



The Hebrew University of Jerusalem

Syllabus

The essence of democracy: Introduction to the Contemporary Constitutional Crisis - 62744

Last update 05-03-2023

HU Credits: 2

Degree/Cycle: 1st degree (Bachelor)

Responsible Department: Law

Academic year: 0

Semester: 2nd Semester

Teaching Languages: Hebrew

Campus: Mt. Scopus

Course/Module Coordinator: Dr. Limor Yehuda

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Coordinator Office Hours: Monday 12:00-13:00

Teaching Staff:

Limor Yehuda

Course/Module description:

The public storm sweeping the country these days has raised fundamental questions concerning a democratic regime and democracy in Israel to the top of the public agenda. In response to this, this course offers a unique opportunity in which we will study and discuss together the questions and debates that are at the center of the public debate. The study in the course will be based on multidisciplinary knowledge, and the discussion in it will aim to present a variety of opinions within a free and respectful discussion on these topical issues.

The course will open with a direct encounter with the storm surrounding the proposed reforms to the justice system and their implications for Israel as a democratic country. In the first part of the course we will introduce the principles of a democratic regime, the history of democracy in the world and in Israel, and the elements of the legal reform being promoted these days. In the second part of the course we will engage in discussion and joint clarification of a number of issues relating to the contemporary challenges in democracy in Israel.

Course/Module aims:

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

- Know theories and history of democracy
- To know the development of democracy in the State of Israel and its foundations
- Developing the ability to evaluate and critically analyze claims and positions
- Cultivating skills to participate in discussions

Attendance requirements(%):

Teaching arrangement and method of instruction:

Course/Module Content:

1. Introduction to democracy and the current crisis
2. "Democracy is elections at the ballot box and the rule of the majority"
3. "Democracy. end"
4. The rule of law or the rule of judges?

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5. "Where were you during the disengagement?!"
 6. Their loyal servants: Who are elected officials and public servants loyal to?
 7. "The State of Israel v. Benjamin Netanyahu"
 8. "Jewish and democratic state"
 9. The consequences of the damage to the legal system on individual rights and minority rights
 10. Civil obedience and democracy
 11. Emergency and bureaucratic power in Israel
 12. Concluding discussion

Required Reading:

Details of the topics to be studied in the course

1. Introduction to democracy and the current crisis

How does democracy differ from other forms of government? What can be bad in a non-democratic regime? What are its value foundations, what are the rules of the game / the institutional foundations, and what are the challenges of democracy? How did democracy develop in the world? What are the foundations of the Israeli system? What are the components of the legal reform promoted by the government? What are the sound justifications for promoting the reform? What are the estimates regarding the impact of the reform on the Israeli regime?

background materials:

□ *The Universal Declaration of Human Rights, 1945*

□ *The Declaration of Independence, 578-1948*

□ *The Constitution, Law and Justice Committee - on the Knesset website*

2. "Democracy is elections at the ballot box and the rule of the majority." Guest lecturer: Prof. Yitzhak Gal-Nor

What is the relationship between the rule of the people and the rule of the majority? Is the majority in the Knesset omnipotent or are there limitations on it? Is it true to talk about separation of powers? On balances and brakes? What restraint mechanisms are recognized in democratic methods? What are the existing mechanisms in Israel? What are the conditions for free elections? What is the connection between democratic elections and civil rights? What is citizen participation necessary for democracy: is it limited to participation in elections or does it include direct influence on policy making?

background materials:

□ *Dahl, Robert A. 2002. On democracy. Jerusalem: Israel Institute for Democracy, pp. 39-62*

□ *Dror Bar-Yosef, Derech Begin - a collection of Menachem Begin's national-liberal thought, Begin Heritage Center, Yedioth Ahronoth, Hamad Books, 2023-2023, pp. 43-47, 138-143*

3. "Democracy. end" Guest lecturer: Dr. Gail Talshir

What are recognized indicators of democracy? When does a regime stop being democratic? Can the people choose to stop being a democracy? What is the similarity between the processes of democratic retreat and the rise of populism in other countries, such as Poland, Hungary and Turkey, and the current crisis in

Israel? Conversely, what are the conditions for the success of countries?

background materials:

□ Democracy indicators: Freedom House - methodology, global index; The Economist's Democracy Index - on the website of the Israel Democracy Institute

