

INTRODUCTION

Nigel Rodley and Yuval Shany

Volume 45 of the *Israel Law Review* marks a new beginning in the life of the Journal. It is the first volume published under the joint auspices of the Minerva Center for Human Rights at the Hebrew University Law Faculty and Cambridge University Press, and we are confident that this new collaboration will enable us to improve our production and distribution processes, to expand the reach of the Journal to a new readership and to consolidate the reputation of the *Israel Law Review* as a leading publication in the field of public law, international law and human rights.

The present issue contains eight articles. It opens with Frédéric Mégret's article titled 'Is There Ever a "Right to One's Own Law"? An Exploration of Possible Rights Foundations for Legal Pluralism', which takes a critical look at the traditional role of the state as a conduit both for human rights and for maintaining social diversity. According to Mégret, legal pluralism serves as a source for group empowerment, which is supported not only by human rights principles, but also by notions of democracy and social justice.

The next six articles were presented at the Fifth Annual Minerva–ICRC Conference on International Humanitarian Law (IHL), held in Jerusalem in November 2010, which was devoted to the principle of proportionality in the laws of war (both *jus ad bellum* and *jus in bello*). In the first of these articles, 'Section IX of the ICRC Interpretive Guidance on Direct Participation in Hostilities: The End of *Jus in Bello* Proportionality as We Know It?', Jann K Kleffner explores, from a law and policy perspective, the introduction of a least harmful means standard into the law governing the targeting of direct participants in hostilities. The following two articles deal with the difficult issue of force protection, which has attracted considerable attention in the aftermath of the use of force by Israel in Gaza in 2008–09. In 'Do Soldiers' Lives Matter? A View from Proportionality', Reuven (Ruvi) Ziegler and Shai Otzari offer a theoretical analysis of the various positions that can be taken on balancing the lives of soldiers against those of uninvolved civilians; Robin Geiss then discusses, in 'The Principle of Proportionality: "Force Protection" as a Military Advantage', the doctrinal framework in which force protection could be assessed as part of the proportionality analysis.

The fourth conference article, co-written by Christian J Tams and James G Devaney, examines another proportionality-related problem that has gathered particularly strong resonance in the Israeli context. In 'Applying Necessity and Proportionality to Anti-Terrorist Self-Defence' they argue that *jus ad bellum* tests of necessity and proportionality should be adapted to anti-terrorist campaigns, and that the nature of the targets attacked under *jus in bello* may affect the way in which outside observers assess the legality of the *jus ad bellum* campaign in its entirety.

The next article – Raphaël van Steenberghe’s ‘Proportionality under *Jus ad Bellum* and *Jus in Bello*: Clarifying their Relationship’ – maps the differences between the two notions of proportionality. While these two notions are indeed distinct, van Steenberghe claims that in a campaign involving a limited number of attacks or operations, the distinction may collapse, at least as a practical matter.

In the final article on proportionality, ‘The Proportionality Principle in Operation: Methodological Limitations of Empirical Research and the Need for Transparency’, Aaron Fellmeth presents a methodology for evaluating state practice in the field of IHL proportionality, and discusses the main limitation hampering research in this field – state secrecy. Arguably, greater transparency on the part of states would allow a better understanding of the legal options available to them, and ultimately facilitate better protection for civilians.

The final article in this issue, ‘Apportioning Responsibility between the UN and Member States in UN Peace-Support Operations: An Inquiry into the Application of the “Effective Control” Standard after *Behrami*’ by Cedric Ryngaert, examines the competing standards of attributing responsibility for human rights violations to states participating in international peace-keeping or administration. Ryngaert claims that, from a policy perspective, the effective control test is superior to the ultimate authority standard employed in some of the case law.

We would like to use this opportunity to note with sadness the passing of Professor Antonio Cassese, who among his many roles and functions also served as a member of the *Israel Law Review*’s Advisory Board. We dedicate this issue to his memory.