



# Mordechai Kremnitzer, Dr.

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## PROJECT

# Comparing Anglo-American and German Law: Criminal and Constitutional Aspects

The research aims at:

- 1) Identifying the seemingly significant differences between these two legal systems
- 2) Examining the differences between them - their extent and depth
- 3) Trying to ascertain the roots of the differences
- 4) Examining ways to close the gaps - or "building bridges" between them
- 5) Drawing lessons from mixed systems
- 6) Examples of issues in criminal law
  - a) The place of culpability (Schuld) vs. utilitarian considerations
  - b) The duty to rescue
  - c) Escape from prison
- 7) Examples of issues in constitutional law
  - a) Absolute vs. relative rights
  - b) Freedom of speech
  - c) Human dignity

## Recommended Reading

Kremnitzer, Mordechai and Ariel Bendor. Basic Law: The Army - a Commentary (in Hebrew). The Sacher Institute, 2000.

-, R. Gavison, and Y. Dotan. The Role of the Supreme Court of Justice (in Hebrew). Magnes Press, 2000.

-. and Khalid Ghanayim. Incitement, not Sedition. The Israel Democracy Institute, 2002.

-. "The Landau Commission Report: Was the Security Service Subordinated to the Law, or the Law to the 'Needs' of the Security?" Israel Law Review 23 (1989): 216-279.

## "War on Terrorism" - the Israeli experience

I have been working at WIKO on two projects:

1. Comparing some aspects of German constitutional and criminal law with American law.
2. Terrorism and democracy.

My talk will deal with the second, from an Israeli perspective. At the same time some reference to the first will also be included.

It is a well known and well documented experience that in hindsight democracies facing security threats tend to curtail human rights beyond what is necessary and justified. This experience can be demonstrated also in the Israeli case, dealing with Palestinian terrorists/irregulars.

My talk will deal with three questions: Why is it so?

What are the effects on Democracy? What can be done about it?

I will treat as examples: military courts or commissions, torture and administrative detentions.

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Haganah 'al hofesh ha-bitui ba-mishtar ha-demokrati : divre Yom 'iyun ... 25 - 26 be-April 2002

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