□ Democracy. End: This is what countries that thought it wouldn't happen to them look like. Dov Gil-Har and Itamar Meiri, here, the tender edition

4. The rule of law or the rule of judges?

What is the rule of law? How is the law established in Israel? Do we have a constitution, and how are laws enacted and what is the status of fundamental laws? What is the role of the judiciary? What are the conditions for an independent judicial authority? Where does the court have the authority to review the decisions of the government and the Knesset? The Knesset legislation? Who appoints the judges? What are the recognized models for selecting judges? What is the American method? the swiss? The New Zealander? What is the practice in Israel? What legislation is being promoted these days to change the method of electing judges in Israel? To change the status of legal advisors? To limit judicial review? What are the possible consequences of this legislation on the rule of law? On the independence of the judiciary?

background materials:

□ Dror Bar-Yosef, Derech Begin - a collection of the national-liberal thought of Menachem Begin, Begin Heritage Center, Yedioth Ahronoth, Hamad Books, 2023-2023, pp. 114-138

□ Amir Fox, The Rule of Law and the Attempts to Subvert It in Israel, Israel Democracy Institute, September 2, 2019

5. "Where were you during the disengagement?!"

One of the recurring claims heard from supporters of the legal reform refers to the way in which the left and the legal system conducted themselves during the secession period. In the lesson we will get to know the claims and evaluate them.

background materials:

□ Law on Implementation of the Disengagement Plan, 2005

□ The decision on the disengagement plan, from Wikipedia

6. Their loyal servants: Who are elected officials and public servants loyal to?

What is the connection between moral purity / governmental corruption, democracy and civil rights? What is the difference between political appointments and appointments based on merit? How is policy determined? What is the weight of promises given to the voter? of professional analysis by experts? How should decisions be made in public administration - professionally or politically? What are the conflict of interest rules and who do they bind? What is the problem with appointing family members or associates? What is the public service worth if the elected officials do not control it? What is it worth if they control it?

background materials:

□ "The basic values of public servants", Israel and the OECD, 9.3.2017

□ Yair Shiver, "The purity of morals of elected officials", PsakDin - the Israeli law website, 4/26/2006

7. "The State of Israel v. Benjamin Netanyahu"

The prosecution of elected officials is one of the issues that resulted in the sharpest

conflict between the political system and the legal system. What are the criminal offenses for which elected officials can be prosecuted? What is their uniqueness and what is their importance? What is the history of prosecuting elected officials in Israel? What are the legal consequences of prosecution and conviction on the eligibility of elected officials to continue in office?

background materials:

□ Basic law: the government, section 6

□ HC 3094/93 The Movement for the Quality of Government in Israel et al. v. The Government of Israel et al., P.D. Maz(5) 404

□ Yael Finkelstein, "What do senior Likud think about a prime minister under indictment? It depends on what year you ask them", Transparent, 10.12.2019

8. "A Jewish and Democratic State" Guest lecturer: Prof. Alex Jacobson

What is the relationship between nationalism and democracy? Do nationalism and democracy support each other or contradict each other? Is "Jewish and democratic" an irreconcilable contradiction? What are the main tensions between these two values in the Israeli context? Are there ways to regulate them? What is the controversy surrounding the nationality law? What is the place of the Arab citizens in Israel's democracy?

background materials:

□ Basic law: Israel - the nation state of the Jewish people

□ The Democratic Constitution, Adalah, 2007

9. Consequences of damage to the legal system

How will the proposed reform affect women's rights? About workers' rights? About minorities?

background materials:

□ "Implications of the reform on the status of women in Israel", opinion on behalf of the Israel Democracy Institute, Knesset website, 20.2.2023

□ Labor Law Lecturers' Forum, "Infringement on the rights of female and male workers following the regime change in Israel", 22.2.2023

10. Civil obedience and democracy Guest lecturer: Prof. David Enoch

The idea that every government is subject to a higher law, a law of morality and justice, is a cornerstone of the thought

Additional Reading Material:

Course/Module evaluation:

End of year written/oral examination 0 %

Presentation 0 %

Participation in Tutorials 40 %

Project work 0 %

Assignments 40 %

Reports 0 %

Research project 0 %

Quizzes 0 %
Other 20 %
see below

Additional information: