

## **LS190/JS122: Gender, Religion, and Law: The Case of Israel**

Prof. Masua Sagiv

Fall 2023, Mon 2-4:59pm  
104 Wheeler

### ***Course Description***

The course will explore the intersection of gender, religion, and law in Israel, as manifested in social movement activism through law and society. Incorporating existing law with current discourse and issues around the suggested legal reforms and the fragility of Israeli democracy, the course will illustrate and reflect upon different strategies and spheres for promoting social change, by examining core issues involving gender, religion and law in Israel: religious marriage and divorce, gender equality in the religious establishment, free exercise of religion (at the Western Wall and Temple Mount), and gender segregation in public places and in academia. Spheres of activism to be covered include parliament, state courts, alternative private initiatives and courts, and social protests.

By the end of this course, you will:

1. Understand the dynamics of law and society in social movements struggles for change in issues of gender and religion in Israel;
2. Acquire a broad understanding of the interrelations between gender, religion, and law and the ability to apply these understandings to different legal systems; and
3. Acquire an in-depth understanding of the constitutional crisis in Israel and the ability to analyze future developments in this ongoing situation.

### ***Requirements***

Students will be asked to (1) attend all classes and engage in informed discussion, (2) submit one response paper, 750 words long, during the term, (3) be prepared to lead a class discussion based on their response paper, (4) complete one asynchronous class assignment, and (5) complete a final take-home exam. Requirements (1)-(4) represent 40% of the final grade, and the final exam (4) accounts for the other 60%.

**Students must adhere to the current campus directives related to COVID-19 and refusal to do so may result in the student being asked to leave.**

Office hours: after class, or by appointment (to be conducted via Zoom or in person)

Prof. Sagiv can be reached at [masua.sagiv@berkeley.edu](mailto:masua.sagiv@berkeley.edu).

## SYLLABUS

[Items marked by \* are optional reading]

All materials can be found in the course website on bCourses

### PART I: GENDER, RELIGION, AND LAW: THIS MOMENT IN ISRAEL

Aug. 28

#### **I. Israel as a Jewish and Democratic state: Law, Politics, Society**

- 1) Declaration of the Independence of Israel, 1948,  
<https://main.knesset.gov.il/en/about/pages/declaration.aspx>
- 2) Basic Law: Human Dignity and Liberty [1992, amended 1994]
- 3) Basic Law: Israel – The Nation State of the Jewish People [2018]
- 4) Alan Dowty, *Democracy in Israel*, THE OXFORD HANDBOOK OF ISRAELI POLITICS AND SOCIETY (2020)
- 5) Guy Ben Porat, *Religion in Israeli Politics*, THE OXFORD HANDBOOK OF ISRAELI POLITICS AND SOCIETY (2020)
- 6) Former President Reuven Rivlin, *Israeli Hope: Towards a New Israeli Order*, Address to the 15<sup>th</sup> Annual Herzliya Conference, 7 June 2015,  
<https://www.runi.ac.il/media/vtylyqpp/presidentspeech2015.pdf>
- 7) Eilon Schwartz, *Deep Diversity, The Common Good, and the Israeli Future*, SAPIR 3 (2021), <https://sapirjournal.org/continuity/2021/11/deep-diversity-the-common-good-and-the-israeli-future/>

Sep. 4 – Labor Day – NO CLASS

Sep. 11 - ASYNCHRONOUS CLASS

Watch and answer questions on bCourses:

*GETT* (Ronit Elkabetz & Shlomi Elkabetz dirs., Israel 2014)

Sep. 18

#### **II. Marriage and Divorce**

- 1) Rabbinical Courts Jurisdiction (Marriage and Divorce) Law, 5713 – 1953, *sections 1-2*
- 2) Royal Edict, The Palestine Order in Council 1922–1947, *sections 51-52, 54*
- 3) Avishalom Westreich and Pinhas Shifman, A CIVIL LEGAL FRAMEWORK FOR MARRIAGE AND DIVORCE IN ISRAEL (Ruth Gavison, editor, 2013), pp. 19-36, 48-49, 72-94

Sep. 26 – Jewish High Holidays – NO CLASS

Oct. 2

### **III. Judicial Overhaul, Religion, Gender, and the Protest Movement**

- 4) Gregory Mahler, *The “Constitutional” System of Israel*, THE OXFORD HANDBOOK OF ISRAELI POLITICS AND SOCIETY (2020)
- 5) Peter Lintl, *Israel’s Anti-Liberal Coalition*, SWP COMMENT (Jan. 2023)
- 6) Dahlia Lithwick, *The Women of Israel Are Standing Together*, SLATE, May 30, 2023, <https://slate.com/news-and-politics/2023/05/women-israel-protest-theocracy-supreme-court.html>

