Syllabus

CRIMINAL LAW DEFENSES - 62956

Last update 07-05-2013

HU Credits: 4

Degree/Cycle: 2nd degree (Master)

Responsible Department: law

Academic year: 1

Semester: Yearly

Teaching Languages: English

Campus: Mt. Scopus

Course/Module Coordinator: Miriam Gur-Arye

Coordinator Email: miri.gur-arye@mail.huji.ac.il

Coordinator Office Hours: Monday, 14.00-15.00

Teaching Staff:
    Miriam Gur-Arye
Course/Module description:
The course will discuss the connection between the various theories that justify punishment and criminal law defences; the various theories concerning criminal law defences, such as the distinction between justifications and excuses; and the rationales of the various defences.

Course/Module aims:
The course is aimed at analyzing criminal law defences from a wide perspective. The first part of the course will focus on theoretical and comparative perspectives. The comparative perspective will relate to common law systems as well as to the German legal system. The specific arrangement relating to criminal law defences under the international criminal law will also be analyzed. The second part of the course will devote to critical evaluation of the Israeli arrangements concerning the various criminal law defences.

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

1. To analyze the various criminal law defences
2. To be able to identify the rationales of various defences
3. To compare between different arrangement under various legal systems
4. To use the theoretical background as a tool for a critical evaluation

Attendance requirements(%):
80%

Teaching arrangement and method of instruction: Lecture and discussion

Course/Module Content:

1. The Distinction between Justifications and Excuses
   a. The importance of the distinction
   b. Practical implications
   c. Acoustic separation
   d. The distinction between justifications and power

2. Duress and Necessity
   a. The distinction between duress and necessity under various legal systems
   b. Duress and necessity in cases of sacrificing life to save ones own
c. Duress and necessity under Israeli Penal Law

3. Self-Defence
a. Rationales
b. Self-Defence under Israeli Penal Law
c. Self-Defence and mistakes
d. Self-defence vs. taking the law in ones hands

4. Feministic Perspective
a. Battered women
b. Feministic bias with regard to duress?
c. Cultural defence and feminine bias.

5. Mistake of Law and a reliance on a lawyers mistaken advice
6. Intoxication
7. De-Minimis
8. Consent

Required Reading:

- February 2012
- המצוות fur verwenden: מגוון תורות וกล้า ישויות
- Meir Gur-Arye, "Should Duress be Treated Differently under ICL? The ICTY ruling in Erdemovic as a Test Case", Part II in The Unique

- A. Eser, "Justification and Excuse: A key Issue in the Concept of Crime", in Justification & Excuse: Comparative Perspective (Eser & Fletcher eds)
Nature of Duress.

Prosecutor v. Erdemovic (Appeal Chamber): A Joint Separate Opinion of Judges McDonald and Vohrah (majority) paras. 32-87, and The Separate Dissenting Opinion of Judge Cassese paras. 11-51

III. Nature of Duress.

1. Requirement and necessity in Jewish law

2. Nature of necessity in Jewish law

3. Nature of necessity in Israeli law

4. Nature of necessity in Israeli law

5. Nature of necessity in Israeli law

6. Nature of necessity in Israeli law

IV. Unilateral Defense

1. Unilateral defense

2. Unilateral defense

3. Unilateral defense

4. Unilateral defense

V. Gender Perspective

1. Gender perspective

2. Gender perspective

3. Gender perspective

4. Gender perspective

5. Gender perspective

6. Gender perspective
VI. שכרות
صفת 345 לוח קח העונשים
orgt. אריה, "הענישה והעונש ( ואח קח מענה) לוח קח העונשים", המשך "לת-1992" משפטים 56-60
ע"פ 6656/08 חביבולין נ מתינת ישראל, מיום 6.1.2010

VII. דברים זוגי
صفת 345 לוח קח העונשים
orgt. אריה, "השיבוץ ההבנה בין הנשים מצידיהן לשבה הנוהג פטרון ככלי פורשון" פורת הערוגים
הונהג של חובי דבורה שומש, "הענישה המספקת" מנגינת בפלייל שاهر על עזר לעצם לוח קח העונשים (2010)
ע"פ 416-427

VIII. הקורן הסמך

Additional Reading Material:

Course/Module evaluation:
End of year written/oral examination 100 %
Presentation 0 %
Participation in Tutorials 0 %
Project work 0 %
Assignments 0 %
Reports 0 %
Research project 0 %
Quizzes 0 %
Other 0 %

Additional information: