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1 University St., Kiryat Yitzhak Rabin, Netanya 42365
Website: http://www.netanya.ac.il
https://www.facebook.com/mozneymishpat
Tel: 09-8607791, Fax. 09-8607794, Email: monica@m.netanya.ac.il

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From the Editor's Desk

Bringing a collection of articles to print is an opportunity to look at the horizon and to try tracing the way to follow.

There are sounds of discordant voices in the academia in recent years – calls for the expulsion of Israeli scholars from the global research scene. According to a survey conducted by the IFOR (International Freedom of Research) Center for Academic Freedom, these voices have started to affect Israeli research: 16% of Israeli researchers surveyed hide their Israeli identity for fear of being boycotted; Jewish family names are disguised; surveys are not conducted in Israel; and research subjects that do not relate to Israel are chosen. The phenomenon of academic boycotts also affects Jewish students and faculty members. Obviously, "academic boycott" is a contradiction in terms, because the entire essence of academia is based on discussion and openness, and not on the silencing of researchers. It is also clear that an academic boycott aimed specifically against Israeli researchers only because of their country of origin is a violation of the right to equality. What should we do? I am convinced that we must take part in the struggle for the freedom of our research. For example, we can write letters of protest to the organizations that intend to boycott Israeli academic institutions; publish opinion columns; and talk with colleagues outside Israel about the aberration inherent in the dismissal of teachers because they are Israelis.

The connection between the local and the global deserves another look, this time from a different angle: the surprising report of the committee evaluating the quality of legal studies in Israel. Together with the committee members' admiration for the high level of productivity of Israeli law scholars, they criticized the focus on international law and on publications in English. "Jurists are unlike physicists," they wrote, because the discipline of law has a local aspect, not only the global one. Indeed, we must shape with our own hands the civil society in which we live. Our toolbox includes, first and foremost, articles, and for the articles to have influence, they must be published in our own legal press and in Hebrew. Does the report of the Higher Education Council figure in the promotion committees? Do teachers receive proper credit for publications in Hebrew?

I'm afraid not. True, the "people's minds are captive to old habits" (John Dewey), but we must internalize and implement this wise report and give credit for articles published in Hebrew.

The articles published in this collection analyze important legal issues. The volume opens with an article by Prof. Sinai Deutch, dealing with the cancellation of special consumer transactions, such as online purchases, and offering tools to regulate the matter.

In the next article, Dr. Alberto M. Aronovitz writes about the remedies that can be sought at the international level for damages incurred by foreign investors as a result of expropriation and nationalization of their assets, and examines alternative legal remedies to compensation, such as cancellation of the measures that harmed the investment and restoration of the *status quo ante*.

The article by retired Justice Dr. Bilha Cahana calls for the reinstatement of immunity conferred on internal review committees in hospitals, following the breach that the Gilad ruling created in this protection.

Several articles deal with various aspects of criminal law. The article by Dr. Asaf Hardoof describes the unfamiliar narrative of the Zadorov affair and examines why this case produced such a strong and sustained skepti-cism in the media and public about the guilt of the convicted – which is not typical in Israel. He proposes encouraging doubt in each and every file, rather than settling for the claim concerning the presumption of innocence. In his article, Dr. Yaniv Vaki proposes to cancel the limit on the amount of compensation for victims of offense in criminal proceedings – a hot subject currently awaiting a ruling by the Supreme Court. The article by retired Justice Dr. Abraham Tennenbaum deals with punishment for drunk driving in Israel and proposes replacing the minimum penalty of license suspencion with proportional scalable penalties. The article by Judge Dr. Yuval Livadaro examines the story of the first defendants, the residents of the Garden of Eden, through the lens of criminal law.

Two articles address family law. Rabbi Prof. Yitshak Cohen examines the institution of the ongoing claim, and suggests a new and more balanced model. Dr. Tali Marcus, in a multifaceted discussion, raises the possibility of expansion of the institution of social parenting while retaining the legal framework.

I wish you an enriching reading,

Sharona

Acknowledgements

Not every day do we look around and acknowledge how much we are blessed. So, when I look around and my eyes meet my colleagues in the editorial work, my heart overflows.