### **IV. Israeli Liberals and the Courts**

- 1) Avi Garfinkel, *‘The Israeli Left Is Used to Fixing Politics via the High Court. It Doesn’t Work.’*, HAARETZ, March 16, 2023
- 2) Ronen Avraham, *Knesset Passage of ‘Reasonableness Amendment’ Still Leaves Room for Democratic Dialogue in Israel*, JURIST, Jul. 25, 2023, <https://www.jurist.org/commentary/2023/07/ronen-avraham-knesset-reasonableness-amendment/>

Oct. 9

### **V. Religion and State: Philosophical Perspectives**

- 1) John Rawls, *The Domain of the Political and Overlapping Consensus*, 64 N. Y. U. L. Rev. 233 (1989)
- 2) Yeshayahu Leibowitz, *State and Religion*, TRADITION 12, 5 (1972)

### **VI. Gender, Religion, and the Development of Religious Feminism**

- 3) Anat Kam, *Religious or Feminist? You Can’t be Both*, HAARETZ, Nov. 24, 2022
- 4) Yofi Tirosh, *Jewish Women Can Be Both Religious and Feminist, No Thanks to Israel’s Illiberal Leftists*, HAARETZ, Dec.1, 2022

Oct. 16

### **VII. Social criticism**

- 1) MICHAEL WALZER, INTERPRETATION AND SOCIAL CRITICISM (1987), pp. 30-57

### **VIII. Strategies for social change**

- 2) Tommaso M. Milani, Erez Levon, Roey J. Gafter, Iair G. Or, *Tel Aviv as a Space of Affirmation versus Transformation*, LINGUISTIC LANDSCAPE (2018)

Oct. 23

### **Summary of Part I – Tour at The Magnes Collection of Jewish Life and Art**

The tour is specifically tailored for this course and will include, in addition to current exhibitions, objects from the collection's archives.

### PART II: GENDER, RELIGION, AND LAW: ACTIVISM AND SOCIAL CHANGE IN ISRAEL

Oct. 30

#### ***IX. Legal pluralism and social change***

*\*Trigger warning: The class reading and discussion involves obstacles within society and the state that victims of sexual assaults are faced with*

- 1) Sally Engle Merry, *Legal Pluralism*, LAW & SOC'Y REV., Vol. 22(5) (1988), pp. 869-872
- 2) Stuart Winer, *Private Panel of Rabbis Annuls Marriage of Abused Wife who Sought Divorce*, THE TIMES OF ISRAEL, Feb, 4, 2019 <https://www.timesofisrael.com/private-panel-of-rabbis-annuls-marriage-of-abused-wife-who-sought-divorce/>
- 3) Daniel Sperber, *Why Did I Establish A Private Rabbinical Court?* (July 31, 2018)
- 4) Yedidia Z. Stern, *"And Your Camp Shall be Holy" – The Case of the Takana Forum*, TRADITION Vol. 50(2) (2017), pp. 107-122

Nov. 6

#### ***X. Inclusion I: Gender equality in the religious establishment***

- 1) Tanya Zion-Waldoks, Ronit Irshai, and Bana Shoughry, *The First Female Qadi in Israel's Shari'a (Muslim) Courts: Nomos and Narrative*, SHOFAR: AN INTERDISCIPLINARY JOURNAL OF JEWISH STUDIES, Vol. 38(2) (2020), pp. 229-261
- 2) HCJ 2688/19 *Engelberg v. The Council of the Chief Rabbinate of Israel* (15/4/2019), *excerpts*
- 3) Judah Ari Gross, *In First, Women Take Official Jewish Law Tests, But Activists Say it isn't Enough*, THE TIMES OF ISRAEL, Dec. 15, 2022, <https://www.timesofisrael.com/in-first-women-take-state-jewish-law-tests-but-activists-say-it-isnt-enough/>

Nov. 13

**XI. Inclusion II: Free exercise of religion**

- 1) Protection of Holy Places Law, 1967, *paragraphs 1-2*
- 2) Regulations Regarding the Protection of the Jewish Holy Places, 1981, *paragraphs 1-2(a)(1a)*
- 3) Pnina Lahav, *The women of the wall: a metaphor for national and religious identity*, ISRAEL STUDIES REVIEW, Vol. 30(2) (2015), pp. 50-67
- 4) Tomer Persico, *The End-Point of Zionism: Ethnocentrism and the Temple Mount*, ISRAEL STUDIES REVIEW 32 (1), 104 (2017)

Nov. 20

**XII. Exclusion I: Segregation in Public Spaces**

TBD

Nov. 27

**XIII. Exclusion II: Segregation in Academia and the Workplace**

- 1) Yofi Tirosh, *The Future of Sex Segregation in Israel Following the Supreme Court Ruling on Segregated Academia*, Aug. 3, 2021, [https://www.youtube.com/watch?v=ICzyTVCCv8g&ab\\_channel=HiddushIsrael](https://www.youtube.com/watch?v=ICzyTVCCv8g&ab_channel=HiddushIsrael)
- 2) TBD