

PREFACE

Dear Reader

The October issue of the UCL Journal of Law and Jurisprudence is its traditional one – the culmination of an academic year and published in time to welcome a new generation of incoming students. This year, the Journal has gone through many changes and it is thus only apt that this issue is also a novelty for the UCLJLJ. It is the first themed issue the Journal has published. The topic we wanted to explore is “Theoretical Approaches to International Law”. The choice was intentionally broad and the response to the call for papers was even more diverse than we had hoped. This is exemplified by the four papers collected in this issue. They consider a wide range of topics and do so on various levels of abstraction.

This being a themed issue, it starts with a contribution by Roger O’Keefe, Professor of International Law at UCL Laws. He considers theoretical approaches to international law from the perspective of an international lawyer and explores why and how legal theory benefits doctrinal scholars as well as practitioners.

The first paper deals with the fundamental jurisprudential topic of interpretation. Katayoun Hosseinnjad sets out an approach to interpretation that overcomes challenges specific to interpreting international treaties. She makes use of the theories of Gadamer and Wittgenstein in order to illuminate how interpretation of texts depends – among other things – on conventions and traditions of the community concerned. On this basis, the paper suggests a new reading of the principles of interpretation enshrined in the Vienna Convention on the Law of Treaties.

Moving from the general to the more specific but remaining firmly within the ambit of legal theory, Bret Bogenschneider considers manufactured factual indeterminacy international tax cases. He draws on the theories of Kelsen, Llewellyn, and Dworkin to make sense of

interpretational approaches favoured by tax lawyers. He goes on to argue that the globalisation of tax jurisprudence has enabled practitioners to spread tactics of tax avoidance around the world – partly because they exploit the weaknesses of formalistic legal interpretation.

The final two papers both deal with the International Criminal Court and thus make clear how young institutions could benefit from early theorisation. Steven Kayuni’s paper exemplifies the use of general legal theory when applied to a specific problem in practice. It addresses witness protection measures in proceedings at the International Criminal Court and how applying the theory of the New Haven School solves dilemmas in that area of practice.

Finally, Holly Kendall’s piece epitomises how theory can be useful at the sharp end of problems. She considers different meanings of ‘justice’ and employs them to answer the question of whether and how the International Criminal Court should consider the accused’s access to legal representation in national proceedings when the Court considers the admissibility of a case. The issue concludes with the proceedings of the first annual Postgraduate and Early Career Conference held at UCL Laws in November 2014. In an interesting conversation, its theme “Creative Constraints” produced a wide array of contributions, many of which included theoretical perspectives.

This short overview goes to show that the papers in this issue approach the theme of theoretical approaches to international law from a wide range of perspectives. However, they all have in common that they demonstrate that theory can be useful at different levels of abstractions and that general moral and legal theory has something to offer to even the most practical questions.

Before leaving you to enjoy the read, there are a few words left to say. After the publication of this issue, we will be handing over to a new editorial team. It is important then to look back and acknowledge the hard work of everyone who contributed to creating this issue. Thanks are due to the members of the Editorial Board who have each devoted significant time

and energy to reviewing and editing the articles you have before you today. Without their dedication this issue could not have been produced. We are especially grateful to Aislinn O'Connell who copy-edited the final product and would also like to thank Tiffany Kang for her assistance with the Journal's management.

We are very grateful to our long-standing sponsors, Blackstone Chambers and Slaughter and May, for their generous financial contribution of the Journal. Last but not least, this issue could not have taken shape without the steadfast financial, academic, and administrative support of the UCL Faculty of Laws. Warm thanks are due to our Faculty Editor, Professor Paul Mitchell, who has provided invaluable guidance in all aspects regarding the development of the Journal over the past year.

We hope that you will enjoy reading this issue.

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