Mishpatim: Israeli and International Law

(SPLW401- 48790)

Dr. Daniel Ohana

Daniel.Ohana@mail.huji.ac.il

January 4 – January 29, 2021

60 Academic Hours, 4 Academic Credits

SYLLABUS

Seminar Description and Objectives

This 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, including the outbreak of the coronavirus pandemic this year. 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 online tours of the Supreme Court of Israel, the Knesset (the Israeli Parliament) and the Yad Vashem Holocaust Museum.
It should be noted that the program is subject to changes based on developments caused by the coronavirus pandemic in Israel and that it may undergo last-minute modifications due to health-related restrictions imposed by the authorities on universities and other public institutions.

**Format**

The format of the seminar will include one or two lectures delivered daily online from Israel (via ZOOM) over a period of four weeks. All lectures will be available online throughout the program for the students to view when convenient to their schedule.

Students must attend each week at least 75% of the live sessions in real-time. Participation in the online tours is mandatory. Students who do not regularly attend class will not receive credit for the course.

**Assessment**

Students are required to submit a 7,500-10,000 word research paper, which demonstrates a suitably high level of complexity and depth. The paper shall be written following completion of the seminar, and students will be expected to submit it to the instructor by e-mail. 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 material discussed in class are often fully or partially 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 Rothberg International School is available to enable easy interaction between students and the instructor 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. Students are expected to complete the required readings before class and be prepared to discuss them.

**Course Outline and Readings List**

**Monday, January 4, 2021 (8:30-12:00)**

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

Dr. David Mendelsson, Rothberg International School, Hebrew University of Jerusalem

**Tuesday, January 5, 2021 (8:30-10:00)**

**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.
- Cr. A 112/50 Yosifof v. The Attorney General, 5 P.D. 481.
Tuesday, January 5, 2021 (10:30-12:00)

The Israeli Court System and the Process of Appointment of Judges and the Attorney General (2 academic hours)


Wednesday, January 6, 2021 (8:30-10:00)

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

Dr. Benny Porat, Faculty of Law, Hebrew University


Wednesday, January 6, 2021 (10:30-12:00)

The Challenges of Protecting the Rights of Women under Jewish Law in Israel (2 academic hours)

Dr. Susan Weiss, Center for Women's Justice

Thursday, January 7, 2021 (8:30-10:00)

Judicial Review in the High Court of Justice (2 academic hours)

- 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).

Thursday, January 7, 2021 (10:30-12:00)

The Constitutional Revolution and Current Trends in the High Court of Justice's Decisions (2 academic hours)

- HCJ 98/69 Bergman v. Minister of Finance 23(1) P.D. 693
- HCJ 6821/93 United Mizrachi Bank v. Migdal Cooperative 49(4) P.D. 221.
Friday, January 8, 2021 (8:30-12:00)

ONLINE TOUR OF YAD VASHEM

Monday, January 11, 2021 (8:30-10:00)

The Challenges of Defining Israel as a Jewish and Democratic State from a Constitutional Law Perspective: Basic Law: Israel as the Nation-State of the Jewish People (2 academic hours)

- Ruth Gavison, "Constitutional Anchoring of Israel's Vision: Recommendations Submitted to the Minister of Justice" (2013).
- Mordechai Kreminitzer 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).
Monday, January 11, 2021 (10:30-12:00)

The Disqualification of Political Actors Hostile to the Jewish and Democratic Character of the State of Israel (2 academic hours)

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

Tuesday, January 12, 2021 (8:30-10:00)

Family Law in Israel through the Prism of International Private Law (2 academic hours)

Dr. Sharon Shakargy Faculty of Law, Hebrew University of Jerusalem

Wednesday, January 13, 2021 (8:30-12:00)

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

Prof. Guy Harpaz, Faculty of Law, Hebrew University of Jerusalem

Thursday, January 14, 2021 (8:30-12:00)
The Israeli-Palestinian Conflict from the Perspective of International Criminal Law
(4 academic hours)


Friday, January 15, 2021 (8:30-10:00)
The International Law of Armed Conflict and the Arab-Israel Dispute (2 academic hours)

Prof. Robbie Sabel, Faculty of Law, Hebrew University of Jerusalem

Monday, January 18, 2021 (8:30-10:00)
The Status of the Arabic Language under Israeli Law (2 academic hours)

- HCJ 4112/99 Adalah – The Legal Center for Arab Minority Rights in Israel v. City of Tel-Aviv Jaffe.
Tuesday, January 19, 2021 (8:30-10:00)

**The Legal Aspects of the Government’s Response to the COVID-19 Pandemic in Israel (2 academic hours)**


Wednesday, January 20, 2021 (10:30-12:00)

**Law Enforcement & Intercommunal Tensions and Cooperation in the Wake of the Coronavirus Outbreak (2 academic hours)**

Guest speaker: Dr. Gali Perry, Institute of Criminology, Hebrew University of Jerusalem

Thursday, January 21, 2021 (10:30-12:00)

**The Precarious Position of Asylum-Seekers and Refugees in Israel: Legal and Economic Perspectives (2 academic hours)**

Guest speaker: Sigal Rozen, The Hotline for Refugees and Migrants


Friday, January 22, 2021 (10:00-12:00)

**ONLINE TOUR ─ KNESSET (ISRAELI PARLIAMENT)**

Monday, January 25, 2021 (10:00-12:00)

**ONLINE TOUR – ISRAELI SUPREME COURT**
Tuesday, January 26, 2021 (10:30-12:00)

Legal Issues Relating to the Bedouin in Israel (2 academic hours)

- 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.
- HCJ 2887/04 Abu-Madigam v. Israel Land Administration.
- PCA 3094/11 Al-Qi’an 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).

Wednesday, January 27, 2021 (10:30-12:00)

The Evolution of LGBT Rights in Israel (2 academic hours)


Thursday, January 28, 2021 (8:30-10:00) (2 academic hours)
Integrating the Ultra-Orthodox Community into Israeli Society and Economy

Guest speaker: Dr. Gilad Malach, Israel Democracy Institute

Friday, January 29, 2021 (8:30-12:00)

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 Orman Yekutieli v. The Minister of Religious Affairs (2014).