Activity Brief

**2017-2019 Academic Years**

The Marty Jacob Holocaust Survivors and Elderly Rights Clinic

At Bar-Ilan University

# General

It is our pleasure to present this report that highlights some of the extensive activities occurring at the Marty Jacob Holocaust Survivors and Elderly Rights Clinic during the 2017-2019 Academic Years.

Firstly, we would like to thank Mr. Joel Jacob for his unswerving support and contribution on behalf of the clinic. Your sponsorship of the clinic has enabled its numerous activities and ensures the education of better prepared and capable attorneys in Israel for Elder Law clients and Holocaust survivors.

Your involvement inspires us all.

**Survivors of the Holocaust living in Israel today number about 200,000.** In recognition of their tremendous physical, psychological and spiritual suffering, they are entitled to assistance and support from various official bodies, including the Government of Germany, Israel's Ministry of Finance and National Insurance Institute, the Claims Commission, and others. However, in reality many of them do not receive their entitlements. Sometimes this is due to their own lack of awareness of their rights, while in other cases it is the difficult and cumbersome bureaucratic claims’ process which stands in their way, often appearing to be a deliberate policy of foot-dragging. The Clinic advocates for those who have claims against the government, the private sector, or individuals, and can neither navigate the legal system alone nor afford the high cost of representation. These people would otherwise suffer significant, or even ruinous, damages.

In the 2017-2018 academic year, the Clinic numbered 13 students. The clinic’s staff responded to **200** requests during the academic year via a special hotline and referrals from partners, such as organizations and welfare offices. As part of its activities, the clinic provided the applicants with legal counsel and referrals to other relevant agencies when required. Of all the applications, the clinic provided individual assistance to approximately **30** applicants. In the 2018–2019 academic year, the Clinic numbered 14 students. The clinic’s staff responded to 212 requests; among these requests, the Clinic provided ongoing, long-term assistance to 33 requests.

|  |
| --- |
| **Does Common Law Marriage Apply to Sisters?** |

Israeli courts recognize common law marriages for various legal lifecycle moments, such as inheriting wills. However, Israel’s National Insurance does not currently recognize a living sibling to inherit a survivor’s allowance. Regina (96) and Edith (91) Fishbein are two sisters, born in Leipzig and Holocaust survivors. They don’t have any children. Nor were they ever married. They share an apartment together and split their living expenses, including their monthly social security stipends received from the National Insurance.

Each sibling wants to ensure that the other sibling will continue to receive her survivors’ allowance after one of their passing. Instead of waiting until one of the sister’s demise, they decided to preempt the bureaucratic hassle with the National Insurance by sorting things out in court – together.

Their initial court case filed about five years ago was dismissed. Subsequently, with the assistance of the Marty Jacob Holocaust Survivors and Elderly Rights Clinic, an appeal was filed in February 2017 at the National Labor Court. The verdict of the National Labor Court was granted in June 2018. Although the judge didn’t award the sisters the case, she said that the case has merits, but cannot rule against the National Insurance. Why? You can’t make a claim to a spousal allowance until a “spouse” has passed away. Paraphrasing the blessing of Kohanim, the judge wished that both sisters should live a long life and prosper.

The achievements of the case are that the court considered age considerations as a reason to advance the issue, and by their taking into consideration more diverse and progressive family structures, including family units consisting of two sisters. The court’s decision constitutes welcome progress in that it recognizes the barriers that elderly people confront when demanding their legal rights.

|  |
| --- |
| **Project for Elderly Victims of Crime** |

During the past year, the clinic’s staff has continued to promote the establishment and expansion of a project to assist elderly victims of crime. As such, lectures were given and meetings were held with key people active in the field, welfare offices in the University’s vicinity and other aid organizations. Concurrently, this years the clinic dealt with over 15 applications for assisting aged victims of crime, via the clinic’s lawyer and social worker.

One case involved an 85-year-old female Holocaust survivor, approached us for assistance due to severe economic exploitation by one of her sons. M is a widow with three sons. The oldest son dispossessed her of all her property by fraudulently making her sign documents in a foreign language, stating that she relinquishes all her property. M lodged a complaint with the police while in the meantime, her son fled the country. Now she can barely cover her daily expenses. At this stage M approached us, while she was waiting for the decision of the State Attorney’s Office regarding pressing charges. The assistance in this case included several facets: assistance in realizing economic rights in order to improve her financial situation and enable her a reasonable standard of living, mediation vis-à-vis the Social Services Department in view of M’s lack of faith in the welfare office workers, mediation within the family in order to reduce the financial burden resting on M in view of her other two sons relying on her income, and mediating the criminal proceedings, their stages and the implications deriving therefrom. In light of the State Attorney’s Office’s decision not to indict the son, and the lack of desire of the applicant to appeal the decision, the assistance in the case was terminated.

