Law and Politics in Multicultural Democracies

Instructor: Dr. Ofrit Liviatan

Office Address:
1414 Mass. Ave 3rd Floor, Room 326
Harvard ID is required to access the Building
(inside elevator before pressing the 3rd floor)
Tel: 617-495-0770
E-mail: oliviatan@gov.harvard.edu

Office Hours:
By appointment on
Wednesdays, 10am-noon.

Seminar’s Description:
The seminar aims to introduce students to the political function of the legal process in the governance of cultural diversity. With ethno-cultural diversification challenging political coexistence across the world, law and courts have become pivotal players in democratic governance. The seminar will provide a forum for thinking about law from a critical, sociological perspective rather than a purely legalistic approach. Drawing on examples from the USA, Western Europe, Canada, India, Northern Ireland and Israel, the seminar will introduce major questions at the intersection of law, politics and culture, such as: (1) Why is the legal process inherently political? (2) What happens when ideas of “rights” and “liberties” conflict with one another? (3) How is law mobilized and deployed by different agents and actors (judges, legislators, activists, etc.)? (4) Is the legal system a feasible vehicle to resolve conflicts? and (5) Under what conditions is it possible to use law to change society?

Seminar’s Organization –
Our exploration of the intersection of law, politics and culture will proceed in three parts. The first component of the seminar will focus on a theoretical introduction to the role of law in the governance of diversity and consider the leading debates on multiculturalism, the nature of law and its role in democratic societies. In the second part we will delve into
the relationship between constitutionalism and democracy, the distinct features of the judicial process across different legal systems and the ability of courts to bring about social and political change. The final part of the seminar will be dedicated to a critical examination of the disparity between “law in books” and “law in action” by way of case-study analysis of controversies over abortion, same-sex marriage, religious symbols in the public square, the treatment of minorities and other topics. Through these examples we will also explore law’s impact as a mechanism of conflict-resolution.

**Requirements and Expectations:**

(1) Each student is expected to attend all sessions, prepare all the readings prior to each session, watch one full-length motion picture (135 minutes) assigned for Session XI and contribute by active and thoughtful participation. Be sure to allow plenty of time to complete all the assigned readings and to give them adequate attention, otherwise you will find it difficult to keep up with the seminar’s themes or prepare the individual assignment. Moreover, some of the sessions include oral exercises that draw directly on the readings. Finally, the preparation for Session XI consists of watching a full-length motion picture (135 minutes) in addition to the regular readings. Failure to prepare class material will limit your ability to substantially contribute to these discussions.

(2) One short *individual* assignment (4-5 double-spaced pages) on the semester’s materials is due in hard copy at the beginning of Session V (October 7th). The assignment will be distributed in class one-week prior.

(3) Each student will submit a term paper (15-20 double-spaced pages) by Tuesday, December 3rd, at noon. Students may write on a topic of their choosing relevant to the interaction of law and politics, upon prior agreement with me. To jumpstart your term paper and allow for its revision in a friendly and non-graded setting, several stages will precede its final submission on the last day of class. A one-paragraph statement of your topic is due by Monday, October 28th. An *optional* one-page outline of your paper is due on Monday, November 11th. The outline should introduce the topic, state the thesis/research question, and preview the relevant literature, data, research design, preliminary conclusions and bibliography (not included in the one-page limit). On Tuesday, November 26th, I will hold *optional* individual meetings to discuss your outline, refine your ideas and to set forth a plan for a successful completion of the final paper. Finally, you are most welcome to utilize my office hours anytime to discuss your work-in-progress.

(4) All written assignments should be doubled spaced with 1” margins on all sides, 12 pt fonts and submitted as hard copies (*not* as an electronic submission). Sources should be accurately cited. Please consult the section on “Citing Your Sources” in the seminar’s online Library Guide. You are free to follow your preferred citation style as long as you are systematic.
Grading and Assessment:
The final grade will be calculated as follows:
Regular attendance and active participation – 20%
Term Paper – 70%
Individual Assignment – 10%.
Late submission of written assignments will result in grade deduction – ½ letter grade for every 24 hours.

Office Hours:
Students are encouraged to make use of my office hours as much as needed for clarifications, testing and developing possible ideas for the term paper or for any other matter. Time slots during office hours tend to fill up quickly. Prior to coming in, please send me an email to schedule a specific time slot. If the designated office hours are not convenient for you, I will gladly make appointments at other times.

Electronic Devices:
During class sessions cell phones and other noise makers must be turned off. Laptops can be used for seminar-related purposes, but since they are often distracting to the user and to others it is highly recommended to keep them shut for the duration of the sessions (unless of course an AEO-letter supports such a need).

Academic Integrity:
Students should be aware that in this course collaboration of any sort on any work submitted for formal evaluation is not permitted. This means that you may not discuss any of the paper assignments with other students. All work should be entirely your own and must use appropriate citation practices to acknowledge the use of books, articles, websites, lectures, discussions, etc., that you have consulted to complete your assignments.

Readings:
The following book is required and have been ordered for purchase at the Harvard COOP, but is also available for your free use on reserve at Lamont Library:


The remaining readings require copyrights. The Harvard Libraries’ collection owns them all, and a course packet with them is available for purchase upon request at Gnomon Copy (1308 Mass Ave).
Research Guide:
A research guide, specifically designed to help students with their research for this class, is available on the Seminar’s website.

Schedule of Meetings:

Introductory Session Prior to the Gov. Dept’s Lottery – Law’s Role in Society (Tuesday, September 3 noon-1pm in CGIS K401).


September 9th – “Shopping Week:” no class.

Session II - The Challenges of Multiculturalism (Sept. 16)


Session III - The Functions of Law in Society (Sept. 23)

Plato, Crito (360 B.C.) Translated by Benjamin Jowett, pp. 1-9.


**Session IV** – *Constitutionalism vs. Democracy: The Counter-Majoritarian Dilemma*

Federalist Papers # 78.


**Individual assignment will be distributed in class.**

**Session V – Contemplating Constitutional Review Comparatively** *(Oct. 7).*


Individual assignment due at the beginning of the session. Please bring a hard copy of your assignment to class. Late submission will result in grade deduction.

No Class on Columbus Day (Oct. 14).

Session VI - The Impact of Judicial Review on Policy Making (Oct. 21)


Session VII - Constitutional Review in Practice (Oct. 28)

Wisconsin v. Yoder 406 U.S. 205 (1972)


Read: pp. 44-53; 86-88; 97-100.


Topic (one paragraph) due.

Session VIII – The Rights Debate in Practice: Abortion and Same Sex Marriage (Nov. 4)


Session IX – Religious Symbols in Public Spaces – (Nov. 11)


Lautsi and Others v. Italy [2011] (Application no. 30814/06) European Court of Human Rights.

R (Begum) v. Headteacher and Governors of Denbigh High School [2006] UKHL 15 (Great Britain).

Optional paper outline due. Late submission will not be accepted.
Session X - Law, Politics, Gender and Religion  
(Nov. 18)


The Muslim Women (Protection of Rights on Divorce) Act, 1986 (India).


**Read:** pp. 255-82.

Session XI – The Function of Law in Deeply Divided Societies:  
(Nov. 25) Northern Ireland and Israel

Film: *In the Name of the Father* 1993 (135 minutes).


Nov 26 - Optional Individual Meetings on Term Paper – My Office

Session XII – Conclusion – Law in Books vs. Law in Action.  
(Dec. 2)


**Read:** pp. 95-124.


Hard Copies of Term Paper due in my mailbox at the Government Dept. on Tuesday, Dec. 3rd by noon. Late submission will result in grade deduction.