INTRODUCTION

COMPLEMENTING INTERNATIONAL HUMANITARIAN LAW: EXPLORING THE NEED FOR ADDITIONAL NORMS TO GOVERN CONTEMPORARY CONFLICT SITUATIONS
A SYMPOSIUM ISSUE

This issue is a collection of seven articles which were originally presented in an international conference organized jointly by The Hebrew University’s Minerva Center for Human Rights and the Tel Aviv Delegation of the International Committee for the Red Cross. The conference was held in June 2008 with the support of the Konrad Adenauer Foundation and the Bruce W. Wayne Chair in International Law at the Faculty of Law in The Hebrew University of Jerusalem. It is the third in a series of major international Minerva/ICRC conferences and Israel Law Review symposia addressing the main contemporary challenges facing international humanitarian law (IHL). Previous symposia were “International Humanitarian Law and International Human Rights Law: Exploring Parallel Application” held in 2006 and “Forty Years After 1967: Reappraising the Role and Limits of The Legal Discourse on Occupation in the Israeli-Palestinian Context” held in 2007.

The present collection opens with an article by David Kretzmer entitled “Rethinking the Application of International Humanitarian Law to Non-International Armed Conflicts” calling for a move away from IHL to human rights law (or to “minimum humanitarian standards” based on human rights). The following article, written jointly by Geoffrey Corn and Eric Talbot Jensen and titled “Transnational Armed Conflict: A “Principled” Approach to the Regulation of Counter-Terror Combat Operations,” claims that the move from a law-enforcement response to a military response to terrorist challenges necessarily invites the application of the laws of armed conflict. Corn and Jensen offer a number of principles that would govern the application of the laws of armed conflict to cross-border anti-terrorism operations.

In “Complementing Occupation Law? Selective Judicial Treatment of the Suitability of Human Rights Norms,” Ralph Wilde criticizes recent UK court decisions that raise theoretical challenges to the extraterritorial application of human rights law in Iraq. My own contribution, “The Law Applicable to Non-Occupied Gaza: A Comment on Bassiouni v. The Prime Minister of Israel,” also discusses extra-territorial application of norms. It proposes to understand a recent Israeli Supreme Court decision about the supply of electricity and gasoline to Gaza (a territory which the Court had viewed as no longer occupied) as potentially supportive of the extra-territorial application of human rights law or the existence of post-occupation obligations on past occupiers.

Amichai Cohen’s “Economic Sanctions in IHL: Suggested Principles” introduces a legal framework to regulate inter-State economic sanctions, a potentially important compliance-inducing tool. Michael M. Lieberman writes on “Pragmatism and Principle in International Humanitarian Law” and offers a new theoretical approach to IHL, based on pragmatic considerations. Finally in “The Internal Legal Order of the European Union as a Complementary Framework for its Obligations under IHL,” Valentina Falco examines how EU law may serve as a source for developing and applying IHL.

This issue is the first one published by the Israel Law Review under the auspices of the Minerva Center for Human Rights at The Hebrew University’s Faculty of Law. The growing academic interest in human rights and public law issues and the increased appreciation of the unique dilemmas and experiences faced by Israel in this regard have resulted in the rise in recent years in the number of submissions to the Israel Law Review of articles discussing human rights and public law topics. These developments coincided with the growing international stature of The Hebrew University’s Minerva Center for Human Rights and a sharp increase in its academic output. In response to these developments, and in acknowledgement of the changing landscape of academic publications in and outside Israel, the Faculty of Law at the Hebrew University of Jerusalem decided to transform the Israel Law Review from a general law journal dealing with Israel-related legal issues into a more specialized publication focusing on human rights and public law topics, and to place the academic and administrative responsibilities for publication of the journal in the hands of its Minerva Center for Human Rights.

Under the new leadership of the Minerva Center, the Israel Law Review will strive to continue its 43 years’ record of academic excellence, while distinguishing itself as a leading international journal on human rights and public law topics. Some important
managerial changes have already been put into place—most notably, the appointment of an Executive Editor, Adv. Danny Evron, and an Academic Editor, Dr. Yaël Ronen, who join Adv. Michele Manspeizer, the Production Editor, in orchestrating the work of the journal—while previously-established attributes, including a high-level peer review process and a dedicated body of student editors, have been carried over. We are confident that the Israel Law Review will continue to develop a significant voice in international scholarship, worthy of our high academic expectations.

Prof. Yuval Shany
Editor-in-Chief, Israel Law Review
Academic Director, Minerva Center for Human Rights
Faculty of Law, The Hebrew University of Jerusalem