The discussion regarding the legal status of pornography in Israel is something that was already referenced in the early years of comparative law: Due to a need to provide substance for the laconic wording of Section 214, the Court directed its attention to English case law – first pursuant to the provisions of Article 46 of the King's Order-in-Council, but also after disconnecting the official interpretative association between the legal systems[[1]](#footnote-1) English law continued to play a significant role in the discourse due to the historical relationship between English criminal law and it Israeli counterpart, as well as the general sense of identification with the customary legal systems. The presence of American law in the discourse is part of a general trend of Israeli law moving closer to American law in recent decades, but it is also expected in light of the central status of freedom of expression in the legal discourse.[[2]](#footnote-2) Aside from the interpretative relationship between the legal systems, we can also point – as described in the previous chapter and as described below – to the tendency of Israeli law to "get on the same page" with developments in parallel legal systems.

In English law the prohibition against publishing and displaying obscene content is found in the Obscene Publications Act[[3]](#footnote-3), a law from 1857 that prohibited the possession of obscene materials for the purpose of sale and distribution. The term "obscene" was not interpreted in the law and it was only concretely defined about a decade later, in the famous ruling in the case of R. v. Hicklin.[[4]](#footnote-4) The court ruling was in the matter of a person named Henry Scott, who distributed pamphlets containing harsh criticism of the Catholic Church. These pamphlets included, among other things, a detailed description of actions for which people went to confession with a priest, leading to classification of the pamphlets as obscenity and a police order to ban them.

1. Law of Legal Foundations—Hok Yesodot Hamishpat 5740-1980, 68 978, 163. [↑](#footnote-ref-1)
2. The prominent presence of freedom of expression is essentially an American influence; see details below. [↑](#footnote-ref-2)
3. 20 & 21 Vict., c.83 (1857) (Eng.) [↑](#footnote-ref-3)
4. See footnote 14 above. [↑](#footnote-ref-4)