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# HAARETZ magazine

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# HOLDING COURT

LEGAL EXPERT RUTH HALPERIN-KADDARI HAS BEEN FIGHTING FOR WOMEN'S RIGHTS AROUND THE GLOBE, BUT FACES SOME OF HER BIGGEST BATTLES IN ISRAEL Tamar Rotem **10**

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**A**frican women in colorful garb and high turbans, fierce-eyed Romani women, pale Serbian women, Indian women in saris – all testified in January 2011 in Geneva before the UN Committee on the Elimination of Discrimination against Women. Among the witnesses describing the terrible suffering they endured in their home countries was a Muslim woman, aged about 30, from Chad. She was of average height, dressed in long, dark clothing in the traditional style, and wore no head covering.

Tears did not slide down her cheeks as she spoke, and she did not lose control on the stand, as happened to several other women. Her erect posture and the quiet way she recounted the circumcision she underwent made her testimony particularly memorable.

“She also stood out by virtue of the fact that while she herself was a victim, she also headed an underground organization that was fighting for women’s rights, including against the practice of female genital mutilation, which is the official term for female circumcision,” says Ruth Halperin-Kaddari, law professor and vice president of the UN discrimination committee, who sat on the panel that winter and heard the testimonies.

“As someone working outside the law in Chad [where political organization is banned], she receives no protection from the police,” says Halperin-Kaddari. “Her determination and courage attracted my attention. And at the same time, she seemed detached, as if she herself hadn’t experienced what she was describing. Among other things, she reported that almost all women in Chad – 90 percent – are subjected to female genital mutilation. It was the contrast between the dry manner of her reporting and the suffering she’d endured that really got to me.”

The Committee on the Elimination of Discrimination against Women is one of the most important in the UN, and considered quite influential. It has 187 member countries, including Israel, and the smaller body that oversees implementation of its charter has 23 members – currently 22 women and one man. Surprisingly, the United States is not a member of the committee, largely because of its problematic position on the sensitive issue of abortion. The representatives on the smaller body – almost all human rights experts and activists – are selected every four years in a democratic election process accompanied by intense behind-the-scenes diplomatic and political activity.

Halperin-Kaddari has been part of the forum since 2006; her predecessors include Israeli jurists Carmel Shalev and Frances Raday. Halperin-Kaddari, 47, is relatively young considering her impressive resumé: an expert on family law, feminist legal criticism and women’s rights; lecturer at Bar-Ilan University and, until recently, head of the prime minister’s advisory council on women’s status. At Bar-Ilan, she founded and heads the Rackman Center for the Advancement of Women’s Status, which operates a legal aid clinic for women, among other activities. The fact that she is a religious woman makes her career all the more noteworthy. And it’s also what makes her a religious feminist by definition.

In July 2010, she added another accomplishment to the list when she was re-elected to a second term on the UN committee, something her predecessors had not achieved. People familiar with the diplomatic corridors of the UN talk about her reelection – and as vice president of the committee, no less – in superlatives. Prof. Gabriela Shalev, the president

of Ono Academic College, was Israel’s UN ambassador at the time (which was also when Israel was under a barrage of criticism following the May 2010 raid on the Turkish flotilla to Gaza). Shalev was keenly aware of the atmosphere behind the scenes prior to the vote: “I thought it was nice and fitting that a young, talented, religious woman academic, who truly presents a very enlightened face of Israel, should represent us on the committee,” says Shalev by telephone from New York.

“On the committee,” she continues, “there is an automatic majority against Israel, and her selection, particularly at a time when we were being denounced from morning till night – especially by the nonaligned nations – was a real achievement for Israel. Very serious work was done by the delegation and by the Foreign Ministry, but without question we had a very good and familiar figure. And in the end Ruth Halperin-Kaddari was elected because of her talent, and it’s a significant personal achievement.”

Given the complaints made against Israel over the occupation, the country has a clear interest in getting representatives on the human rights committees. An Israeli, Prof. David Kretzmer, formerly served on the UN Human Rights Committee, and another representative, Prof. Yuval Shany, was recently elected.

When asked if this is simply some kind of figleaf, Halperin-Kaddari acknowledges that it’s a tricky issue. “In the past, my personal outlook caused me some uncertainty about this role in the human rights arena,” she says. “There are many areas that I consider very problematic. The occupation, the treatment of Palestinians, or the discrimination against Israeli Arabs. This is our existential conflict.

