

INTRODUCTION TO THE EDITION

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It is my great pleasure and privilege to introduce the 13th Edition of the Oxford University Undergraduate Law Journal (OUULJ).

The University of Oxford holds a much-vaunted place in history as the oldest seat of learning in the English-speaking world (c. 1096), with evidence of Law (Roman and Canon, naturally) having been taught as early as the 1100s¹. Centuries later, in 1753, Sir William Blackstone began what later came to be recognised as the first set of lectures on the Common Law anywhere in the world, giving us two entities which continue to hold great weight in English law today; the Vinerian Professorship of English Law, and the eponymous *Blackstone's Commentaries on the Laws of England*². Moving another hundred years ahead, it was in the 1870s that the University formalised its provision of legal education, creating the BA in Jurisprudence³. My fellow students will undoubtedly be amused to know that the degree was hardly different back then from what we currently know it to be, save perhaps this account⁴ from a student in the early 20th century,

¹ University of Oxford, Faculty of Law, 'Roman Law' <<https://www.law.ox.ac.uk/roman-law>> accessed 25 May 2024.

² All Souls College, University of Oxford, 'Law' <<https://www.asc.ox.ac.uk/law-1>> accessed 25 May 2024.

³ University of Oxford, Faculty of Law (n 1).

⁴ Robert Hale, 'The Teaching of Law at Oxford University' (1926) 12(10) American Bar Association Journal.

which describes ‘nine papers in the final honours examination, [being] administered to the candidate, two a day, one before and one after lunch, until the dose is complete’. I must say, as I write this Foreword in the midst of my own Final Honour School examinations, that I am very grateful for the fact that one no longer has to sit two papers a day. Let us, in any case, set aside our historical adventure for just a moment.

I am very pleased to record that the OUULJ has had another outstanding year. One of the great things about the Journal is its continuity of leadership, by which the previous Editor and Vice-Editors remain with the Journal as Editor-in-Chief and Vice Editors-in-Chief respectively. The mantle of Editor is passed on to a new individual, with a fresh board of twenty-odd of the brightest second-year undergraduates under their purview. The primary goal of the Editorial Board is what you currently hold in your hand - the publication of the annual edition of the Journal, traditionally scheduled to herald the end of Trinity Term at Oxford.

The 13th Edition of the Journal received over 80 manuscripts from undergraduates across the world, from common law jurisdictions such as India, the United States, and Singapore. For the first time in its history, and in a perhaps unprecedented distinction for an undergraduate journal, the Journal is fortunate to have the wisdom and insight of two sitting justices of the United Kingdom Supreme Court, Lord Sales and Lord Briggs, who adjudged our Public and Private Law submissions respectively.

Within these pages, the reader will enjoy a fine selection of eight Public and Private Law articles for their perusal. The Public Law articles span an array of legal issues, including a) advocating for the novel use of *Hardial Singh*⁵ principles in addressing cases of arbitrary immigrant detention; b) a case note on how the recent decision in *Oceana*⁶ deviates from the constitutional principles of judicial review in *Privacy International*⁷; c) a redefinition of ‘jurisdiction’ within international law to enable holding states legally accountable for their participation in interstate arms trade; and d) advocating for lowering the threshold for granting injunctive remedies as preventative measures in environmental pollution claims. The Private Law articles possess similar breath, including: a) a critique of the recent decision in *McCulloch*⁸ and its implications for patient autonomy; b) an analysis of the Roman Law concepts of *res nullius* and *res communes* to formulate a legal regime for the extraction of natural resources in outer space; c) a thesis that the dealing requirement in the tort of causing loss by unlawful means is unnecessary and should be eliminated; and d) a proposed reformulation of the doctrine of estoppel to address normative concerns and gaps created by the current doctrinal framework.

Their Lordships have determined what is, in their view, the best Public Law and Private Law submission. However, let that not be determinative for yourself. I hope you will take the time to peruse each piece in great detail, to determine where you

⁵ R (*Hardial Singh*) v *Governor of Durham Prison* [1984] 1 All ER 983.

⁶ R (*Oceana*) v *Upper Tribunal* [2023] EWHC 791.

⁷ R (*Privacy International*) v *Investigatory Powers Tribunal* [2019] UKSC 22.

⁸ *McCulloch v Forth Valley Health Board* [2023] UKSC 26.

agree (but just as importantly, disagree) with each author. The best legal arguments are often the most hotly contested.

The annual edition of the Journal is but the OUULJ's flagship enterprise. Elsewhere, the Journal has been busy with its other projects, as well as organising events within the undergraduate community at Oxford. For example, in Michaelmas Term, the Journal organised its annual academic writing workshop for first-years and aspiring authors. This year, the Journal invited the current Editor of the Law Quarterly Review, Professor Peter Mirfield, to speak to attendees about his insights into the professional editing process, key skills for success, and the value of academic writing.