First, I would like to applaud the wonderful junior editors of this volume: Maayan Amitay, Ron Mitshnik, Carmel Eliyahu, Daniel (Vadim) Anski, and Assaf Peleg. There are no words to describe their dedication to the work at the journal. Daniel, Ron, and Assaf exceeded all expectations when they continued to volunteer performing editorial work after completing their studies at the college. Turbulent and fascinating editorial meetings reflected the effort and investment of the editorial staff in their work, and I thank them for it. Part of the editorial staff had tasks in addition to the ongoing editorial work: Erez Alush, and after him Meir Edri and Rakefet Benaibegi, administered our lively Facebook page; Roy Shalev was the right-hand man in managing the system; Ifat Shinfeker energetically organizes the upcoming tour to the Supreme Court–a warm thank you to all!

I would like to thank my Dean and my guide, Prof. Sinai Deutsch, for the broad support given to editorial work in every way possible – I appreciate it very much. There is no way to describe the editorial work without its beating heart – the coordinator of the journal, Monica Kushnir, who managed, coordinated, and illuminated our way. A big thank you goes also to Riky Belogolovski, who continued the work of coordination and took care of all our needs. Warm thanks to the administrative staff that accompanied us, especially to Atty. Chana Forer, Head of the Faculty Administration; Orly Gafter, for her great work on graphics; Amli Sides, for her assistance in organization; and Yariv Zarbib, for maintaining our page on the college website.

We send our greetings and special thanks to our phenomenal language editor Guy Preminger, who drums into us the correct use of language, and to Orit Kletzky, our hard-working page layout artist, who scrutinizes every rebellious letter not in its place.

Especially warm thanks go to the anonymous reviewers of articles, both those who are members of the faculty of the Law School at the college and those from outside, who perform the least rewarding work behind the scenes – reading the articles and not receiving any public recognition for it. And last but not least, thanks to the authors for their cooperation and readiness to correct all that required correction.

I hope to still see you around me in the future,

Sharona

Abstracts

The Right of Withdrawal from Special Consumer Transactions during the Cooling-off Period: Its Characteristics, Justifications, and the Setting of Fair Trade Standards

Sinai Deutch*

Abstract

The right to unilaterally withdraw from a transaction has become familiar in consumer protection laws in Israel. The right of withdrawal during the cooling-off period exists for certain special consumer transactions as well as for regular transactions. Consumers also have the right to withdraw from long-term contracts. Recognition of these rights is part of the transition from consumer protection against non-normative dealers to laws aiming to promote fair trade. The right of withdrawal from a contract is a clear example of special laws regulating consumer contracts. These laws differ from general contract law. The purpose of general contract law is to ensure security, stability, and certainty, but because of important social and economic considerations in consumer contracts, it was decided to deviate from some rules in general contracts.

Even after consumers were awarded broad withdrawal rights under the Cancellation of Transactions regulations of 2010, there are still important issues regarding the cancellation in special transactions (door-to-door sales, time-share units, remotely conducted sales transactions), which warrant special analysis of these transactions.

The legal literature has voiced criticism of the right of consumers to unilaterally withdraw from a transaction during the cooling-off period. In

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* Professor of Law, Vice-President and Dean of Law School, Netanya Academic College. I would like to thank the faculty members who read earlier drafts of this article for their important and useful comments. I especially wish to thank Prof. Moshe Gelbard of the Law School, Netanya Academic College, for his important comments.

transactions involving door-to-door sales, it is relatively easy to justify the right of withdrawal, because the consumer did not initiate the purchase. In time-share contract transactions, regulation is justified by the history of exploitation of consumers in such transactions in the 1990s. Later, it became clear that the right of withdrawal was not sufficient.