“The question of whether the occupation colors everything black is indeed a fundamental question,” she adds. “But it must be remembered that Israel is a democracy and it can certainly vote on commitment to promoting human rights. Its interest in having a presence in the international human rights arena is an honest one, I believe. In certain ways, and here I’m relying on things I heard from Gabi Shalev – who was in the most senior post as an Israeli representative – exposure to all the aspects and dimensions of Israel’s representation at the UN makes you become more patriotic.”

# A WOMAN'S WORK

By **Tamar Rotem** Photo  
by Tomer Appelbaum

She had a religious upbringing in Ramat Gan, a feminist awakening at Yale, then became an expert in family law and a passionate feminist. Now in her second term as vice president of the UN Committee on the Elimination of Discrimination against Women, Ruth Halperin-Kaddari speaks out about the status of women in Israel

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**Ruth Halperin-Kaddari in the Knesset. "There is no country in the Western world where personal status law is governed by religious laws, as it is in Israel."**

Still, she stresses that even though elected on behalf of Israel, she does not represent the country specifically while working on the committee. Rather, she "works on behalf of all women in the world," adding that "thinking of it this way quite resolves the dilemma."

## Utopian vision

The charter obligating member nations on the committee to eliminate discrimination against women was formulated in 1979. It contains 16 directives as to what a member state must do to eliminate discrimination in different areas, including education, health, participation in the workforce, women's rights and welfare, and domestic equality.

"The charter outlines a utopian vision," says Halperin-Kaddari. "It is not genuinely enforceable." But the member states are obliged to report on their activity to

promote women's rights and on the struggle against the abuse of women. In order to present a reliable report, they must, of course, demonstrate real action in the field. This happens three times a year, when the committee meets in Geneva in the fall, winter and summer. During each three-week session, official delegations from the member states are invited to present their reports to the committee.

*Isn't the committee frustrating?*

"You hear these stories day after day. And when you come out, all you really want to do is cry. You think about what a messed-up world it is, and you feel helpless. Often you say to yourself, 'What use is our work here? For while we're sitting here seeing this small representative delegation, the women there are enduring this abuse, and nothing will change.'

"But on the other hand, there are changes. The effect is cumulative. The UN has a whole range of human rights initiatives. For example, linking the foreign aid giv-

en by Western countries to the developing world to advances in women's rights. This activity, this body, still gives a glimmer of hope to the organizations, because from one session to the next they take on a more central role in the scene. And we also see this in the seating arrangements in the auditorium, where you have representatives of the various governments on one side and representatives of the organizations on the other, with no hierarchy between them.

"As upsetting and exhausting as these sessions are, these encounters where you really witness women's incredible survival ability also gives you a lot of strength. And to a certain extent, it also provides us with another perspective of where we stand in terms of human rights; what our situation is. With all our shortcomings, we are still a democracy, and we're considered a progressive country, at least in terms of legal rulings on behalf of women. Although the reality still lags far behind."

Last month, Halperin-Kaddari flew to Geneva for the committee's fall session. This session was likely to be very significant for her, since in the three previous sessions she put great effort into persuading the other committee members to formally adopt a progressive norm in the field of family and inheritance law, based in part on Israeli legal rulings. These are rulings pertaining to financial relations between spouses, which Halperin-Kaddari wishes to formulate as a general recommendation in the charter.

"Very soon after I began serving, I saw that the field of family law, especially regarding the economic implications of divorce, was lacking in the committee," she explains. "And this is a subject dear to my heart. In many countries, concepts we take for granted regarding division of property are not recognized. For instance, the fact that a housewife's work must be taken into consideration even if property is not accumulated in her name is not recognized for the most part. The same goes for the concept of human capital, which was passed in 2007 and means consideration of the reputation one has built up as part of the spouse's potential earning power - usually the man's - that has to be taken into account in the division of property."

