Harvard University
GOV 94OF

Law and Politics in Multicultural Democracies

Instructor: Dr. Ofrit Liviatan
Fall 2022

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(inside elevator before pressing 3rd floor)
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Mondays 3-5pm
Location:
CGIS Knafel K401

Office Hours:
Tuesdays, 2-4pm
(in office/on Zoom/during an
alternative mutually-convenient
time slot if you can’t make the
assigned time)

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
coeexistence across the world, law and courts became pivotal players in democratic governance.
The seminar will provide a forum for thinking about law from a critical, sociolegal perspective
rather than a purely legalistic approach. Drawing on examples from the USA, Western Europe,
Canada, India, Northern Ireland and Israel, the seminar introduces 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 proceeds in three parts. The first component of the seminar focuses on a theoretical introduction to the role of law in the governance of diversity and considers central debates on multiculturalism, the nature of law and its role in democratic societies. In the second part we 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 critically examines the disparity between “law in books” and “law in action” by way of case-study analysis of controversies over abortion, religious symbols in the public square, the treatment of minorities and other topics. Through these examples we also explore law’s impact as a mechanism of conflict-resolution.

**Seminar Objectives and Learning Goals:**
(i) Gaining an in-depth understanding of the relationship between law and politics.
(ii) Developing oral presentation skills.
(iii) Understanding the narrative mode of thought as a tool for social inquiry.
(iv) Performing independent research on a topic related to law and politics.
(v) Creating a community of learners through instructor-student/s and peer-to-peer engagement.

**Requirements and Expectations:**
(1) Each student is expected to attend all class sessions, frequently contribute to class discussion, prepare all the readings prior to each session, attend office hours, actively participate in two group presentations, and read a 300-page novel assigned for Session XI. Be sure to allow plenty of time to complete all the assigned work and to give materials adequate attention, otherwise you will find it difficult to keep up with the seminar’s themes, substantively contribute to in-class discussions and activities, or complete the group assignments (see below).
(2) On class attendance and participation: you are expected to take notes, participate frequently by asking and answering questions as well as take active part in class exercises and group presentations.
(3) As part of our peer-to-peer engagement, two collaborative assignments are scheduled on October 3rd and October 31st. The readings assigned for these sessions as part of the syllabus intend to provide you with a solid foundation to start your collaborative research. This is just your start, and toward successfully completing these group assignments you are expected to conduct independent research as a group and work collaboratively toward and during the class presentation.
(4) Office hours: office hours are intended to maintain our ongoing communications and interactions beyond the class sessions. Please approach them as your space as much as mine to provide feedback, share your thoughts and ask questions of me and of your classmates. The office hours on the week of September 26th will be used as individual meetings to get one another better, as well as to jumpstart your thinking about a topic for your final project. The office hours on October 18th will be dedicated to individual
discussion of your final paper. Following the group presentations, office hours on October 4th and November 1st will be dedicated to reflecting on your collaborative work. As part of the seminar’s community building goal, the office hours on November 8th and on November 15th will be dedicated to sharing your final project work-in-progress with the rest of the class. Finally, on September 20th the Harvard Librarian Ms. Sarah DeMott would provide a tailored introduction to Harvard Library intended to assist you in your assignments.

(5) Each student will submit a term paper (15-20 double-spaced pages) by Monday, December 5th 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, you will begin to discuss it with me on the week of September 26th as part of an individual meeting. A one-paragraph statement of your topic is due by Monday, October 17th that we will then discuss during office hours on October 18th. Setting you toward the successful completion of the final paper, in our office hours on November 8th and November 15th you will have the opportunity to share with your peers an outline of your in-progress final paper. The purpose is to assist you in refining your ideas toward a formal submission of your final paper, but also to bring us together as a group beyond classroom time. Thus, the outline should introduce the topic, state the thesis/research question, and preview the relevant literature, data, research design and your preliminary conclusions. Finally, you are most welcome to utilize additional office hours slots or schedule an individual meeting with me anytime to discuss your work-in-progress or chat beyond the classroom.

(6) Your final paper should be doubled spaced with one inch margin on all sides, 12pt fonts and submitted in hard copy. Please drop off your final paper by the deadline in my mailbox inside the Gov Dept (1737 Cambridge Street, ground floor). 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. All work on your final paper 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 assignment.

**Grading and Assessment:**
The final grade will be calculated as follows:
Attendance and active participation – 20%
Term Paper – 60%
Two Group Assignments – 20% (10% each).
Late submission of assignments will result in grade deduction – \( \frac{1}{2} \) 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, so I am always happy to assign a specific time slot to save you waiting time or make appointments for other time slots. At your preference, office hours could also be via Zoom (link available on seminar’s website).

