Bar-Ilan University

Faculty of Law

With the support of the Zahava and Moshael J. Straus Family Foundation

The Center for Jewish and Democratic Law (in establishment)

The Inaugural Conference

Jewish and Democratic Law: Redrawing Boundaries

December 28-30, 2015

Day 1: Monday, December 28

Feldman building 301, Senate Hall, 2nd floor

14:30—15:00 – **Lunch** (conference participants)

Feldman building 301, Weisfeld Hall, ground floor

14:45—15:00 – **Registration and refreshments**

15:00—15:30

Greetings

Rabbi Prof. **Daniel Hershkowitz**, President, Bar-Ilan University

Prof. **Yaffa Zilbershats**, Head of the Planning and Budgeting Committee, Council for Higher Education

Prof. **Miriam Faust**, Rector, Bar-Ilan University

15:45 – 16:00

Why Israel Needs Jewish and Democratic Law

Prof. **Shahar Lifshitz**, Dean, Faculty of Law, Bar-Ilan University

16:00—17:30

Session 1: Round Table: "Jewish and Democratic" as an intellectual puzzle – defining a research agenda

What are the theoretical challenges invoked by a constitutional agenda that couples ethno-national identity with a liberal political morality? The discussion will seek to elucidate the state of the research on issues of constitutional identity, multiculturalism, and law and religion, with a focus on gaps in existing knowledge and on the possibility of methodological innovation in treating them. Panelists will be asked to reflect on their experiences in studying and teaching these issues, and to suggest open questions and future trajectories for their scholarly fields.

Moderator: Prof. **Joseph Weiler**, President of the European University Institute

Participants:

Prof. **Aharon Barak**, Radzyner Law School, IDC Herzliya; former President of the Supreme Court of Israel

Prof. **Rachel Elior**, Department of Jewish Thought, Hebrew University of Jerusalem

Prof. **Moshe Halbertal**, Department of Jewish Thought, Hebrew University of Jerusalem; Radzyner Law School, IDC Herzliya; NYU School of Law

Prof. **Amal Jamal**, Department of Political Science, Tel Aviv University

Prof. **Menachem Mautner**, Faculty of Law, Tel Aviv University

17:30—18:00 – Refreshments

18:00—18:20

Plenary address

Justice **Miriam Naor**, President of the Supreme Court of Israel

18:30—20:00

Session 2: Round Table: "Jewish and Democratic" as a political possibility – evaluating past experiences

What attempts have been made in the past to reconcile the Jewish/democratic duality or to otherwise translate it into a political reality? The panel will convene several figures that have engaged in policy-oriented endeavors in this field, and ask them to "report" on the findings, reflect on their experiences, and suggest lessons for future policy responses to the challenges of the "Jewish and democratic" framework.

Moderator: Prof. **Yedidia Stern**, Faculty of Law, Bar-Ilan University; Vice President of Research, Israel Democracy Institute

Participants:

Justice **Dorit Beinisch**, Chancellor of the Open University of Israel, former President of the Supreme Court of Israel

Mr. **Israel Harel**, Founding Chairman of the Institute for Zionist Strategies

Prof. (Emeritus) **Mordechai Kremnitzer**, Faculty of Law, Hebrew University of Jerusalem; Vice President of Research, Israel Democracy Institute

Prof. **Amnon Rubinstein**, Radzyner Law School, IDC Herzliya

Adv. **Sawsan Zaher**, Adalah – The Legal Center for Arab Minority Rights in Israel

Day 2: Tuesday, December 29

The Jeanne & Maurice Benin Faculty of Law building 306, Room 200, 2nd floor

8:45—9:15 – Registration

9:15—10:45

Session 3: Constitutional design in fractured societies

Constitutions and constitutional regimes are often perceived as mechanisms for crystalizing, expressing, and sustaining an ethos shared by all members of the political community. But as societies come to recognize the "fact of pluralism"—the diversity of deeply-engrained and sometimes mutually exclusive affiliations and expectations—they face the challenge of constitutional design. The panel will join comparative insight and normative argumentation to reflect on the design of constitutional structures in fractured societies: agents and processes of constitution-making, degrees of entrenchment, distribution of powers, and arbiters of constitutional disputes.