She says these concepts have been adopted in New Zealand, Australia and Britain, but in many parts of Europe and in some American states, the idea is not recognized under the existing law. So far the committee has agreed to promote a recommendation regarding the division of property. Halperin-Kaddari formed a six-member working group that applied itself to formulation of the recommendation. She says they discussed the question in regard to different types of relationships. "Should the recommendation refer only to regular marriage or also to joint relationships without marriage? Should the members of an unmarried couple be entitled to the entire spectrum of social rights and general support that comes with marriage? Should a woman who lived 20 years with the same partner be entitled to the same portion of family property as if they were married?"

*And what about same-sex couples?*

"There's a question as to whether our committee has a mandate to address lesbian women, for instance, as this is not a case of discrimination on the basis that they are women. The norm the committee will adopt is a universal norm. One that applies to the poorest nations in Africa and to the Islamic nations, too. ►

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◀ This clause about same-sex couples could foil the entire process, and so we are leaving it open to a vote by the members of the committee.”

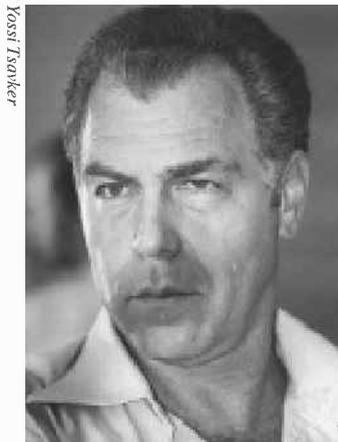
This month she will find out if the recommendation will go into effect and become binding on the member nations, and in which format.

## Dormant feminism

The sounds of a dog barking and a piano sonata emanate from the house as Halperin-Kaddari comes out to open the gate, nearly tripping over the dog. This minor mishap immediately causes her formal demeanor to crack as she breaks into a warm grin. There's no trace of the severe-suit wearing woman from the UN. She is relaxed as she talks at home, tending to a pot of pasta on the kitchen stove.

Halperin-Kaddari has lived in a small two-story house she rented after her divorce five years ago. For the sake of her family's privacy, she will not discuss the circumstances of the divorce. She has four children. The eldest married this year and is studying music in Berlin; the second is in the army and the third is studying in a pre-army program. Her youngest daughter will soon celebrate her bat mitzvah. The house is warm and inviting, filled with furniture and memories from the home of her parents, who died in quick succession about a year ago due to illness. The living room looks out on the green outdoors.

She absorbed her drive for excellence at home. Her father, Menachem Zvi Kaddari, was a professor of Hebrew linguistics, rector of Bar-Ilan University and an Israel Prize laureate. “I'm a classic case of the young daughter who becomes the focus of all the ambitions of the father who has no sons,” says Halperin-Kaddari. “From a young age it was clear to me that, no matter what field I chose, I would become a professor. I was naturally drawn to his university.”



Ariel Rosen-Zvi. Role model.

Her two sisters are both clinical psychologists. Her education followed the standard religious-Zionist track in Ramat Gan: state-religious school, Bnei Akiva youth movement. The family was politically moderate, affiliated with the old-time Mafdal (the National Religious Party), not right-wing.

Her feminist awareness blossomed relatively late. “When I was in elementary school, I took part in a contest sponsored by the Ramat Gan municipality on Tractate Berachot and I came in first. They didn't know what to do with me because the prize was a Gemara, and as a girl I wasn't supposed to be studying

Gemara. They gave me a Tanach set instead, which was the second place prize.” She doesn't recall if she felt outrage. “The whole feminism issue was pretty dormant with me for years.”

And her political awareness hadn't really stirred when she was pursuing her bachelor's degree in law. Naively, she set out to take part in a competition of papers on the subject of Hebrew law. “I sat in my father's office and went through the Responsa Project, collecting citations about the husband's unfaithfulness as a pretext for forcing a get [Jewish religious divorce]. I hadn't yet figured out that I also wanted to examine the mirror image, the implications of the wife's unfaithfulness. Which needed to be looked at, too.”

Before the contest, one of her competitors, now a well-known attorney, met with her and asked her to withdraw her paper. “If you win, they'll say a woman beat you. And if I win, they'll say, ‘Big deal, you beat a woman,’” she recalls him saying. Halperin-Kaddari was not dissuaded and took the \$1,000 first prize, while the other student, who took third place, didn't even bother to collect his prize.

She was a brilliant student. She married while still in school and then went on to earn her master's and doctorate in law from Yale University, which she attended on a full scholarship. It was there she decided to specialize in family law – an unconventional choice at the time, to put it mildly. Up to then, religious males had a monopoly in the field.