An issue of particular importance is the right of cancellation of Internet transactions. Internet sales are initiated by the consumer, and in themselves, such sales do not constitute abuse of consumers. Therefore the justification for the right of withdrawal in these transactions must be carefully examined. The present article provides several justifications for the right of cancellation in these cases. An important sub-issue is the cancellation of online sales transactions. Online purchasing is on the rise, and the importance of these transactions both to consumers and to dealers is great. Here, too, the article presents many reasons why the right of withdrawal during a cooling-off period in such transactions is preferable to a situation in which no such right is granted.

A special issue within the topic of withdrawal of online sales transactions is the cancellation of tourism services. The article suggests distinguishing between purchases of tourism services in Israel and those of services to be fully provided abroad. In local tourist services, the advantage of granting consumers cancellation rights far exceeds the damage that is liable to be caused to the business, subject to a cancellation fee. When it comes to tourism services fully provided outside Israel, there is concern that the business will not be able to reduce the damage from the cancellation of the transaction, because dealers from other countries are not subject to Israeli law. Therefore I propose to amend the provisions of the Consumer Protection Act regarding the sale of tourism services abroad, subject to a significant broadening of the duty of disclosure.

The conclusion of the article is that the expansion of consumer cancellation rights represents a revolution in the consumer protection law aimed at promoting fair trade, which is a new trend in consumer protection.

Legal Remedies Available to Foreign Investors: Deciding between Compensation and Restoration of the *status quo ante* in Light of the Experience Acquired in the Field of Gas and Oil Concessions

Alberto M. Aronovitz*

Abstract

The present article is one of the first studies published in Hebrew dealing with the topic of international remedies for injuries caused to cross-border investors. The topic is highly relevant for the State of Israel, especially in light of the recent discoveries of natural gas and of the consequences of applying the recommendations of the Shashinski Commission.

The study begins with an analysis of the differences between national and international investments. Next, it describes the ways by which a host state may jeopardize an investor's acquired right. According to a well-established principle of international law, every state has the authority to seize property and encroach upon rights belonging to private owners. When the dispossessed person is a foreign investor (the national of another state), the taking state must comply with certain conditions imposed by international law, including the payment of compensation.

Although most states seem to agree that compensation is a necessary ingredient in cases of expropriation and nationalization, a controversial issue remains under dispute: what should be the correct level (*quantum*) of that compensation? Should compensation represent the full value of the

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* Senior researcher at the Swiss Institute of Comparative Law in Lausanne. Visiting lecturer on "international investment and property protection against political interference," Buchmann Faculty of Law, Tel-Aviv University, and Ono Academic College. Formerly, attache for administration of the department of international contracts of IOT Geneva, from the ENI group, Italy. Warm thanks to Atty. Adi Chen for editing and for important comments, as well as to Prof. Moshe Gelbard.

property taken in the free market, including the *lucrum cessans*? Or is it sufficient to pay investors the "book value" of the machines, buildings, and other assets of the taken enterprise? Should compensation be appropriate, just, fair, adequate, or reasonable? Or should the amount of compensation be fixed exclusively on the basis of the host state's national legislation? The study describes the main doctrines regarding compensation, such as the international minimum standard and the national treatment.

In addition to the issue of compensation, the article discusses whether or not dispossessed investors can be restored to the position that they held before their property was taken. In some cases, for example in long-term concessions, investors may prefer to continue the exploitation of a project with a view to the future, rather than receive an amount of money in the present. The article explores, from a comparative law perspective, the options offered by different legal systems, including customary international law, bilateral investment treaties, the so-called "internationalization" of investment contracts under transnational law (stabilization clauses), the provisions for the protection of property rights within the framework of the European and American Conventions of Human Rights, and the case law of the International Centre for the Settlement of Investment Disputes (ICSID).

This paper complements the article "The development of the legal doctrine of investments in international law and their protection: In light of the ICJ's decision in the case of Pulp Mills on the River Uruguay, with notes on the topic of the discoveries of natural gas in Israel," published in 2012.

