



# *The Hebrew University of Jerusalem*

## *Syllabus*

### *human rights and democracy - 62668*

*Last update 07-09-2018*

*HU Credits: 4*

*Degree/Cycle: 2nd degree (Master)*

*Responsible Department: Law*

*Academic year: 0*

*Semester: Yearly*

*Teaching Languages: Hebrew*

*Campus: Mt. Scopus*

*Course/Module Coordinator: RUTH GAVISON*

*Coordinator Email: [ruth.gavison@huji.mail.ac.il](mailto:ruth.gavison@huji.mail.ac.il)*

*Coordinator Office Hours: By appointment*

*Teaching Staff:*

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Prof Ruth Gavison

Course/Module description:

The seminar consists of 11 weekly meetings of directed reading and discussion in the first term, and a retreat of as many days as are needed to allow each student a 90 minutes presentation and discussion of their seminar papers. These days will take place at the end of the second term. Overall, the credits will be equal to a full annual seminar.

Attendance in all meetings and reading the required reading are mandatory. The grade will consist of 20% attendance and participation; 20% oral presentation and 60% a seminar paper. All discussions and presentations will be in English, but seminar papers may be in Hebrew if the student so wishes.

The seminar paper will be no longer than 20 pages (Hebrew) or 25 pages (English). Students who will not attend or present their paper will not be eligible for a grade. Students will choose their titles for the papers no later than the end of the first term.

Human rights and democracy are two ideals, which enjoy extensive support in most countries in the world, including Israel. The purpose of this seminar is to examine the two idea(l) in greater detail, to look at their justifications, and to explore the relationships between them. The seminar seeks to argue that these relationships are not at all simple, as is often assumed in many Western democracies. Often, It is assumed, that democracy and human rights stand together in the liberal and universal side of social commitments, as against more particularistic ethnic or religious commitments. (In Israel, 'Jewish' is seen as standing in either tension or even inconsistency with both 'democracy' and 'human' rights). In fact, the relationships between democracy and human rights are more complex. A commitment to democracy and to human rights will be rich and solid only if it can be grounded within the particular social cultures prevalent in the relevant society. And there are tensions between democracy and human rights stemming from the fact that democracy celebrates the self-government of the specific 'demos' of the relevant country – the body of its citizens, irrespective of religion or ethnicity, but usually sharing a particular national, religious and cultural set of features – whereas human rights are indeed universal and humanistic values. Moreover, human rights do not include only individual rights, but also the rights of individuals to belong to groups, and the rights of groups themselves. There are systemic tensions among individual rights (e.g. tensions between the right to freedom of expression and the right to reputation or privacy), as well as tensions between individual and group rights (e.g. the rights of individuals to freedom or equality and the rights of groups to maintain the traditions constituting the community, even if they are seen by some as violations of freedom or equality).

Studying democracy and human rights and the relationships between them thus requires attention to the meaning and implications of these key terms; what they require or forbid; how to deal with the tension within them and between them; and who is supposed to make authoritative decisions on such issues, and in what kinds

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of procedures.

Attached is the table with the dates of meetings and corresponding reading materials. I am out of the country the first two weeks of term so we shall start November 16th. Where possible, the moodle will include both English and Hebrew versions. The literature on these subjects is huge. I have selected texts that may offer a good starting point for thinking and discussion. Input about the texts and proposals for change are welcome. Some additional sources are available which are not required reading, but many more are available.

Course/Module aims:

Learning outcomes - On successful completion of this module, students should be able to:

students will be familiar with the complexity of the key terms: democracy, rights and human rights, and the relations among them, on a general philosophical level and in the context of Israeli debates.

Attendance requirements(%):  
100%

Teaching arrangement and method of instruction:

Course/Module Content:

1. Introduction
  2. Democracy – Meaning and Justifications
  3. Issues in Modern Democracy
  4. Institutional Aspects in Democracy
  5. Human Rights – Meaning and Justifications
  6. Morality, Law, politics
  7. Liberalism, Individual Rights and Group Rights
  8. Democracy and Human Rights 1
  9. Democracy and Human Rights – Institutional aspects
  10. Interim Conclusion
- The vision of Israel – Jewish self-determination, Democracy and Human Rights

Required Reading:  
(All items are in the Moodle.