In another case, B approached us. His mother is a widow, and after his father’s death, B told us that one of his brothers took over his mother’s property and has made her reside in his home in unacceptable living conditions and with inadequate care by the long-term nursing caretaker. B explained that his mother is fearful of the son she lives with and will not give expression to her independent desire as long as she is dependent on him. The assistance in this case included several aspects: forming a legal strategy for handling the situation, mediation with the social services requesting that they conduct a home visit to check the situation of the mother and explaining the communications of the social services to B, emotional help to B in working on his brother’s behavior and a proposal to receive other means for coping with the situation from other elements in the community. The handling of this case is still ongoing.

|  |
| --- |
| **Educating against telemarketing fraud** |

In the last few years, there has been a noticeable rise in the attempts to use telemarketing fraud schemes to swindle various vulnerable populations, particularly the elderly. Telemarketing fraud is fraudulent selling conducted over the telephone. Fraudsters often target elderly people who tend to cooperate with these phone calls. As a result of their susceptibility, the elderly victims are charged high amounts of money that sometimes reach hundreds of thousands of shekels.

In the framework of the Clinic, we chose to deal with the phenomenon by warning against telemarketing scams of senior citizens by giving lectures in clubs for the elderly and at daycare centers. The lecture presents the extent of telemarketing scams, reviews common methods used by telemarketing companies, and presents legal options when one falls prey to a scammer. The lecture’s objectives are to expose the target audience to the phenomenon, to provide tools for avoiding such transactions and to provide information about the existing legal rights to deal with the phenomenon.

The feedback to the lectures by both the elderly and the staff at day centers and clubs were very positive. It is clear that even those who are familiar with telemarketing fraud said they need to receive tools to deal with the scheme. In order to supplement the lectures, we provide legal assistance to victims of telemarketing fraud. For example, we are currently assisting an 80+ Holocaust survivor who was victimized by a company that defrauded her through a telemarketing scam. The same survivor was a victim of many telemarketing scams and was defrauded over NIS 100,000 from various companies.

# n the clinic

|  |
| --- |
| **Appearing before medical committees to provide assistance to Holocaust survivors** |

As part of a joint project with the legal assistance unit at Israel’s Ministry of Justice, the clinic represents applicants at medical committees and appeal committees of the Holocaust Survivors’ Rights Authority. The purpose of the project is to assist Holocaust survivors to exercise their rights, in cases where the legal assistance authority at the Ministry of Justice is not authorized to represent them.

As part of its humanitarian activities, the Clinic represents and accompanies Holocaust survivors before medical committees of the Authority for Holocaust Survivors in order to determine their degree of disability for the purpose of receiving a monthly allowance. Assistance is provided even before a hearing before the medical committee is scheduled. Once a date for the hearing is set, the Clinic prepares a plea before the committee, contacts the clients’ physicians to convey legal highlights in order to effectively write medical opinions, adapts the medical documents, and prepares and briefs the survivors before they appear before the committee. The clinic's assistance also includes accompanying the survivors to the committee and presenting their case to the committee. For example, in this project, the Clinic accompanied a Holocaust survivor who was recognized as suffering from post-trauma disorders due to his experiences during the Holocaust. A request was filed for recognition of the worsening of his mental state, and the clinic accompanied him before the committee. On the day of the committee, the survivor was unable to report as he was being hospitalized due to his physical condition. Therefore, his daughter came with a lawyer from the clinic to the committee. After presenting his claims and the relevant medical documents, the committee raised the rate of disability of the survivor from 25% to 50%, which is a significant increase to the survivor’s monthly allowance from the Holocaust Survivors’ Rights Authority. It should be noted that the survivor is suffering a variety of diseases and his financial situation is rough, and the increase in his monthly allowance has significantly improved the plight of him and his family.

In another case, a Holocaust survivor with physical and mental disabilities submitted an appeal on the percentage of mental disability accorded him by the Medical Committee of the Holocaust Survivors’ Rights Authority. The court returned the case to the Supreme Medical Committee for the determination of mental disability. The Clinic contacted his social worker as well as his psychiatrist, who updated their professional opinions they had submitted to the committee. At the committee, the applicant was represented and briefed before the discussion by the Clinic's lawyer, and the committee was furnished with the main details of the claim verbally and in writing along with the updated medical documents. The applicant’s request was rejected, and the percentage of mental disability remained intact. The legal assistance unit decided not to appeal the decision.

|  |
| --- |
| **Assisting with Pension Benefits** |

In fall 2018, a 63-year-old former teacher who left her job for a new position found that during the entire period of her work no provision was made for her pension. It transpired that the applicant was entitled to pension provisions from her new place of work, even though she had passed the retirement age, since she had not yet reached the compulsory retirement age of 67. The Clinic’s students calculated the compensation rate to which the applicant was entitled and wrote a warning letter before filing a claim to the workplace. As a result of the clinic’s intervention, the applicant received more than NIS 24,000.

|  |
| --- |
| **During the past two years the students wrote internal opinions and position papers on various subjects:** |

The issue of discrimination in women’s pensions, difficulties in elderly people obtaining mortgages, examining the rehabilitation services provided to aging released prisoners, examining comparative law for solutions and alternatives to the problem of telemarketing that is detrimental to the aged, weighing advantages and disadvantages of giving care benefits in cash to caring family members, examining complexities related to how people dependent on guardians interact with the banking system, and the accessibility of community courts to offenders and elderly victims of crime.

|  |
| --- |
| Public activity conducted in the clinic |

## Media

The Clinic’s Administrator, Adv. Keren Tzafrir, was interviewed by various media outlets regarding the decision given on the Fishbein sisters, including the Lev HaMedina radio station and the financial supplement of the daily *Yediot Ahronot*. In addition, the Takdin legal portal named this decision as one of the most outstanding legal decisions of 2018.