The Gilad Ruling Must Be Amended: Reinstating the Immunity of the Internal Hospital Review Committees

Bilha Cahana*

Abstract

This article analyzes the significance of the court decision to deny privilege and immunity to hospital internal review committees. These committees were established by hospitals for situations in which medical treatment resulted in death or unexpected injury. The court decision in the "Gilad affair" resulted in an unwillingness of medical staff to participate in such committees, a situation that continues to this day. In the two decades that have passed since this decision, almost no internal medical review committees have been convened. The article analyzes the complexity of balancing the right of patients and their kin to have access to all relevant medical information, and the damage caused as a result of the denial of privilege and immunity to medical staff participating in internal review committees. The most significant damage is the breakdown in a significant learning process that draws conclusions and helps prevent similar incidents in the future. The article concludes that despite legal difficulties that inevitably arise in cases of lack of transparency, there is no reasonable alternative to overturning the Gilad ruling and following the American pattern of granting privilege and immunity to internal medical review committees. The article presents alternative compromises, but ultimately rejects them in favor of complete reinstitution of privilege and immunity. Only such reinstitution can provide the security that medical staff need to take part once again in internal review committees.

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* Judge emeritus, Doctor of Law, Bar-Ilan University.

Maximum Amount of Compensation to Victims of an Offense Through Criminal Proceedings

Yaniv Vaki*

"When a man does another any injury by theft or violence, for the greater injury let him pay greater damages to the injured man, and less for the smaller injury; but in all cases, whatever the injury may have been, as much as will compensate the loss."[1]

Abstract

The article deals with the provision of Section 77 of the Israeli Penal Code that regulates compensation awarded to victims of an offense through criminal proceedings. Specifically, it discusses the maximum compensation decreed in Section 77. The arrangement provides that the court may impose on the defendant payment of compensation to the victim of the offense in the maximum amount determined by law.

Despite the importance and broad acceptance of this arrangement, the literature and case law in Israel have not yet conducted a comprehensive discussion concerning the necessity and justification of a maximum cap on compensation. In this article, the author answers three main questions related to this arrangement: (a) Is it justified to limit the amount of compensation, or should the fixed cap be canceled, leaving the court the

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* Director of the Appeals Department at the State Attorney's Office and lecturer in criminal law. I would express my deep gratitude to Prof. Yoram Rabin, Dr. Sharona Aharoni-Goldenberg, Atty. Ayelet Hashahar Bitton-Perla, Atty. Dikla Vaki, and to members of the Netanya Law Review editorial board for their illuminating and helpful comments, and to Nir Eisenberg for his great support and dedicated research. The article expresses the personal opinions of the author alone.

1 PLATO, LAWS: BOOK XI (360 B.C.E.).

discretion to award compensation in accordance with its assessment of the damage caused? (b) If the cap is retained, should it be interpreted as referring to each victim separately, so that the court may award the maximum compensation to each victim individually, or does the cap limit the total amount of compensation paid by the defendant, regardless of the number of victims of the offense? (c) Who is the victim who is entitled to receive compensation through the criminal proceedings, and must the court impose payment of compensation to all victims of the offense, or only to certain types of victims?

These questions are discussed in light of the goals of the criminal compensation arrangement and its nature, in Israel and abroad. Also taken into account are the legislative history of the compensation arrangement in Israel, the conflicting interests of the victim of the offense and of the defendant, legal policies in force and customary in court rulings in Israel, comparative aspects of compensation arrangements under various legal systems, and more.

In view of the above considerations, including the need for proper balance between the conflicting interests, the author offers a new arrangement that would cancel the cap set by law and grant the court discretion to award compensation in accordance with the circumstances of the case at hand. Alternatively, and as long as the provisions of Article 77 remain in force, the author proposes adopting a new balancing formula between the conflicting interests inherent in the awarding of compensation, according to which the court may award the maximum compensation to each injured party separately, but restrict the applicability of the compensation arrangement in this format and make it applicable only to injured parties in the near circle of victims of the offense.

