



The Judicial Construction of Older Consumers' Rights: A Qualitative Case-Law Analysis

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Abstract

Courts conceptualize and construct the phenomenon of consumer rights violations against older people in different ways. This qualitative analysis of court decisions explores the meanings that Israeli courts have attributed to the fact that the victim was an older consumer. Specific objectives include determining whether existing consumer protections for older consumers are effective, how the relevant provisions of consumer protection law are expressed in application of case law, and how courts structure the issue in their rulings. Analysis has revealed a tension between two judicial approaches: assumption of older consumers as inherently vulnerable and meriting special-class protection, versus application of general consumer protection law attending to actual plaintiffs' or defendants' characteristics. Critical reading of the judgments leads to construction and suggestion of a tiered approach to adjudicating consumer protection cases that protects the vulnerable older consumer without falling into a trap of unwarranted ageism.

Keywords: Ageism, consumer protection, courts, law and elderly, financial abuse

Résumé

Les tribunaux conceptualisent et construisent de différentes manières le phénomène de violations des droits des consommateurs à l'encontre des personnes âgées. Cette analyse qualitative des décisions juridiques explore les significations que les tribunaux israéliens ont attribuées au fait que la victime était un consommateur âgé. Les objectifs spécifiques poursuivis dans cet article consistent à déterminer si les protections existantes des consommateurs sont efficaces pour les consommateurs plus âgés, ensuite comment les dispositions pertinentes de la loi sur la protection des consommateurs sont articulées dans l'application de la jurisprudence et finalement comment les tribunaux structurent le litige dans leurs décisions. L'analyse a révélé une tension entre deux approches judiciaires: d'une part, l'hypothèse selon laquelle les consommateurs âgés sont intrinsèquement vulnérables et méritent une protection spéciale face à, d'autre part, une approche qui examine les caractéristiques actuelles des plaignants ou des défendeurs et l'application du droit général de

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la protection des consommateurs. Une lecture critique des arrêts conduit à la construction et à la suggestion d'une approche à plusieurs paliers pour statuer des affaires en matière de protection des consommateurs auprès des personnes âgées et vulnérables sans toutefois tomber dans le piège d'un âgisme injustifié.

Mots clés: Âgisme, protection des consommateurs, droit et personnes âgées, consommateurs âgés, abus financier.

Introduction

Mrs. and Mr. Gluzman, new immigrants to Israel of retirement age, received a telephone call one evening from a salesperson, inviting them to a meeting about organized vacations and activities for retirees. Upon their arrival at the company offices, it became clear to the Gluzmans that the company's business was not vacations for retirees but rather air and water purifiers. At the meeting, the plaintiffs signed an agreement for the purchase of air purifiers, and when they tried to cancel the purchase the following day the company refused. In court, the judge rejected the plaintiffs' claims regarding "undue influence" during the meeting but was convinced that the company had repeatedly employed unfair tactics by deliberately seeking out older persons and deliberately deceiving them. The court ordered compensation in the amount of 1,000 NIS.

The incident described above is a true story emerging from the judgment in *Gluzman v One Product Company Ltd* (2002), heard in a small claims court in Israel. It is one of many cases of older persons who invoked consumer protection laws to safeguard their rights. As the *Gluzman* decision demonstrates, older consumers constitute a distinct group of consumers who experience particular forms of fraud and deception. In the following, we situate the Gluzmans' story within the larger context of consumer and financial fraud, including the targeting of older consumers, the conditions and circumstances that contribute to their vulnerability to aggressive sales tactics, and the ageist biases that underlie this phenomenon.

The goal of this study is to investigate how courts conceptualize and construct the phenomenon of consumer rights violations against older persons by exploring the meanings that Israeli courts attribute to the victim's age. Specifically, the study examines whether and to what extent the courts expressed stereotypical views of older persons (both negative and positive) or showed other biases, and how existing legal rules, or modes of applying these rules, influence the use of such stereotypical views. To answer these questions, the study implements a qualitative analysis of court decisions in consumer rights violation cases involving older consumers.

Literature Review

Older Person, Old Age, and Ageism

Who is "old" and what is "old age" are complex questions (Palmore 2001). Defining a person as an "older person" according to chronological age alone is misleading and artificial, since many aspects of age are not dependent on a technical

measurement of time (Palmore, Branch, and Harr 2005). Marian Rabinowitz contends in his book *The Six Ages of Man and the Inner Time* (2003) that individuals have many ages, including biological, emotional, and social, and that one's legal or chronological age is the least important among them (see also Degnen 2007). Thus, the difficulty in conceptualizing old age is rooted in a broader social context related to the aging process. Yet it is also related to the phenomenon of ageism.

The concept of ageism is as complex as the concept of old age. Ageism is the stereotyping of and discrimination against persons on the basis of age and the stigma associated with it. Gerontologist Robert Butler was the first to theorize and develop the term:

Ageism can be defined as a process of systematic stereotyping of and discrimination against people because they are old [...] Old people are categorized as senile, rigid in thought and manner, old-fashioned in morality and skills [...] Ageism allows the younger generation to see older people as different from themselves; thus, they subtly cease to identify with their elders as human beings. (Butler 1969, 246)

Over the years, ageism has expanded to include not only negative but also positive stereotypes and to address the manifestations of both (Iversen, Larsen, and Solem 2009). Some attribute ageism to the fears that older persons evoke among younger persons of death, the aging process, and illnesses associated with aging (Butler 1975; Martens, Goldenberg, and Greenberg 2005). Older people themselves sometimes internalize misconceptions and stereotypes about old age, a phenomenon defined as "self-ageism" (Axelrod and Eisdorfer 1961; Levy 2001; Kite and Wagner 2004; Palmore 2001).

Ageism affects multiple areas of life, including employment (Numhauser-Henning 2018), legal capacity (Quinn, Gur, and Watson 2018), abuse and neglect (Doron, Alon, and Offir 2004), and family and inheritance law (Quinn, Gur, and Watson 2018). Ageism also plays a crucial role in consumer fraud. Business owners purposefully mark older customers, whom they perceive as easy targets for fraud (Butler 1969; Government of Canada 2017; Palmore, Branch, and Harr 2005). Specifically, older persons are characterized by three types of vulnerability: physical, financial, and social (Holtfreter et al. 2014). These vulnerabilities and the common view that they are easy targets make older persons more susceptible to financial fraud than the general population (Cross 2016). Thus, business owners and service providers direct aggressive selling techniques at older persons, increasing their likelihood of falling victim to consumer fraud or a financial scheme, regardless of their physical, financial, or social situation.

