

INTRODUCTION

The *Israel Law Review* issue before you deals with two important topics, which are at the forefront of public law, international law and human rights law research: the clash between liberalism and traditionalism, and the interplay between domestic and international criminal law.

The first topic is addressed by two articles: David Richards' 'Liberal Democracy and the Problem of Patriarchy' and Steven Smith's 'Religious Symbols and Secular Government'. The first article discusses the traditional role of law in controlling sexuality (and, in particular, female sexuality) in areas such as contraception, abortion, and gay and lesbian sex. It illustrates how such forms of control have been established over time, and explains why and how liberal constitutionalism addresses this challenge.

The second article, by Smith, criticises the common view which rejects the use of religious symbols and expressions by secular governments. Smith presents three models of secular governance – classical, comprehensive and agnostic – and claims that support of religious symbols and expressions is not prohibited by any of them.

The next cluster of articles emanates from a large-scale international research project on the Impact of International Courts on Domestic Criminal Procedures in Mass Atrocity Cases (the DOMAC Project). The three-year project was led by five universities – University of Amsterdam, The Hebrew University of Jerusalem, University College London, Reykjavik University and University of Westminster – and funded by the European Research Council (under Framework Program 7). The present issue includes the following contributions: Harmen van der Wilt's article on 'Domestic Courts' Contribution to the Development of International Criminal Law: Some Reflections', Antonietta Trapani's article 'Bringing National Courts in Line with International Norms: A Comparative Look at the Court of Bosnia and Herzegovina and the Military Courts of the Democratic Republic of Congo', and Dunia P Zongwe's piece on 'Taking Leaves out of the International Criminal Court Statute: The Direct Application of International Criminal Law by Military Courts in the Democratic Republic of Congo'.

In his article, van der Wilt assesses the contribution of domestic courts to the development of international criminal law. He identifies four different approaches taken by domestic courts vis-à-vis international criminal law and the work of international criminal tribunals, and opines that some interpretative creativity at the domestic level is unavoidable. Still, he believes that the need for strict standards in criminal law militates in favour of increased interaction between domestic and international courts. Trapani then applies this theoretical framework by exploring the use of international criminal law by two distinct sets of domestic courts – the State Court of Bosnia and Herzegovina and the military courts of the Democratic Republic of Congo (DRC). She finds that, on the whole, international courts have affected domestic courts and pushed

them in the direction of harmonising domestic and international criminal law. Zongwe further expands in his article on the DRC case study, and investigates the case law of domestic courts in which international criminal law was invoked pursuant to Article 215 of the DRC Constitution. Future issues of the *Israel Law Review* will feature other articles from the DOMAC project.

The final contribution to this issue is Rogier Bartels' article, 'Dealing with the Principle of Proportionality in Armed Conflict in Retrospect: The Application of the Principle in International Criminal Trials'. It touches on a topic closely related to the DOMAC project: the challenge of applying a basic legal principle, the principle of proportionality, in international criminal trials. As a principal case study, illustrating the difficulties in applying the principle of proportionality in criminal cases, Bartels uses the recent *Gotovina* judgment of the International Criminal Tribunal for the former Yugoslavia (ICTY).

We hope you find as much interest in the aforementioned articles as we have.

Professor Yuval Shany, Hebrew University of Jerusalem
Professor Sir Nigel Rodley, University of Essex
Editors-in-Chief