The discourse about pornography’s legal status in Israel called for a reference to comparative law as early as in its first few years: the need to imbue the laconic wording of Article 214 with actual content made the court turn to English judicial precedent – at first according to the provisions of Article 46 of the King’s Palestine Order-in-Council, but even after the two legal systems ceased to be linked in terms of interpretation[[1]](#footnote-1), English law continued to be a significant factor in this discourse, due to the historical ties between English and Israeli common law and a general sense of identification with the common law “family”. American law’s presence in this discourse is part of a general trend of Israeli law becoming more like it in the last few decades, but also appropriate due to the central role of freedom of speech in legal discussions[[2]](#footnote-2). Apart from the interpretational tie between the legal systems, one can point, as was described in the previous chapter and will be detailed later on, to Israeli law’s inclination to “fall in line” with the developments in parallel legal systems.

The prohibition of publishing or showcasing lewd materials in English law originated with the Obscene Publications Act[[3]](#footnote-3), an 1857 law that prohibited the possession of obscene materials for sale or distribution purposes. The term “obscene” was not interpreted by the law and only received a concrete definition about a decade later, in the legal case known as R. v. Hicklin[[4]](#footnote-4). The case was about a man named Henry Scott, who distributed pamphlets containing harsh criticism of the Catholic church. These pamphlets included, among other things, a detailed description of the acts that led people to confess before a priest, which led to the classification of the pamphlets as an obscene material and the ordering of their confiscation by the police.

1. Legal Foundations Law (Hoc Yesodot Hamishpat), 1980, New Article 978, 163 [↑](#footnote-ref-1)
2. In fact, the prominent presence of freedom of speech in this discourse is an American influence, which will be elaborated on hereunder. [↑](#footnote-ref-2)
3. 20 & 21 Vict., c.83 (1857) (Eng.) [↑](#footnote-ref-3)
4. See footnote 14 below. [↑](#footnote-ref-4)