Syllabus

HALAKHIC & CIVIL SOLUTIONS TO THE AGUNAH PROBLEM - 62673

Last update 14-02-2014

HU Credits: 4

Degree/Cycle: 1st degree (Bachelor) and 2nd degree (Master)

Responsible Department: Faculty of Law

Academic year: 2

Semester: 2nd Semester

Teaching Languages: Hebrew

Campus: Mt. Scopus

Course/Module Coordinator: Dr. Avishalom Westreich

Coordinator Email: avishalomw@gmail.com

Coordinator Office Hours: Wednesday, 10:30-12:00

Teaching Staff:
Dr. Avishalo Westreich
Course/Module description:
Divorce in Jewish Law is executed by a writ of divorce (Heb.: a get) willingly delivered by the husband to his wife. When the husband refuses to divorce his wife, she becomes "a chained wife", or: an "agunah", and according to Jewish Law is prevented from remarrying. In the past few decades there has been an increasing number of "get refusal" cases. It is undoubtedly one of the major challenges of Jewish Law and Jewish society in modern times.

The seminar explores the problem and its main civil and halakhic solutions. As a background we shall examine the legal and social background of the problem both in Israel and abroad. We then turn to analyzing the main solutions of the problem of the agunot. Among them: halakhic solutions, such as conditional marriage, marriage annulment and prenuptial agreements, and civil solutions, such as civil marriage, "get laws" and tort compensations.

Course/Module aims:
The object of the seminar is to explore the agunah problem and its main civil and halakhic solutions.

In addition, the seminar's object is to give the student tools for dealing with advanced issues in family law.

Learning outcomes - On successful completion of this module, students should be able to:
On successful completion of this module, students should be able to analyze the agunah problem, both from civil perspective and from Jewish law perspective.

In addition, the students would be able to write an academic essay in family law or Jewish law and present their research in front of the seminar's students.

Attendance requirements(%):
90

Teaching arrangement and method of instruction: Frontal teaching; students' presentations.

Course/Module Content:
Section A: Chained Wives: The Problem
a. 1. Marriage and Divorce in Jewish Law: Introduction
Class #1-2
a. 2. Who is an Agunah?
Class #1-2

Section B: Halakhic Solutions
b. 1. Introduction
b. 2. Get Compulsion
Class #3
b. 3. Conditional Marriage
Class #4-5
b. 4. Marriage Annulment
Class #6-7
b. 5. Mistaken Marriage
Class #8-9

Section C: Civil Solutions
c. 1. Maintenance and Pre-Nuptial Agreements
Class #10
c. 2. Tort Compensation
Class #11-12
c. 3. Civil Marriage and Divorce
Class #13

Section D: Summary
Class #14

Required Reading:
Section A: Chained Wives: The Problem
a. 1. Marriage and Divorce in Jewish Law: Introduction
1. משנה, יבמות יב’, א; קידושין, א, א
2. בן ציון שרשבסקי, דיני משפטה (הרודה海滩, תשמ”ו).
3. חוק שיפוט בתי דין חכמים (usahaan וברוים), התשי”ג, 1953.
4. חוק בתי דין חכמים (חוק פסקי דין של גורשים), התשנ”ה, 1995.
5. חוק תקצ”ו מקומ בקנוז, התשל”ד, 1964; חוק תקצ”ו, התשס”ו.
7. מישל סבג נ’ בית הדין הרבני הגדול, פסק דינו של השופט רובינשטיין 6751/04. בג”צ

a. 2. Who is an Agunah?
1. Aviad HaCohen, The Tears of The Oppressed, An Examination of the Agunah Problem: Background and Halachic Sources (2004), Introduction, Foreword, and pp. 1 – 33; 93 – 104.
4. ענימ 6751/04 משל מכבר לי, 회ת deliberations המוות, פנס דייו של השופט רובינשטיין.
Section B: Halakhic Solutions

b. 1. Introduction

b. 2. Get Compulsion

b. 3. Conditional Marriage
4. זלמן נחמיה גולדברג, "הפקעת קידושין: פתרון לעגינות", תחומין כב (תשס"ב) 158.

b. 4. Marriage Annulment

b. 5. Mistaken Marriage

Section C: Civil Solutions

c. 1. Maintenance and Pre-Nuptial Agreements


3. Civil Marriage and Divorce


c. 2. Tort Compensation


c. 3. Summary


Course/Module evaluation:
End of year written/oral examination 0 %
Presentation 6 %
Participation in Tutorials 10 %
Project work 80 %
Assignments 0 %
Reports 4 %
Research project 0 %
Quizzes 0 %
Other 0 %

Additional information: