**Abstract**

In the last decade, Israeli case law has blocked intrafamilial tort claims in four types of cases in which they previously had been accepted: Adultery damages; Emotional and property damages as a result of non-disclosure to a spouse about a sexual inclination; Paternity fraud; and Violation of a promise to convert to Catholicism in order to divorce.

We focus on Israeli law both because some of these claims have not been blocked elsewhere and because in family matters of marriage and divorce (that is, matters of status), Israel is unique, as religious law applies and the cases are adjudicated before relevant religious tribunals. In the past, Israel, following some other common law countries such as the U.S. and England, regulated spousal immunity from intrafamilial tort claims. Immunity reflected a collectivist approach, viewing the family as one unit and not as a group of individuals with independent needs and rights, and attempting to determine what is best for the family as a whole. The concern was that legal intervention in the family’s affairs could prove more detrimental than beneficial. Immunity was abolished in Israel some 50 years ago, with the law moving from a collectivist to an individualistic approach that endorses the autonomy and rights of injured individuals and allows them to sue a family member for damages. However, it appears that since 2013, there has been a shift to block claims in some categories in which they were previously entertained. Such a surprising shift seems to be at least a partial regression from an individualistic to a collectivist approach. It is necessary to examine what motivated the courts to take such a step, whether there is an expectation for its expansion, and whether there is room for a more refined result of partial rather than full immunity in each of the four test cases.

The Israeli case law, whereby four out of about 15 types of intrafamilial tort claims listed above should therefore be carefully examined, both in terms of identifying the type of process the case law has undergone—if it is indeed a regression towards collectivist values or some other mixed approach between individualistic and collectivist approaches—and asking what are the bases for this process and whether this trend is expected to be extended further to other, if not all types of intrafamilial cases. If not, what are the reasons for immunities evolving in these four test cases only and what do they have in common that make Israeli courts find them suitable for imposing blockage? There is a special importance to conducting such an analysis, identifying the main elements, foundations, and values of the process, and laying a suitable foundation for various research critiques on the process. We will compare Israel’s situation with like phenomena in other common law and non-common law countries, including in Europe and the Islamic world, to examine the extent of the phenomenon and the various reasons for it, and to situate trends identified in the research in an international context.

One of the challenges will be, at the end of the research and after its consolidation, to present a three-part table: (1) Types of cases in which it will probably always be possible to sue and there will be no immunity; (2) Types of cases in which there will probably always be immunity and it will not be possible to sue for them, perhaps beyond the four test cases, all of this with a critical eye for reaching a full immunity where a partial one is possible; (3) And more fluid types of cases in which there should be partial and not full immunity.

The main product of the research will be a series of articles. The first article will deal with normative considerations. It will outline the various routes and directions for the normative assessment of the phenomenon and will identify several directions for analyzing the phenomenon, in a format to be detailed below. The second article will examine the issue from a comparative perspective—is Israeli law pioneering in this trend, even in some test cases, or is it following what is happening in other countries? The third article will examine the expectation of the expansion of the process to additional types of claims beyond the four test cases. In articles 4–7, each of the four test cases will be critically examined, the possibility of reaching, through the same value base, more subtle results of partial and not full immunity.