Moderator: Prof. **Martin Loughlin**, London School of Economics and Political Science

Participants:

Dr. **Manar Mahmoud**, Department of International Relations, Hebrew University

Prof. **Michael McConnell**, Stanford Law School

Prof. **Gideon Sapir**, Faculty of Law, Bar-Ilan University; Senior Fellow, Kohelet Policy Forum

Dr. **Rivka Weill**, Radzyner Law School, IDC Herzliya

10:45—11:00 – coffee break

11:00—12:30

Session 4: Nation state, minorities, equality, and rights

Can a Jewish and democratic state remain dedicated to the human-rights agendas of modern liberalism, of democratic constitutionalism, or of international law? Is there a model of equal citizenship that would cohere with Israel's constitutional duality? What is the effect of ethno-national sovereignty on group rights, the status of minorities, and the institutional possibilities for delineating majority-minority relations? The panel will discuss these questions from both a general-theoretic perspective and an applied-contextual one, pertaining to the special characteristics of the social structure in Israel.

Moderator: Prof. **Yaffa Zilbershats**, Head of the Planning and Budgeting Committee, Council for Higher Education

Participants:

Dr. **Aviad Bakshi**, Head of the Legal Department, Kohelet Policy Forum

Dr. **Gershon Gontovnik**, School of Law, Carmel Academic Center

Dr. **Meital Pinto**, School of Law, Carmel Academic Center

Dr. **Manal Totry-Jubran**, Faculty of Law, Bar-Ilan University

12:45—13:45 – **Lunch break**

13:45-15:15

Session 5: Religion and the human rights challenge

What are the challenges and capacities of religious communities and orthodoxies in interacting with a human rights agenda? The panel involves questions of the universalistic vs. the particularistic elements in the human rights discourse, and of the availability of rights-based argumentation in religious discourse and praxis. The discussion is intended to incorporate socio-historical insights with theoretical and normative accounts of religion's interaction with liberal morals.

Moderator: Dr. **Moshe Helinger**, Department of Political Sciences, Bar-Ilan University

Participants:

Prof. **Silvio Ferrari**, University of Milan

Dr. **Ronit Ir-Shai**, Program for Gender studies, Bar-Ilan University

Prof. **Yuksel Sezgin**, Maxwell School, Syracuse University

Rabbi **Yuval Sherlo**, Head of Orot Shaul Yeshiva

15:15—15:30 – coffee break

15:30—17:00

Session 6: Religion and secularity in the public sphere

What are the discursive, normative, and institutional modes with which the modern state engages the interactions and conflicts of religion and secularism, of the transcendental and the rational, the absolutist and the humanist? These tensions inhere in the Jewish-democratic duality, but are pertinent to any modern society in which religion or secularity demands a stake in the public sphere. What claim does religion have for accommodation and expression in that sphere? The panel will discuss possible theoretical frameworks for exploring these issues, and will reflect on several comparative case studies in which they were invoked.

Moderator: Prof. **Shai Lavi**, Faculty of Law, Tel Aviv University

Participants:

Prof. **Mary Anne Case**, University of Chicago Law School

Dr. **Lena Salaymeh**, Faculty of Law, Tel Aviv University

Prof. **Daniel Statman**, Department of Philosophy, Haifa University

Prof. **Joseph Weiler**, President of the European University Institute

17:30—19:00 – **Dinner** (conference participants only)

Feldman building 301, Weisfeld Hall, ground floor

Speaker: Prof. **Yedidia Stern**: "Israel's Labyrinth of Identities"

19:30—21:00

Performance event: Readings in "Jewish and Democratic"

Feldman building 301, Senate Hall, 2nd floor

Opening remarks: Justice **Elyakim Rubinstein**, Vice President of the Supreme Court of Israel

Participants: Actors, faculty, and students

Day 3: Wednesday, December 30

The Jeanne & Maurice Benin Faculty of Law building 306, Hall 200, 2nd floor

Much of this day will be dedicated to direct engagement with different kinds of texts. "**Master Classes**" (sessions 7, 9, 11) are intimate forums, conducted partly in parallel, in each of which an invited guest leads a reading of a text of his or her choice, which has a bearing on the conference's topics. **Due to limited space, pre-registration to Master Classes is required. For registration and to view the texts to be taught please visit the conference website: http://law.biu.ac.il/cjdl**. "**Comparative Commons**" (session 8) is a segment in an ongoing series of conversations between scholars and practitioners of religious and secular law on issues of shared pertinence. "**Book Clubs**" (sessions 10, 12) are public discussions anchored in a recently published literary or scholarly piece that bears on the "Jewish and democratic" duality.

