

INTRODUCTION

It is with great sorrow that we open this issue of the *Israel Law Review* by announcing the passing away of our co-Editor-in-Chief, Professor Sir Nigel Rodley. Sir Nigel, who has been described in a prominent obituary as one of the ‘founding fathers’ of international human rights law, has served as our Editor-in-Chief for the last five years. In this capacity, he played a key role in the relaunch of the *Israel Law Review* as an international law journal, dedicated to questions of human rights, public and international law. His service on the Journal capped many years of involvement with the Hebrew University of Jerusalem, where he taught as a visiting professor, participated in multiple conferences at the Minerva Center for Human Rights, and published articles in its law publications. He will be sorely missed by all of us at the *Israel Law Review*, the Minerva Center for Human Rights and Cambridge University Press.

The first article in this issue is a contribution from the 9th Annual Minerva/ICRC Conference on International Humanitarian Law on ‘Access for Humanitarian Action: Legal and Operational Challenges in Assisting and Protecting People Affected by Armed Conflict’, held at the Hebrew University of Jerusalem in November 2014. Other articles from the same conference have already been published in issues 48(3), 49(2) and 50(1). In ‘Promoting Compliance with the Rules Regulating Humanitarian Relief Operations in Armed Conflict: Some Challenges’, Dapo Akande (of our Board of Editors) and Emanuela-Chiara Gillard outline the rules of international humanitarian law (IHL) that regulate humanitarian relief operations, and highlight the oft-encountered difficulties in determining whether the former have been violated. Akande and Gillard present current endeavours to promote accountability, and conclude with some reflections on whether the threat of accountability is the most effective way of enhancing compliance with this area of IHL when efforts are under way to negotiate access.

In ‘Constitutional Mindset: The Interrelations between Constitutional Law and International Law in the Extraterritorial Application of Human Rights’, Smadar Ben-Natan explores the relationship between constitutional law and international law in the extraterritorial enforcement of human rights, by offering a typology of models: the American, European and Israeli models. She analyses these models by highlighting the selected legal source of rights – namely, constitutional law in the American model, international law in the European model, and a combination of the two in the Israeli model. Ben-Natan argues that the choice between constitutional and international law affects the nature and scope of rights, and reflects the relationship between the state and the territory it controls or within which it acts. The dynamic formation process of the Israeli model demonstrates the multiple possible ways to combine constitutional and international sources of law and to formulate the relationship between them. All three models share a ‘constitutional mindset’: the use of basic legal concepts and reasoning in legally grey zones. However,

these transnational processes are not deterministic and may result in original concepts, contradictions and discrepancies, as well as serve different political visions.

Shlomit Stein's 'In Search of "Red Lines" in the Jurisprudence of the ECtHR on Fair Trial Rights' takes up the need to add clarity to the use of proportionality and balancing by the European Court of Human Rights (ECtHR) in order to provide guidelines for policies that strike a fair balance between individual rights and public interests with respect to fair trial rights. Stein breaks down several aspects of the fair trial rights contained in the European Convention on Human Rights into clear-cut 'red lines', or minimum thresholds of protection. When these are overstepped, the right is violated. She holds that because of its unique characteristics, volume and breadth, the jurisprudence of the ECtHR can be a lodestone for the consolidation of an international human rights community based on shared values.

This issue also offers a glimpse into a range of books recently published in the areas of international law and human rights. Natalia Cwicinskaja's 'The Annexation of Crimea and International Law' reviews Thomas Grant's *Aggression Against Ukraine: Territory, Responsibility and International Law* (Palgrave Macmillan 2015); Sebastián Green Martínez's essay, 'Cultural Heritage Challenges in Investment Arbitration', reviews Valentina Vadi's *Cultural Heritage in International Investment Law and Arbitration* (Cambridge University Press 2014); and Nicole Bürli reviews Eman Hamdan's *The Principle of Non-Refoulement under the ECHR and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Brill 2016).

Finally, as every year, it is our pleasure to bring to print the annual Lionel Cohen Lecture, given in Jerusalem in November 2016 by Lord Dyson, on 'Protecting Human Rights in an Age of Terrorism'.

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