A Neverending Story and Unfamiliar Narrative: Shadows of Public Doubt Following the Zadorov Affair

Asaf Hardoof*

Abstract

At the end of December 2015, by a majority opinion and with a particularly long judgment, the appeal of Roman Zadorov's conviction for the murder of Tair Rada was rejected. The public attention that the Zadorov case attracted was unusual in two respects: its persistence, and especially the unwillingness of society to accept the theory endorsed by the police, the prosecution, and the judiciary regarding the murder of Rada. In a society that tends to readily accuse, refusal by the public to do so in the Zadorov case is quite astonishing. What makes Zadorov a public symbol of rampant systemic injustice, as opposed to some other murder case that ends in a conviction without raising too many questions? The article deals with this issue.

The conclusion does not relate to the case itself, but to criminal proceedings in general, and to the mood of society and of the media. Criticism of the criminal court in the media and in society relates mostly to under-conviction and under-punishment. Rejection of theories justifying the accusation, especially in real time, is rare and not because of trust in the police, the prosecution, and the courts. As a public, we are naturally inclined to blame those who are presented to us as a target – defendants, criminal suspects, and even "suspects" in violation of social norms. We easily relate

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* Doctor of Law, Senior lecturer, Zefat Academic College. I with to thank the anonymous reviewers for their helpful comments, the Netanya Law Review editorial board, and the language editor for excellent suggestions that improved the article, and for much patience. The article is dedicated to those who believe in the goodness of man, and especially to those who doubt its evilness. Responsibility for any mistakes that that have occurred is entirely mine. I am waiting for responses at asafhardoof@gmail.com.

to stories of guilt and are highly skeptical about stories of innocence, in stark contradiction with the notion of presumption of innocence. Something unusual has to happen to drive us out of our comfort zone of assigning blame, something like a socially unknown murder narrative. Then and only then do we become suspicious, although such an attitude would make equal sense in any criminal case, and perhaps in every case when a negative story is told about an anonymous person. In practice, however, our suspicion remains dormant, even in a coma, and we find it only in academic articles and Hollywood movies.

Punishment for Drunk Driving in Israel: An Empirical Perspective

Abraham Tennenbaum*

Abstract

The legislative requirement, and the clear guidelines of the Supreme Court based on it, set a minimum punishment of two years of driver's license revocation for drunk driving. Is this punishment applied in practice?

To answer this question, we examined three sources: first, the preliminary study conducted by Moyal and Eisenstadt based on a sample of nearly 1,200 cases of individuals indicted for drunk driving; second, the *Net ha-Mishpat* computer system of Israeli courts, where we checked all the relevant files between 2010-2014; and third, the survey we conducted among attorneys who specialize in traffic laws, whom we asked to describe the punishments based on their experience. The results, despite the differences between the sources, were remarkably similar. On one hand, the legislator and the Supreme Court decreed a mandatory minimum punishment that cannot be deviated from; on the other hand, the lower courts are not implementing it. This state of affairs is not right.

In the second phase we sought to find out why the minimum punishment is not implemented in practice. To this end, we examined the procedure for

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* Dr. Abraham Tennenbaum is a retired judge of the Jerusalem Magistrate's Court.

I would like to thank Jonathan Shneur, Anat Horowitz, Eyal Zamir, Yossi Rivlin, Esther Tafta and Avital Chen for their helpful comments on an early version of this paper, and Dr. Michal Rotenberg, head of the Laboratory of Toxicology and Pharmacology at Tel-Hashomer Hospital, and the Israel Police (the Freedom of Information Unit) for their assistance in obtaining the relevant data. I am also grateful to members of the editorial board of Netanya Law Review for their comments and assistance, as well as to reviewers of the journal. Special thanks to Shomron Moyal and Mimi Eisenstadt, who readily shared with me their data and helped me greatly with their comments. The responsibility is, naturally, all mine.

the enactment of the minimum punishment and interviewed jurists dealing with traffic law-retired judges, defense attorneys, and prosecutors.

The data indicate that the minimum punishment has been enacted as a one-time, draconian legislation, without appropriate testing and consultation. As a result, all players-traffic judges, prosecutors, and naturally, defense attorneys and the defendants themselves-believe that the punishment is disproportionate and unjust. Note that because of the severity of the minimum punishment, testing procedures have become difficult and complicated. As a result, drunk driving trials became protracted and time-consuming.

