

## INTRODUCTION

This issue of the *Israel Law Review* opens with three articles from the conference on ‘Transitional Justice and the Crisis of Democracy’, held jointly on 29–30 June 2020 by the Minerva Centers for Human Rights at the Hebrew University of Jerusalem and the Tel-Aviv University. Or Avi-Guy’s ‘Transformation – Overcoming the Limits of Liberal Peace and Transitional Justice in Deeply Divided Societies: Reconciliation in Liberal Peace Theory’ explores the tension between the theoretical conceptualisations of liberal peace, transitional justice and reconciliation, by focusing on power sharing as a liberal peace institution-building mechanism. Power sharing is based on the premise that identities in conflict in deeply divided societies are difficult, if not impossible, to change. The article outlines the limitations of liberal peace by demonstrating how the implementation of power-sharing arrangements creates a political reality in which conflict patterns are further entrenched, thus hindering the prospects of conflict transformation. To address the limitations of liberal peace, the article draws on models of transformative justice to highlight the growing need for a new conceptualisation of reconciliation as a political and transformative concept, in which both justice and reconciliation are recognised as intrinsic goals for post-conflict societies. Thus, the re-establishment of political structures and institutional reforms is envisaged not only as a tool to promote political stability, but is aimed at facilitating transformation in conflict patterns in the political and social spheres.

‘Israeli Pre-transitional Justice and the Nakba Law’, co-authored by Yoav Kapshuk and Lisa Strömbom, illustrates how attempts to silence controversial truths in parallel with shutting down debate can have the unintended outcome of enlarging public discourse on previously marginalised issues. The article is a case study of reactions to pre-transitional justice in Israeli society, focusing on the so-called Nakba Law enacted in 2011, which seeks to limit public commemoration of the Nakba. Through interviews with members of the non-governmental organisation Zochrot, politicians, teachers and media persons, the authors show the relationship between pre-transitional justice and the enactment of the Nakba Law. They demonstrate that while the Nakba Law aimed to hamper freedom of expression, it also enabled increased public knowledge about the meaning of Nakba. Kapshuk and Strömbom argue that this theoretical proposition, activated in this case by new memory laws, is highly relevant to other conflicts-in-resolution that experience pre-transitional justice processes.

A third article emanating from the conference is Eran Fish’s ‘Memory Laws as a Misuse of Legislation’. Fish proposes that irrespective of often-propagated critique of memory laws as enforcing inaccurate, manipulative or populist views of history, memory laws are objectionable because the role of legislation is to make social cooperation possible despite substantial disagreement about what is true, false, right or wrong. Disputes about historical facts are not a coordination problem that requires a legislative solution, still less legal coercion.

The final article in this issue is Aikaterini-Christina Koula's 'International Refugee Regime: An Alternative Form of Protection for Human Rights Defenders?'. Koula's point of departure is the serious human rights violations to which human rights defenders (HRDs) are subjected through legal and extralegal actions, which remain largely unpunished. Koula considers the international refugee regime as an alternative system of protection to international human rights law. Her article discusses the intersection of the terms 'refugee' and 'human rights defender' to establish that the latter may fall within the protection of the 1951 Refugee Convention. Following an inductive reasoning, the article considers the most often-cited flaws of the refugee regime and the reluctance of HRDs to adopt refugee status; it concludes that this option may not be suitable for defenders. Alongside a doctrinal approach, the article employs a socio-legal approach, enhanced by interviews with HRDs.

The book review section of this issue features a review essay by Boleslaw Kabala and Matthew Hallgarth of Dan Kovalik's *No More War: How the West Violates International Law by Using 'Humanitarian' Intervention to Advance Economic and Strategic Interests* (Skyhorse Publishing 2020). Kabala and Hallgarth consider Kovalik's claim that the responsibility to protect doctrine is legally and morally untenable in the light of recent developments in international law.

We conclude this issue with a review by Punsara Amarasinghe and Eshan Jayawardena of Thamil Venthan Ananthavinayagan's *Sri Lanka, Human Rights and the United Nations: A Scrutiny into the International Human Rights Engagement with a Third World State* (Springer 2019).

We wish you all an interesting read and good health.

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