Naomi Gale, (Schusterman Visiting Professor)
University of Colorado, Boulder

Maymester: 5/13 – 6/2
Monday-Friday: 9:00am – 12:15pm
Wolf Law Building: Room 306
Office Hours: Tues 1:00pm-3pm

Course Description

This course compares the various facades of the Israeli and American Legal Systems. Both systems derived from the British Common Law System, however each developed its own uniqueness in accordance with societal and legal forces, each distinctive to its own society with its unique history. For example, the legal system of Israel today belongs to the family of mixed jurisdictions combining tenets of the Common Law and the Civil Law, with Israel’s unique history and characteristics, and the revolutionary changes in the legal system since the independence of the state.

We will discuss the centrality of the Judiciary and compare the Supreme Courts and the High Courts of Justice in both countries, particularly their conduct in the arena of the protection human rights and civil rights, particularly of minorities, under the American Constitution and under the Israeli Basic Laws.

We will also study the structures of the general court systems in both, while paying special attention to specialized courts. Amongst those, a special attention will be given to the study of the religious court in Israel, its centrality in the life of Israelis and in the shaping of the laws of personal status, such as the absence of civil marriage and divorce and the position of women in Israeli society.

Major areas the course covers are: Constitutional Law: we will draw comparison between the American Constitution and the Basic Laws of Israel, which are of a higher normative status, and are a key component of Israel’s constitutional law. These Basis Laws are viewed as the basis for the constitution to be; Immigration Law: This section compares The United States Code Title 8 of the Code, "Aliens and Nationality", with the Israeli Law of Return, the Israeli Citizenship and Entry into Israel Law, and the Israeli nationality law. There will be some emphasis on illegal immigration issues to both countries; Criminal System: Israel’s criminal legal system is adversarial in nature, unlike the American system - there is no jury, and professional judges decide all cases. The Criminal Justice System is closely shaped by the common law system. The Penal Law and the Evidence Ordinance both originated from the British Mandate days and the Criminal Procedure is heavily influenced by common law. Time permitting we will discuss Military Penal Code in both countries; Israel National Health Insurance and other health related laws, Women’s Rights, in areas such employment, health, prevention of violence in the family, Sexual harassment and the conduct of the courts in these areas.
Required books

Course Requirements
Students are expected to prepare the readings for each class. Most of the materials is on the internet site of the course at the school of law and can be downloaded from the TWEN site. The rest will be handed during class.

Grades:
1. Class attendance, reading and participation (10%)
2. End-of-term take-home exam or submission of paper (90%)

1. Accommodations due to disability.
If you qualify for accommodations because of a disability, please submit a letter to the Disability Services in a timely manner so that your needs be addressed. Disability Services determines accommodations based on documented disabilities. Contact: 303-492-8671, Willard 322, and http://www.Colorado.EDU/disabilityservices
Disability Services letters for students with disabilities indicate legally mandated reasonable accommodations. The syllabus statements and answers to Frequently Asked Questions can be found at: http://www.colorado.edu/disabilityservices.
If you have a temporary medical condition or injury, see guidelines at: http://www.colorado.edu/disabilityservices/go.cgi?select=temporary.html

2. Religious observances.
Campus policy regarding religious observances requires that faculty make every effort to deal reasonably and fairly with all students who, because of religious obligations, have conflicts with scheduled exams, assignments or required attendance.
See full details at http://www.colorado.edu/policies/fac_relig.html.
Calendar of the religious holidays most commonly observed by CU-Boulder students is at http://www.interfaithcalendar.org/

3. Class room Behavior Conduct.
Students and faculty each have responsibility for maintaining an appropriate learning environment. Those who fail to adhere to such behavioral standards may be subject to discipline. Professional courtesy and sensitivity are especially important with respect to individuals and topics dealing with differences of race, culture, religion, politics, sexual orientation, gender, gender variance, and nationalities. Class rosters are provided to the instructor with the student's legal name. I will gladly honor your request to address you by an alternate name or gender pronoun. Please advise me of this preference early in the semester so that I may make appropriate changes to my records. See policies at http://www.colorado.edu/policies/classbehavior.html and at http://www.colorado.edu/studentaffairs/judicialaffairs/code.html#student_cod
4. Policy on Discrimination and Harassment
If any student believes s/he has been the subject of sexual harassment or discrimination or harassment based upon race, color, national origin, sex, age, disability, creed, religion, sexual orientation, or veteran status should contact the Office of Discrimination and Harassment (ODH) at 303-492-2127 or the Office of Judicial Affairs at 303-492-5550. Information about the ODH and the resources available to assist individuals regarding harassment or discrimination can be obtained at http://www.colorado.edu/odh

5. Honor Code
All students of the University of Colorado at Boulder are responsible for knowing and adhering to the academic integrity policy of this institution. Violations of this policy may include: cheating, plagiarism, aid of academic dishonesty, fabrication, lying, bribery, and threatening behavior. All incidents of academic misconduct shall be reported to the Honor Code Council (honor@colorado.edu; 303-735-2273). Students who are found to be in violation of the academic integrity policy will be subject to both academic sanctions from the faculty member and non-academic sanctions (including but not limited to university probation, suspension, or expulsion). Other information can be found at http://www.colorado.edu/policies/honor.html and at http://www.colorado.edu/academics/honorcode/

6. Requirements & Expectations
Students must be prepared for each class. Students are responsible for the preparation of all the material detailed in the syllabus below, as well as any additional texts and assignments that may be added during the semester. It is essential that all work must be completed and submitted on time. Extensions will be given only with the doctor’s note.
Bibliography (a tentative list)

1. Introduction: The Separation and Powers: The Israeli Society:


2. Jewish and Arab Perceptions of Rights in Israel


3. Human rights and civil rights


4. Israel Courts' Rulings in various areas of rights


5. The American Constitution Rulings in various areas of rights

in War and Emergency" (Federal Power, individual rights in war, the constitution and war on terrorism, limits on constitutional rights), pp. 236-253.


6. Judaism and Democracy


7. Religion, the Law and the State


8. Israel Basic Law: Freedom of Occupation (1994); Its contribution to the Changing the work practices' culture


9. Women equality: The law and practice

5/28 Halperin-Kaddari, Ruth., Women in Israel and State of their Own, Pennsylvania Studies Human Rights Series, University of Pennsylvania Press, 2003. "Gender Equality in the Legal System" (pp. 24-42); "The Promotion of Gender Equality" (pp. 43-68); "The Halachic Trap: Marriage and Family Life" (pp. 227-262);

10. The Judiciary

5/29 Shannon Ishiyama Smithey, Judges as Constitution Makers: Strategic Assertions of Judicial Authority, University of Pittsburgh (will be distributed in

11. General Comparison


6/2 Conclusion: general summary of the course and Q@A

Additional materials: (for students who would like to further their knowledge).


Constitution for Israel, A Joint project of the Knnesset and the Jewish Agency for Israel, North America by the Israeli American Forum, Can be found in the Knnesset Internet Site in the English Language.


The Declaration of Independence, the State of Israel. www.Knesset.gov.il

The Israeli Basic Laws
The Law of Returns
The Israeli Citizenship and entry into Israel Law
The Israeli Nationality Law
National Health Insurance Law

Useful Internet Sites

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

The Judicial Authority www.court.gov.il
The Israel Bar Association
Israel Democracy Institute www idi.co.il
B'TSELEM Israel Center for Human Rights
http://www.adalah.org/newsletter/eng/dec04/ar1.pdf

Guide to Law Online - Israel
Lexis