ALEI MISHPAT

THE LAW REVIEW OF THE COLLEGE OF LAW & BUSINESS

Volume 14 **September 2018**

Law and Humanities

ABSTRACTS

Anat Rosenberg, *How to Do Things with Law and Literature (in Israel)*

This essay maps the interdiscipline of Law & Literature in Israel. The mapping stresses local characteristics in terms of beginnings, substantive emphases, and methodological and theoretical approaches. It offers a conceptual and historical framing for the interdiscipline, and examines the main insights it has developed, its achievements and challenges.

Elad Lison, *Civil Religion and Political Theology: On the Sanctified Status of the Rule of Law and the Supreme Court in Israel*

This article suggests two perspectives – that of civil religion and that of political theology – to be used in examining the political sanctity enjoyed by the rule of law and the Supreme Court in Israel. In contrast to the commonly held position that views political sanctity as manipulation, civilian religion and political theology view it as the key to understanding the nature of modern collective existence. The article looks at the behavior of the Supreme Court and the special arrangements that characterize it in light of the insights of Russo and Durkheim on the importance of civil religion in the modern political reality. Apart from the political theology of the positivist theory of the state according to Kelzen and the political theology of human rights, there is an additional and unique political-theological mechanism operating in Israel that is characteristic of Zionism. This mechanism appears in the approach of Gershom Scholem to Zionism and his interpretation of Kafka's "The Trial" and is based on the gap between the Jewish metaphysical heritage and the Zionist aspiration for normalization, a gap that in Scholem's view will end in a burst of messianiasm. The article presents these three political theologies and through them examines the constitutional revolution in Israel and the feeling of theological-political calling among some of the Supreme Court judges since it was founded and until today.

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Liat Fridgoot Netzer, *"I Shall Therefore Speak on Their Behalf": The Judicial Narrative and the National Ethos: Rereading Yigal Amir's Verdict*

Every verdict constructs a narrative, but few verdicts construct a narrative that exceeds the time and the place of the judicial discussion and postulate a national ethos with historical consciousness and cultural meaning. The trial of Yigal Amir was such a case. The verdict sprang from the judicial arena, landed in the historical arena , and joined the mythical narratives of destruction and the Holocaust that build a national ethos. What is this ethos comprised of? How was it formed and why? These questions will frame the discussion in this article.

Ethos is the foundation for both understanding, and constructing, social identities. Many studies have acknowledged the dominant role the ethos of the Holocaust plays in Israeli society. Nevertheless, the ethos of the Holocaust has not yet been examined in any judicial ruling. Every verdict is accompanied by cultural baggage, alongside the judicial argument. When dealing with a verdict that has historical significance, there is special interest in exploring the cultural baggage; hence, the importance of this article.

This article will discuss the ethos of the Holocaust, as manifested in the verdict of Yigal Amir. Identifying the ethos of the Holocaust in this verdict is innovative. Moreover, the transformation this ethos undergoes in the verdict is also innovative. I will argue three main points: First, the ethos of the Holocaust exists, surprisingly, in the Amir verdict. Second, the court changed the familiar ethos, and added to it, in accordance with its extra-judicial goals. Third, the Holocaust ethos relating to the murder of Rabin was also formed by the legislation that dealt with its memory.

These topics will be discussed in the following order: I will present the paradigm of the research and argue, primarily, that law is formulated both by judicial discourse and non judicial processes. I will then base the discussion on the social function of the ethos, focusing on the ethos of the Holocaust. Next, I will analyze the ethos of the Holocaust regarding the Amir case, emphasizing its transformation from the traditional ethos, and will discuss the differences in the social acceptance of each. The analysis will be based on historical and cultural conceptions, according to which, the text is both a product and a creator of its historical context and cultural meaning. I will continue the discussion with the legislation that formulated the historic event in the collective memory. My summary will discuss the meaning of this research.

In my opinion, a deep analysis of the law, using judicial tools alongside cultural methods, will expose cultural conceptions. These contribute to the comprehension of the historic event, as well as to the understanding of the judicial text, and the cultural significance of both.

Orit Kamir, *"Lilith's Story" as a Structure of Gender-and-Legal Panic: An Israeli Witch-hunt (in 2014) between Mythology, Law and Society*

Lilith's story is the ancient, mythological tale of the first woman ("Adam's first wife"), who demanded her full rights from day one in the Garden of Eden and evolved to become, in legends and dreams, a fearsome, powerful demon. This article claims that some gender-focused moral panics rise from anxieties induced by modern-day occurrences perceived and structured as Lilith stories. In a patriarchal world, Lilith's story, therefore, shapes certain moral panics, which I call gender panics, and which sometimes involve legal dynamics. Such legal dynamics aim to protect society from a Lilith-threat, yet sometimes reinforce the anxieties and the generic gendered narrative that stimulated them. This is a cultural-based socio-legal argument. It is presented in this article through close analysis of a single case of "a Lilith's-story-based gender and legal panic" that erupted in Israel in the summer of 2014. In June of that year Israeli society was scandalized by the revelation that a grown woman had been performing sexual intercourse with hundreds of teenagers who flocked to her doorstep. The article reads this scandal as a gender panic generated by patriarchal anxiety that burst in the wake of a Lilith story. The legal panic that ensued gave rise to unreasonable use of the criminal code (section 350), and an attempt to legislate the prohibition of "rape performed by women". The article concludes with an observation regarding the underlying structural symbiosis between the said case of a Lilith gender panic and the eruption of hatred for Israeli-Palestinian female parliament member, Haneen Zoabi.

