Legal Rules Regarding Patrimonial Interests, succession and duties of couples living together but not being married

[A] Contractual arrangements
1. Does your system of law allow (i) heterosexual couples and (ii) same sex couples who are living together to enter into a contract governing their cohabitation, particularly as respects:
   - obligations of support or maintenance
   - ownership of property during cohabitation
   - financial claims on the cessation of the cohabitation?

Answer:
There is no provision under the current Israeli legislation for such matters. However, there are various arrangements which have been determined by judgments of the Family Courts and the Supreme Court, in which there were granted limited possibilities for heterosexual couples to enter into agreements in the subjects mentioned in 1. above. Regarding couples of the same sex - there is a tendency in judgments to recognise them as couples.

2. If such contractual arrangements are permitted, is it common for cohabiting couples to conclude a cohabitation contract?

Answer: Yes

3. Are there any formal requirements (e.g. signature before witnesses, involvement of a notary) which require to be satisfied before a cohabitation contract is valid?

Answer: Yes

[B] Heterosexual couples: non contractual rules

This section of the questionnaire is concerned with the rules governing or affecting the relationship between a man and woman who are living together, unmarried, without having concluded any cohabitation contract as in [A]

1. Where a couple are cohabiting does your legal system recognise any mutual duty of aliment or maintenance during the period of cohabitation?

Answer: Yes

2. Are there any particular rules regarding ownership of moveable property such as, for example, household furniture acquired during the time in which the couple are cohabiting?
3. If the relationship breaks down and the parties separate, does your legal system enable one of the cohabitants to claim from the other (a) payment of maintenance or (b) payment of a capital sum? If so, are such claims determined on the same principles as would apply were the couple married or do different rules apply?

**Answer:** Yes, however, the principles applying to married couples are not the same as the principles applying to couples who are not married. With regard to married couples - the rights are determined by personal law - as regards Jews, it is the law of the Tora. As regards other religions, the rights are governed by their respective religions. With regard to non married couples - the rights are determined by judgments according to general principles of law, agreements and implied agreements, Contract Law, the Unlawful Enrichment Law of 1979 and the 1992 Basic Law Human Dignity and Freedom, etc.

4. Where the house in which the parties live together is either owned or tenanted by one of the parties, does your legal system give the other party any right to continue to occupy the house when the relationship breaks down?

**Answer:** No
It is possible by way of agreement to determine the rights of each party.

5. Where the cohabitation comes to an end by reason of the death of one of the cohabitants, what rights, if any, in the estate of the deceased cohabitant does your legal system give to the surviving cohabitant?

**Answer:** The Succession Law,5725-1965, Section 55, provides:
“55. Where a man and woman though not being married to one another, have lived together as husband and wife in a common household. then, upon the death of one of them, neither being then married to another person, the deceased is deemed, subject to any contrary direction expressed or implied in the will of the deceased. in have bequeathed to the survivor what the survivor would have inherited on intestacy if they had been married to one another.”

6. Does a cohabitant have any title to sue for damages in the event that his or her partner is killed through the fault or negligence of a third party?

**Answer:** Yes

7. Insofar as your legal system does give rights to a cohabitant, does it also define what is necessary for the relationship to be treated as a “cohabitation”? Are different definitions of “cohabitation” used, depending on the right which is claimed? What factors are taken into account in the definition(s)?

**Answer:** Yes
The principle has been established by case law. The question is a question of fact. The burden of proof falls on whoever claims the rights of “a publicly known husband or wife”. The basic criteria for recognition of such a status are cohabitation as husband and wife and the keeping of a common household.
[C] Homosexual couples: non contractual rules

This section of the questionnaire is concerned with the rules governing or affecting the relationship between two people of the same sex who are cohabiting without having concluded a cohabitation contract as in [A]

1. In your country are couples of the same sex able to enter into a relationship which, following registration or some other public ceremony, will be legally recognised by the State?

**Answer:** No

2. If so, what are the principal ways in which the rules governing the patrimonial aspects of that relationship differ from those applying in (heterosexual) marriage?

**Answer:** In view of the answer to [C] 1, this is irrelevant.

3. In the event that a same sex couple either cannot enter into a legally recognised relationship or have chosen not to do so, does their cohabitation give rise to the same rights and obligations which would result from cohabitation of a man and a woman? If not, what are the principal differences?

**Answer:** No

[D] Miscellaneous

1. Are there any proposals for reform of the law relating to cohabiting couples (homosexual and heterosexual)?

**Answer:** In the course of the years there have been various proposed laws for reform in various fields, which did not reach the stage of legislation due to lack of consensus in the Israeli Parliament (Knesset).

2. What points would you wish to discuss in greater detail?

**Answer:** Subject [A]

3. What subject do you suggest for the next meeting?

**Answer:** Should the law provide for “compulsory mediation” before parties are given the right to start proceedings in Court, and in what fields.