Ageism and Consumer Fraud

Cognitive and Mental Changes in Older Consumers

While simultaneously avoiding an ageist trap, it is critical to acknowledge that old age may bring about cognitive and mental changes that make older consumers easier targets for fraud than the general population (Cross 2016; Lichtenberg, Stickney, and Paulson 2013). Although cognitive changes vary from one person

to the next, there is evidence correlating age and the deterioration of cognitive functions (Mata 2007). Specifically, the chance of onset and intensity of dementia increases with age, harming cognitive and mental functioning, including memory and thinking ability. The frequency of dementia is estimated to be about 10% among those sixty-five years and over, tripling to 30% among those eighty-five and over (Jackson and Hafemeister 2010). One of the most widespread conditions leading to dementia is Alzheimer's Disease, whose frequency is estimated at 50% for adults over the age of eighty-five with dementia (Luck et al. 2010; Government of Canada 2017).

Cognitive changes influence older consumers' decision making in diverse ways. Cognitive decline is correlated with decline in financial literacy, which may lead older persons to seek outside assistance in managing their financial matters (Yoon et al. 2009). Additionally, episodic decline in memory is correlated with difficulty navigating numbers, leading to increased chances of falling victim to financial fraud (Cohen 2008; Gamble et al. 2017).

Older people also tend to believe information presented to them repeatedly. Additionally, older people are more susceptible to marketing manipulation through positive and negative emotionally charged messages, regardless of perceived credibility of the advertising. Kircanski et al. (2016) found that high-arousal groups of participants aged sixty-five to eighty-five indicated greater intention to purchase falsely advertised items than low-arousal groups, whereas no such difference was reported for participants aged thirty to forty. Similarly, excitement and anger increased the willingness of consumers aged sixty-five and over to purchase goods marketed to them deceptively (Williams and Drolet 2005). Isolation is also a contributing factor, as older adults living alone are more susceptible, for example, to attempts by con artists to engage them in conversation when they are feeling lonely, thereby falling victim to consumer and financial fraud (Cohen 2002; Cross 2016).

Still, the potential social weaknesses associated with the aging process do not characterize all older individuals. The assumption that all older consumers are in need of special protection is mistaken and may reinforce stigmas or lead to over-protective legal measures. It is, therefore, necessary to examine whether the prevalence of lower functioning in some older consumers necessitates overarching legal protection or support, or whether more nuanced and less stigmatic legal responses should be considered.

Common Patterns of Exploitation of Older Consumers

Consumer laws protect all consumers since all persons may be subject to consumer fraud or abuse. However, older consumers encounter unique patterns of exploitation (Cross 2016). Older persons are more likely than younger persons to fall victim to consumer fraud in telemarketing transactions, investments, and gambling games (Deevy, Lucich, and Beals 2012, 19). In general, telemarketing is characterized by aggressive and manipulative marketing methods and often targets older consumers specifically (Cross 2016). Many older consumers fall victim to what is known as the "enticement model": enticing the consumer to purchase products while promising

a significant gift or discount that can be received only once, at the time the purchase is made. Alternatively, consumers receive products that they did not order and are then billed for them (Byers 1998). In 2001, an official report of the Canadian National Advisory Council on Aging found that adults over sixty comprised over 50% of reported victims of fraudulent telemarketing and three-quarters of those defrauded of sums over \$5,000 (Cohen 2008).

Door-to-door sales are another well-known method used to exploit older consumers. Due to a variety of circumstances, including older persons' lack of knowledge of consumer rights, willingness to allow young salespeople to enter their homes, and being home most hours of the day, door-to-door sales provide fertile ground for businesses to take deliberate advantage of older people's potential loneliness (Alon 2013; Government of Canada 2010, 2019). Salespeople may spend several hours exerting unreasonable pressure on older consumers by using emotional manipulation, indirect or direct threats, and information overload (Choi and Mayer 2002; Royal Canadian Mounted Police 2017), thus infringing upon their economic rights (Federal Trade Commission 2011). Sometimes "sellers" specifically target places populated by older people and exploit their politeness and hospitality to visitors (Camerer et al. 2003).

Finally, consumer transactions in the field of medical services are also characterized by improper practices on the part of agents, who exploit the decline in cognitive ability that sometimes characterizes old age. For example, the US Federal Trade Commission brought a complaint for unfair marketing practices against a corporation whose agents applied aggressive pressure on older consumers (particularly those in declining health) to purchase ongoing medical services (Federal Trade Commission 2013). Even when some consumers refused the services, the company sent fake emergency buttons to their residence and forced them to pay for their services by threatening to sue them. The Royal Canadian Mounted Police dedicated a section in its Seniors Guidebook to Safety and Security to medical services marketing fraud, warning against miracle cure scams. These scams typically offer products and services that promise remedies for serious medical conditions, often accompanied by personal testimonials (Royal Canadian Mounted Police 2017).

The challenge for consumer law and policy is to acknowledge the heterogeneity of the older adult population, to design non-ageist legal mechanisms, and to avoid uniform policies that carry the risk of reinforcing stereotypical views of older consumers as frail and in need of protective measures. The next section presents the general rationale of consumer protection laws and the specific protection granted to older consumers under Israeli law.

Consumer Protection Laws and Older Persons

The Rationale of Consumer Law

Consumer law became a distinct legal field in the second half of the twentieth century. It developed in response to the rise of consumerism, resulting from the steady increase in retail acquisition of goods and services, and the accompanying expansion of consumer legislation worldwide (Deutch 2013). Until the 1960s, the

widespread legal view in the United States was that proper competition would most effectively safeguard consumer interests; therefore, the law focused on fair competition and competitor relations (Pitofski 1977).

With the awakening of the consumer movement and increased social awareness of consumer law, extensive legislation was enacted to protect the consumer (Pitofski 1977). The rationale for protecting consumer rights was rooted in major changes in consumer reality, including increased competition between marketers, growing sophistication of advertising and marketing methods, increased purchasing of unnecessary products due to aggressive selling methods, and legislators' desire to regulate the imbalance of power between consumers and large companies. Legislation sought to address the built-in vulnerability of consumers, to ameliorate the power dynamics in consumer transactions, and to end problematic selling practices characterizing the field. These socio-legal developments were not ignored in Israel, as shown below.

Older Consumers in Israeli Consumer Protection Laws

In 1981, the Israeli parliament enacted the *Consumer Protection Law – 1980–81*, the country's first and primary consumer legislation. The law's core provisions prohibit the misleading of consumers and exploitation of their vulnerability (Section 2), together with the exercising of undue influence, including the exploitation of consumer distress (Section 3). The law established the Agency for Consumer Protection and Fair Trade, providing it with special enforcement powers, including the power to issue administrative orders against a specific business to cease exercising undue influence (*Consumer Protection Law*, Section 21C).

Subsequently, the *Consumer Protection Law* was amended to improve protection of consumer rights, including specific provisions addressing the reality of older consumers. In 2010, an amendment was passed to regulate medical service transactions. The amendment's explanatory notes state:

Many consumer complaints point to deficiencies in the activity of this [medical services] sector, including exploitation of the weakness and distress of the older population and using improper manipulative marketing practices on them. The main consumer problems that characterize the industry derive from the asymmetry between the parties to the contract. On the one hand are the businesses equipped with legal knowledge and aggressive marketing tactics and, on the other, the elderly, a weak and dependent public, when the circumstances of the transaction are generally a time of severe distress for the elderly person and at times when the person is hospitalized. (Proposed Consumer Protection Law, Urgent Medical Services 2009, 3)

The 2010 amendment also prohibits the use of indefinite contracts without a termination clause, the automatic renewal of contracts, and continuing charges after a service is no longer needed. It also includes instructions regarding the right to “consumer regret” contractual language.