Danielle Gurevitch, *The bon fei: Dilemmas of Legal Justice versus Poetic Justice in Marie de France's Lais*

The article seeks to examine literary representations of law and justice as voiced in two stories written during twelfth century and the beginning of the thirteenth

century. This period is recalled in history as a dramatic turning point in judicial reform matters, including judgments, constitution and law principles, that changed not only the legal system in England but also the western legal perception in general (set the basis for "Common Law"). The first story (Lai) is *Lanval*, written by the first French poetess, Marie de France, who lived and wrote in the court of English kings Henry II Plantagenet and Eleanor of Aquitania. Marie's Lai will be compared with a romance, *Le Roman de Silence* by Master Heldris de Cornoualle, assumed to be writeen about forty years later.

The article will detail the trial stages of the two defendants. The first against the knight Lanval, a vassal in King Arthur' s court, who unjustly prosecuted for an attempt to sexually assault the Queen, thereby violating his feudal commitments to the King (loyalty and purity). If found guilty, the king will sentence him to death by burning or hanging, which was the public sentence given for treason. In comparison, the stages of the trial and the juridical measures in the parallel Silence trial will be analyzed. First, with the knight's accusation description, the continuation and finally, the final judgment. In addition, the latent tension implicit in the narrative sequence will be examined between legal justice (the king), religious authority (the church), and between these two versus poetic justice.

The article seeks to address the question of what are the standards of justice and by which values Marie determines her "just" rulings. The article also seeks to argue, through the comparative reading, whether it is possible to imply any hidden criticism on the conduct of the two kings (the fictional King Arthur and the historical King Henry II,), both remembered as the benefactor of the nation, the ultimate king, symbol of grace and mercy.

Rachele Hassan, I*n the Eye of the Beholder: The Bee Community as a Metaphor for Human Society in Ancient Rome*

Thinkers and intellectuals in the ancient world in general, and Roman culture in particular, showed a great interest in bees, and the relationship between worker bees and the queen (though the Romans mistakenly believed the queen to be male). But while the objective phenomenon observed in the internal organization of bee society remained unchanged, the subjective interpretation given to it by various thinkers changed radically.

The article explores, through a careful reading of texts written between the late first century BC and the middle of the first century AD, the connection between the

political changes that took place in Rome at the time and the different ways of deciphering what happened inside the hive, and of interpreting the appearance of swarms as portents. This was the period of the disintegration of the Republic, and the transition towards the imperial era that took place with the establishment of the Principate by Augustus.

While at the end of the Republican age commentators placed emphasis on the values of equality within the hive, with each bee, including the queen, doing what they could to maximize collective well-being, after Augustus became the *princeps*, the centrality of the ruler was praised; other bees lost their status as citizens in an equal society and became subjects of the ruler. The above can be viewed as a kind of parable, where the beholder paints reality to match his own political views.

Vicky Melechson, *New Capital Crimes in the Carolingian Empire*

In this article I will examine the capital crimes of the Merovingian and the Carolingian period. I will argue that even though Charlemagne limited application of the death penalty and instituted laws and procedures in order to achieve this goal, in the long term his religious reform had consequences that were the opposite of what was intended. The revising of the text of the Bible and the growing influence of the Old Testament led the followers of Charlemagne to apply capital punishment for misdeeds that had not been considered capital crimes before. For example, Louis the Pious (813-840) used the biblical law of retaliation in his judgment. Along the same lines, Charles the Bald (840-877) demanded that witches and warlocks and their spouses be put to death in accordance with the laws found in the Book of Deuteronomy.

Shlomo E. Glicksberg & Ilan Sela, *"The Heart is the Central Part of Man, and is the Main Part of All Mitzvoth and Sins": On Unsuccessful Attempts in Jewish Law*

According to the common law approach, the need to establish a criminal offense requires the existence of two elements: factual and mental. These principles have long been grounded in the criminal law of Jewish law. According to which no one is punished for a bad thought, or no one is valued for a good thought without his thoughts being carried out in the commission of an offense or an act of mitzvah.

In this paper, an attempt will be made to examine one of the most novel issues in the criminal law of Jewish law, which is the issue of an unsuccessful attempt. The novelty in the case of an unsuccessful attempt, is that we can identify in Tannaitic sources the existence of a transgression and even the imposition of punishment, in cases where circumstances required for the existence of a transgression were not fulfilled. This is ostensibly because of the intention of the perpetrator to commit a sin and his belief that his actions will indeed lead to one.

These Tannaitic sources in the Mishna and Tosefta in Tractate Nazir deal with a woman who intends to commit a transgression of her vow of asceticism, when the possibility of her transgression was doomed to failure in the first place as her vow was previously broken by her husband without her knowledge. A study of the Mishnah and the Tosefta indicates that this woman deserves punishment, whether it be a punishment of lashes prescribed in the Torah to a person who has committed adultery or the punishment of a "Makat Mardut" from rabbinic law. Indeed, there are also some conditions in which this woman is not punished at all by a court, but this does not absolve the woman entirely, and according to another Tosefta, this woman, even if she is not punished by the court, needs forgiveness and atonement. This is what emerges from the words of R. Akiva, who even learned from this case, that every person who intended to commit any offense in the entire Torah and according to his view of the circumstances even performed it in practice, needs forgiveness and atonement even when the sin wasn't actually completed.

In the continuation of this article, we will attempt to examine the essence of this innovation as can be seen from the study of the Rishonim and the Acharonim who dealt with the interpretation of these Tannaim.