Syllabus

The Historical Roots of Jewish Family Law - 62493

Last update 13-09-2016

HU Credits: 2

Responsible Department: law

Academic year: 0

Semester: 1st Semester

Teaching Languages: Hebrew

Campus: Mt. Scopus

Course/Module Coordinator: Dr. Yifat Monnickendam

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Coordinator Office Hours: Sunday 14:00-15:00

Teaching Staff:
Dr. Yifat Monnickenda

Course/Module description:
What is betrothal, what ties a couple or dissolves the marital bond? Can the status

of a non-Jew change? What is the status of children of intermarriage and what is the origin of the matrilineal descent? Who is a mamzer and can he be purified? What is the status of a fetus? These questions and others touch the foundations of the authority of the legal system, and its ability, or disability, to change the status of a person. Even though these questions stand in the heart of current controversies, they are rooted in historical debates and early Mediterranean legal systems, namely, Talmudic Halakha, Roman law and early Christian legal traditions. In this course we will present the historical foundations of several issues in family law and their modern implementation, discuss the relations between the work of the jurist and halakhic scholar, and that of the legal historian, and apply methods from comparative law, legal history and legal theory.

Course/Module aims:
  This course has two main objectives: First, acquaintance with the main topics of family and status law and their historical foundations; Second, discussion and analysis of the relation between historical sources and the work of the legal historian, and the modern discourse and work of the modern jurists, understanding the similarities and differences in their goals, their methods and their presumptions.

Learning outcomes - On successful completion of this module, students should be able to:
  1. To know the main topics and family and status law
2. To analyze the basic sources of family and status law
3. To compare between ancient and modern legal systems
4. To be acquainted with different research and analysis methods of legal sources

Attendance requirements(%):
  75%

Teaching arrangement and method of instruction:

Course/Module Content:
  1. Betrothal and annulment
2. Abortion
3. Intermarriage
4. Conversion and Slavery
5. Mamzer

Required Reading:

 1. Gordley, James. 2006. "Comparative Law and Legal History." In The Oxford Handbook of Comparative Law, edited by Reinhard Zimmermann and Mathias Reimann, 753-773. Oxford: Oxford University Press.

2. Cohen, Boaz. "On the Theme of Betrothal in Jewish and Roman Law." Proceedings of the American Academy for Jewish Research 18 (1948-9): 67-135

3. Broyde, Michael J. A Proposed Tripartite Agreement to Solve Some of the Agunah Problems: A Solution without any Innovation. Jewish Law Association Studies 20 (2010), pp. 1-15.

4. וזנר, שי עקביא. "'כל דמקדש אדעתא דרבנן מקדש': לפירושו של הכלל התלמודי". דיני ישראל כו-כז (תשס"ט-תש"ע), 27-48.

5. קיסטר, מנחם. "מפילוטס עד הלל: הפרת הסכם קידושין בקרב יהודי מצרים בתקופה ההלניסטית והרומית". תרביץ ע (תשס"ע), 631-632.

6. ריסקין, שלמה. "הפקעת קידושין ⬜ פתרון לעגינות." תחומין כב (תשס"ב), 191-209.

7. גולדברג, זלמן נחמיה. "הפקעת קידושין אינה פתרון לעגינות." תחומין כג (תשס"ג), 158-160.

8. ריסקין, שלמה. "כוח ההפקעה מונע עיגון." תחומין כג (תשס"ג), 161-164.

9. גולדברג, זלמן נחמיה. "אין הפקעת קידושין ללא גט." תחומין כג (תשס"ג), 165-168.

10. לביא, אוריאל. "האם ניתן להפקיע קידושין של סרבן גט?" תחומין כז (תשס"ז), 304-310.

11. ליפשיץ, ברכיהו. "על מסורת, על סמכות ועל דרך ההנמקה." תחומין כח (תשס"ח), 82-91.

12. וויינפלד, משה. "המתת עובר ⬜ עמדתה של מסורת ישראל בהשוואה לעמדת עמים אחרים." ציון מב (תשל"ז), עמ' 129-142.

13. בער, יצחק. "הערות למאמרו של מ' וויינפלד 'המתת עובר ⬜ עמדתה של מסורת ישראל בהשוואה לעמדת עמים אחרים.'" ציון מב (תשל"ז), עמ' 312-314.

14. Irshai, Ronit. 2012. Abortion in Contemporary Halakhic Rulings. Waltham, MA: Brandeis University Press. pp. 160-200.

15. Cohen, Shaye J. D. 1983. From the Bible to the Talmud: The Prohibition of Intermarriage. Hebrew Annual Review 7:23-39.

16. Stoller, Brian. Saying Yes to Mixed-Marriage Officiation: A Socio-Halachic Approach. CCAR Journal: The Reform Jewish Quarterly 63 (2016): 54-82

17. Cohen, Shaye J. D. 1985. The Origins of the Matrilineal Principle in Rabbinic Law. AJS Reviews 10:19-53 .

18. Katzoff, Ranon. 2003. Children of Intermarriage: Roman and Jewish Conception. In Rabbinic Law n Its Roman and near Eastern Context, edited by Catherine Hezser. T¼bingen: Mohr Siebeck, 277-86.

19. Vogel, M. H. The Resolution on Patrilineal Descent: A Theological Defense. Modern Judaism 6 (1986): 127-156.

20. Hezser, Catherine. 2005. Jewish Slavery in Antiquity. Oxford: Oxford University Press. pp. 27-68

Additional Reading Material:

Grading Scheme:

Additional information: