

## INTRODUCTION

The *Israel Law Review* embarks on its second semicentennial with a collection of articles, workshop proceedings, a lecture, a book review essay and book review.

In ‘The Rule of Surrender in International Humanitarian Law’, Russell Buchan explores the circumstances in which the act of surrender is rendered effective under international humanitarian law and, in particular, examines how surrender can be achieved in practical terms during land warfare in the context of international and non-international armed conflict. The article proposes a three-stage test for determining whether persons have surrendered under international humanitarian law: first, whether persons attempting to surrender have engaged in a positive act which clearly reveals that they no longer intend to participate in hostilities; second, whether it is reasonable in the circumstances prevailing at the time for the opposing force to discern the offer of surrender; and, third, whether surrendered persons have unconditionally submitted to the authority of their captors.

Another article in this issue is Rex Brynen’s ‘Compensation for Palestinian Refugees: Law, Politics, and Praxis’, which examines the engagement with compensation for Palestinian property seizure and forced displacement as a core issue that would need to be addressed in any eventual Israeli-Palestinian peace agreement. This is an aspect that has figured in every round of major peace talks on permanent status issues for the past quarter of a century. Drawing, *inter alia*, upon informal ‘track two’ discussions and official negotiations, the research highlights the challenge of crafting arrangements that would be both politically and practically feasible.

Brynen’s article follows a workshop held in the Hebrew University’s Law Faculty in December 2016 on ‘1948 Refugees’. The proceedings of the workshop, held under the auspices of the Faculty’s International Law Forum and the Knapp Family Foundation, are also included in this issue.

In ‘The Winding Road to Evidence-Based Policy in Corrections: A Case Study of the Israel Prison Service’ David Weisburd and Badi Hasisi introduce the commitment of the Israel Prison Service (IPS) to the adoption of evidence-based policy in a variety of fields. The purpose of evidence-based policy is to guide the activities of organisations based on scientifically verified facts, enabling the development of effective and efficient policies. The authors detail the processes and development of a large-scale research programme in the IPS, and illustrate how the cooperation and commitment of key individuals have enabled the implementation of evidence-based policy in a hierarchal organisation. They demonstrate how human agency is key to successful implementation of evidence-based policy in criminal justice settings.

As in every year, it is our pleasure to bring to print the annual Lionel Cohen Lecture. This issue features the lecture given in Jerusalem in May 2017 by the Right Honourable Lord Thomas of Cwmgiedd, Lord Chief Justice of England and Wales, entitled ‘The Judiciary within

the State – Governance and Cohesion of the Judiciary’. Noting the fluidity in the functions and responsibilities of the judiciary, Lord Thomas emphasised the need for the judiciary to have cohesion and to have a system of proper governance, so that it can maintain its core function of upholding the rule of law and delivering justice; and so that it can carry out its other functions for the benefit of the public without compromising the independence, impartiality and standing that a judge brings to each task.

The issue concludes with our book review section, in which Sarah Frost’s review essay of Patrick Macklem’s *The Sovereignty of Human Rights* (Oxford University Press 2015) examines how Macklem’s theory corresponds with traditional classifications of human rights that depict such rights in terms of generations. Also, Olivia Nederlandt and Damien Scalia review *La mort du bourreau. Réflexions interdisciplinaires sur le cadavre des criminels de masse* [Death of the Executioner. Interdisciplinary Reflections on the Corpses of Perpetrators of Mass Crime], edited by Sévane Garibian (Editions Pétra 2016).

Finally, it is our pleasure to conclude this introduction with the announcement that the 2017 *Israel Law Review* Article Prize has been awarded to Smadar Ben-Natan for her article ‘Constitutional Mindset: The Interrelations between Constitutional Law and International Law in the Extraterritorial Application of Human Rights’, published in issue 50(2). The article has already been cited in a recent ruling by the Israeli Supreme Court (HCJ 794/17 *Ziada v Commander of IDF Forces in the West Bank*, 31 October 2017). Congratulations, Ms Ben-Natan!

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