In 2014, a major amendment was passed, inspired by the European Directive on Unfair Commercial Practices (Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005). The 2014 amendment addresses, in extensive detail, undue influence on the part of salespersons. The definition of “undue

influence” includes general marketing and sales practices typical of transactions involving older consumers, such as taking advantage of language deficiencies that may affect the consumer’s understanding of the transaction or preventing the consumer from consulting others about the transaction. The amendment also includes heightened penalties for offenders and expands the list of aggravated offences, including a specific provision that concerns offenses intentionally directed at older persons, “helpless persons,” minors, disabled persons, and other vulnerable groups. In such aggravated circumstances, criminal sanctions, including fines and sentencing length, were set at three times the standard penalties for consumer offences. Canadian federal law has no parallel provision defining older consumers as a specifically protected group. However, Canadian Criminal Code Section 380 directs sentencing judges to take into account possible aggravating circumstances when the consumer violation or fraud has a significant impact on victims due to age, health, and financial situation (Matthews 2018, 75). In 2016, the Israeli parliament further amended the law to extend the cancellation period for distance sales and peddling transactions from fourteen days to four months when the party to the transaction is an older consumer, disabled, or a new immigrant (*Consumer Protection Law Amendment No. 47*).

In conclusion, the explicit goals of the Israeli *Consumer Protection Law* and its amendments are to assist all consumers in coping with their inherent vulnerability resulting from an imbalance of power in consumer interactions and to provide protections for specific groups, including older consumers. They also manifest a growing commitment to prevent business owners from exploiting older consumers’ potential vulnerability and from targeting them for consumer fraud. That said, the way in which Israeli law operates in reality has never been tested empirically. Moreover, the ways in which judges construct the law and their perceptions of older consumers have yet to be studied. This study aims to examine how existing consumer protections are implemented in judicial decisions with regard to older consumers, how courts structure the issue in their rulings, and what views of old age and older persons these rulings convey.

Method

Sample and Data Collection

This study employs a qualitative research method using a content analysis of Israeli judicial decisions litigated under the *Consumer Protection Law* and involving older consumers. The sample was constructed through a computerized legal search of all relevant judicial rulings using two well-known Israeli legal databases, *Nevo* (www.nevo.co.il) and *Takdin* (www.takdin.co.il). To ensure that no key cases were missed, we also contacted the Consumer Protection and Fair Trade Authority, where we found no unknown rulings.

The computerized search was defined by three criteria: date, judicial forum, and involvement of older consumers. First, judicial rulings included only those handed down from April 26, 1981, the date the *Consumer Protection Law* went into effect, through December 31, 2014. This extended period enabled a historical evaluation of the implementation of the *Consumer Protection Law*. Second, judgments were

included only from the small claims, magistrate's, district, and supreme courts, where *Consumer Protection Law* cases are heard. The third criterion was the involvement of older people in rulings whose main cause of action was the *Consumer Protection Law*.

The online database search was done using the key phrase "consumer protection law" cross-referenced with the keywords "old," "elderly," "aged," and "senior citizen." In total, 257 judicial rulings were found in the online databases. The initial sample was screened for cases appearing more than once and for cases that included the search terms but that did not meet the relevant criteria (for example, a ruling dealing with a young man without relevance to aspects of old age, where, either randomly or circumstantially, his older father or grandmother was mentioned). At the end of this process, sixty-two rulings remained, six criminal and fifty-six civil.

Data Analysis

The judgments were analyzed using content analysis. The texts reflect the views, knowledge, and beliefs of the research subjects, in this case, those of the judges who wrote them (Ewick and Silbey 1995; Patton 2002). The content analysis was conducted in three stages. In the first stage, each decision was read and re-read uninterrupted and rigorously to find units of meaning in each, and common themes were identified. In the second stage, a thematic analysis was made of verbal statements expressing negative or positive worldviews toward old age. Negative ageist expressions were defined as expressions identifying old age with weakness, lack of ability, dependency, difficulty, and vulnerability to exploitation. Positive ageist expressions were defined as linking old age to great knowledge, experience, and respectability.

In contrast, anti-ageist expressions were defined as expressions that do not attribute undue importance to the status of being older unless relevant to the discussion of the legal issue. For example, a judicial decision that an older consumer has the right to cancel a consumer transaction based on the *Consumer Protection Law* without reference to age, and absent sweeping statements about the weakness of older people and the consequent need for special consumer protection, was categorized as anti-ageist.

The third stage was the mapping analysis. The investigators compared and correlated the various themes identified in the prior stages while outlining key themes. The key themes were then mapped to the phenomenon being studied (Corbin and Strauss 2015).

Study Reliability

The reliability of the analysis of the judicial decisions was examined using the four components of the Trustworthiness Principle, a tool commonly used in qualitative research (Lincoln and Guba 1985, 301–33). The first component is the reliability of the study. Reliability is measured by the investigators' research experience in the relevant field, level of involvement in the current study, including consideration of the findings, and demonstration of familiarity with the research findings upon

presentation. The study team included three researchers (two female and one male): a lawyer with experience in representing poor populations, a professor of law who specializes in socio-legal theory, and a gerontologist with experience in qualitative studies. To strengthen the credibility of the research, the study cites many quotes from the judicial rulings. All researchers have a background in human rights, generally, and in the rights of the elderly and disabled, specifically.

The second component concerns the ability to transfer and generalize in the study. To ensure this ability, the investigators were careful not to remove the texts from their original context while providing “thick descriptions” of the textual examples. The third element is dependency. To minimize dependence on the research, the investigators described with complete transparency the manner in which the data were analyzed. The fourth component is the adjustment executed in the study. In the present study, the stage of theme formulation included a detailed and separate examination of each ruling and a continual comparison between its findings and the findings that emerged from the other rulings.

Study Limitations

The study limitations are typical for empirical analysis of case law and the limits of the available legal databases. First, the database contains only those consumer claims that were actually filed and eventually adjudicated; it does not contain other forms of complaints or out-of-court settlements. Second, the database contains only published court decisions; not all court rulings are published, and there is no clear publication policy for legal databases in Israel. Finally, the study does not include class action suits because of their distinctive characteristics.

Results

Three major themes emerged from the findings of the qualitative analysis of the court rulings: (1) older consumers as helpless and incapable: the negative legal construction of older consumers; (2) the irrelevance of old age: anti-ageist attitudes of courts; and (3) emphasis on older consumers as a target group for exploitation. Each theme is illustrated below through one or two leading rulings (but note that they were found in other rulings as well).

