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**BUDOWSKI, Ilana, Ethical and Legislative Considerations Regarding Private Archives in Israel State Archives. The case of the private papers of Supreme Court Judge Haim Cohn. Atlanti, Vol. 20, Trieste 2010, pp. 137-141.**

*Original in English, abstract in English, Italian and Slovenian, summary in English*

*The Israeli Archives Law relates in general to the safekeeping and exposure of private archives of prominent figures. The private archives of a Supreme Court Judge Haim Cohn, who laid major cornerstones in the Israeli judicial system, were donated by his widow to the State Archives. Research of his various vivid personal communications and letters allow us to understand personal thoughts and emotions that inspired actions or effected processes pertaining to essential judicial and human rights issues he was involved in. On the other hand - exposure of private archives, including correspondence with prominent figures, open ethical and legal dilemmas such as who is ethically and legally allowed to decide regarding the exposure of the material. Does it make a difference if the writer of the material is alive or not? Has the inheritor of the archive the right to allow opening of the archives to the public? Should there be any restrictions? Under which circumstances should there be restrictions?*

**BUDOWSKI, Ilana, Considerazioni etiche e legislative riguardanti gli archivi privati nell'Archivio di Stato d'Israele. Il caso dell'archivio privato del giudice della Corte Suprema Haim Cohn. Atlanti, Vol. 20, Trieste 2010, pp. 137-141.**

*La Legge archivistica israeliana si riferisce in generale alla salvaguardia ed alla vulnerabilità degli archivi privati di persone preminenti. L'archivio privato del giudice della Corte suprema Haim Cohn, che ci ha lasciato delle pietre miliari nel sistema giudiziario israeliano, è stato donato dalla sua vedova all'Archivio di Stato. Una ricerca tra le sue vivide co-*

## Ethical and Legislative Considerations Regarding Private Archives in Israel State Archives. The case of the private papers of Supreme Court Judge Haim Cohn

### Private archives in the Israel State archives

The Israeli Archives law relates in general to the safekeeping and exposure of private archives of prominent figures. Specific regulations give detailed instructions regarding the practical management of the relevant issues.

According to The Archives Law it is not compulsory to transfer private archives to the State Archives, but it is in the interest of The State Archives to have such material transferred. Integrating public and private archives enhance and deepen the understanding as to the thoughts and feelings that might have affected the decisions of the archives creator. The family background, cultural issues and personal events - all appear to take part in the formulation of one's future beliefs and actions. We, at the Archives also explain these issues to the potential donors who already have their public records safe-kept in the State Archives.

### The case of the private archives of Supreme Court Judge Cohn

Supreme Court Judge Haim Cohn who laid major cornerstones in the Israeli judicial system, also prior to the establishment of the State, had passed away in 2002 at the age of 91, after almost 70 years of private and public activity. He left after him a very rich personal archive which allows us to understand and research through his various vivid personal writing and correspondence, many issues pertaining to major essential processes, as well as personal thoughts and emotions that inspired or effected his beliefs and actions.

His widow had decided after deliberations, to deposit his vast personal archives in the State Archives and to allow immediate, full and unrestricted exposure and use of the archival material, according to the liberal spirit of her late husband.

The enormous amount of material relating to his professional and judicial work was organized and cataloged. It related to the various posts he held since the establishment of the State of Israel in 1948: Attorney General, General Director of The Ministry of Justice, The State Legal Adviser, Minister of Justice, member of the UN commission of Human Rights, Supreme Court Judge.

In addition, his private collections had a wealth of fascinating

archival material, some dating far back as 1700, depicting life of Jews in Europe during those times. Material such as the registers of births and deaths of his ancestors; family diplomas and mid 19<sup>th</sup> century postcard letters, photos etc.

The material also depicts, through the multitude of correspondence and writings, professional articles and various drafts- the very rich life and vast areas of interest in which he was involved. This allows research and understanding of how his professional ideas and beliefs were consolidated.

For example- Being the State Legal Adviser - he refused to represent the State in the well known trial of Adolf Eichmann, who was responsible for the mass murder of the European Jews during World War II, because he opposed death penalty.

