

ISRAELI LEGAL HISTORY

Professor Assaf Likhovski
UCLA School of Law
Spring 2010

Monday and Wednesday 13:40-14:50
Room 3473

COURSE DESCRIPTION

Israel, like the United States, is a settler society whose establishment was inspired by utopian ideology but was also based on war and violence. Like the United States, Israel is an imperfect democracy, committed to notions of equality yet also divided along class and ethnic lines. In both Israel and the United States law plays a major role in shaping identity, framing political discourse and mediating (and also sometimes exacerbating) social conflicts. In what ways do law and society interact in Israel and what can Americans learn from the Israeli experience? This course will seek to answer these questions by exploring the history of Israeli law. After an introductory section containing a brief overview of Israeli history and a general introduction to legal history, the course will focus on two distinct periods: the British Mandate and the first two decades after Israeli independence. Law will be used as a prism through which major debates about the history of the Israeli state and Israeli society will be analyzed. Among the topics that will be discussed are the reception of English law after the British conquest, law and national identity, varieties of legal pluralism, post-independence legal change and continuity, formalism and rights discourse, the role of law in ethnic, class and gender conflicts and in shaping historical memory (with special emphasis on the Holocaust). No prior knowledge of the history of Israel or its law is assumed.

EXAMINATION AND GRADING

Grades will be based on class participation and a take-home exam (on the week which begins on March 15).

GENERAL ADMINISTRATION

I have an office hour on Wednesdays 15:00-16:00 and by appointment. My office is room 3437. You should feel free to call (310-267-4583) or to e-mail me (likhovski@law.ucla.edu) with specific questions.

READING ASSIGNMENTS

The dates appearing in the syllabus are tentative, and may change.

Reading List:

1. Jan. 4+Jan. 6: The Arab Israeli Conflict

Benny Morris, "Israel Confronts its Past," in *Making Israel* (Benny Morris ed., Ann Arbor: University of Michigan Press, 2007), 11-28.

Ilan Pappé, "The Tantura Case in Israel: The Katz Research and Trial," *Journal of Palestine Studies* 30 (2001): 19-39.

Yoav Gelber, *Palestine 1948: War, Escape and the Emergence of the Palestinian Refugee Problem* (2nd ed., Brighton: Sussex Academic Press, 2006), 319-327.

2. Jan 11+Jan. 13: Israeli Society

Uri Ram, "The Future of the Past in Israel: A Sociology of Knowledge Approach," in *Making Israel* (Benny Morris ed., Ann Arbor: University of Michigan Press, 2007), 202-230.

Gershon Shafir, *Land, Labor and the Origins of the Israeli-Palestinian Conflict, 1882-1914* (Cambridge: Cambridge University Press, 1989), 1-21.

Ran Aharonson, "Settlement in Eretz Israel - A Colonialist Enterprise? 'Critical' Scholarship and Historical Geography," *Israel Studies* 1 (1996): 214-229.

3. Jan. 20: Israeli Legal History

Ron Harris, Alexandre Kedar, Pnina Lahav & Assaf Likhovski, "Israeli Legal History: Past and Present," in *The History of Law in a Multicultural Society: Israel 1917-1967*, Ron Harris Alexandre Kedar, Pnina Lahav & Assaf Likhovski eds. (Dartmouth UK: Ashgate, 2002), 1-26 [hereinafter: HLMS].

4. Jan 25: Late Ottoman Law

Edward Said, *Orientalism* (New York: Pantheon, 1978), 31-45, 284-288.

The Mejlle, sections 1684-1688 (available at http://www.iiu.edu.my/deed/lawbase/al_majalle/).

5. Jan 27+Feb.1: The Reception of English Law

David Cannadine, *Ornamentalism: How the British Saw their Empire* (Oxford, Oxford University Press, 2001), 71-82.

Assaf Likhovski, *Law and Identity in Mandate Palestine* (Chapel Hill: University of North Carolina Press, 2006), 46-83.

Palestine Mandate (available at http://avalon.law.yale.edu/20th_century/palmanda.asp).

London Society for Promoting Christianity among the Jews v. Orr, 14 *Palestine Law Reports* 218 (S.C., 1947).

6. Feb 3+Feb. 8: National Identity and Legal Pluralism

Assaf Likhovski, *Law and Identity in Mandate Palestine* (Chapel Hill: University of North Carolina Press, 2006), 127-153, 192-210.

Ronen Shamir, *The Colonies of Law* (Cambridge, Cambridge University Press, 2000), 30-48.

Aref el-Aref, *Bedouin Law Love and Legend* (Jerusalem: Cosmos, 1944), 20-37.

7. Feb. 10+Feb. 16 (makeup): Legal Culture

Yoram Shachar. "Jefferson Goes East: The American Origins of the Israeli Declaration of Independence," *Theoretical Inquiries in Law* 10 (2009): 581-594, 601-614, 616-618.

Eli Salzberger and Fania Oz-Salzberger, "The Secret German Sources of the Israeli Supreme Court", *Israel Studies* 3 (1999): 159-164, 171-187.

Declaration of Israel's Independence 1948 (available at http://avalon.law.yale.edu/20th_century/israel.asp)

8. Feb. 17+Feb. 19 (makeup): Formalism and Rights Discourse

Menachem Mautner, "Law and Culture in Israel: The 1950s and the 1980s," in *The History of Law in a Multicultural Society: Israel 1917-1967*, (Ron Harris et al. eds, Dartmouth: Ashgate, 2002), 175-214.

Pnina Lahav, *Judgment in Jerusalem: Chief Justice Simon Agranat and the Zionist Century* (Berkeley, University of California Press, 1997), 90-112.

H.C. 10/49 Zeev v. Acting District Commissioner of the Urban Area of Tel Aviv, 1 *Selected Judgments of the Supreme Court of Israel* 68-74.

H.C. 73/53 Kol Ha'am Co. Ltd. V. Ministry of the Interior, 1 *Selected Judgments of the Supreme Court of Israel* 90, 91-99, 115-121.

9. Feb. 22+Feb. 24: Land Law and Ethnic Conflict

Alexandre (Sandy) Kedar, "The Jewish State and the Arab Possessor: 1948 - 1967," in HMLS, 317-360.

Yifat Holzman-Gazit, "Mass Immigration, Housing Supply and Supreme Court Jurisprudence of Land Expropriation in Early Statehood," in HMLS, 273-296.

10. Mar. 1+Mar. 3: Class, Gender and Religious Conflicts

Ron Harris, "Legitimizing the Imprisonment of Poor Debtors: Lawyers, Legislators, Judges" in HMLS, 217-241, 256-263.

Nitza Berkowitz, "Motherhood as a National Mission: The Construction of Womenhood in the Legal Discourse in Israel," *Women's Studies International Forum* 20 (1997): 605-619.

Daphne Barak-Erez, *Outlawed Pigs: Law, Religion and Culture in Israel* (Madison: University of Wisconsin Press, 2007), 3-13.33-57.

11. Mar. 8: Law and Memory

Hanna Yablonka, "The Development of Holocaust Consciousness in Israel: The Nuremberg, Kapos, Kastner and Eichmann Trials," *Israel Studies* 8 (2003): 1-24.

Idith Zertal, *Israel's Holocaust and the Politics of Nationhood* (Cambridge: Cambridge University Press, 2005), 58-90.

Nazi and Nazi Collaborators (Punishment) Law, 1950, 4 *Laws of the State of Israel* 154.

12. Mar. 10: Legal Thought

Assaf Likhovski, "Colonialism, Nationalism and Legal Education: The Case of Mandatory Palestine," in *HLMS*, 75-87.