Older Consumers as Helpless and Incapable: The Negative Legal Construction of Older Consumers

This first theme that emerged from the negative ageist narratives in the court judgments depicts courts' perceptions of older consumers as helpless and incapable. For example, in *Adler v Peskin* (2009), the plaintiffs claimed that they were induced to come to the offices of a company that marketed vacation units: “Against their will, and through exploitation of their distress, they signed an agreement to buy membership in the club and paid \$10,900 for this membership. The company's marketing was allegedly handled aggressively, playing loud music and sending in a series of determined salespeople to deal with the plaintiffs, senior citizens aged seventy-eight and seventy-three” (3).

The Magistrate Court ruled on the merits of the case, noting the plaintiffs' age as a factual matter. After reviewing the provisions of the *Consumer Protection Law* for annulment of a transaction agreement and the court's authority to order the company director to bear responsibility for the improper conduct of the company, the court decided in favor of the plaintiffs and obligated the company and its director to undertake return of the monies collected from the plaintiffs.

The director of the company appealed the decision of the Magistrate Court holding him personally responsible. The District Court reviewed the provisions of the *Consumer Protection Law*, particularly the prohibition against exploiting consumers' distress, and ruled:

The purpose of the provision of section 3 (b) of the Consumer Protection Law is to protect consumers belonging to vulnerable populations such as minors and older persons who find themselves at the mercy of commercial entities seeking to exploit their weakness, and where the ability of those consumers to freely consider the contractual agreement with the dealer is denied. (*Adler v Peskin*, 2012)

In choosing to describe older consumers as a vulnerable population lacking the ability to enter freely into a contractual agreement, the court expressed a negative ageist view. By comparing older people to children, the court amplified the negative characteristics attributed to older consumers, such as weakness, lack of comprehension, and dependence (Arluke and Levin 1984; Golub, Filipowicz, and Langer 2004). Moreover, the court attributed to the law the role of protecting older consumers who are unable to protect themselves. The court described the flawed sales methods employed by the salespeople toward the respondents as a lack of good faith on the part of the defendant's representatives. The court went even further:

Let us emphasize this fact: They are older people in their seventies who came to a meeting with representatives of the company under false premises, according to which the company wanted to sell them vacation units, and instead were persuaded, using improper methods, to buy membership in the club, when, in fact, at the time of the transaction they were in no way able to know and understand the nature of the asset in question. (*Adler v Peskin*, 2012, 13)

In its written decision, the District Court emphasized the fact that the plaintiffs were elderly. The court ruled, however, that the improper business practices employed by the defendants' representatives were sufficient grounds for rejecting the appeal.

Another ruling further demonstrates the court's view that older consumers are incapable of managing their consumer transactions. This was the case in the *Kanizansky* judgment, which addressed the purchase of a luxury beachfront unit by the defendants, who were over the age of eighty (*Ligad Investments and Building Ltd v Kanizansky*, 2006). The plaintiff filed a claim against the defendants because they did not pay the management fees per the agreement signed between them. The defendants claimed that the company failed to provide the services promised in the project management agreement: the guard and security services were terminated,

the street lighting was reduced, the pool was closed during the winter, and cleaning services were cut back. The court ruled that the defendants had justly deducted from the management fees for guard and security services and reduced lighting and rejected the plaintiff's claim that the defendants had to prove the exact calculation according to precise accounting standards:

The Plaintiff is a commercial entity that establishes and manages the project for strictly economic reasons, while the Defendants are private, elderly individuals who may have saved with great effort (or even sold their former homes) to buy a new place of residence where they hoped to enjoy themselves and experience a sense of security. Such defendants do not have the "tools," the means, and the figures to establish and prove the cost of each of the components they wish to offset. (21)

In the above paragraph, the court generalized that older people have limited resources and that they have worked and saved their money for many years. The court also expressed a negative perception of older people as unequipped to understand the field of accounting and finance. Both messages are based on ageist assumptions that may be inappropriate for these particular defendants. By not addressing the defendants' particular economic situation or other characteristics, the court expressed and reinforced stereotypical thinking about older people.

In some cases, courts have adopted negative stereotypes that were presented by older consumers themselves in the litigation process, possibly for strategic reasons. The leading judgment demonstrating adoption of the plaintiff's characterization of aging is *Telber v Bezeq International Ltd* (2010). The case involved an eighty-eight-year-old man who sued the defendant for misleading him and exploiting his advanced age in order to sell him a telephone system costing NIS 13,980 and carrying a five-year transaction obligation:

The Plaintiff further claims that he is an older person who innocently believed that his telephone system was being upgraded, and it did not occur to him that it meant the purchase of a new system and an obligation for five years. The Plaintiff further claims that he was led to sign the documents through deception, exploitation of his situation, and his failure to comprehend, a result of his advanced age. (2)

The plaintiff in this case presented himself in accordance with a stereotypical view of old age. However, the defendant claimed that the company "did not know and could not necessarily have known what the Plaintiff's age was" (2). Interestingly, the judgment indicates that the plaintiff was an active person who ran a business that organized international fairs even if "the business was scaled down due to the Plaintiff's age and was transferred to his apartment" (1). The defendant's claim that the plaintiff had an understanding of telephone systems since he purchased the telephone system for a business that he owned was ignored by the court. Instead, the court decision focused chiefly on the plaintiff's age:

On behalf of the Plaintiff, testified the plaintiff and his secretary, Mrs. Hazel Dobrin, both of whom were persons of advanced age. One is impressed clearly by indications of the Plaintiff's age, which, as noted, is now eighty-eight years old. It is clear that the Plaintiff suffers from hearing difficulties and is equipped with a hearing aid. Communicating with the Plaintiff was

not easy and was made possible with the assistance of his secretary, Mrs. Dobrin. The testimony of the prosecutor and Mrs. Dobrin reveals that the Defendant's representative, Nitzan, has known the Plaintiff for a long time. He was familiar with his conditions of employment and his personal circumstances, including his advanced age, and he understood that the plaintiff is not likely to continue at this occupation for long. (1)

The court emphasized the plaintiff's "advanced age" and accepted the plaintiff's claim that he was misled regarding the details of the transaction. The court criticized the wording of the contract, which was unclear and used words "scribbled by hand" (1). In addition, the court emphasized that the price of the transaction was not stipulated in the contract, concluding, therefore, that the plaintiff was misled by the defendant's representative. The court could have contented itself with this latter finding and ruled in favor of the plaintiff, but chose to continue emphasizing exploitation of the plaintiff's age:

In the circumstances of the case, it can be said that the Defendant's representative [...] *took advantage of the Plaintiff's advanced age*. ...and exerted undue influence on him in order to bind him to an unreasonable transaction considering the circumstances of the plaintiff although, at the very least, *he must have known that the claimant's employment prospect was limited and that he would not have need of the switchboard for many more years*. (2–3; emphasis added)

The court interlaced its judgment with ageist expressions that people above a certain age will not continue to be active and work or will not live long enough to be able to work.