## Dilemmas arising from exposure

Since the archives include naturally his private correspondence with various people: friends, family and colleagues as mentioned previously, we encountered one surprising opposition to the publication of a certain letter. A close friend of Judge Cohn and a fellow Supreme Court judge- while visiting the State Archives was surprised by the fact that a letter she had written years ago to Judge Cohn was exposed. She didn't think it right that letters she had written to him as a private person should be open to the public, no matter what the subject is. This is a dilemma on the personal level.

An additional dilemma could arise from possible exposure of implied security issues that might be related to in his private material as he was involved in sensitive personal and security issues through his various jobs.

## Discussion

Personal archives of prominent figures are of importance and interest for researchers and allow enriching the historical knowledge as to the "behind the scenes" of how various factors effected decision making. On the other hand – exposure of private archives, including correspondence with prominent figures, open ethical and legal dilemmas such as who is ethically and legally allowed to decide regarding the exposure of the material. Does it make a difference if the writer of the material is alive or not? Has the inheritor of the archive the right to allow opening of the archives to the public? Should there be any restrictions, under which circumstances?

Taking under consideration these dilemmas - it was decided in relation to private collections in Israel State Archives, not to rely only on donors consent for having material fully accessible but to adopt official regulations relating to opening of private material.

The reason for such a policy is to prevent exposure of potentially private sensitive material not in accordance with these rules. According to the regulations regarding opening of material to the public under Israel's Archives Law, sensitive private material such as illnesses, family issues etc should be prevented from exposure to the public for 70 years since the creation of the material. If there is sensitive or secret security issues in the private collection deposited in the Archives, it should be prevented from publication for 50 years.

*municazioni personali e lettere ci permette di capirne i pensieri personali e le emozioni che ne hanno ispirato le azioni o hanno avuto conseguenza sui processi concernenti le problematiche giudiziarie e relative ai diritti umani in cui è stato coinvolto. D'altro lato la vulnerabilità degli archivi privati, inclusa la corrispondenza con figure eminenti, apre dilemmi etici e legali, come ad esempio quello riguardante a chi spetti eticamente e legalmente la decisione riguardante la vulnerabilità del materiale. Fa differenza se l'autore del materiale è ancora vivente o no? Chi eredita l'archivio ha il diritto di consentirne l'apertura al pubblico? Deve esserci una qualche restrizione? In quali circostanze debbono avvenire tali restrizioni?*

**BUDOWSKI, Ilana, Etični in zakonodajni vidiki glede privatnih arhivov v izraelskem državnem arhivu. Primer zasebnih papirjev višjega vladnega sodnika. Atlanti, Zv. 20, Trst 2010, str. 137-141.**

*Izraelsko arhivsko pravo urejuje v pretežni meri varovanje privatnih (zasebnih) arhivov, ki so jih ustvarili pomenljivi ljudje. Tako je tudi vdova višjega sodnika Haima Cohna darovala državnemu arhivu njegovo gradivo. Pri raziskovanju njegovega gradiva se vidijo njegove osebne izkušnje in dejavnost pri upravljanju tako pomembne funkcije. Prav tako pa iz zasebne korespondence lahko vidimo, s kom vse si je dopisoval in kakšni vplivi so bili med ljudmi, s katerimi si je dopisoval. Zato to odpira nekatere vprašanja kot npr. ali je kakšna razlika pri avtorju glede njegovih pism, ko je mrtev, ali je ni? Ali ima dedič pravico dovoliti javnosti dostop do dokumentov? Ali so pri tem možne nekatere omejitve? V katerih okoliščinah so dovoljene omejitve dostopa do gradiva?*