The combination of these factors created a shared interest for all parties in circumventing the minimum punishment through lenient plea bargains, which are reached in cooperation between the prosecution, the defense, and apparently the courts. Plea bargains have been reached because the minimum punishment seemed disproportionate and unjust to the parties involved, and because the process was long and complicated. As a result, the main victims of the minimum punishment are defendants standing trial in absentia, and defendants without representation, usually of the low socio-economic status, who failed to circumvent the minimum punishment.

These results are consistent with the many studies about minimum punishment carried out worldwide. Our study presents the agreement and the differences between our results and the situation worldwide, and discusses the relation between our findings and the common goals of the Penal Code, asking whether the reality advances the stated goals.

In light of the findings, we recommend concrete steps to change the situation in Israel in order to address the problematic findings. We propose to replace the minimum punishment with a gradual and proportional punishment, and at the same time simplifying the testing procedures. We also propose a mechanisms that significantly reduces the harm to drivers from disadvantaged populations.

The First Defendants in History – Adam, Eve, and the Serpent: Analysis of the Garden of Eden Story from the Point of View of Israeli Criminal Law

Yuval Livadaro*

Abstract

The Garden of Eden story is well known to all. Over the years, the story was ascribed many connotations and interpretations. This article proposes a new reading of the story, reflecting current Israeli criminal law.

I examine the story of the Garden of Eden, and its heroes (Adam, Eve, and the Serpent) from the point of view of substantive criminal law. As part of this examination, I focus on several fundamental issues of substantive criminal law, such as the principle of legality, the principle culpability, the question of the parties to the offense, and other issues related to penal law. I examine the relationship between the individual and the government within the criminal contexts of these relations. Therefore, I do not address the commission of property offenses as formulated in the story, but rather offenses having to do with the relations between the individual and the government, such as the crime of sedition and the violation of a legal order. It is within this context that I also examine the applicability of the principle of legality, a principle embedded entirely in this relationship.

My focus on this relationship and on the type of offenses mentioned stems from the recognition that there is a deep level to the story, hidden and at the same time revealed, having to do with the relations between the created and the Creator, and between them and those who challenge this relationship. I show that the punishment imposed on each of the defendants,

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* Judge in the Beer-Sheva Magistrate's Court and Adjunct Professor at the Law School at Sapir College. I wish to thank Judge Yaakov Danino, Judge Or Adam, attorneys Tomer Orinov, Yochai Chazaz, Haim Cohen, and Limor Livadaro, as well as Avraham Shalem, for their helpful comments.

who are the first defendants in history, has to do with the relationship between each of them individually and between them and the Creator, as it connects the past and the future, as well as the act and its result. At the end of the article I refer to the principle of free choice, which is at the basis of imposing liability in the story, and which serves to this day, in Israeli criminal law, as the basis for imposing criminal liability.

A Conceptual Alimony and Child Support Model in Family Law

Yitshak Cohen*

Abstract

In the Israeli legal system, it is generally accepted that decisions concerning issues of custody, child support, and alimony can be litigated repeatedly, and may change after the final verdict has been issued. This is true even after an explicit agreement between the parties has been reached. This is the concept of continuing grounds. Thanks to this option, verdicts can be updated and adapted to future circumstances that could not have been foreseen at the time of the initial decision. Thus, it is possible to take into account the changing income of the spouses, the changing educational, social, and communication needs of the couple's children, and more. The possibility of repeated litigation, however, leaves family disputes pending and violates the fundamental principle of the finality of court rulings and of res judicata. At the same time, rather surprisingly, the division of property remains final and cannot be changed based on these continuing grounds.

