academic hours)
Monday, January 16, 2017 (12:45-16:00)
Legal Aspects of Countering Terrorism (4 academic hours)

- (*) 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.
- 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).

Monday, January 16, 2017 (17:30-19:00) (2 academic hours)
Special Event: Meeting with Bereaved Parents for Peace

Tuesday January 17, 2017 (10:30-12:00) (2 academic hours)

Special Event: Meeting and group discussion with Bana Shoughry, Adv. along with students involved in the International Human Rights Clinic at the Clinical Legal Education Center, Faculty of Law of the Hebrew University of Jerusalem.

Tuesday January 17, 2017 (14:00-15:30) (2 academic hours)

Immigration and Refugee Law in Israel: Current Challenges and Responses

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

Wednesday, January 18, 2017 (10:30-14:00)

The Right to Equality and the Arab Minority in Israel (4 academic hours)

Guest speaker: Prof. Barak Medina, Faculty of Law, Hebrew University (10:30-12:00)

- (*) 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.
Monday, January 23, 2017 (10:30-12:00)
Integrating the Ultra-Orthodox Community into Israeli Society and Economy (2 academic hours)

Guest speaker: Dr. Gilad Malach, Israel Democracy Institute


Monday, January 23, 2017 (13:30-17:00)
The Right to Equality and the Military Draft Deferment for Ultra-Orthodox Jews (4 academic hours)

• (*) 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 OrnanYekutieli v. The Minister of Religious Affairs.
• HCJ 6298/07 Ressler v. Minister of Defense.

Tuesday, January 24, 2017 (12:00-18:00)
FIELD TRIP ─ YAD VASHEM HOLOCAUST MUSEUM

Wednesday, January 25, 2017
STUDY DAY – NO CLASS

Thursday, January 26, 2017
FINAL EXAM