

**JLS-596**

**Israeli Law and Legal System**  
**Dr. Naomi Gale (Schusterman Visiting Professor)**

**Fall 2007**

**Course Description**

*Israeli Law and Legal System* will introduce you to the history of Israeli legal system and to the interaction between societal and legal forces and their influence in shaping the Israeli society. The legal system belongs to the family of mixed jurisdictions combining characteristics from the Common Law and the Civil Law, with its unique history and characteristics. The course highlights the revolutionary changes in the legal system since the independence of the state in 1948. The following subjects will be discussed: The absence of a single-document written Constitution, The "Basic Laws" that are of a higher normative status. The Supreme Court and its function as The High Court of Justice and as the centrality of the judiciary. The Structure of the court system, which combines the general court system and the specialized courts; Among those, a special attention will be given to the study of the religious court, 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.

**Required books:(available for purchase in the University Bookstore).**

Harris, R., A. Kedar, P. Lahav & A. Likhovski (eds.) *The History of Law in Multi-Cultural Society*, 1917-1967, Ashgate Dartmouth Publishing Co. Ltd., 2002.

Bin-Nun, Ariel, *The Law of the State of Israel: An Introduction*, Jerusalem: Rubin Mass LTD, 1990

Halperin-Kaddari, Ruth., *Women in Israel and State of their Own*, Pennsylvania Studies Human Rights Series, University of Pennsylvania Press, 2003

**Course Requirements**

Students are expected to do the reading for each class in advance and come to class prepared so they can participate and contribute to the discussion and to the understanding of the topics.

**Grades will be based on the following:**

1. Class attendance and participation: this in particular will be taken into account in decision on a borderline grades. (up to 10%)
2. Students are required to submit by email to the lecture on the Monday prior to each class a short summary of the main arguments or issues discussed from the reading list. Each week the students will be given the material for submission for the following class (20%).
3. End-of-term exam or submission of essay (6,000 words) (70%)

## **Bibliography** (a tentative list)

### **Introduction**

Bin-Nun, Ariel, *The Law of the State of Israel: An Introduction*, Jerusalem: Rubin Mass LTD, 1990, pp. 1-73.

Harris, R., A. Kedar, P. Lahav & A. Likhovski (eds.) *The History of Law in Multi-Cultural Society, 1917-1967*, Ashgate Dartmouth Publishing Co. Ltd., 2002.

### **Religion and the Law**

Stern, Yedidia, Z., (2006) *State, Law, and Halakhah: Part Four – What's Jewish in Israeli Law?*, Policy paper No. 65, The Israeli Democracy Institute,

Stern, Yedidia, Z., (2003) *State, Law, and Halakhah: Part Two- Facing Painful Choices*, Policy paper No. 4E, The Israeli Democracy Institute.

Scolnicov Anat, "Religious law, religious Courts and human rights within Israeli constitutional Structure", *Int. J Constitutional Law*, October 2006, 4: 732-740

A New Covenant on Religion and State, (highlights areas of conflict between religious and civil matters. (will be distributed in class)

### **Human rights**

Barak-Erez Daphne, "The International law of human rights and constitutional law: A case study of an expanding dialogue", *Int. J Constitutional Law*, October 2004, 2:611-632

Mudrik-Even Chen, Hilli and Mordechai Kremnitzer (2000) *Affirmative Action in Israel: Defining the Policy and Legislative Recommendations*, Policy Paper No. 24, The Israeli Democracy Institute.

Simon, R. J., Landis, J. and Amir, M. (1990) "Jewish and Arab Perceptions of civil rights in Israel", *Studies in Law, Politics and Society*, 10, pp. 245-262.

Yashuvi, Naama., The State of Human Rights in Israel: 2002, the Information Center at ACRI *The Association for Civil Rights in Israel*. (will be distributed in class)

Zureik, E., Moughrabi, F. and Sacco, V.F. (1993) "Perceptions of legal inequality in deeply divided societies: The case of Israel", *Journal of Middle East Studies*, 25, pp. 423-442.

