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INTRODUCTION

Issue 49(2) of the *Israel Law Review* opens with two articles that originated in a presentation made during 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. In 'Justifying Restrictions on Reconstructing Gaza: Military Necessity and Humanitarian Assistance', Sari Bashi analyses the relationship between the scope of security objectives cited as justification for restricting humanitarian assistance in situations of occupation, and the scope of the occupant's obligation to facilitate or proactively provide humanitarian relief. Bashi argues that an occupying power may consider broader security objectives as reasons to restrict humanitarian assistance than a non-occupant may, but that doing so also imposes on the occupying power a greater responsibility to provide alternatives to the humanitarian assistance being restricted. Bashi also suggests that as long-term security objectives are increasingly included in the 'military necessity' cited as a reason for restricting humanitarian assistance, the ambit of what is included in such assistance should be expanded to include the economic development and investment in infrastructure needed to provide for humanitarian needs in the long term. Such expansion should require those with the capability to engage in long-term security planning to use that capability to also provide for the long-term humanitarian needs of the civilian population. The article examines restrictions on humanitarian assistance in Gaza as an example of how this normative arrangement might work in practice.

In another article emanating from the same conference, 'Contextualisation of Humanitarian Assistance and its Shortcomings in International Human Rights Law', Anicée Van Engeland challenges the idea that contextualisation of humanitarian aid compromises the principles of universality of human rights, neutrality and impartiality. Her article seeks to demonstrate that contextualisation will not only improve access, delivery and protection, but will also enable aid workers to respect the local context without negatively impacting upon universal human rights by indirectly endorsing cultural relativism. The article puts forward the idea of creating a yardstick to identify which beliefs and values are to be included in contextualisation. It proposes the Muslim legal instrument of *maslaha*, which protects the public interest, and which is useful if Islamic authoritative sources are interpreted in a reformist fashion, in line with universal human rights law.

In 'Innovative Regulation through Competition: A Response to Rapidly Evolving Markets', Ido Baum proposes the use of the forces of competition to generate innovative regulation, as a means of contending with changes in dynamic markets. He introduces the concept of intra-regulatory competition (IRC), which consists of staging a contest between different regulatory regimes imposed simultaneously on market participants in a given jurisdiction. The article

describes the principles of and justifications for IRC, conditions for its effective implementation, potential benefits and drawbacks. IRC is analysed against the backdrop of similar concepts such as randomised law, experimental law and inter-jurisdictional competition. The article demonstrates the use of IRC with respect to the regulation of media content in order to promote cultural pluralism, and to the regulation of computerised trading in securities and futures markets.

In 'The Freedom to Exclude: The Case of Israeli Society', Michal Tamir holds that Israel's Basic Laws have failed to fulfil their integrative role and to instil the value of equality in Israeli society. Individuals claim and exercise 'sole and despotic dominion' over their private property in a manner which often results in the exclusion of minorities from the public sphere, despite legislation and jurisprudence applying the right of equality to the private sphere. Tamir argues that there is an urgent need to entrench a direct obligation to apply human rights to the private sphere at the constitutional level, which can be achieved only through the adoption of a full constitution.

In the final article of this issue, 'International Human Rights and Israel as Seen in the Work of the Treaty Bodies: Do They Walk the Talk?', Ruth Halperin-Kaddari and Amichai Danino review the manner in which the human rights treaty bodies discuss Israel's periodic reports, with the aim of examining whether a bias against Israel can be ascertained in the work of these bodies. They analyse the concluding observations issued in respect of six of Israel's recent periodic reports, comparing the number and nature of the observations relating to four distinct population groups within Israeli jurisdiction against the alternative information provided to the treaty bodies by civil society organisations. The authors find a clear correlation between the relatively larger weight accorded to the treatment of the Palestinian population in the occupied territories in the alternative reports and the characteristics of the concluding observations. Thus, what might initially be perceived as bias in the treaty bodies' treatment of Israel, in light of the seemingly disproportional weight they accord to the conflict, is at least partially influenced by the information and materials provided to the Committees.

This issue closes with a review of Andrea Carcano's *The Transformation of Occupied Territory in International Law* (2015), authored by Hilary Stauffer.

Professor Sir Nigel Rodley and Professor Yuval Shany
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Professor Yaël Ronen
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