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Introduction

This issue of the *Israel Law Review* features five articles that address a broad range of legal issues: the evaluation of the conduct of hostilities as war crimes; corporate complicity in violations of international law; the intersectional impact of domestic migration law on asylum seekers; access to abortion for victims of rape in armed conflict; and punishment for compliance with unjust laws in a previous regime in the context of transitional justice processes. Three of these articles concern issues of international humanitarian law (IHL), each from a different perspective.

Geoffrey Corn's 'The Conduct of Hostilities, Attack Effects, and Criminal Accountability' was first presented at the 17th Annual Minerva Conference on International Humanitarian Law held in Jerusalem in November 2022 under the theme 'The War against Ukraine and IHL'. The article criticises the tendency to decide whether attacks during the conduct of hostilities constitute war crimes on the basis of their results. This is despite the fact that war crimes under Article 8(2)(b) of the Rome Statute of the International Criminal Court are almost always defined by reference to conduct. Corn argues that while results can be indicative of compliance or non-compliance with IHL rules regulating the conduct of hostilities, they should rarely be conclusive.

'Storm in an Ice Cream Cone: Was Ben & Jerry's Decision to End Ice Cream Sales in Israeli Settlements a Responsible Corporate Exit from Occupied Territories?' by Jonathan Kolieb examines the role of companies in the context of IHL, specifically the circumstances in which a company may become legally complicit in violations of that law and when corporate withdrawal from an area under military occupation may be required. The article takes as a case study the announcement in 2021 by Ben & Jerry's, the ice cream brand known for its distinctive flavours and social justice ethos, that it would withdraw its products from Israeli settlements in the Occupied Palestinian Territory. This announcement sparked controversy affecting both the company and its owner, Unilever. While the 2011 UN Guiding Principles on Business and Human Rights (UNGP) have become the leading international framework for the social responsibilities of businesses, their application to conflict-affected areas is uncertain. The article finds that it is unlikely that Ben & Jerry's would be exposed to legal liability for violating IHL through its product sales in Israeli settlements, but that its withdrawal is consistent with its responsibilities under the UNGP as a reasonable and prudent corporate action.

In 'Assessing the Intersectional Impact of Domestic Migration Law: Reacting to State-Created Categories and Vulnerabilities of Asylum Seekers in Israel', Jeremy Julian Sarkin and Tatiana Morais share the findings of interdisciplinary qualitative and empirical fieldwork conducted in Israel. This study was conducted in order to understand the intersectional impact of Israel's 'Deposit

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Law'. This law, among other provisions, requires that 36 per cent of the wages of foreign employees be paid into a dedicated account and returned when the employee leaves the country. Sarkin and Morais argue that for many years the Deposit Law had a negative impact on the lives of asylum seekers because of its racialised, gendered, ethnonational and religious impact. Its intersectional impact illustrates cultural, structural and systematic violence, which has been particularly punitive for asylum-seeking women, who are more exposed to sexual and gender-based violence (SGBV). The article investigates the extent to which state-created categories foster unlawful multilayered and multilevel vulnerabilities and forms of discrimination, the intersectional impact of the Deposit Law and its relation to SGBV, and means for diagnosing state-created intersecting vulnerabilities.

In 'Access to Abortion for Rape Victims in Armed Conflicts: A Feminist Perspective', Francesca Cerulli discusses the protection of the woman's right to reproductive health during armed conflicts and, in particular, with regard to access to safe abortion services for rape victims. Cerulli notes that despite the fact that women are disproportionately affected by conflicts, and that their sexual and reproductive needs are exacerbated by the spread of SGBV, there is insufficient attention being paid to these needs in practice and in the literature. The article investigates whether an obligation to provide access to safe abortion services for rape victims can be interpretatively derived from the set of international rules governing armed conflict. It considers abortion as part of the non-discriminatory medical treatment that states must provide for the wounded and sick, and the implications of the obligation to treat humanely persons who are taking no active part in the hostilities for pregnant women who are victims of rape in armed conflicts. It then examines state practice and the practice of the UN Security Council in the framework of the Women, Peace and Security Agenda.

Seow Hon Tan, in 'Punishing Individuals Who Complied with Intolerably Unjust "Laws" in Predecessor Regimes' examines the implications of the thesis proposed by German jurist Gustav Radbruch (Radbruch's formula) for laws that require individuals to report neighbours who belong to a certain ethnic group that is subject to persecution extermination. Tan asks whether tribunals involved in the process of transitional justice in a successor regime should punish individuals who complied with such laws to avoid the penal sanction of a death sentence. Under Radbruch's formula, intolerably unjust 'laws' are legally invalid, thus making the act of reporting tantamount to abetting murder, possibly even genocide. In contrast, legal positivists would hold that punishing individuals who complied with such laws would be unfair. Individuals might have acted according to what they believed was law and under duress (in fear of penal sanctions for failure to comply) in the predecessor regime. The article examines whether these are valid considerations, focusing on the defences of mistake of law and duress.

Our final contribution is the 2024 Lionel Cohen Lecture, delivered at the Faculty of Law of the Hebrew University of Jerusalem on 29 May 2024. The lecture was presented by Lady Rose of Colmworth DBE, Justice of the Supreme

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Court of the United Kingdom, addressing the very topical subject of access to justice in the modern state.

We wish you all an interesting read.

Professor Malcolm N Shaw KC
Professor Yuval Shany
Editors-in-Chief
Professor Yaël Ronen
Academic Editor

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