Survey finds majority of Canadians Have Unfavourable Views About Israel: BBC Poll

Gil Lavie

A survey meant to evaluate country specific attitudes, but expanded to include 22 countries around the world, has found Israel largely out of favour by various populations around the world. The country, near the bottom of the charts, only garnered a 21% approval rating, and was only surpassed in general hostility by North Korea, Iran, and Pakistan. The survey, commissioned for the BBC by Globespan for every year since 2005, is an attempt to measure public opinion through surveys and face to face interviews. This year, according to a BBC press release, it included 24 090 people, roughly evenly split among participating countries.

The greatest amount of hostility toward Israel was found amongst Islamic and European countries. With approval ratings in the single digits, 85% of Egyptians viewed Israel negatively as did 50% of Pakistani surveyors. The results were followed by negative ratings across the European continent. Israel garnered an approval rating of 20% in France, 16% in Britain and Germany, and 12% in Spain. In contrast, the United States public, Israel's strongest ally internationally, was found to harbour positive views of the Jewish state with a 50% approval rating. Other countries that harboured more positive views toward Israel included Nigeria and Kenya, with

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others showing strong neutral opinions, found in the results of India and Russia. When the respondents were asked for the reasons for their choice, a clear majority indicated disagreement with Israeli foreign policy, followed with arguments about how Israel treats its population. The survey also found Jewish customs and traditions were a major factor influencing positive impressions on the country, an opinion that was however submerged in the poll.

Despite attempts by Canadian Prime Minister Stephen Harper to align Canada's foreign policy with Israel's, the survey indicates strong dissonance on the part of the Canadian population. According to the BBC poll, only 25% of Canadians held a positive approval rating of Israel, while 59% of Canadians disagreed, viewing Israel in largely negative terms. The survey indicates a largely failed approach to positive Israeli Hasbara in shaking the views of the majority population outside of government circles, and seems to indicate a dissonance from Canadians toward Israel's foreign policy, including in its treatment of Palestinians. While Canadians were found to harbour more negative opinions toward Pakistan, Iran, and North Korea, and were split on the United States, their opinions largely reflect broader trends found in the rest of Europe, and in the Anglo Saxon world, excluding the United States.

The most favourable country in the world according to the survey was Japan, followed by Germany, and Canada.

In the Wake of Tataryn and Cummings: When Moral Obligations Become Legal Ones and the Impact on Testamentary Freedom

By Kimberly Whaley, Whaley Estate Litigation

Kimberly Whaley

On June 5, 2012 Bnai Brith Canada is presenting a continuing legal education program for lawyers and accountants. The format is a moot summary trial. These are the facts. In Howard Shapiro v. The Bank of Nova Scotia Trust Company and Janet Shapiro, we have a deceased father (the "Deceased") who, although he had a million dollar estate when he passed away, included a provision in his will which effectively, and completely, disinherited his son, Howard Shapiro ("Howard") because Howard was married to a person outside of the Jewish faith on the date of the Deceased's death. Although Howard would have received half of his father's estate had he not married outside of his faith, because he did, the will provided that his half share went to his sister (who was married to a Jewish spouse at the date of death).

Historically, throughout commonwealth jurisdictions, it was the case that testators had "unfettered discretion" to distribute their riches in any way they saw fit. Over the years, however, that testamentary freedom has slowly been encroached upon by our legislatures who have given the courts increasing discretionary power to set aside the intentions of a deceased person and order what, on the facts of a particular case, is deemed by the courts to be proper support out of the deceased person's assets in circumstances where it is determined that a testator has failed to make adequate provision for the support of their dependants.

In Ontario, the relevant legislation is the Succession Law Reform Act, R.S.O. 1990, c. S.26 (the "SLRA"), and, in particular Part V, which governs "Support of Dependants." Paragraph 58 is the operative provision which provides: "Where a deceased, whether testate or intestate, has not made adequate provision for the proper support of his dependants […], the court, on application, may order that such provision as it considers adequate be made out of the estate of the deceased for the proper support of the dependants […]."

