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INTRODUCTION

This issue of the *Israel Law Review* features a variety of scholarly contributions on questions relating to contemporary comparative and international human rights law, with a particular focus on the role of national and international courts in mediating between lofty principles and thorny practical problems. Whereas some articles focus on tensions in the application of legal procedures before human rights enforcement institutions, others delve into substantive law issues and the limits imposed by adjudication on human rights principles.

The first two articles emanate from the 'Secret Evidence' conference which was held at the Israel Democracy Institute in Jerusalem in late 2012. The opening article, Adam Tomkins' 'Justice and Security in the United Kingdom', outlines the ways in which the United Kingdom manages civil litigation concerning sensitive national security material. These are the common law of public interest immunity, the use of closed material procedure and special advocates, and the secret hearings of the Investigatory Powers Tribunal. The article also analyses the background to the adoption of the Justice and Security Act 2013, and the controversies associated with it.

In 'National Security Evidence: Enhancing Fairness in View of the Non-Disclosure Regime of the Rome Statute', Ariel Zemach considers the judicial power of the International Criminal Court (ICC) to address fair trial concerns when a state refuses, on national security grounds, to disclose information essential for the adjudication of a case. These powers include drawing factual inferences favourable to the defendant or staying the proceedings. Zemach argues that such judicial powers do not provide a sufficient guarantee of a fair trial. As an alternative he proposes incorporating the requirement of a fair trial into the criteria guiding the ICC Prosecutor in the selection of cases for prosecution; this would entail the disclosure of materials essential for the defence, thereby allaying fair trial concerns arising from the refusal of states to allow the ICC access to evidence in their possession.

Roberto Perrone's 'Public Morals and the European Convention on Human Rights' takes a look at the manner in which the concept of 'public morals' in the European Convention on Human Rights has been interpreted and at the relevant jurisprudence of the European Court of Human Rights. Perrone suggests a reading of the 'public morals' clause that spells out its scope and its boundaries, in order to avoid arbitrary restrictions on rights granted by the Convention, such as freedom of expression and the right to respect for private and family life.

Eugene Kontorovich's 'When Gravity Fails: Israeli Settlements and Admissibility at the ICC' explores jurisdictional hurdles in challenging the legality of Israeli settlements in the International Criminal Court (ICC). Focusing on the 'gravity' requirement in the ICC Statute, Kontorovich argues that the ICC gravivy measure excludes the settlement project since it does not involve systematic violence, physical coercion or death; nor do the settlements appear to

have direct individual victims. He concludes that the ICC would at most have jurisdiction only over settlement activity from the date of Palestine's acceptance of jurisdiction, which would not immediately cross the Court's gravity threshold.

Guy Harpaz contributes to this issue 'Being Unfaithful to One's Own Principles: The Israeli Supreme Court and House Demolitions in the Occupied Palestinian Territories'. He compares the Supreme Court's jurisprudence in relation to house demolition with its jurisprudence in other areas in which it is called upon to resolve tensions between security and human rights in the occupied territories. Harpaz finds that the Court is unfaithful to its own jurisprudence, and calls on it to apply to house demolitions the same approach, spirit, techniques and benchmarks that it employs in analogous areas of law.

Ayelet Blecher-Prigat concludes this issue with 'A Basic Right to Marry: Israeli Style', which questions the value of the basic right to marry that was recognised by Israel's Supreme Court, in the early 2000s, as part of the basic right to human dignity. The article supports an understanding of the right to marry within a framework of equality according to which human dignity requires equality in affording official recognition to intimate partnerships. It explores the possibility of abolishing legal marriage in Israel altogether, noting that the basic right to marry should not be interpreted as imposing a duty on the state to maintain such an institution.

Finally, we take this opportunity to announce the launch of a new prize to be awarded annually by the *Israel Law Review* for the best unsolicited article published by the journal during the preceding calendar year. The first prize will be awarded in 2016 in respect of articles published in 2015 (volume 48). The prize consists of £250 worth of books of the author's choice from Cambridge University Press.

We hope all of our readers will find an interest in the present issue – the third and last *Israel Law Review* issue for 2014.We look forward to meeting you again in 2015!

Sir Nigel Rodley and Professor Yuval Shany
Editors-in-Chief
Professor Yaël Ronen
Academic Editor

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