

Poli Sci 179B
Israeli Law in Comparative Perspective

Tuesday 3:30-4:50

Thursday 3:30-4:50

PCB 1300

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Office Hours: Tuesday 1:50-2:50;

Thursday 1:50-2:50 or by appointment

COURSE DESCRIPTION

Israeli Law like American Law traces its origin to the British Common Law system. However each system developed its own uniqueness in accordance with societal and legal forces. Unlike the American system, in Israel there is no separation between state and religion and consequently religious law plays an important role in shaping the legal system. European continental Law and Ottoman Law also left their mark on Israeli Law. With references to other legal systems, the course will explore the role of the judiciary, the protection of human rights and civil rights, the effect of emergency anti-terror legislation and the evolvement of constitutional law without a written constitution.

Required books and Court cases: (available for purchase in the University Bookstore).

Suzie Navot, *Constitutional Law of Israel*, Kluwer Law International, BV, the Netherlands, 2007.

Aharon Barak, *The Judge in a Democracy*, Princeton U. Press, 2006.

Occasional assignments will be available at the Course website.

For several meetings, students will be asked to read court cases. All cases are available online. A link for each case appears at the course's syllabus.

Grades

The final grade in the course will be composed of participation and performance in class (10%), in-class mid-term examination (30%) on November 2nd, and a final take home examination (60%) to be handed over no later than December 7, 2010.

The best way to achieve a high grade is to attend class regularly and keep up with the reading. In case of students on the borderline between two grades, I reserve the right to factor in attendance and class participation.

Useful Internet Sites

The Judicial Authority <http://elyon1.court.gov.il/eng/home/index.html>

The Knesset (Parliament) www.knesset.gov.il

Israel Democracy Institute www.idi.co.il

Translation of Israeli Basic Laws (and several other important laws) can be found on at:

<http://www.israel.org/mfa/go.asp?MFAH00h50>

Course Schedule

The dates for subjects are approximate. You should plan to have all the readings completed for a topic by the date we begin class meetings about it.

Thursday: Sep. 23, Introduction

Barak, pp. IX-XXI

Tuesday, Sep 28: Law and Society

Barak, pp. 3-35

Thursday, Sep. 30: Basics of Public Law

Barak, pp. 35-88

Tuesday, October 5: Constitution and Judicial Review

Marbury v. Madison, 5 US (1 Cranch) 137 (1803).

<http://supreme.justia.com/us/5/137/case.html>

Thursday, October 7: The Israeli Legal System: History and Current Structure

Navot, pp. 19-56.

Recommended:

Hcj 73/53 Kol Ha'am v. Minister of the Interior

http://elyon1.court.gov.il/files_eng/53/730/000/Z01/53000730.z01.htm

Tuesday, October 12: Common Law Legal Systems

Barak, pp. 155-163; 197-204

Recommended:

Fordham, "Comparative Legal Traditions – Introducing the Common Law to Civil Lawyers in Asia". Available at the course website.

Thursday, October 14: Civil Law

JH Merryman, *The civil law tradition: an introduction to the legal systems of Europe and Latin America*, Stanford University Press, 2007. pp. 1-14, available online at:

<http://books.google.com/books?hl=en&lr=&id=6OJf9CbgKtKc&oi=fnd&pg=PA1&dq=civil+law+legal+system&ots=yo2nGCs1cx&sig=1mziagAGmJy0zkZ4EtIdF-7A5jo#v=onepage&q=civil%20law%20legal%20system&f=false>

Tuesday, October 19: Judicial Politics

Hofnung, "Israeli Constitutional Politics: The Fragility of Impartiality", *Israel Affairs*, 5(2-3), pp. 1999, 34-54, available at the course website.

Thursday October 21: The Israeli Judiciary

Navot, pp. 137-156.

Tuesday, October 26: The high Court of Justice

Navot, pp. 156-167;

H CJ 98/69 *Bergman v. Minister of Finance*.

http://elyon1.court.gov.il/files_eng/69/980/000/Z01/69000980.z01.htm

Thursday, October 28: Review of Legislative and Executive Discretion

Barak, pp. 215-240;

H CJ 3511/02 *Negev Coexistence Forum v. Ministry of Infrastructure*.

http://elyon1.court.gov.il/files_eng/02/110/035/F11/02035110.f11.htm

November 2: Midterm Exam

Separation of Powers and Adjudication

Barak. pp. 241-259.

November 4: State and Religion

Navot, pp. 309-318.

H CJ 953/01 *Solodkin v. Beit Shemesh Municipality*.

http://elyon1.court.gov.il/files_eng/01/530/009/A19/01009530.a19.htm

Recommended:

H CJ 153/87 *Shakdiel v. Minister of Religious Affairs*

http://elyon1.court.gov.il/files_eng/87/530/001/Z01/87001530.z01.htm

November 9: Emergency Legislation

Navot, pp. 293-301.

H CJ 5973/92 *Association for Civil Rights in Israel v. Minister of Defence*.

http://elyon1.court.gov.il/files_eng/92/730/059/Z01/92059730.z01.htm

November 16: Civil Liberties

Navot, pp. 198-217

H CJ 721/94 *El-Al v. Danielowitz*

http://elyon1.court.gov.il/files_eng/94/210/007/Z01/94007210.z01.htm

November 18: Civil Liberties

Navot, pp. 217-237.

HCJ 6698/95 Ka'adan v. Israel Land Administration

http://elyon1.court.gov.il/files_eng/95/980/066/a14/95066980.a14.htm

November 23: State Security

Barak, pp. 283-306.

Recommended

HCJ 769/02 Public Committee against Torture in Israel v. Government of Israel

http://elyon1.court.gov.il/Files_ENG/02/690/007/a34/02007690.a34.HTM

November 30: Occupied Territories

HCJ 3451/02 Almadni v. Minister of Defense

http://elyon1.court.gov.il/files_eng/02/510/034/a06/02034510.a06.htm

Recommended:

HCJ 2056/04 Beit Sourik v. the Government of Israel.

http://elyon1.court.gov.il/files_eng/04/560/020/A28/04020560.a28.htm

December 2: Social Rights

HCJ 366/03 Social Justice NGO v. Minister of Finance.

http://elyon1.court.gov.il/files_eng/03/660/003/a39/03003660.a39.htm

Majority decision of President Justice Barak.

Overview and Wrap up