

INTRODUCTION

Issue 48(2) of the *Israel Law Review* offers an interesting array of contributions, which are both varied and unified. The four articles, review essay and book review address diverse issues such as domestic human rights law, transitional justice advocacy, international interstate litigation on the use of force and the laws of armed conflict. At the same time, they all concern strategies for enhancing compliance with human rights or humanitarian law. The first three articles explore certain facets of the growing universe of participants in public and international practice and litigation. The fourth article concerns the overlap of legal regimes.

In ‘An American Friend in an Israeli Court: An Empirical Perspective’, Israel (Issi) Doron, Manal Totry-Jubran, Guy Enosh and Tal Regev explore and analyse the ways in which the procedural institution of *amicus curiae* has been used and adopted in Israeli practice since it was first introduced in 1999. They also examine the extent to which *amicus curiae* participation has influenced judicial decisions in the Supreme Court. Using empirical methods, the study indicates that over the last decade, the number of applications to be recognised as an *amicus curiae* has steadily grown. Most of these applications were made by non-governmental organisations attempting to support private individuals engaging in legal proceedings against the state or against for-profit corporations. The study also finds that most of these applications were approved by the Court.

Timothy William Waters’ article, ‘Clearing the Path: The Perils of Positing Civil Society in Conflict and Transition’, originated in a presentation given at the Third Annual Minerva Jerusalem Conference on Transitional Justice, held by the Hebrew University’s Minerva Center for Human Rights in May 2014, on ‘Transitional Justice and Civil Society: Learning from International Experience’. Waters asks whether there should be a general theoretical perspective on civil society’s involvement in transitional justice, by reference to the Israeli–Palestinian conflict. He notes the difficulty in a theoretical distinction of rights-oriented groups working ‘for’ peace from a broader array of communities that can either promote or prevent peace and justice, because transitional justice does not escape the dictates of politics. A narrow view of civil society problematically assumes we know – or agree on – what constitutes positive change. In the context of the Israeli–Palestinian conflict, civil society groups are instrumentalised to advance not an agenda of peace or justice in some abstract sense, but a parochial claim that, seen from the other side, is in fact an obstacle to resolution. Waters concludes that the real work undertaken by civil society in promoting agendas of peace and justice cannot properly be understood without locating it in a defensible theoretical and empirical framework. Civil society can clear the path to peace, or can provide the principal obstacles to it – or can simultaneously do both. In this it very much shares the ambiguous, multivalent profile of its classic counterpart: politics in the public sphere.

In his article, 'In Need of Meta-Governance: Business Networks of Transnational Governance', Christian Thauer explores an aspect of the increasing application of human rights standards to corporate activity. This article discusses empirical research in political science on business and human rights and on transnational governance networks. It argues that transnational governance networks confront norm clashes and power conflicts, which undermine their effectiveness and legitimacy. Transnational governance as a concept and approach to ordering is therefore in need of meta-governance – namely, institutional mechanisms that allow for the mitigation and resolution of these conflicts. The extent to which such meta-governance currently exists, its effectiveness, the rules and procedures that may legitimately define meta-governance, and who are the actors of meta-governance are yet unknown. To investigate these unknowns Thauer calls for a research agenda, which would combine normative-legal and empirical-political science perspectives on the nature, form, legitimacy and effects of meta-governance.

'Humanitarian Intervention and the Clean Hands Doctrine in International Law' by Ori Pomson and Yonatan Horowitz is an exploration of whether the clean hands doctrine has a role in international litigation regarding humanitarian intervention. Proceeding from the position that under *lex lata* humanitarian intervention is prohibited, they query whether the clean hands doctrine can nevertheless preclude a court or tribunal from adjudicating in favour of a state that has been subject to humanitarian intervention. Though the clean hands doctrine exists under international law in various manifestations, its applicability in cases involving humanitarian intervention is not without challenge. The article finally considers whether the peremptory status of the prohibition of the use of force would prevent the applicability of the clean hands doctrine in humanitarian intervention cases if the doctrine were to evolve into a customary international legal norm.

This issue closes with two book review items. The first is Roberta Arnold's review essay, 'Sivakumaran's "Law of Non-International Armed Conflict": A Criminal Lawyer's Perspective', engaging with Sandesh Sivakumaran's *The Law of Non-International Armed Conflict* (Oxford University Press, 2012). Arnold focuses on the interplay between the laws of armed conflict and international criminal law, and highlights the need for an interdisciplinary approach towards regulating non-international armed conflict. She urges international, public and criminal lawyers to join hands to ensure an effective enforcement of the law. To conclude this issue, Susan Weiss offers a short review of Yüksel Sezgin, *Human Rights under State-Enforced Religious Family Laws in Israel, Egypt and India* (Cambridge University Press, 2013).

Finally, we take this opportunity to announce a changing of the guard in the journal's international editorial board. The *Israel Law Review* has just completed the fourth year of its cooperation with Cambridge University Press, an arrangement which has proven to be an unqualified success. It has led to a sharp rise in circulation, a streamlined editorial process, a noted improvement in the quality of published works and a constant rise in submission rates. We wholeheartedly thank our wonderful outgoing board for its contribution to the development of the *Israel Law Review* and to the solidification of its reputation as a leading international public law/human rights journal during these last four years. We also welcome the distinguished and

exciting new board as it embarks on its four-year term, and to its contribution to the further development of the journal.

We wish our readers an enjoyable and fruitful reading.

Sir Nigel Rodley and Professor Yuval Shany

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