

PREFACE

Dear Reader,

This year marks quite a few firsts for the UCL Journal of Law and Jurisprudence. The issue you are holding in your hands – or are reading on your screen – is the first one to be launched in March. As such, it is the issue that makes the UCLJLJ a biannual publication for the first time. But it is also the first issue that is open access; thereby contributing to freely available knowledge and scholarship. While the UCLJLJ is thus keeping up with the times, it is also staying true to its origins in that it remains a generalist publication open to practitioners and academics alike. There is no better way of showing this than to point to the eight papers assembled here.

The issue begins with a question strongly associated with the UCL Faculty of Laws: is there a connection between law and morality? Mark Retter, in his paper on internal goods to legal practice, examines how Lon Fuller's theory can be understood to answer this question in the affirmative when viewed in the light of thoughts by Alasdair MacIntyre. He shows how distinguishing internal and external goods to legal practice also provides a distinction between the practice as such and its instrumentalisation. Moving away from jurisprudence and towards international human rights law – another subject with strong connections to UCL – the second paper analyses an issue of immense practical importance. Aristi Volou assesses the approach of the European Court of Human Rights to the sensitive issue of diplomatic assurances as guarantees against torture and inhuman and degrading treatment in deportation cases. She argues that the Court successfully walks the fine line between reinforcing the absolute nature of the prohibition of torture and providing states with the possibility to deport convicted criminals who pose a threat to public safety.

The paper that follows is also concerned with individual rights, but turns to the arena of English criminal law. Kate Harker and Ellen Wright examine the stance that criminal law takes on the transmission of HIV. Starting with a concern for the dignity and equality of HIV sufferers, they argue that a defence of reasonable precautions should be possible. The consequence of the argument is that persons living with HIV should be able to engage in intercourse without necessarily disclosing their condition in every situation. The next paper shares with this one the overarching enquiry of how law and legal practice impacts on the daily life of citizens. Jennifer Leitch looks at the role of citizens in civil litigation. Instead of

focusing only on the meaning and scope of legal representation, she approaches the topic from the viewpoint of self-represented citizens. The paper argues that access to justice is more meaningful if it empowers individuals to be heard and thus have an influence on the proceedings as such, rather than just their outcomes.

With the next paper we move from individual rights in litigation to a bigger picture and how it fits with judicial review in the UK: climate change. Jonathan Church examines the positive duties to reduce greenhouse gas emissions imposed on the government by the Climate Change Act and argues that they are enforceable by courts if they are prepared to take on an amplified role. The following paper again takes into account the bigger picture, but this time in the area of competition law. Murilo Lubambo examines the concept and legality of vertical restraints. He provides us with insight into how networks of vertical agreements that blur the lines between horizontal and vertical agreements should be dealt with in EU and US competition law.

The next paper addresses the world of business from another perspective, but again with an element of comparison. Robert Peel addresses whether coercive restructuring tactics are lawful under English law. He draws attention to the fact that bondholder exchange offers that incorporate coercive elements may be legal when it can be shown that a reasonable person could see them as beneficial to the bondholders as a class. In the last paper of this issue, Daniel Pannett discusses another aspect of relationships in the business context but he too employs a comparative perspective. His paper addresses the issue of collective bargaining in professional sport and argues that, despite the significant challenges the employment relationship in sport presents, the benefits of collective bargaining outweigh its challenges. He draws on various examples such as rugby in New Zealand, mixed martial arts, and Formula 1 racing.

This short overview goes to show that the papers in this issue grapple with a wide range of topics. In addition to the range of subjects the Journal covers, every article makes an original contribution to a particular field of law or jurisprudence; some of them are very topical while others deal with more fundamental problems. As with the form the UCLJLJ takes this spring, it can be seen from the content that it is moving forward while remaining true to its founding objectives.

Before leaving you to enjoy the read, however, there are a few words to say, again, about the future as well as the past. The UCLJLJ will be publishing its first themed issue on “Theoretical Approaches to International Law” in October 2015. This step signifies how the Journal will make use of its expanded presence. Publication of two issues a year enables the

UCLJLJ to cover a wide range of topics and at the same time creates the possibility for in-depth discussion. It will also ensure that the Journal remains an integral part of the vibrant research environment of the UCL Faculty of Laws.

It is important to look back over the last few months 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 – for the second time in a row – 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 six months.

We hope that you will enjoy reading this issue.

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