The present article addresses the interrelations between the various grounds and presents a different approach toward them based on a new model. The model seeks to achieve a better, fairer, and more effective balance between the various interests present in the arena of family law in

* Doctor of Law, Senior Lecturer, Faculty of Law, Ono Academic College; Visiting Scholar, Columbia University, New York, USA, 2012–2013; Visiting Professor, McGill University, Montreal, Canada, 2013; Guest Lecturer, Azrieli Institute, Concordia University, Montreal, Canada, 2014; adjunct professor, Faculty of Law, Hebrew University of Jerusalem; ordained rabbi by the Chief Rabbinate of Israel. I would like to thank the members of the Editorial Board of Netanya Law Review: the editor, Dr. Sharona Aharoni-Goldenberg, the associate editor Ron Mitchnick, staff members Or Avneyon, Sigal Hodedatov, Natalie Cohen-Zada, Luba Foigel, Mamoun Hawaita, Leyana Masoud, Carmel Eliyahu, and Roee Lasri and the language editor, Guy Preminger, for dedicated and professional editing.

general and in the case of repeated litigation in particular. The article builds a foundation for the model based on a key argument that points to the difficulty in sundering divorce agreements into various grounds, some of which persist and are subject to change whereas others are final and cannot be altered. The article proposes a new model, the "effective conceptual alimony and child support." The model ensures the division of property is taken into consideration whenever the common continuing grounds are involved, but at the same time prevents its renewed litigation. The amount of the conceptual alimony and child support includes also any one-time transfers of property between the spouses. Whatever changes must be made to the alimony or child support grounds, they will refer to the conceptual alimony and child support, and not to the amounts paid out routinely. The conceptual alimony and child support model is fairer than the current model from the point of view of taxation, takes into account property that cannot be realized, eliminates the need for various indemnification clauses, and eliminates the need to sell the family property. It is also coherent and consistent with the idea of a "clean break," and it is likely to help both spouses as well as the legal system establish a clear roadmap for disputes following a divorce.

Horton, Pharaoh's Daughter and the Brady Bunch – Exploring the Possibility to Grant Legal Status to Social Parents

Tali Marcus*

Abstract

Social changes and developments in reproductive technology have intensified the debate concerning the legal definition of parenthood in the last few decades. Israeli law defines a parent, in general, based on biology. Although the starting point is biological parenthood, Israeli law recognizes legal parenthood that is not based on biological connections, such as adoption and assisted reproductive technology using gamete donation or surrogacy. The purpose of this article is to establish the claim that in the appropriate circumstances the law should recognize the legal status of a social parent and thus grant him/her full legal parental status. The article demonstrates the importance and significance of this recognition by applying it to a variety of such families that already exist in society but are not recognized by the law. For the purpose of this article, a social parent is defined as a person who either functions as a parent to the child from a social-psychological perspective, or there is an expectation that he will function as a parent in the future, based on his intent and initiative. Additionally, to be considered a social parent, an emotional parent-child relationship needs to be formed between the adult and the child, whether or not the adult has a biological connection with the child. The article focuses on situations in which the social parent is not the biological one. The main emphasis in the article is placed on examining through different case

* Ph.D., Faculty of Law, The Hebrew University of Jerusalem. I wish to thank the Minerva Center for Human Rights at the Hebrew University Faculty of Law for help in funding this research. I also thank Barak Medina, Orit Gan, and members of the Netanya Law Review editorial board, and the anonymous judges for their helpful comments. The article reflects my personal views.

studies the importance of granting legal parental status to the social parent. The motive for constructing the article in this manner is the notion that the best way to illustrate the importance of granting legal status to social parents is through highlighting the life experience of adults who choose to mold their family life the way they see fit, and the life experience of children who are born into those families. The article proposes to grant full legal parental status in the appropriate cases. The article adds to the existing academic writing on this subject and is innovative. The definition of the term "social parenthood" given in this article is slightly different from the one that is common in the literature. This definition provides a common denominator for various models used to define parenthood in different legal systems and in the literature, and unifies them under a single framework. This perspective makes it possible to evaluate the justification for recognizing alternative family formations and the needs of such families, from a different point of view than the one customary. The article discusses for the first time in detail, and in a comprehensive manner, the status of the social parent in Israel, proposing to expand the definition of parenthood beyond biology and adoption, to accommodate different types of families and diverse forms of social parenthood. The article examines both social parenthood created following the use of gamete donation or surrogacy, and social parenthood formed as a result of different social circumstances, and as such offers a comprehensive assessment of the subject matter.