## Conferences

The Marty Jacob Holocaust Survivors and Elderly Rights Clinic, in collaboration with the Disability Rights Clinic, the Mediation & Dispute Resolution Clinic, the Civil Legal Aid Clinic, and the Dr. David Weiner Criminal Law Clinic, held a conference in April 2018 on the subject “Disabled Persons and the Elderly in Criminal Proceedings.” In the conference, fascinating lectures were presented by people actively involved in defending the rights of victims, suspects and those charged with criminal proceedings, from various viewpoints – legal, social/welfare and theoretical. The clinic’s lawyer Keren Tzafrir and the clinic’s social worker Idan Halili participated in a panel on the rights of elderly victims of crime.

The Holocaust Survivors and Elderly Rights Clinic, in collaboration with the Center for Jewish and Democratic Law, holds an annual conference marking Holocaust Martyrs’ and Heroes’ Remembrance Day. This conference has become a tradition in the Faculty. Thus, in recent years we have held conferences to mark Holocaust Remembrance Day, in cooperation with the Center for Jewish and Democratic Law, in which a Holocaust survivor tells his or her story, and an academic scholar lectures on a subject related to the Holocaust. The conferences are attended by a large audience.

Adv. Keren Tzafrir participated in a conference held at the Knesset marking the International Day for the Eradication of Poverty. During the conference, Adv. Tzafrir presented data on poverty among the aged and Holocaust survivors in Israel.

## Lecturers

The students in the clinic gave over 20 lectures to hundreds of elderly people at senior citizen clubs and day centers in Ramat Gan, as part of the project of public activities and ensuring that information is accessible to the elderly population. The lectures were on the following subjects: telemarketing, family members as caretakers, guardianship, wills and legacies, rights in National Insurance and rights of those needing long-term care. Some of the lecturers were accompanied by the distribution of rights sheets and information pamphlets on the lecture’s subjects, written by the students themselves.

The clinic’s lawyer Keren Tzafrir gave a lecture on aged victims of crime as part of the Brookdale Program taking place at Bar-Ilan.

Advocate Tzafrir also gave a lecture on New Developments in Guardianship to the medical staff of the Jerusalem district of Clalit Health Services.

Clinic Lawyer Inbar Borenstein gave lectures to elderly people on the subject Family Member Caretakers.

|  |
| --- |
| **Activity for the Students’ Benefit in the Clinic** |

As practiced every year, the students visited a clinic in a day center, where a tour was organized for them to familiarize them with the Center’s work, the agenda of those visiting the center and their activity there. As part of the tour, the students gave lectures to the elderly at the center enriching their knowledge on subjects of relevance to them, such as their rights in National Insurance and telemarketing. Additionally, the students received individual requests from elderly people at the center and gave them initial advice and accepted requests requiring further attention for follow-up treatment at the clinic.

On a Training Day for students in 2019, the students visited the Holon Children's Museum and viewed an exhibition called "Dialogue with Time," aimed at changing the perception toward elderly in society among the younger generation and encouraging an inter-generational dialogue.

In 2018, as part of the ongoing collaboration between the clinic and MK Itzik Shmuli, the students met the MK, presented to him the annual projects and received from him advice and comments for continued work.

In 2018, as part of a comprehensive initiative of the clinics, the students participated in a simulation workshop on communicating with aged applicants. As part of the workshop, the students were able to experience meetings with applicants raising various needs and challenges, thus acquiring tools for optimal coping with the applicants.

In addition to the lectures of the clinic’s academic administration, Dr. Meytal Segal-Reich, and the professional mentors of the clinic—Adv. Keren Tzafrir, Adv. Inbar Borenstein and social worker Adva Mesilati—guest lecturers participated in the clinic’s lessons this year. All are prime movers in their field. They outlined to the students their wide-ranging activities—Prof. Liat Ayalon on ageism; Dr. Benny Spanier on the rights of the aged in international law; Adv. Sari Vardi on legal assistance for Holocaust survivors; Dr. Sara Alon on molestation, neglect and economic exploitation; Philip Janti on ethics of social and clinical jurisprudence; Daphna Golan-Shemesh on dementia and Alzheimer’s disease; Anat Saragusti on representing the aged in the media; Dr. Lilach Lurie on pension rights; Adv. Shiri Lev-Ran Lavi on discrimination of the aged in the labor market; Prof. Daphna Hacker on drafting wills and the implications of the will for the testator.