**Electronic Devices:**
During class sessions cell phones and other noise makers must be turned off. Laptops could 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:**
As part of the seminar, you are responsible for individual and collective work. Discussion and the exchange of ideas are essential to academic work. For the two group assignments in this seminar, you are expected to collaborate with your classmates toward and during these group presentations. Moreover, you may find it useful to discuss and consult with your classmates on the choice of paper topics and to share sources. However, in accordance with the Harvard honor system (and the integrity of scholarship more generally), you should ensure that any written work you submit for evaluation as part of your final paper is an individual product that reflects your own research and writing, reasoning and conclusions. You must also adhere to standard citation practices in this discipline and properly cite any books, articles, websites, lectures, etc., that have helped you with your collaborative and individual work. If you received any help with your writing (feedback on drafts etc.) from peers, you must also acknowledge this assistance. A research guide, specifically designed to help students with their research for this class, is available on the seminar’s website.

**Readings:**
The following books are required and available for purchase at the [Harvard COOP](http://harvardcoop.com), but also available for your free use on reserve at Lamont Library.


The rest of the readings are available in electronic format are accessible on the seminar Canvas’ calendar on their due date. The Harvard Library owns them all, so physical copies are available as well.
**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:**

**Session I - (August 31st) - The Challenges of Multiculturalism**


**September 5th - University Holiday: no class.**

**Session II - (September 12th) - The Functions of Law in Society**


Gordon Silverstein, *Law’s Allure* (Cambridge, MA: Cambridge University Press, 2009), **Read: 15-41.**

First group assignment will be discussed in class.

**Session III (September 19th) - Constitutionalism vs. Democracy: The Counter-Majoritarian Dilemma**

Federalist Papers # 78.


**TBD - Tuesday, September 20th 2-4pm – Special Library Session with Ms. Sarah DeMott** (email: sarah_demott@harvard.edu). This special session will acquaint you with working/accessing Library materials required as part of your independent research toward your two group presentations and final paper.

**No in-class session on September 26th – Rosh Hashanah. Session IV is held as individual meetings with me over the week.**

We will use our individual meeting to get to know one another better, but also to jumpstart your thinking about the final project. Sign-up sheet with timeslots will be distributed in class, but if these pre-assigned timeslots don’t work for you, I will gladly find an alternative.

**Session V (October 3rd) – Group Presentations: Contemplating Constitutional Review Comparatively**

As *initial* set of references for your collaboration, the following sources are linked to Canvas:

Alexander M. Bickel, *The Least Dangerous Branch* 2nd Ed., (New Haven:
Yale University Press, 1986).


Kent Roach, *The Supreme Court on Trial: Judicial Activism or Democratic Dialogue* (Toronto: Irwin Law, 2001)


**Tuesday, October 4th – Post-Presentation Reflection Office Hours.**

**Monday, October 10th - University Holiday: no class.**

**Session VI (October 17th) - The Impact of Judicial Review on Policy Making**


Second Group Presentation will be Discussed in Class.

Paper Topic (one paragraph) due. Feel free to send in simple Word document via email.

**Tuesday, October 18th – Office Hours on Final Paper**

**Session VII (October 24th) - Constitutional Review in Practice**

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


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

Read: pp. 855-873; 898-912.

**TBD - Friday, October 28th at 10am in Harvard’s Minda de Gunzburg Center for European Studies – Dr. Ofrith Liviatan in Conversation with Joe McHugh (TD), Member of the Irish Parliament and Chairperson of EU Affairs Committee.**  
**Topic: Abortion Debates – an Irish Perspective.**  
Gov 94OF students are invited and encouraged to attend!

**Session VIII (October 31st) – Group Presentations: The Abortion Debate in**
Practice

As initial set of references for your collaboration, the following sources are linked to Canvas:


Mary Ziegler, Reproduction and the Constitution in the United States (New York: Routledge Press, 2022). FYI: Ziegler has earlier books with full online access that may be of interest, for example: Mary Ziegler, Abortion and the Law in America: Roe v. Wade to the Present (Cambridge: Cambridge University Press, 2020). Forthcoming post-Dobbs publications by Ziegler may become available by the class session, so make sure to search for her work.

Tuesday, November 1st - Post-Presentation Reflection Office Hours.
Session IX (November 7th) – Religious Symbols in Public Spaces


*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).

Tuesday, Nov 8th – Sharing your Final Paper Outlines Office Hours

Session X (November 14th) - Law, Politics, Gender and Religion


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


Tuesday, November 15th – Sharing your Final Paper Outlines Office Hours

Session XI (November 21st) – The Function of Law in Deeply Divided Societies: Northern Ireland and Israel


Guiding Questions for Reading *Anything But Steady*:
(1) What type of insights reading the novel (in difference from academic literature) contributes to understanding the politics of divided societies?
(2) Which social mechanisms/aspects perpetuate conflicts within divided societies?
(3) What common themes the novel identifies about Northern Ireland and Israel/Palestine?
(4) What are your takeaways on the project of peacebuilding and the meaning of peace?
(5) What does the novel attempts to say on the interplay between the social structures/systems and the agency of/actions by the individuals living in these structures?
(6) Does the novel carry any lessons on our capacity to live with one another in an increasingly divided and fragmented USA?

Session XII (November 28th) – Conclusion: Law in Books vs. Law in Action


Term Paper due on Monday, Dec. 5th by noon. Please turn in as hardcopy in my Gov Dept’s mailbox (1737 Cambridge Street, ground floor). Late submission will result in grade deduction.