“I was interested in the interface of religion and state in the context of women's law,” she explains. “I saw a unique challenge in this area because there wasn't a single woman who taught family law. The notion was that women don't know Hebrew law, they don't know Gemara. So how can they teach it? I dared to say that I wanted to be a pioneer, to show everyone. It was part of my process of liberation, acknowledging the assertiveness in me.”

At Yale she obtained the feminist education she had been missing until then. She describes her studies there as “an unsettling intellectual, cultural and feminist experience.” Her studies at Bar-Ilan had not included any courses in criticism, gender studies or feminism, while Yale was a paradise for these. One eye-opening course was taught by the legal expert and feminist activist Catharine MacKinnon.

“MacKinnon was a superb lecturer, incredibly charismatic,” Halperin-Kaddari recalls. “For a long time I went around feeling that she was a great prophet and was alone in the field – because she didn't assign any other material aside from her own articles and writings. But then in the library I discovered at least 15 books on feminist legal criticism and I dove into this ocean.”

At the same time, a formative encounter with learned American Jewish women had a deep impact on her. “Religious feminism started back in the 1970s in America,” she says. “The women I met were a second generation of women identified with modern Orthodoxy. All intellectuals, academics. In their study groups on Jewish philosophy, there were also Reform and Conservative women, and there was no hierarchy among them based on their religious observance. That's when I started to feel outrage about things I couldn't even put into words yet. For example, how was it possible that at age 23, it was the first time I was ever seeing what a Torah scroll looked like from the inside? Why wasn't something that ev-



## ‘AS UPSETTING AND EXHAUSTING AS THESE SESSIONS ARE, THESE ENCOUNTERS WHERE YOU REALLY WITNESS WOMEN’S INCREDIBLE SURVIVAL ABILITY ALSO GIVES YOU A LOT OF STRENGTH.’

ery 13-year-old Jewish boy knows as part of his personal and religious experience part of my repertoire? And why wasn't I allowed to study Gemara? After all, this is a basic foundation of legal thought. I became aware of the exclusion of women. The change occurred deep inside me, and all the inner feelings that hadn't been given expression over the years burst out.”

Halperin-Kaddari's official birth as a feminist took place in 1989 at a liberal synagogue in New Haven, Connecticut, when she was called up to the Torah for the first time.

Today Halperin-Kaddari is considered a prominent voice in the religious feminist sector. She is at the forefront of the struggle against discrimination against women in terms of personal status issues, which derives from the fact that religious law has a monopoly on marriage and divorce in Israel. In the 1990s, she was one of the founders of the feminist organization Kolech. Chana Kehat, who heads the organization, recalls that the initial meeting of religious intellectual women who wanted to see a change in the religious map was held at the home of Halperin-Kaddari's parents. In the early 1990s, when she began lecturing on family law at Bar-Ilan University, she was the lone woman in the field. She also gave courses on feminist legal theory and interpretation, and interned with Justice Aharon Barak at the Supreme Court.

“I taught in a totally different way than the traditional way the course was taught, knowing that family law is the center of discrimination against women in Israel. When I went into it I could see how problematic it was. A dichotomy was created in the class. At Bar-Ilan there are yeshiva graduates who didn't like me from the beginning, and asked what this feminist course was doing here. They al-

leged that the course had become a platform for my feminist views. But others preferred me to other lecturers.

“In the department itself,” she adds, “I never encountered any inhibitions because of my feminist outlook and the struggle with the rabbinic courts and the religious establishment. At Bar-Ilan there was some opposition. I paid a certain price for my activity. My promotion was delayed, but in a way I could handle that.”

What helped during that time was that the elder of the tribe – Prof. Ariel Rosen-Zvi, who was a preeminent and highly respected authority in the field of family law, extended his patronage to her. Their connection began when she took one of his courses during her undergraduate studies. He became a mentor. “To me he embodied the ideal of the religious liberal intellectual,” says Halperin-Kaddari. “He was a role model for me. A true feminist in ideology, and he really believed in me.”

