



## Editorial

### Welcome to the IALS Student Law Review

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#### ***Welcome from the Director of IALS***

I am delighted both as the Director and the Librarian of the Institute of Advanced Legal Studies to welcome this first issue of the *IALS Student Law Review*. This free-to-Internet contribution to legal scholarship has been created through the enthusiasm and dedication of the student community at the Institute which conceived and carried through the idea of a student-driven law review with the backing of the academic staff and the information systems team at the Institute.

The Institute is unlike law schools around the country in concentrating on the promotion and facilitation of legal research on a national basis as well as postgraduate study and research. It has a relatively small student community but one which is well connected and outward looking with a network of research colleagues and practitioners around the world. The Editorial Board and its supporters intend to draw on this network so the *Law Review* represents not only work being carried out by those at the Institute but also, in the tradition of the Institute, work carried out elsewhere which might benefit legal research as a whole by being brought before a wider audience.

This new channel for the distribution of the results of legal research joins a wide range of other free on-line resources made available for legal researchers by IALS including the *British and Irish Legal Information Institute*, the *Current Legal Research Topics* database which indexes ongoing PhD research, and the *FLAG* database listing the legal research collections in foreign, comparative and international law around the UK, among others. I am sure this new venture will become a successful vehicle for contributions to legal research and bring the authors of its articles to a much wider readership.

I hope readers of the *IALS Student Law Review* will feel free to submit proposals to the Editors for the inclusion in future issues and to contact the authors of articles in this and future issues so that the material published here can become the subject of further discussion and exploration.

**Jules Winterton (Director, Institute of Advanced Legal Studies)**

#### **IALS Student Law Review**

I am very proud to be asked to provide a short foreword to this first Issue of our Student led journal at the Institute of Advanced Legal Studies. Our research and Masters students have been a most important part of the Institute since the inception of our excellent Masters programmes and the expansion of our law doctorate programme in the last decade. IALS students now study a vast range of subjects from the most arcane elements of Islamic and Jewish Law, to international principles of human rights and concepts of sovereignty. They have broadened the academic study of the drafting of legislation, legal educational approaches to professionalism and the effect of the media on the principles of litigation. Our students have provided a more collegial atmosphere to the Institute. They have kept the academic staff and the Library, as always the jewel in our crown, fully stretched to provide the most up-to-date approaches to both teaching and research in law. They have set up their own in-house and shared seminars so that our researchers can compare notes with others and sharpen their own presentation performance in a fully supportive atmosphere.

And now they have produced this great first issue of their own in-house journal, to broadcast our excellence and to provide the opportunity for other early researchers to publish to colleagues and to spread the ability to take part in academic discourse, a major aim of the Institute and the School of Advanced Study. I would recommend highly this first issue, and all those that are likely to follow. It comes from an excellent stable and has been hard fought for by an earnest group of strong research students who have acted as the Editors and organisers. My sincere thanks to them for their success and my commendation to all readers of the product.

**Professor Avrom Sherr (Woolf Professor of Legal Education and Director on Sabbatical, IALS)**

### IALS Student Law Review

First issues of new Law journals are always celebrated affairs. They tend to be opportunities for everyone to say what a good job they have done and how good the journal is. On this occasion we will differ. The *IALS Student Law Review* has taken a very long time to be organised and produced. Unlike other web publications which are created and produced in the space of weeks the IALS Student Law Review has taken years to come to fruition. There were important things to decide. The charter –which took about nine rewrites– and the format have been discussed, analysed, cogitated and argued as in no other journal I have ever been involved in. Important details, such as the format of the reply to those submitting articles or the format of the peer reviewer’s report have been discussed and decided following weeks of email exchanges. And all of this was done not by professional publishers but by IALS postgraduate students who found time to pursue the creation of the *IALS Student Law Review* in between writing chapters for their PhDs. My job, as the academic advisor to the Review has been minimal. All the work for this first issue was completed by the students and I am understandably proud of their work and their ability to run a law journal.

First issues of new law journals are always celebrated affairs. They tend to have a dozen articles from well known academics in an attempt to show that they are important opinion leaders and well networked in field. On this occasion the *IALS Student Law Review* will differ. The first issue has been produced as if it was a normal issue of a journal – with five articles a book review and a welcome note. The aim is not to astound anyone. The *IALS Student Law Review* is here for the long term and its work should be steady and careful. In this first issue we have articles from established academics as well as students and range from arbitration to legislative drafting. The point to note here is that all these articles have been through a rigorous process of peer review. And, I think I can disclose this, there were submissions which did not make it through the peer review and, therefore, to the first issue.

First issues of new Law journals are always celebrated affairs. They tend to be good opportunities for those involved to “beat their own drum”. On this occasion I will differ. As the academic advisor of the *IALS Student Law Review* I am delighted to say that I have done very little. The *IALS Student Law Review* is run by students, produced by students and will continue to be so.

**Dr Constantin Stefanou (Director of Taught Courses, IALS and Academic Editor, *IALS Student Law Review*)**

### IALS Student Law Review

## **Executive Summary**

The mission statement of the *IALS Student Law Review* is to cover the areas of expertise of the IALS academic and postgraduate community and offer a forum for ideas to both established academics and up and coming researchers. The first issue does not disappoint and we thank all of our contributors and student editors for this.

In this issue:

Daintith writes of the curious incident of the “dog that did not bark in the night” referring to the lacunae in litigation and the absence of case-law where one “expects to find it”. He asserts that case-law is still the focus of attention in much of academic legal writing if only for the simple reason that it presents the attractive option of “a ready-made issue for consideration: was this the right – or the best – decision?”. But, what is a researcher to do when faced with problematic gaps or silences in the case-law? To Daintith, the gap itself becomes a subject of research.

Celik, compares the Arbitration Act (1996) with its counterpart in the United States and comes to the conclusion that so far as the possibility of the judicial review of the arbitral award and the certainty of the outcome is concerned, parties are better placed under the American Law rather than in the Dear Old Blighty.

Galeza, writes about the evolution of regulatory thought in the United Kingdom, its characteristics and the dominant themes in regulatory initiatives.

Theodorakis, critically looks into the concept of psychopathy and its relationship to criminal behaviour. He comes to the conclusion that our current approach in predicting violence and criminality needs to be improved by consideration of the broader context of the tools used for risk assessment.

Xanthaki, writes about the metamorphosis of legislative drafting from a mere skill to a sub-discipline of law and explains how it is distinguished from both legal drafting and constitutional law. She further, in some detail, outlines the process of drafting legislation, clarifies some of the finer theoretical aspects of the new sub-discipline and introduces some innovative approaches used in different jurisdictions.

**Nima Mersadi Tabari (Executive Editor, *IALS Student Law Review*)**

**IALS Student Law Review**

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