This half-day workshop seeks to introduce and explore Professor James Q. Whitman's work and relate it to broad themes which occupy scholarship in law and humanistic inquiry. The workshop is structured around motifs which cut across Whitman’s work: Social Hierarchy and the Transition to Modernity; and Legal Traditions Between Harmonization and Differentiation.

08:45-09:00 - Coffee

09:00-10:40 - Social Hierarchy and the Transition to Modernity
Chair: Amnon Lehavi (IDC)

James Whitman’s comparative and historical work involves a recurrent insight: Premodern patterns of social hierarchy and inequality have and continue to inform legal structures and legal imaginations. The modern drive to annul hierarchy – set against a history of concepts from a hierarchic past in Europe or from histories of slavery and inequality in America – creates a complexity which radiates effects in vast areas of law, from harassment, through criminal law and evidence, to privacy.

The resonance of hierarchy in modernity is a thematic concern in various areas of thought, among them political theory, sociology, cultural history and studies, and of course law. Modernity supposedly marks a turning point in the existence of social hierarchies as well as the legitimacy accorded to them. While political, social, economic, and legal entitlements were distributed asymmetrically among different social groups in premodern times, with the advent of modernity hierarchy and inequality lost legitimacy. There remains, however, a vast disagreement among thinkers as to the profound meaning of the transition. Whitman’s work can be read as an unusually original intervention in ongoing debates. It illuminates not simply the persistence of hierarchy and structures of power – or, in contrast, their gradual elimination, but instead their echoes in an array of locations which are not the usual topics of the debates about the success of modern trends toward levelling. (And here we might add the Whitman question: up or down?).

In the panel, we hope to explore the productive ways in which Whitman's insights into the force of historical hierarchies can be put to use in our efforts to comprehend modernity.

Discussion:

*Bureaucracy and the Shadows of Social Hierarchy*
Galia Schneebaum (IDC)
A theme that cuts across James Whitman's work is the representation and self-representation of legal traditions. Whitman shows us that we cannot understand the law without comparing laws, and that we cannot compare laws without comparing traditions and cultures. His scholarship celebrates the profound differences between the common law and continental law, particularly between the American and German legal traditions, steering a middle course between moral relativism and judgmental moralism. Whitman's work is rarely "purely" historical. Its point of departure is often contemporary practices, and failures of the legal system today. But in order to understand these practices and failures it is necessary, Whitman shows us, to trace their roots to earlier centuries, and often to the different ways that contemporary legal traditions appropriated earlier traditions, such as Roman law and Christian theology. We cannot fully understand privacy, punishment, harassment and numerous other legal notions and institutions without looking at them historically and comparatively, and in a way that will bring to light the fundamental "choices" made by each legal tradition. Contemporary laws, moreover, are perceived neither as direct continuation nor as abrupt rupture from historical ones. "Tradition", instead, stands for a distinct repertoire of institutions, social conventions, and social problems, to which contemporary laws respond in ways that are significantly explored in Whitman's work.

In the panel, we hope to explore aspects of the divide between the different Western legal traditions that find themselves today trapped between the opposing forces of harmonization and further differentiation.

Discussion:

*Neither Innocence nor Mercy.*
Yoram Shachar (IDC)

*Others in Law*
Joseph David (Sapir Academic College)

*“Beyond Reasonable Doubt” and Other Strategies for Soothing Anxieties*
Orna Alyagon Darr (Carmel Academic Center)

*On the Plurality of Dignities*
Alon Harel (Hebrew University)