## Occupying the rabbinic court

In 2001, she began her public activity with the founding of the Rackman Center, named for Prof. Emanuel Rackman, who was a leader of modern Orthodoxy in the United States in the 20th century. The center includes a legal clinic that deals with representing women in divorce conflicts, including women whose husbands refuse to grant them a get. It also addresses cases in which a get is annulled, a practice the rabbinic courts have adopted in recent years to regain some of the authority taken by the civil courts – at women's expense. Previously, women could forgo alimony for the sake of the get and afterward sue in civil court again for child support, Halperin-Kaddari ▶

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explains. Now women risk having the get annulled if they retreat from its conditions. The center is also working on amending legislation pertaining to personal status. For example, the center submitted a bill to raise the legal marriage age to 18 (so far it has run into opposition from the religious parties). Halperin-Kaddari notes that all other countries in the region, including Egypt, Lebanon and Syria, have already raised the legal marriage age.

In 2008, the center was a key player in amending the legislation regarding division of property between spouses prior to divorce. The center also regularly publishes the rulings of the rabbinic courts in order to bring greater transparency to this institution. Prof. David Schwartz, formerly dean of the law faculty at Bar-Ilan and currently rector of Ono Academic College, has been following Halperin-Kaddari's work for years. "Her approach, which combines Western law and Jewish religious law, was like a refreshing breeze in the field," he says, adding, "This approach has become mainstream today in every law faculty. It's no longer considered esoteric.

"Ruthie is one of the few women academics who has turned her field of specialization into a practical program," he continues. "She took it upon herself to try to advance women's standing, and she didn't close herself off in an ivory tower."

Indeed, the lively Rackman Center, overseen by attorney Atara Kenigsberg, does have a war room feel to it. Not long ago, when all avenues had failed in the case of a woman whose get had been overturned by the rabbinic court, a large group of Women in Black showed up at the court when a hearing on the case was scheduled.

"The husband had remarried and started a new life. The woman was left in a state of *aginat* [unable to marry in accordance with Jewish law] after she'd already divorced. We said we weren't leaving until the woman received another get," Kenigsberg recounts. The protest worked, and Chief Rabbi Shlomo Amar did what he could to grant the woman a get. At a talk he gave later that day, he said that the Women in Black had occupied the rabbinic court.

"This is a group of women with a knife between their teeth, in the sense that they are idealistic and completely devoted to working on the public behalf, and it's very impressive," says Schwartz. "I don't know of any legal clinic that is so involved and works with such intensity."

Dr. Daphna Hacker, a family law expert who lectures at Tel Aviv University, says that Halperin-Kaddari was a real trailblazer in a generation that was entirely male. "In just a few dramatic years she made an attempt to bring together family laws that are based upon religious-communal-conservative logic and the family reality in Israel, which requires much more up-to-date solutions. She mentored many women students and groomed a whole generation of women academics. Today there is a community that has implemented critical and feminist thinking in family law. My generation had her as a role model. She showed us that it's possible."

Hacker describes the reality in which Halperin-Kaddari operates in a less rosy light than Schwartz. For her it is more of a battlefield, perhaps because the women are fighting on the same front, shoulder to shoulder, absorbing the same blows.

"She is a role model of a brilliant woman academic who insists on returning to the community and not being satisfied with getting articles published in English in prestigious journals. But in academia it doesn't pay to do things as a volunteer," says Hacker. "Ruth is a pioneer and she is paying the price for it. It doesn't come free. It's a field that draws a lot of fire."

In fact, she is losing out twice, says Kehat. "Because in this country the personal status and family laws have been taken out of the hands of [civil] jurists, her legal knowledge is of no value in the religious court, because religious law prevails there. This is the bleak situation here. The fact that she is an expert in Hebrew law doesn't give her any privilege in the rabbinic courts – because it's

complaints directed to various officials at the university and elsewhere. She was eventually compelled to lodge a complaint with the police.

*What's so terrible about revoking automatic custody for young children to the mother? I'd think that, as a feminist, you'd fight for equality in parenthood.*

"We view this move to revoke the Tender Years Presumption Law and impose joint custody as a reaction, a counterresponse of feminism, plain and simple. The way I see it, this is not a move for the good of the children, but one that might harm them and cause much argument between the parents. The laws in favor of joint custody changed in Sweden, Australia and the United States, but now these countries are backing down from

Halperin-Kaddari says studies show that in many instances in which joint custody was awarded, the mother is still the one raising the children. "It needs to be clear that we are not against equal parenting. We are in favor of continuity. If both parents played a dominant role in raising the child, then this situation ought to continue. But in the vast majority of families in Israel, this is not the picture."