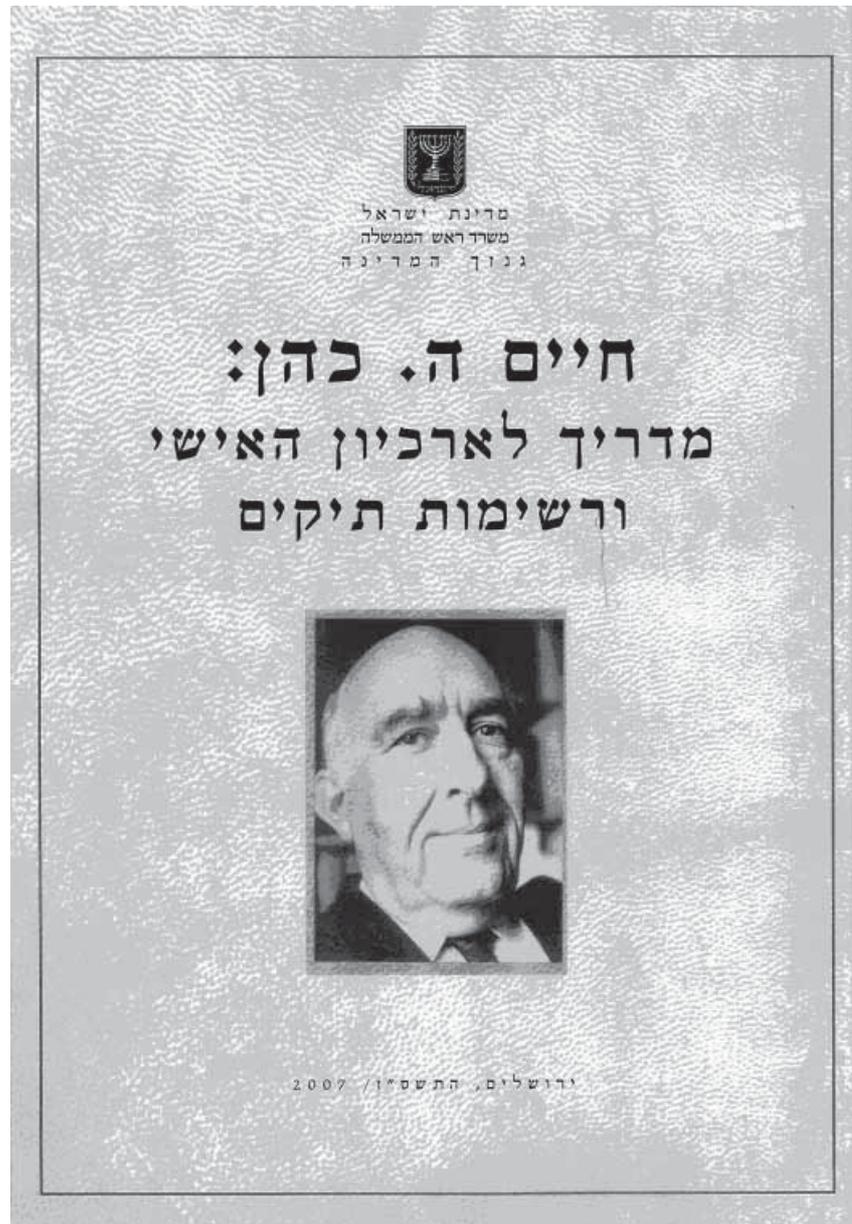
## SUMMARY

*The Israeli Archives Law relates in general to the safekeeping and exposure of private archives of prominent figures. It has been only for the last dozens of years that private archives have been recognized for their importance in biographical research as well as supporting material complementing the documentation kept in the official archives. It has been found that private archives often include documentation on organizations that the archive owner belonged too or even held high positions in. Exposure of private archives, including correspondence with prominent figures, gives rise to ethical and legal dilemmas such as who is ethically and legally allowed to decide regarding the exposure of the material. Does it make a difference if the writer of the material is alive or not? Has the inheritor of the archive the right to allow opening of the archives to the public? Should there be any restrictions? Under which circumstances should there be restrictions? One can deduce that people in key public positions holding private archives will*

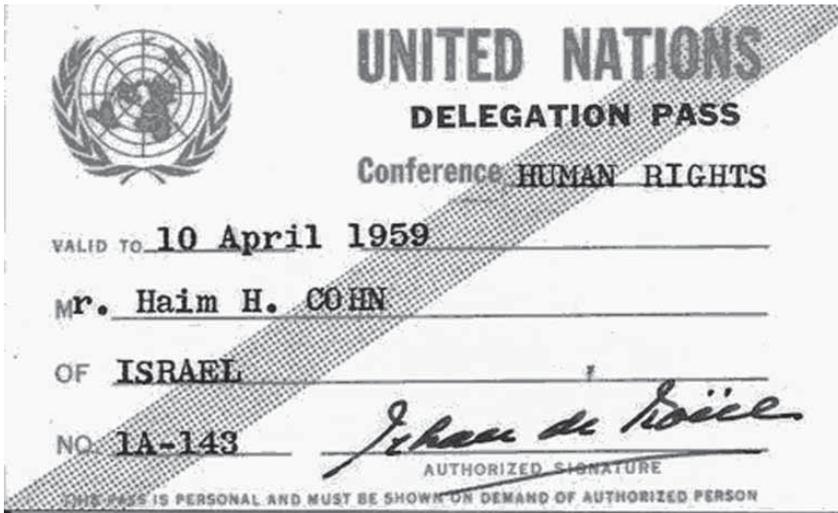
*hold substantial relevant material relating to various stations in their professional and not only private life, some of it possibly in semi-public organizations. That material thus turning the private archive into an important supplement to the official public archive, pointing to the ability to apply the same accessing and viewing regulations relating to public material, overruling the donors requests. Such a decision could answer to possible dilemmas such as those presented in the paper of exposure of even the fact that a letter was written to the owner privately by other people.*