9:00—10:15

Sessions 7a-7e: Master Classes

Teachers:

Prof. **Yitzhak Brand**, Faculty of Law, Bar-Ilan University

Prof. **Ruth Gavison**, Faculty of Law, Hebrew University of Jerusalem; Founding President, Metzilah Institute

Prof. **Nir Kedar**, Dean of the School of Law, Sapir Academic college

Rabbi **Galia Riva Sadan**, Beit Daniel, Reform Movement

Justice **Noam Solberg**, Supreme Court of Israel

10:15—10:30 – Refreshments

10:30—12:15

Session 8: Comparative Commons: Jurisdictions

Can legal or judicial power be diversified, or divided, through jurisdictional design? What are the risks and what is the potential in using jurisdictional innovation to accommodate multiple versions of normativity? Can the private-public distinction play a role in the jurisdictional map? The panel will bring together scholars and religious court adjudicators to explore these questions.

Moderators: Prof. **Ruth Halperin-Kaddari** & Prof. **Amihai Radziner**, Faculty of Law, Bar-Ilan University

Participants:

Judge **Zila Zfat**, Tel Aviv District Court

Rabbi **Yair Ben-Menachem**, Regional Rabbinical Court, Netanya

Father **Nifon Mitzulis**, Greek-Orthodox Court, Jaffa

Rabbi **Yehoshua Pfeffer**, Rabbinical Court “Darchei Hora’a”

Qadi Dr. **Iyad Zahalqa**, Shari'a Court of Appeals, Jerusalem

Discussant: Prof. **Yuksel Sezgin**, Maxwell School, Syracuse University

12:25—13:40

Sessions 9a-9e: Master Classes

Teachers:

Prof. **Kenneth Bamberger**, UC Berkeley School of Law

Justice **Daphne Barak-Erez**, Supreme Court of Israel

Prof. **Ariel Bendor**, Faculty of Law, Bar-Ilan University

Prof. **Suzanne Last Stone**, Benjamin N. Cardozo School of Law, Yeshiva University

Prof. **Menachem Mautner**, Faculty of Law, Tel Aviv University

13:40—14:30 – **Lunch** (conference participants only)

14:30—16:00

Session 10: Book Club: *Laws and other Animals*

Moderator: Dr. **Ori Aronson**, Faculty of Law, Bar-Ilan University

Commentators:

Prof. **Nir Kedar**, Dean of the School of Law, Sapir Academic college

Prof. **Suzanne Last Stone**, Benjamin N. Cardozo School of Law, Yeshiva University

Discussants:

Prof. **Ariel Bendor**, Faculty of Law, Bar-Ilan University

Justice **Daphne Barak-Erez**, Supreme Court of Israel

16:15—17:30

Sessions 11a-11e: Master Classes

Teachers:

Justice **Neil Hendel**, Supreme Court of Israel

Justice **Salim Joubran**, Supreme Court of Israel

Justice **Hanan Melcer**, Supreme Court of Israel

Judge **Pnina Neuwirth**, Tel Aviv Magistrate Court

17:30—18:30 – **Light dinner** (conference participants only)

Feldman building 301, Weisfeld Hall, ground floor

18:30—20:00

Session 12: Book Club: *Jews and Words* – a conversation

Faculty of Law building 305, Moot Court Room 11, ground floor

Moderator: Dr. **Sharon Aronson-Lehavi**, Department of Comparative Literature,

Bar-Ilan University

Participants:

Author **Haim Be'er**

Prof. **Fania Oz-Salzberger**, Faculty of Law and School of History, Haifa University

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The conference will be held in English and in Hebrew, with live translation provided in most sessions.

The conference is open to the public; advance registration is required. Please email us at: biu.cjdl@gmail.com.

Information on conference participants, lecture abstracts, Master Class texts, and registration for Master Classes (space is limited) – can all be found on the conference website: http://law.biu.ac.il/cjdl.

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Conference Committee:

Dr. **Ori Aronson**, Prof. **Shahar Lifshitz**

Conference Coordinator:

Adv. **Alona Hagay Frey**