Dr. Yoav Mazeh of Ono Academic College takes the opposite view: "There is across-the-board agreement by all relevant professionals, social workers and judges, that the Tender Years Presumption Law that was appropriate 50 years ago has become outdated. It has been revoked in many countries," he says. The problem, he adds, is that this presumption is often used to award automatic custody to the mother, even when the children are older than 6, or when the father has been the main caregiver.

Mazeh describes a different country to the one depicted by Halperin-Kaddari: an egalitarian country in terms of child care, wage differentials and roles within the family. "Today," he says, "30 percent of fathers in Israel are the primary caregivers. And to this can be added 20 percent of young parents for whom equal parenting is the norm, and together that accounts for about half of all families."

"Israel is approaching equality in child care," he adds. "Likewise, in about 30 percent of families, the wife earns more than the husband, i.e. in 30 percent of the population you have a switching of traditional roles within the family and in relation to salary."

In contrast to the ideal picture painted by Mazeh, official Central Bureau of Statistics data shows that the father is the primary caregiver in only 1 percent of Israeli households. His claim about revenues is also questionable, considering the gap in wages between men and women.

Mazeh contends that a minority of feminists – Halperin-Kaddari chief among them – will not give up their arguments because of their conception of power. "The child is power and they don't want to give up this power," he says.

After talking with Mazeh, it's clear why Halperin-Kaddari feels that when it comes to the child custody issue, the Israeli women's movement has failed. "Lately I've become more pessimistic," she says. "I feel that we're not progressing anywhere in the narrow field of family law. And in the rabbinic courts in Israel, it's one step forward and two steps back. A decade ago there were no get annulments. And now it's a norm. The situation is not improving, and it's very discouraging. From my place at the UN, from a global perspective, I see that we are deep inside the geographic area in which Israel is located. It's possible that the Arab Spring will take women to even greater abysses. But the question is which space we want to belong to. There is no country in the Western world where personal status law is governed by religious laws as it is in Israel."

And then the telephone rings. It's a call from the clinic informing her that the rabbinic court has just approved the continued detention of a man who refuses to give his wife a get on ideological grounds. She breaks into a broad grin. "He's spent five years in prison and they almost let him out," she says. "We got to work there at the last minute. For now the detention is only extended by three months, but it's not the end of the story."



## **'LATELY I'VE BECOME MORE PESSIMISTIC. I FEEL THAT [IN ISRAEL] WE'RE NOT PROGRESSING ANYWHERE IN THE NARROW FIELD OF FAMILY LAW.'**

not a matter of the Hebrew law, but of rulings by rabbis in our generation. They don't exactly look to her for support."

### **Threats and harassment**

In the past year, Halperin-Kaddari has been caught up in one of the thorniest legal arenas – the battle over child custody – due to her firm opposition to the conclusions of the Schnitt Committee. This committee, headed by Prof. Dan Schnitt, examined the legal aspects of parental responsibility in divorce and recommended the revocation of Article 25 of the Israel Capacity and Guardianship Law, known as the Tender Years Presumption Law, which granted the mother of young children (up to age 6) automatic custody.

Halperin-Kaddari became the target of a barrage of accusatory emails, blogs and Facebook posts. In January this year, ahead of the annual Bar-Ilan University conference on family law, she received explicit threats and was harassed by

the change. In Sweden, for instance, they went to an extreme and, in the late 2000s, injunctions could be issued imposing joint custody. But then they found that not only does it hurt the children, it also removes the mechanisms that protect against domestic violence. Women refrained from complaining, because if they did it would lead to joint custody being imposed."

Halperin-Kaddari's main argument against the revocation of that article of the law is the situation in Israel, in which equality in parenthood is still just a utopian vision. "We argue that it is not right to amend the law in the name of holy equality, when the entire system discriminates against women and it is not at all clear that this is for the good of the children. The statistics do not indicate that there has been any kind of real revolution. In our society, equal parenthood doesn't really exist. And in reality, women are the primary parent. The reality may have changed to a certain degree among young couples in north Tel Aviv from a high socioeconomic class."