### **Women and the law**

Etzioni-Halevi, Eva and Ann Illy (1993) "Women in Legislatures: Israel in a Comparative Perspective", in Azmon Yael and Ernest Krausz (eds.) *Women in Israel: Studies of Israeli Society*, Vol. VI, Transaction Publishers, New Brunswick (USA) & London (UK), pp.237-252 (also in Etzioni-Halevy, Eva and Ann Illy,

“Women in Legislatures – Israel in a Comparative Perspective”, *Contemporary Jewry*, 7 (1986): 65-77.)

Halperin-Kaddari, Ruth., (2003) *Women in Israel and State of their Own*, Pennsylvania Studies Human Rights Series, University of Pennsylvania Press. Chapters: 1. Introduction (3-23); 2. Gender Equality in the Legal System (24-42); 3. The Promotion of Gender Equality (43-68); 9. Violence Against Women (175-204); 11. The Halachic Trap: Marriage and Family Life (227-262).

Raday, F. (1996) "Women in the law in Israel: A study of the relationship between professional integration and feminism", *Georgia State University Law Review*, 12, pp. 525-552.

### **The Arab community In Israel**

Kedar Alexandre (Sandy) "Land Settlement in the Negev in International Law Perspective", Adalah Newsletter, volume 8, December 2004.

<http://www.adalah.org/newsletter/eng/dec04/ar1.pdf>

Shamir, Ronen., (1999) *Colonies of Law: Colonization, Zionism and Law in Early Mandate Palestine*, Cambridge University Press, (Chap. 3: State Law and Communal Justice, (55-70) ); Chap. 4: Celebration Authenticity). (will be distributed in class)

### **Judaism and Democracy**

Artsieli, Yoav (2004) *Main Points and Principles of the Gavison-Medan Covenant*, The Israeli Democracy Institute and AVI CHAI Foundation.

Gavison Ruth, (2003) "Democracy and Judaism – Between Conceptual Analysis and Public Discourse" in David, Joseph E. (ed.) *The State of Israel: Between Judaism and Democracy*, The Israel Democracy Institute. Pp. 360-370.

Shaley, Carmel "Within and Beyond the Limits of Human Nature", Heinrich Boll Foundation, Berlin, October 12-15, 2003. *Weighing and Balancing the Value of Jewish Democracy*. (will be distributed in class)

Landau Asher Felix, (1993) *The Jerusalem Post Law Reports*, The Magness Press, the Hebrew University, Jerusalem. (Short extracts of 10 cases reported by the Jerusalem Post that have some implications on social process). (will be distributed in class)

**Additional materials**, for students who would like to further their knowledge.

Carmon, Arye (2006) "Give Israel a Constitution", *Jerusalem Post*, June 9.

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

The Declaration of Independence, the State of Israel. Can be found in the Knesset Internet Site in the English Language. [www.Knesset.gov.il](http://www.Knesset.gov.il)

Israel Supreme Court (2005) "A Judge on Judging: The Role of the Supreme Court in a Democracy", in *Judgment of the Israel Supreme Court: Fighting Terrorism within the Law*, Jerusalem, English publication of. pp. 9-23.

Ruttner Aria, "The Sanctity of Criminal Law: Thoughts and reflections on wrongful conviction in Israel. *Crime, Law & Society* (will be distributed in class)

Shannon Ishiyama Smithey, **Judges As Constitution Makers: Strategic Assertions of Judicial Authority**, University of Pittsburgh (will be distributed in class)

Woods, Patricia J. "It's Israeli After All: A Survey of Israeli Women's Movement Volunteers" *Israel Studies Forum* 19:2 (April 2004).

### **Useful Internet Sites**

The Knesset (Parliament) [www.knesset.gov.il](http://www.knesset.gov.il)

The Judicial Authority [www.court.gov.il](http://www.court.gov.il)

The Israel Bar Association

Israel Democracy Institute [www.idi.co.il](http://www.idi.co.il)

Israel Center for Human Rights

Guide to Law Online - Israel

Lexis