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Course title: Antisemitic discrimination and 'other' hate crimes in court

Language of instruction: English

The legal form can be a powerful tool for combating antisemitism. The penalization of antisemitic hate crimes may for example perform an important deterrent function. Law, however, often disregards or even reinforces antisemitic stereotypes. The overarching objective of this seminar is to unpack the law's ability to address these issues by analyzing the concrete practices of courts in different national contexts. Keeping in mind that legal attempts to combat antisemitism often backfire – an outcome dialectically related to the difficulties in defining antisemitism legally – specific legal cases avail an imperative and 'kaleidoscopic' way to understand the intersectionality between law and antisemitism. An enquiry grounded in actual court instances will produce a fresh examination of law's role – historically and contemporary – in the neutralization and universalization of both human rights (including those of Jews) and antisemitism. While antisemitism is unique in many significant ways, it should not be viewed in isolation. Therefore, the course examines a multitude of possible links between law, racism, and sexism.

Because this course is intended for motivated upper-level students, who are not necessarily legally trained, the first part of the course is dedicated to basic issues related to reading legal cases as precedents, especially in the common legal world. The second part unpacks theoretical aspects of the intersectionality between law and antisemitism, while the third and last part deals with specific cases.

Course Objectives:

By the end of this class, students should have a better understanding of a) how court cases are read and interpreted; b) how law has both been a vehicle for antisemitism's implementation, and for its eradication, and perhaps more importantly, how law is sometimes a too-attractive, but inherently counterproductive remedy (and how sometimes it is the exactly right tool).

Student profile

MA students

Prerequisites

None

Course Requirements

Six Reading Response (80%) You will be responsible for turning in 4 short papers (1-2 pages) responding to 5 Reading Response questions on the assigned readings. (You may skip one).

Class Participation/presentation (20%) Students are expected to "come" to class (appear in the zoom sessions) having read the materials and must be prepared to engage actively in

discussions. Each student will present at least 1 and no more than 2 of the assigned to the rest of the students at the beginning of each session. This includes 3-5 slides.

Teaching Method: Each topic of the four will be discussed **during at least 2/3 sections.**

Literature: as specified below (Material that is not easily accessed online will be given attached through ISIS. Each topic of the four will be discussed **during at least 2/3 sessions.**)

| Topics | Readings, etc. |
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| <p>Reading and interpreting legal cases</p> | <ol style="list-style-type: none"> 1) Marco Wan, 'Introduction', <i>Reading the Legal Case: Cross-Currents Between Law and the Humanities</i>, ed. Marco Wan, Routledge (2012), pp. 1-8; AND https://www.lexisnexis.com/en-us/lawschool/pre-law/reading-a-casebook.page 2) Ronald Dworkin, "Law as Interpretation." <i>Critical Inquiry</i>, vol. 9, no. 1, 1982, pp. 179–200. Available at www.jstor.org/stable/1343279 3) Stanley Fish, "Working on the Chain Gang: Interpretation in the Law and in Literary Criticism." <i>Critical Inquiry</i>, vol. 9, no. 1, 1982, pp. 201–216. Available at, www.jstor.org/stable/1343280 4) Stanley Fish, "Response: Interpretation Is Not a Theoretical Issue," <i>11 Yale J.L. & Human.</i> (1999). Available at: https://digitalcommons.law.yale.edu/yjlh/vol11/iss2/9 |
| <p>Law and antisemitism and "other" hate crimes: background, perplexities and concepts</p> | <ol style="list-style-type: none"> 1) Anthony Julius, Robert S. Rifkind, Jeffrey Weill, Felice D. Gaer, "Antisemitism: An Assault on Human Rights", Available at https://www.ajc.org/antisemitism-an-assault-on-human-rights 2) Sergio DellaPergola, "Jewish Perceptions of Antisemitism in the European Union, 2018: A New Structural Look, Analysis of Current Trends in Antisemitism", <i>ACTA</i>, Volume 40, Issue 2, 20202001, eISSN 2568-9347, Available at, DOI: https://doi.org/10.1515/actap-2020-2001. 3) Doris Liebscher, "Sind Juden weiß? Von den Schwierigkeiten des rechtlichen Umgangs mit Antisemitismus", <i>ZfA Jahrbuch</i>, Forthcoming. 4) Peter Ullrich, "Expert Opinion on 'the Working Definition of Antisemitism' of the International Holocaust Remembrance Alliance", Rosa-Luxemburg-Stiftung and medico international e.V. (2019) Available at: https://www.rosalux.de/fileadmin/rls_uploads/pdfs/rls_papers/Papers_3-2019_Antisemitism.pdf 5) Rebecca Gould, "Legal Form and Legal Legitimacy: The IHRA Definition of Antisemitism as a Case Study in Censored Speech," <i>Law Culture and the Humanities</i>, 2018/08/18, available at https://www.researchgate.net/publication/326981736_Legal_Form_and_Legal_Legitimacy_The_IHRA_Definition_of_Antisemitism_as_a_Case_Study_in_Censored_Speech |

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| | <p>6) Aharon Barak, "Freedom of Expression and its Limitations." <i>Kesher / קשר</i>, no. 8, 1990, pp. 4–11. Available at: www.jstor.org/stable/23902900</p> <p>7) <i>Women's Servitude under Law</i>, eds. Ann M Garfinkle; Carol H Lefcourt; Diane Schulder; Radical Education Project (Detroit, Mich.), 1971, 105-122, Available at http://www.umass.edu/legal/Hilbink/lpsc/Garfinkle.pdf</p> |
| <p>3) Cases:</p> | <ol style="list-style-type: none"> 1. Albert S. Lindemann, <i>The Jew Accused: Three Anti-Semitic Affairs – Dreyfus, Beilis, Frank 1894-1915</i> (Cambridge: Cambridge University Press, 1991), pp. 79-128. (Roman Polanski's "An Officer and a Spy (French: J'Accuse)", 2019 2. Michael Whine, "Expanding Holocaust Denial and Legislation against it." <i>Jewish Political Studies Review</i>, vol. 20, no. 1/2, 2008, pp. 57–77. <i>JSTOR</i>, Available at www.jstor.org/stable/25834777 AND <i>HOLOCAUST DENIAL: Irving v. Lipstadt Evans Report</i>, Sections 1-3 http://hdot.org/en/trial/defense/evans/view/printall.html Judgement, http://hdot.org/en/trial/judgement/02/view/printall.html through page 90 3. The JFS Case: https://www.supremecourt.uk/cases/docs/uksc-2009-0136-judgment.pdf AND Heather M. Rubens, "Something has Gone Wrong": The JFS Case and Defining Jewish Identity in the Courtroom, 29 <i>Md. J. Int'l L.</i> 366 (2014). Available at: http://digitalcommons.law.umaryland.edu/mjil/vol29/iss1/15 4. Benjamin Weinthal, "German court calls synagogue torching an act to 'criticize Israel'" <i>JPost</i> (2017) Available at https://www.jpost.com/diaspora/german-court-calls-synagogue-torching-an-act-to-criticize-israel-478330 AND Landgericht Wuppertal, 23 Ns-50 Js 156/14-26/15 5. Mary Lobo and Stefan Talmon, <i>Staying grounded: the German response to Kuwait Airways' refusal to transport Israeli passengers</i>, <i>GPIL</i> (2020), Available at https://gpil.jura.uni-bonn.de/2020/01/staying-grounded-the-german-response-to-kuwait-airways-refusal-to-transport-israeli-passengers/ And Zulässige Verweigerung der Beförderung eines Israelis durch kuwaitische Fluggesellschaft |