**Comparative Perspectives of Fundamental Rights Protection:**

**Israel, Europe and International Law**

**Lecturer: Prof. Iris Canor**/guest lecturer

email: [canor@colman.ac.il](mailto:canor@colman.ac.il)

**Brief Introduction:** Iris Canor teaches at the Striks School of Law, College of Management Academic Studies (Israel) and at the School of Law, Zefat Academic College (Israel). She is also an Adjunct Professor at the Law Faculty of Universität des Saarlandes, Europa-Institut (LL.M. Programme) (Germany). She is a senior research affiliate at the Max Planck Institute in Heidelberg, and was a visiting researcher, i.e., at the European University Institute, Florence (Italy), at New York University (USA), and at Columbia University (USA). Her main fields of Interests are European Law; Human Rights Law; Public International Law and Private International Law with a special emphasis on the interplay between the two fields of law; Comparative Law; Israeli Constitutional and Administrative Law

She published extensively in these fields among others at the Common Market Law Review; European Journal of International Law; European Law Review; and the Maastricth Journal of European and Comparative Law.

**Course Description**

In this course we will discuss the normative basis for the protection of human rights in Israel in the European Union and in International Law. Israeli constitutionalism has always been for great interest for comparative constitutional law scholars, given its geopolitical status, the Israeli-Palestinian conflict, its internal divisions, and its unique constitutional evolution. Unlike many other countries, Israel did not have a written constitution ratified after its foundation, and was established as a parliamentary democracy, with an explicit intention to ratify a constitution at a later stage. This did not happen. Instead, it underwent a constitutional revolution announced by its Supreme Court.

We will discuss various effects of the Israeli Basic Law: Human Dignity and Liberty which was enacted in 1992 and which is considered to be the core constitution in Israel which lacks a full-fledged Constitution. Correspondingly we will discuss the manner in which the protection of Fundamental Rights evolved in the EU. However, we will not discuss the developments separately but we will try to draw clear comparisons. Hence, the course will follow the "constitutional revolution" which happened in parallel paths in Israel and in the European Union. Both were created shortly after the second world war and possible are the direct result of the war. Both stared without a written catalogue of fundamental rights. Both judicially developed a protection of fundamental rights. Both gave a certain (limited) role for international

law in its own legal orders. Both have moments of “constitutional revolution”. In both fundamental rights affected not only the judiciary but also the executive and the legislative branches.

But we will also go beyond that. We will seek to critically understand what has become of Israeli and European constitutionalism in the past decade. Hence, we will discuss drawbacks in the protection of fundamental rights and the position the independence of the judiciary and the rule of law, in both legal orders. We will discuss the strengthening of judicial review alongside rising political resistance to the Court’s power; populism in political discourse targeting rule of law institutions; The erosion of individual rights alongside the strengthening of nationalist elements; the increasing divisions inside both societies. All that will be critically discussed as this turn challenges the idea of successful constitutional revolution in terms of its inherent promise to better protection individual rights and safeguard the rule of law.

**Schedule**

The course will be structured in the following blocks:

First part of the course will be introductory in which the Israeli constitutional legal order will be examined in which the fact that Israel does not have a written constitution will be underscored and the manner in which the Israeli Supreme Court entrenched the basic laws especially the basic law: human dignity and liberty and basic law: freedom of occupation will be explained.

The second part of the course, will aspire to do that same as far as the European Union’s legal order, depicting the manner in which it evolved from economic integration into a polity. The third part will deal with theories of comparison in order to critically think about the project of comparing between Israel and the EU. The Forth Part will juxtaposition the jurisprudence of the Israeli Supreme Court often sitting as a High Court of Justice and the CJEU, while examining the role of fundamental rights protection in international in both legal orders

**Evaluation**

Written exam (case study and/or theoretical questions) during the last lesson