

ACCADEMIA NAZIONALE DEI LINCEI

«CONFERENZE LINCEE»



7 febbraio 2019 - ore 17:00

“LOVE STORY” BETWEEN ARTISTIC FREEDOM AND PRIVACY

Conferenza “V. Arangio-Ruiz – L. Goldschmidt”

Nili COHEN

President
The Israel Academy of Science and Humanities
Jerusalem

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SUMMARY. – What are the limits of artistic freedom? How confined is literature by truth? What should be the fate of a book relating the love affair between an older married man and a young woman, with close accuracy, so much so that the young woman could be identified by distant acquaintances despite the pseudonyms?

An Israeli Supreme Court case rendered a few years ago ruled that the publication of the book would harshly violate the woman’s privacy, while non-publication would moderately injure the author’s artistic freedom. Hence the publication of the book was prohibited, and the author was also liable to compensate his former lover.

The triangle of Love-Story-Law is obviously not a unique Israeli matter. Similar stories raise universal hot debates. The Israeli case took an extreme stand compared with other legal systems. Alternative balancing between the competing rights, some binary, some distributive, which have been adopted in German and American case law, reflect normative decisions along the axis through freedom of action, artistic freedom, privacy and conservatism.

(continued on reverse)

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But apart from the question of balancing conflicting rights, our love story reveals a whole set of changing values which will be historically scrutinized, starting from Nathaniel Hawthorne’s story *The Scarlet Letter*. Both stories reflect changing normative, cultural and legal perceptions of the freedom to love, and of the power to control the exposure of love in public.

The fate in life and literature of protagonists of intimate stories of this kind exhibits a history of a reversal of social-legal perceptions. Policing of personal intimacy gradually gives way to a loosening of sexual fetters and more freedom. At the same time control of publication on the public level yields to lifting the ban on circulation of obscene matter and entrenchment of practically unlimited freedom of expression. State responsibility for policing of such publications gives way to the individual’s bearing the burden of preventing publication of matters that might harm one’s dignity, reputation and privacy. The courthouse that was once open to all, even for hearings on intimate family details, now offers protection of names and of identifying details of litigants followed by the closure of its doors to the public for hearings on personal matters. And finally, the Platonic perception of art as dangerous and false imitation, to be hidden away, is replaced by the requirement of hiding art away because of the truth in it.