These judgments and others present a seemingly ageist perception that older consumers are often weak, are susceptible to exploitation, and lack the understanding and ability to conduct consumer transactions. This understanding was based partially on the plaintiff's self-presentation. This self-presentation may have stemmed from an authentic sense of internal weakness, but it may also have been influenced by a strategic consideration to win the suit. Alternatively, the ageist emphasis in the judgment may be a rhetorical consideration by a court that desired to create a strong, persuasive narrative in justifying its judgment protecting the older consumer. In any case, it is clear that on the merits of the cases presented above, the courts could have ruled in favor of the older consumers solely by applying the general standards under the *Consumer Protection Law* with no legal need to invoke the assumed characteristics of older consumers as weak and incapable of handling consumer transactions.

The Irrelevance of Old Age: Anti-Ageist Attitudes of Courts

The second theme arose from rulings in which the courts employed a contrary theme: an anti-ageist approach. Here we found two types of judgments. In the first, the court based its rulings on a general application of the *Consumer Protection Law* without accompanying statements, perceptions, or negative expressions with reference to older consumers. In the second, the court explicitly expressed a position that a plaintiff or defendant should not be given preferential treatment because of age.

A leading example of age-neutral court judgments is *Boyangio v A.D.M.S.R.P. Ltd* (CA 2006). In this case, a seventy-five-year-old plaintiff filed suit against the defendant for refusing to cancel a contract that was renewed automatically without her consent. According to the plaintiff, the defendant's representative arrived at her home without warning, and after aggressive persuasion she signed a contract for provision of medical services. About six months later, the plaintiff fell and sought to schedule a physician visit under the contract, but the company denied her request. The plaintiff then wrote a letter to the defendant asking to cancel the agreement. In reply, the plaintiff was told that the agreement had been automatically renewed and that therefore she could not cancel it.

While the court's ruling mentions the plaintiff's age, its focus was rather on the linguistic and other barriers. The court referred to the fact that the plaintiff did not speak Hebrew, emphasizing the language difficulty with which she coped. The court also criticized the clauses in the agreement that were deliberately "printed in small print together with other dense clauses" to mislead the plaintiff (2). The court also stressed that the plaintiff sought to cancel the contract before the renewal date and that the defendant refused. Therefore, the court accepted the claim and required the defendant to refund the amount collected from the plaintiff after she sought to cancel the agreement. There was no specific reference to old age or to any incapability associated with it in the justifications for the decision.

In contrast to rulings such as *Boyangio* analyzed in this study, in which the plaintiffs did not claim exploitation based on age-related factors, other age-neutral court rulings explicitly rejected "self-ageism" claims raised by the litigants. In such cases, older consumers presented themselves as weak and powerless, potentially as a strategy to sway the court to rule in their favor. However, the court examined the circumstances of the consumer transaction and the factors that influenced the deception or exploitation of the distress of the consumers regardless of age, even if the litigants claimed otherwise.

An example of a court's rejection of plaintiff-raised ageism is the judgment in *Matalon v Shahaf Tourism and Leisure Ltd et al.* (2008). Plaintiffs, a married couple, seventy-four and eighty-one years old, claimed that they were invited by the defendant to a meeting regarding the sale of a vacation unit. At the meeting, the couple purchased a vacation unit for the price of NIS 48,300. The plaintiffs claimed a lack of good faith on the part of the defendant in conducting the negotiations and claimed that the defendant did not disclose the possibility of canceling the agreement within fourteen days from the signing, taking advantage of their age and difficulty in understanding the written agreement: "The plaintiffs further claimed that although the defendants knew that the plaintiffs were having difficulty in reading and fully understanding the provisions of the agreement, due to their age and condition, they did not reveal to the plaintiffs what they were signing and did not explain it to them" (2).

In its ruling, the court did not acknowledge any relevant difference or power disparities between the plaintiffs and the defendant and expressed an anti-ageist position with regard to the plaintiff's education, a personal characteristic unaffected by age: "It should be noted that the plaintiff has a doctorate in law and, despite his age, my impression was that he is a person who understands the meaning of the

specific agreement and the signing of an agreement and that he is able to read and understand what he signs, even if it is phrased in legal language” (6).

The court rejected the plaintiffs’ claim. In addition to demonstrating an anti-ageist approach, the decision also presented an overall, narrow approach to consumer protection by applying loose standards when judging the defendant’s actions. These judgments show that the *Consumer Protection Law* provides the court with legal tools to rule in favor of (or against) older consumers without interjecting ageist statements in its judgment, yet the use of this anti-ageist doctrine may be limited and insufficient.

Older Consumers as a “Target Group”

The third and final theme was the court’s awareness of business owners’ targeting of older consumers for consumer fraud, due to misconceptions and negative stereotypes about older people. This theme emerged, for example, in the *Gluzman* case discussed at the beginning of the article. As noted, the Gluzmans went to the defendant’s offices expecting to hear a sales pitch about retiree vacations and left after signing an agreement to purchase air purifiers at a cost of NIS 3,600. The defendant refused to cancel the purchase agreement the following day and the Gluzmans filed suit demanding a full refund and compensation for mental anguish and expenses totaling NIS 6,400.

The Small Claims Court rejected the plaintiffs’ claims that during the meeting the defendants’ salespeople exerted unreasonable pressure on them and that for three hours they felt under the influence of “hypnosis,” as they emphasized. The court assigned great significance to the plaintiff’s level of formal education, “a practical engineer by profession,” and to the fact that the purchase agreement was drafted in Hebrew, the plaintiff’s mother tongue. The court concluded that the agreement was signed with an “understanding of the terms of engagement” by the plaintiffs and should not be canceled.

When judging the case, it became apparent in light of the “multiple claims filed against the defendant” that the company frequently employed unfair sales tactics (2). For this reason, the court allowed the plaintiff to be represented by an attorney, an unusual step for a small claims court, allowed only in special circumstances by discretion of the court (§63a of the *Law of the Courts – 1984*).

The court’s ruling depicted the defendant as a company that deliberately sought out older people, enticing them to come to its offices by means of false claims:

I reached the conclusion that the defendant’s representatives acted in bad faith by providing false information in order to entice the plaintiffs and cause them and people like them to come to the company’s offices, where it turned out that the real purpose of the meeting was to sell their device, and that they never had any intention of organizing trips and activities for retirees. I was persuaded by the plaintiffs’ statements, and the defendant did not dispute them in any meaningful way, because at that meeting, the defendant did not speak at all about meetings for retirees and the organization of trips and activities. (2)

The court determined that the defendant intentionally sought out the older population—“them and people like them”—with the intention of selling its

products and found that the facts amounted to deliberate deception. The court ordered the defendant to compensate the plaintiffs NIS 1,000 for its improper conduct. On the one hand, the court did not view the plaintiffs as vulnerable; on the other hand, it was aware that the defendant treated older consumers as a group that is easily enticed. The ambivalence reflected in the court's decision may have led to the low compensation (NIS 1,000) awarded compared with the amount requested by the plaintiffs (NIS 6,400).