At first blush, it would seem that the overarching concern which drives an order for support is that of financial need on the part of a dependant of the deceased. However, ethical considerations do play a role as well, and in some provinces more than others.

Indeed, in recent years a judicial tsunami has hit our common law. The wave of recognition for moral obligations originated in British Columbia, with the leading case of Tataryn v. Tataryn Estate [1994] 2 S.C.R. 807, but has swept through the other western provinces, the Northwest Territories, and New Brunswick. As a result of this seminal case, we have seen our provincial give weight to moral considerations, as opposed to pure financial need, when determining whether an award of support should be made. In Tataryn, the Supreme Court of Canada opined that "[w]hile the moral claim of independent adult children may be more tenuous, a large body of case law exists suggesting that, if the size of the estate permits and in the absence of circumstances which negate the existence of such an obligation, some provision for such children should be made."

The question that arises then is whether Ontario has been hit by the judicial tidal-wave that is Tataryn. Prior to Tataryn, Ontario courts interpreted the term "under a legal obligation to provide support" in a limited fashion, such that such legal obligation arose only pursuant to the relevant family law legislation. The net result was that an adult child would not be entitled to support after the demise of a parent, unless the child was actually being supported at the date of death.

However, that was the case before Cummings v. Cummings (2004), 223 D.L.R. (4th) 732, 235 D.L.R. (4th) 474 (Ont. C.A.), leave to appeal refused: 2004 CarswellOnt 2686 (S.C.C.). In Cummings, the Ontario Court of Appeal declared that the principles of Tataryn applied in Ontario, in spite of differences between the British Columbia and Ontario legislation. In fact, the Court of Appeal went so far as to hold that testators owe a moral obligation to their spouse and children on death, and, with respect to claims made by adult independent children, the court held that dependants' relief legislation was not only to provide for need but also to ensure that spouses and children receive a fair share of family wealth. Essentially, the upshot of the decision was that both moral and legal obligations must be considered, and children are entitled to proper support and a fair division of the estate assets after the death of a parent. In determining support, the courts are to use their discretion to both identify and prioritize claims, noting that, where the estate is sufficient, all claims ought to be met.

It will be interesting to see how our own Justice Atin will determine these issues in the case that will be presented at the Bnai Brith Seminar on June 5, 2012, Howard Shapiro v. The Bank of Nova Scotia Trust Company & Janet Shapiro.

I represent Howard. I will be making the argument that the Deceased had a legally binding moral obligation to provide a proper share of his estate to Howard. And, by virtue of the disinheritance clause, the Deceased failed to provide his son with an adequate, just and equitable provision and division of the family wealth.

The hurdle that Howard faces is that, although he is a child of the Deceased (thus placing him in a qualifying relationship to the Deceased), he is an adult and he is not in any real need of financial support. In fact, it could be argued that Howard's father adequately provided for Howard during his lifetime, by, for instance, paying for the entirety of his university education and giving him $250,000.00 in seed money to start his business. Indeed, he avers in his own affidavit that his father "was not financially supporting anyone immediately before his death" and that he is "independent and self-sufficient."

The question that arises is: would an Ontario court, on the facts of this case, be prepared to award support solely on the basis that Howard has a moral claim to his father's estate? To date, our Ontario courts have yet to see a case with facts like the ones we are concerned with here. To my knowledge, there is no case that has given an award to a dependant who is not in any form of financial need solely on the basis that his father owed him a moral obligation. On this basis, I believe that ordering support for Howard would be a great leap for our Ontario courts. That said, I suppose you will have to wait and see what our court decides….

The event will take place on June 5, 2012 at Shaarei Shomayim Synagogue, 470 Glencairn Ave., Toronto, ON M5N 1V8. Registration is at 7:30 a.m. and the moot court will begin at 8 a.m. The event is open to lawyers and accountants. Those lawyers and/or accountants interested in attending, should contact Anita Bromberg, B'nai Brith Canada, at (416) 633-6224 and/or at abromberg@bnaibrith.ca.