

# **A conceptual alimony and child support model in family law**

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## **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 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.

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