Other court rulings emphasized the importance of deterring business owners through court-imposed sanctions. Thus, in *Falkov v Ariel Bonus Company Ltd* (2013), the District Court, sitting as an appellate court on a Small Claims Court decision, increased the amount of compensation awarded to a ninety-four-year-old woman from NIS 1,000 to NIS 7,500 in order to deter business owners from abusing the older population:

Due to the will to deter dealers from exploiting their position of power vis-a-vis the consumer, particularly after the purchase transaction has been completed, there is room for a significant compensation ruling that will serve the deterrent purpose of the law. It is doubtful that awarding a sum of NIS1,000 in compensation in this individual case will act as a real deterrent against the recurrence of similar incidents in the future. (5)

The cases in this theme demonstrate a group-conscious approach to the application of consumer protection laws in cases involving older consumers. The courts accepted the claim that business owners viewing the entire class of older consumers as weak and helpless used unlawful selling methods to exploit this vulnerability. In doing so, the courts recognized the perceived group characteristics of older consumers that made them a target for consumer exploitation and based compensation on this reasoning.

Discussion and Conclusion

This article reports findings from a qualitative study analyzing the social construction of old age in consumer protection law court decisions. Three major themes emerged from the judgments, demonstrating different approaches in the courts' rhetoric and reasoning. These themes express the complexities involved in applying consumer protection law in cases that involve older consumers. Moreover, based on our findings, we identify a fundamental tension between particularism and universalism in cases that involve older consumers and offer a model for adjudicating such cases, one that emphasizes their universal character but attends to their specificities as well.

Courts' Construction of Old Age: Particularism Versus Universalism

The qualitative analysis of the judgments demonstrates a dual, possibly conflicted approach to older consumers. In some cases, the court collectively attributes characteristics to older consumers such as vulnerability, lack of knowledge, lack of comprehension, and inability to conduct consumer transactions. In these cases, the perceived inherent vulnerability of older consumers facilitates the court's willingness to award compensation. In other judgments, the court does not view

older consumers as inherently vulnerable, but rather rules on the merits of the case while attending to the specific characteristics of the plaintiffs or the defendants using the general legal tools provided by the *Consumer Protection Law*.

This dual approach raises several questions: First, why is it that, in some favorable judgments, courts resort to a narrative of extreme vulnerability and pitifulness of older consumers and in others they do not? Second, do courts have adequate legal tools to construct a narrative of consumer vulnerability without recourse to ageist assumptions and an age-focused narrative? Third, is an age-focused court decision necessarily ageist and an age-neutral judgment necessarily anti-ageist?

The judgments examined in this study do not provide definitive answers to these questions, but they do underscore an inherent tension between two judicial approaches: a particularistic approach and a universalist approach. The particularistic approach views older persons as a distinct group with unique characteristics (Doron 2003). Under this approach, courts treat the entire group of older consumers stereotypically as a vulnerable group that warrants special protection due primarily to its lack of the knowledge required for consumer interactions. The particularistic approach entails inner tensions which are also evident in the above-mentioned amendments to the Israeli *Consumer Protection Law*. These amendments present older persons as a disadvantaged group needing special protection in specific consumer transactions such as medical services, and through extended cancellation periods, heightened consumer offenses, and more. While they do provide the necessary legal protection for those who need it, they may also reinforce the stereotypical view of older persons as incapable of making financial decisions. They may also reinforce a view of older persons as “helpless,” partly by associating them with other vulnerable groups, such as minors and disabled people.

The contrasting universalist approach treats older consumers not as a different or unique group but rather as part of the entire group of consumers, protected by the general principles of consumer protection law. While the latter, on its face, seems more judicially sound, difficulties arise in cases involving older consumers who actually need stronger legal protection because of their vulnerability and reduced capacities.

The rulings that expressed a universalist approach did not follow the path of special treatment and did not emphasize circumstances related to age; rather, they focused on other relevant parameters, mostly those concerning the seller’s unlawful behavior. This approach has a real advantage as long as general consumer rules are properly applied and can provide adequate consumer protection without addressing the personal characteristics of the consumers involved in the case.

The tension between the particularistic and the universalist approaches resonates with Martha Minow’s (1990) *difference dilemma*, according to which, by addressing the distinct characteristics of older consumers, courts may reinforce the stigma of helplessness and frailty, whereas ignoring those characteristics for reasons of equality may leave those consumers unprotected. The question at hand is, therefore, a question of socio-judicial policy: Should courts base their decisions on age and recognize older consumers as a vulnerable group, as the *Consumer Protection Law* suggests? Should courts adopt an egalitarian-universal approach

that treats all consumers as equal? Or is there a middle path that would recognize the idiosyncrasies associated with old age without using ageist stereotypes?

In our view, the consumer arena is particularly suitable for a more nuanced approach to protecting older persons' rights. Consumer protection laws aim to protect consumers from aggressive selling tactics, regardless of the consumer's age or mental capacity. Their goal is to address the inherent vulnerability that arises from the discrepancies of power between consumers and business owners. Such a scheme, in most cases, allows courts to decide in favor of older consumers without the need to construct a narrative of age-related vulnerability. Furthermore, when applied correctly, consumer protection laws allow courts to focus on the seller's wrongful conduct rather than on the consumer's atypical traits. Still, in some cases, heightened scrutiny may be required. In the next section we introduce an innovative model to address these complexities.

Adjudicating Cases that Involve Older Consumers

Based on the themes that emerged from our qualitative study and the ensuing discussion, we have constructed a typology that can serve as a prism for a critical reading of cases that involve older consumers and assist in approaching such cases and their adjudication: Typology of Protecting Older Consumers (Figure 1). Our typology consists of four archetypal cases based on two axes of analysis. The first divides older consumers into two groups: consumers who have not experienced health, mental, or social changes affecting their consumer decision-making capacity, and those whose consumer decision-making capacity has been impaired by such changes and who therefore need heightened legal protection. The second axis of analysis differentiates between those instances that involve general, improper selling techniques directed at the general population at large, and specific selling techniques directed at older consumers to take advantage of their perceived vulnerability, whether assumed or actual.

The first group of cases (Group 1) involves older consumers whose consumer decision-making capacity has not been impaired, and who have encountered generally improper selling techniques according to typical consumer protection rules. When approaching a case of this type, there is no need to focus on or mention the age or any other specific characteristic of the involved consumer. Universal consumer rules may suffice, no specific protection is required, and ageist language and assumptions are avoided. This approach respects the singularity and autonomy of each older consumer and avoids unnecessary paternalistic generalizations stemming from the consumer's age.

The second group of cases (Group 2) involves older consumers whose consumer decision-making capacity has not been impaired but who have been exploited by business owners who target older persons using particularly aggressive selling techniques because of their perceived vulnerability based on ageist stereotypes. When approaching such cases, the focal point is the abusive behavior of the business owner and the improper sales techniques in use—not the vulnerability of the older consumer.