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### Class 1: Introduction

- Jack Donneley, *Democracy, human rights and development* [14 p.].

### Class 2: Democracy – Meaning and Justifications

- N. Bobbio, *The future of Democracy (also in Hebrew)* [25 p.].
- *Federalist 10 (also in Hebrew)* [7 p.].
- *The Economist, What's gone wrong with democracy.*
- Eric Lee: *A Tale of Two Political Systems.*

[https://www.ted.com/talks/eric\\_x\\_li\\_a\\_tale\\_of\\_two\\_political\\_systems?language=en](https://www.ted.com/talks/eric_x_li_a_tale_of_two_political_systems?language=en)

### Class 3: Issues in Modern Democracy

- Stephen Holmes, *Pre-commitment and the Paradox of Democracy (especially pp. 134-137, 158-177)* [24 p.].
- *In a Fragmented Age, Spotighting the Core of What Unites Us.*
- (\*optional\*) Waldron Jeremy, *Judicial review and the Conditions of democracy* [21 p.].

### Class 4: Institutional Aspects in Democracy

- Waldron Jeremy, *The core case against Judicial review (especially introduction and sections I-III)* [28 p.].
- Alon Harel and Tsvi Kahana, *The Easy Core Case for Judicial Review (especially introduction and section II)* [29 p.].

### Class 5: Human Rights – Meaning and Justifications

- *Stanford Encyclopedia of Philosophy, Human Rights (sections 1-4)* [23 p.].
- Andrei Marmor, *On the Limits of Rights*, 16 *LAW & PHIL.* 1 (1997) [18 p.].
- Cover Robert, *Obligation: A Jewish Jurisprudence of the Social Order* [9 p.].
- Joseph Raz, *Human Rights without foundations* [20 p.].

### Class 6: Morality, Law, politics

- Mary Ann Glendon, *Rights Talk, introduction and Ch. 7* [16 p.].
- Ruth Gavison, "The Relationships between Civil and Political and Social and Economic Rights", in Coicaud et al (eds.) *Globalization of Human Rights*, UNU Press 2003, 23-55 [28 p.].

### Class 7: Liberalism, Individual Rights and Group Rights

- Eyal Benvenisti – *National Courts and the International Law on Minority Rights (also in Hebrew)* [24 p.].
- Raz & Margalit, *The Right to Self Determination* [23 p.].
- (\*optional\*) *Stanford Encyclopedia of Philosophy, Human Rights (section 5)* [15 p.].
- (\*optional\*) Saban – *Minority Rights in Deeply Divided Societies (also in Hebrew).*

### Class 8: Democracy and Human Rights 1

- Osiatynski, *Human Rights and Their Limits*, ch. 2 [34 p.].

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*Class 9: Democracy and Human Rights – Institutional aspects*

- *Bruce Ackerman, The Civil Rights Revolution, Introduction [19 p.].*
- *Adam Dodek, The Canadian Override: Constitutional Model or Bête Noire of Constitutional Politics? [23 p.].*

*Class 10: Interim Conclusion*

- *Karl Popper, The Open Society and its enemies, Ch. 10 (also in Hebrew) [33 p.].*
- *Sam Moyn, The last Utopia, Epilogue [16 p.].*
- *Kennedy, The Human Rights Movement [18 p.].*

*Class 11: The vision of Israel – Jewish self-determination, Democracy and Human Rights*

- *Avigdor Levontin, Jewish and Democratic: Some Personal Reflections, THE STATE OF ISRAEL: BETWEEN JUDAISM AND DEMOCRACY 281 (Joseph E. David ed., 2003) (also in Hebrew) [26 p.].*
- *Gavison – Constitutional Anchoring of Israel's Vision: Recommendations submitted to the Minister of Justice (also in Hebrew) [23 p.].*
- *Ze'ev B. Begin – On the Essence of the State of Israel (also in Hebrew) [4 p.].*
- *Shlomo Avineri – Self-Determination and Israel's Declaration of Independence [11 p.].*

*Additional Reading Material:*

*Course/Module evaluation:*

*End of year written/oral examination 0 %*  
*Presentation 20 %*  
*Participation in Tutorials 20 %*  
*Project work 60 %*  
*Assignments 0 %*  
*Reports 0 %*  
*Research project 0 %*  
*Quizzes 0 %*  
*Other 0 %*

*Additional information:*