For example, wedding invitations and congratulations for various events are not considered sensitive in this case.

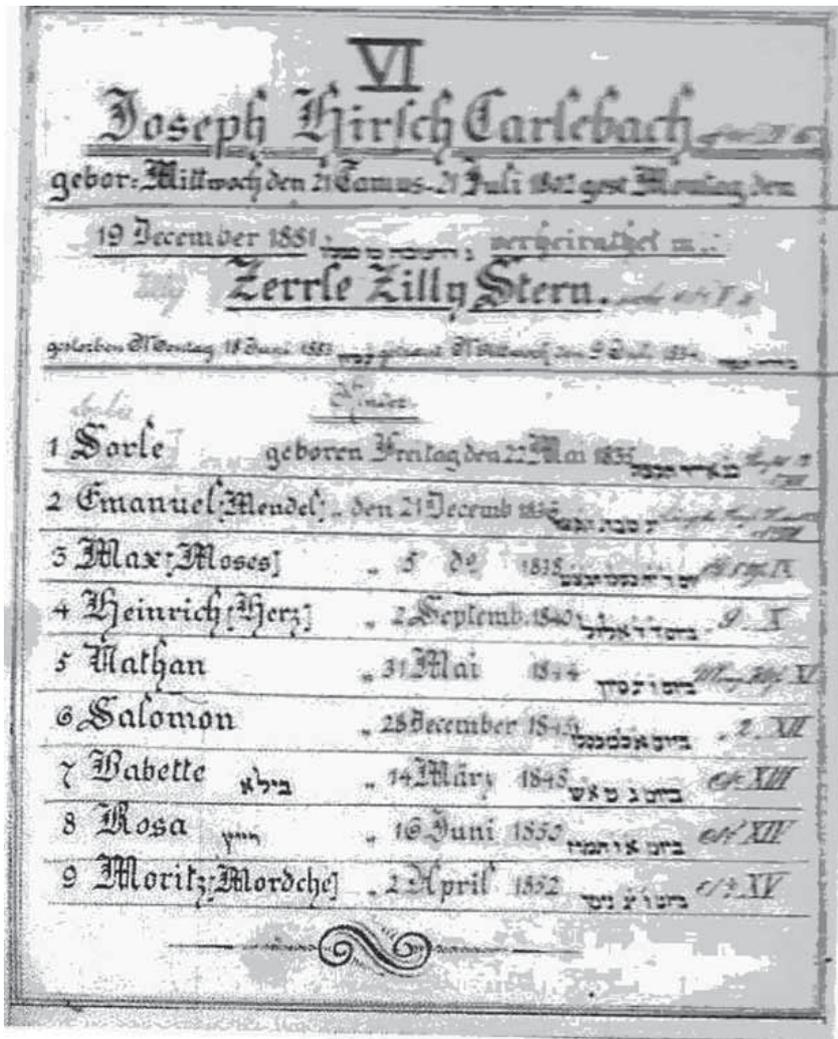
Two years since its exposure to the public, dozens of researchers have already sought material from the private archives of the Supreme Court Judge Haim Cohn and are relating to it in their research work.



2007 cover of the Archives guide to Cohn's private collection



1959 U.N. Human Rights Conference Delegate Pass



From 1700's: Listings from the family book of births and deaths



תעודה חבר בממשלת ישראל של חיים ה. כהן. עם מינויו כשר המשפטים, יוני 1952.

1952 member of Israeli Government- Justice Minister