It involves forcing business owners to disclose their selling practices to elderly people by inquiring how they approach the older consumer; whether they have a

	General Improper Selling Techniques	Specific Improper Selling Techniques Directed Specifically at Older Consumers
Older persons whose consumer decision-making capacity has not been impaired	Group 1: Application of universal consumer rules	Group 2: Application of universal consumer rules + Heightened scrutiny by courts toward business owners
Older persons whose consumer decision-making capacity has been impaired	Group 3: Application of universal consumer rules + Application of specific rules when necessary	Group 4: Application of universal consumer rules + Application of specific rules when necessary + Heightened scrutiny

Figure 1. The Typology of Protecting Older Consumers

database of elder consumers; how they train their salespeople to sell their products to older consumers; and what the company policy is regarding purchase cancellation by older consumers. This approach requires heightened scrutiny because of the immorality of business owners who exploit consumers' old age for economic profit.

The third group of cases (Group 3) involves older consumers who have experienced some mental and social changes that may have affected their consumer decision-making capacity and who were abused by a generally aggressive sales strategy that was not directed specifically at older consumers. Despite age-associated changes, approaching such cases may often be similar to Group 1, where the careful application of universal general consumer rules may suffice. Yet, in some cases, age-associated changes may affect the consumer's capacity to make rational decisions and choices. Under these circumstances, respecting the singularity and autonomy of each older consumer would lead to individual examination of the involved consumer based on specific indications while avoiding overgeneralizations that rest on negative stereotypes.

The fourth group of cases (Group 4) involves older consumers who have experienced a decline in their decision-making capacity and who were also subject to excessive selling techniques directed specifically at older consumers. Protecting the consumer rights of this group may require all the above measures: applying universal consumer protection rules as well as specific rules when necessary, performing heightened scrutiny of abusive behavior of business owners, and conducting individual examination based on specific indications while generally avoiding stigmatic language that overemphasizes the vulnerability and helplessness of older consumers as a group.

In conclusion, older consumers are a heterogeneous population. The qualitative analysis has shown that when courts apply consumer protection rules in favor of older consumers, they tend to employ the "special treatment" framework while resorting to narratives of extreme vulnerability and pitifulness. The cost is

overgeneralizations that reinforce negative stereotypes while losing sight of the particular circumstances and characteristics of each claimant. Our suggested typology offers a nuanced, context-dependent scheme that endorses a heterogeneous approach to consumer protection. It acknowledges that older consumers are not necessarily weak because they are old, but they are definitely more susceptible to consumer fraud and excessive sales pressure because of their *perceived* vulnerability that makes them a target group for such practices. Employing our suggested typology would enhance both the critical reading of such cases and their improved adjudication, as it encourages a contextual understanding of each case, one that takes into account both the social forces and the individual characteristics that shape each consumer interaction.

References

- Alon, Sara. 2013. *Zkeynim B'sikkun: Hebeytim Mishpati'im, Tipuli'im Ve-eti'im*. [Elderly at risk: Legal, therapeutic and ethical aspects.] Jerusalem: Joint Distribution Committee-Eshel.
- Arluke, Arnold, and Jack Levin. 1984. "Another stereotype: Old age as a second childhood." *Aging* 346:7–11.
- Axelrod, Seymore, and Carl Eisdorfer. 1961. "Attitudes toward old people: An empirical analysis of the stimulus-group validity of the Tuckman-Lorge questionnaire." *Journal of Gerontology* 16:75–80.
- Butler, Robert N. 1969. "Age-ism: Another form of bigotry." *The Gerontologist* 9 (4): 243–46.
- Butler, Robert N. 1975. *Why survive? Being old in America*. New York: Harper & Row.
- Byers, Ellen. 1998. "Addressing the consumer's worst nightmare: Toward a more expansive development of the law of tortious fraud." *Washburn Law Journal* 38:455–508.
- Camerer, Colin, Samuel Issacharoff, George Loewenstein, Ted O'Donoghue, and Matthew Rabin. 2003. "Behavioral economics and the case of asymmetric paternalism." *University of Pennsylvania Law Review* 151 (3): 1211–54.
- Choi, Namkee G., and James Mayer. 2002. "Elder abuse, neglect, and exploitation: Risk factors and prevention strategies." *Journal of Gerontological Social Work* 33 (2): 5–25.
- Cohen, Carole A. 2002. "Consumer fraud and the vulnerable older adult." *Annals of the Royal College of Physicians and Surgeons of Canada*, 35 (6): 354–56.
- Cohen, Carole A. 2008. "Consumer fraud and dementia – lessons learned from Conmen." *Dementia* 7: 283–85.
- Corbin, Juliet, and Anselm Strauss. 2015. *Basics of qualitative research: Techniques and procedures for developing grounded theory*. Los Angeles: Sage Publications.
- Cross, Casandra. 2016. "They're very lonely: Understanding the fraud victimisation of seniors." *International Journal for Crime, Justice and Social Democracy* 5 (5): 66–75.
- Deevy, Martha, Shoshana Lucich, and Michaela Beals. 2012. *Scams, schemes & swindles: A review of consumer financial fraud research*. <http://longevity.stanford.edu/wp-content/uploads/2017/01/Scams-Schemes-Swindles-FINAL-On-Website.pdf>.
- Degnen, Cathrine. 2007. "Minding the gap: The construction of old age and oldness amongst peers." *Journal of Aging Study* 21 (1): 69–80.
- Deutch, Sinai. 2013. "Consumer contracts law as a special branch of contract law—The Israeli model." *Touro Law Review* 29:695–720.
- Doron, Israel. 2003. "A multi-dimensional model of elder law: An Israeli example". *Ageing International* 28 (3): 242–59.

