

of its members for national security sacrifice. In a country such as Israel, those ready for sacrifice in the national security sphere will view themselves, and will be viewed by others, as the ones entitled to lead the country both politically and culturally. This does not bode well for the status of liberalism in Israel in the coming decades.

From the perspective of the conditions of human flourishing, one can point out a variant of liberalism that is superior to negative rights liberties. This variant, identified among others with John Stewart Mill, The New Liberals, and John Dewey, expects the state not only to refrain from intervention in citizens' protected liberties, but also to actively create the conditions necessary for the citizens' meaningful liberty and autonomy. If this version of liberalism is adopted in Israel, it will mean making the country's liberalism less legal and more political; returning administrative law to its former centrality in Israeli public law, at the expense of constitutional law; and expanding Israeli law's sources of inspiration from American law to the laws of countries such as Canada and Britain, as well as to the laws of European and Scandinavian countries.

### **Respect for Persons and Constitutional Law in Israel**

**Avihay Dorfman**

This article seeks to develop a novel account of the constitutional right to human dignity. I begin by offering some critical observations concerning certain dominant approaches to this right among courts and scholars. I note that these approaches tend either to strip the right of any moral content or to reduce its significance to an *ad hoc* quest for "justice." I then proceed to develop a better account of the right in question, which consists of two main theses: first, the right to human dignity integrates, and thus renders unified, some aspects of the two antecedent ideals of freedom and equality; second, the right is categorical, in the sense that interests and values other than human dignity are excluded from consideration when the right to human dignity is at stake. I further elaborate and illustrate these theses and their implications for legal theory and doctrine.

### **Deducting Wage Expenses:**

#### **On Discrimination, Excessive Executive Compensation and Bribery**

**Barak Atiram**

Section 17 of the Income Tax Ordinance reflects a central principle in the law of deductions, stating that only expenses which were incurred wholly and exclusively for the production of business income shall be deducted. This substantive tenet is crucial for the effective operation of the tax system in lowering tax liabilities due to necessary as opposed to superfluous business expenses. Correspondingly, however, taxpayers, purporting to reduce their tax burden, integrate private purposes with

commercial needs when determining their expenses. Consequently, tax law and tax authorities are continually looking for ways to develop and improve their ability to separate reasonable business expenses from those which are not. In that vein, tax law and authorities scrutinize all claimed expenses, including childcare and education expenses, and in many cases disallow their deduction.

A prominent exception in the Israeli law of deductions is wage expenses. Employees' salaries, including exaggerated executive compensation, are left outside the purview of tax scrutiny, due to the unconvincing assumption that the value of human labor is best determined by market forces and in employer-employee negotiations, rather than by tax authorities who are unequipped to challenge wage expenses. Consequently, unlimited employees' salaries can be used to disguise gender and racial preferences, bribery to players in the political sphere, or the appointment of family relatives to prestigious positions, all the while being deducted as expenses which were wholly and exclusively laid out for the purpose of producing income. This declared policy is at odds with tax law's purpose of limiting or even disallowing excessive and controversial expenses, such as childcare costs.

This article criticizes tax law's reluctance to deal with employees' wages, and unravels its overreaching distributive effects. Tax authorities hold a macro-perspective on market activities and services, and therefore are in a unique position to discipline and direct a broad range of business methods and practices. By not fulfilling their duties, tax authorities allow companies to deduct all wages, even when the latter serve such purposes as political bribery, gender or ethnic discriminatory preferences, or executive concealment of assets transfer to family relatives. The article claims that tax law should not subsidize illegal activities in a way that frustrates the efforts and purposes of government authorities and general law. This is especially true when we take into account the weakness of governmental regulators in confronting wide-scale phenomena such as political bribery and gender discrimination. The article presents a basic model for assessing the reasonableness of executive compensation, and asserts that by doing so, tax authorities could work in harmony with other governmental regulators.

### **Between Coercion and Deception:**

#### **Rape by Deception in respect to the Perpetrator's Identity**

**Dr. Amit Pundik**

The Israeli Court of Law convicted *Kashur*, a married man and an Arab-Israeli, of rape, after he presented himself to the complainant as a Jewish bachelor interested in a meaningful romantic relationship. *Kashur* brought to a climax a trend that has become increasingly predominant in Israeli law, namely, that of extending the interpretation of Rape by Deception and preferring that offence to Obtainment by Deception. This paper argues that all incidents of deception in