- Doron, Israel, Sarah Alon, and Nissim Offir. 2004. "Time for policy: Legislative response to elder abuse and neglect in Israel." *Journal of Elder Abuse & Neglect* 16 (4): 63–82.
- Ewick, Patricia, and Susan S. Silbey. 1995. "Subversive stories and hegemonic tales: Toward a sociology of narrative." *Law and Society Review* 29 (2): 198–225.
- Federal Trade Commission. 2011. "FTC offers tips to help people avoid being scammed by door-to-door sales agents pitching home security systems." <https://www.ftc.gov/news-events/press-releases/2011/04/ftc-offers-tips-help-people-avoid-being-scammed-door-door-sales>.
- Federal Trade Commission. 2013. "Action halts Brooklyn company from using deception, threats, and intimidation to trick elderly consumers into paying for unordered medical alert devices." <https://www.ftc.gov/news-events/press-releases/2013/03/ftc-action-halts-brooklyn-company-using-deception-threats>.
- Gamble, Keith Jacks, Patricia Boyle, Lei Yu, and David Bennett. 2017. "The causes and consequences of financial fraud among older Americans." *Boston College Center for Retirement Research WP 2014–13*. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2523428 (accessed 2 November 2017).
- Golub, Sarit A., Allan Filipowicz, and Ellen J. Langer. 2004. "Acting your age." In *Ageism: Stereotyping and prejudice against older persons*, ed. Todd D. Nelson, 277–80. Cambridge, MA: MIT Press.
- Government of Canada. 2010. "What every older Canadian should know about frauds and scams." <https://www.canada.ca/content/dam/esdc-edsc/documents/corporate/seniors/forum/brochure-08-eng.pdf>.
- Government of Canada. 2017. "Dementia in Canada, including Alzheimer's disease." <https://www.canada.ca/en/public-health/services/publications/diseases-conditions/dementia-highlights-canadian-chronic-disease-surveillance.html>.
- Government of Canada. 2019. "What we heard report: Financial crimes and harms against seniors." <https://www.canada.ca/en/national-seniors-council/programs/publications-reports/2019-what-we-heard-financial-crimes-harms.html>.
- Holtfreter Kristy, Michael D. Reisig, Daniel P. Mears, and Scott E. Wolfe. 2014. "Financial Exploitation of the Elderly in a Consumer Context." National Institute of Justice. <https://www.ncjrs.gov/pdffiles1/nij/grants/245388.pdf>.
- Iversen, Thomas Nicolaj, Lars Larsen, and Per Erik Solem. 2009. "A conceptual analysis of ageism." *Nordic Psychology* 61 (3): 4–22.
- Jackson, Shelly L., and Tomas L. Hafemeister. 2010. "Financial abuse of elderly people vs. other forms of elder abuse: Assessing their dynamics, risk factors, and society's response." <https://www.ncjrs.gov/pdffiles1/nij/grants/233613.pdf>
- Kircanski, Katharina, Nanna Notthoff, Doug Shadel, Gary R. Mottola, Laura L. Carstensen, and Ian H. Gotlib. 2016. "Heightened emotional states increase susceptibility to fraud in older adults." *Stanford Center on Longevity*, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2815652.
- Kite, Mary E., and Lisa Wagner. 2004. "Attitude toward older adults." In *Ageism: Stereotyping and Prejudice against Older Persons*, ed. Todd D. Nelson, 129–48. Cambridge, MA: MIT Press.
- Levy, Becca R. 2001. "Eradication of ageism requires addressing the enemy within." *The Gerontologist* 5 (41): 578–79.
- Lichtenberg, Peter A., Laurie Stickney, and Daniel Paulson. 2013. "Is psychological vulnerability related to the experience of fraud in older adults?" *Clinical Gerontologist* 36 (2): 132–46.
- Lincoln, Yvonna S., and Egon G. Guba. 1985. *Naturalistic Inquiry*. Beverly Hills, CA: Sage Publications.

- Luck, Tobias, Melanie Lupp, Susanna Briel, and Steffi G. Riedel-Heller. 2010. "Incidence of mild cognitive impairment: A systematic review." *Dementia and Geriatric Cognitive Disorders*, 29:164–75.
- Martens, Andy, Jamie L. Goldenberg, and Jeff Greenberg. 2005. "A terror management perspective on ageism." *Journal of Social Issues* 61 (2): 223–39.
- Mata, Rui. 2007. "Understanding the aging decision maker." *Human Development* 50 (6): 359–66.
- Matthews, Timothy C. 2018. "Perspectives on financial abuse of elders in Canada." *Trusts & Trustees* 24 (1): 73–78.
- Minow, Martha. 1990. *Making all the difference: Inclusion, exclusion, and American law*. Ithaca, NY: Cornell University Press.
- Numhauser-Henning, Ann. 2018. "Ageism, age discrimination and employment law in the EU." In *Ageing, ageism and the law: European perspectives on the rights of older persons*, ed. Israel Doron and Nena Georgantzi, 98–115. Cheltenham, UK: Edward Elgar Publishing.
- Palmore, Erdman. 2001. "The ageism survey: First findings." *The Gerontologist* 41 (4): 525–27.
- Palmore, Erdman B., Laurence Branch, and Diana K. Harr. 2005. *Encyclopedia of Ageism*. New York; London: Routledge.
- Patton, Michael Q. 2002. *Qualitative Research and Evaluation Methods*. Thousand Oaks, CA: Sage Publications.
- Pitofski, Robert. 1977. "Beyond Nader: Consumer protection and the regulation of advertising consumerism." *Harvard Law Review* 90: 661–701.
- Quinn, Gerard, Ayelet Gur and Joanne Watson. 2018. "Ageism, moral agency and autonomy: getting beyond guardianship in the 21st century." In *Ageing, ageism and the law: European perspectives on the rights of older persons*, ed. Israel Doron and Nena Georgantzi, 50–71. Cheltenham, UK: Edward Elgar Publishing.
- Rabinowitz, Marian. 2003. *Gilo Shel Adam u'Zmano HaIshi*. [The Six Ages of Man and the Inner Time.] Tel-Aviv: Am Oved.
- Royal Canadian Mounted Police. 2017. "Seniors' guidebook to safety and security." <https://www.rcmp-grc.gc.ca/en/seniors-guidebook-safety-and-security>.
- Williams, Patti, and Aimee Drolet. 2005. "Age-related differences in responses to emotional advertisements." *Journal of Consumer Research* 32 (3): 343–54.
- Yoon, Carolyn, Cathrine A. Cole, and Michelle P. Lee. 2009. "Consumer Decision Making And Aging: Current knowledge and future directions." *Journal of Consumer Psychology* 19 (1): 2–16.

Amendments and laws cited

- Consumer Protection Law* 5741-1981, 35 LSI 298 (1980–81) (Isr.).
- Consumer Protection Law Amendment No. 47*: Cancellation of a transaction involving peddling and a remote sale transaction by a consumer who is a person with disabilities, a senior citizen or a new immigrant, 2016, 1094 2016 (Isr.).
- Consumer Protection Law Amendment No. 39*, 5724-2014, LSI, 622 (Isr.).
- Directive 2005/29/EC of The European Parliament and of the Council of 11 May 2005.
- Law of the Courts*, 5742-1984, LSI 298 (Isr.).
- Proposed Consumer Protection Legislation Explanatory Notes (Amendment—Urgent Medical Care Transactions), 2009, Proposed Legislation 248, 3.

Cases cited

- Adler v Peskin* (2009), 30532-07 (Israel Magistrate Ct).
- Adler v Peskin* (2012), 5156-12-09 (Israel District Ct).

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Boyangio v A.D.M.S.R.P. Ltd (CA) (2006), 10006/06 (Israel Magistrate Ct).

Falkov v Ariel Bonus Company Ltd (2013), 37671-05-13 (Israel Small Claims Ct).

Gluzman v One Product Company Ltd (2002), 1578/02 (Israel Small Claims Ct).

Ligad Investments and Building Ltd v Kanizansky (2006), 197711/02 (Israel Magistrate Ct).

Matalon v Shahaf Tourism and Leisure Ltd et al. (2008), 015046/05 (Israel Magistrate Ct).

Telber v Bezeq International Ltd (2010), 35811-04-10 (Israel Small Claims Ct).

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