Our resident podcast, the Oxford Undergraduate Law Podcast (OULP), has been helmed over the past year by our effervescent and sharp podcast editors, Rach Tan and Juliet Van Gyseghem. Amongst the many notable and insightful episodes, the listener will find a discussion on Whistleblower Law between Juliet and Dr. Vigilencia Abazi (Assistant Professor at Maastricht University); and an interview between Rach and Benoit Durand (Partner at RBB Economics) about Sustainability Agreements and Competition Law. Further episodes consider systemic racism in complicity law; financial influencers and consumer protection; and how employment and discrimination law may rise to the challenge posed by algorithmic management. I heartily encourage each of you to visit our Podcast, which is hosted on Spotify.

The OUULJ's Annual Essay Competition, sponsored by South Square, is currently in progress at the time of writing. In keeping with the Journal's tradition of spotlighting and engaging

with the academic issues of current importance, this year's prompt asked students to consider the significance of generative artificial intelligence (AI) on questions of liability in tort and/or criminal law. Some time ago, whilst at a Mini-Pupillage at Fountain Court Chambers, I had the pleasure of sitting with the counsel involved in the *Thaler*⁹ case, heard before the United Kingdom Supreme Court (UKSC), which concerned the question of whether it was possible to register a patent where the invention in question had been created by AI. It was perhaps an indication to the speed at which developments were arising in the field that the UKSC only delivered judgment at the very end of 2023, some nine months after the appeal had been heard. Our hope is that students will approach our set question with a creative mind and seek to apply fundamental legal concepts to a nascent technology that promises to change the world as we know it.

The Journal's partnerships expanded both inwards and outwards. Within the legal community at Oxford, the OUULJ furthered our ties with the Oxford University Commonwealth Law Journal (the Faculty's flagship postgraduate journal), and created a resource-sharing program to enable synergy between our two student-run publications. Our Senior Editorial Board also had a development meeting with the Dean of the Law Faculty, Professor John Armour, where we discussed the Journal's position as a unique space for student discourse and development within the Law Faculty. Meetings were held with the Law Faculty Development Office to discuss support initiatives, including the possibility of an annual funding package for the OUULJ, as we continue to integrate ourselves deeper into the

⁹ *Thaler v Comptroller-General of Patents, Designs and Trademarks* [2023] UKSC 49.

Oxford Law undergraduate experience. Externally, the OUULJ forged new connections with the Columbia University Undergraduate Law Review (CULR). Our teams are currently working on a collaborative writing project, which will provide an exclusive opportunity for OUULJ and CULR Board Members to potentially collaborate on comparative analysis of legal issues.

I would be remiss not to express my gratitude to a number of individuals and groups. First, to the Oxford Law Faculty, and its new Dean, Professor John Armour, for supporting the Journal in its work; and to its immediate former Dean, Professor Chen-Wishart, with whom I had the pleasure of receiving Lords Hoffmann and Neuberger at the Faculty to commemorate our previous edition. Second, to Lord Briggs and Lord Sales, our judges for the best submissions to this year's edition, and whom I hope you (the reader) have had the opportunity to watch in the panel discussion commemorating the publication of this present edition.

Third, to our sponsors of this edition of the Journal. Our Platinum Sponsors, A&O Shearman, One Essex Court, Three Verulam Buildings, South Square and Maitland Chambers. In addition, the sponsor for our Public Law Prize is Francis Taylor Building; and the sponsor of our Private Law Prize is Eversheds Sutherland; whilst South Square sponsors our Annual Essay Competition. The publication of this journal and our culture of excellence would not have been possible without their generous support.

Lastly, to the 13th Editorial Board generally, led by the interminable Saloni Sanwalka, who has exceeded every

expectation placed upon her, and whose dedication to the Journal makes her predecessors proud. Special thanks must also go to her team of Vice-Editors (Kenneth; Yi Xuan; and Katherine), Rita (our Administrative Director), Josephine (our Publicity Officer) as well as our numerous Associate Editors, Blog Editors, and Podcast Editors. Many thanks also to my own Vice-Editors, Nicole, Shivanii, and Taha, who have remained with me in the 13th Editorial Board to assist and advise Saloni and her team.

Returning to our historical frolick, in the 1900s, Oxford was once again at the front and centre of legal education, with such eminent professors as Pollock, Anson, Trietel and Dicey; and slightly later, from the world of jurisprudence, HLA Hart, Dworkin, and Raz. Needless to say, there are many in the present day; though I shall withhold from mentioning Oxford's current academic stars by name, lest I be guilty of a severe omission. There was, and is, little doubt that reading Law at Oxford is a magnificent opportunity to situate oneself amongst the best and brightest; the most hardworking and diligent; and in the trail of legal giants (if I may be forgiven the hyperbole). The idea of reading Law at Oxford brings with it a certain international pedigree; one which found me travelling halfway across the globe from Singapore as a young man, where I was born and raised. My next adventure is across the Pond, but I shall dearly miss my time at Oxford. I rest easy in the knowledge that I have been part of something truly meaningful with the Journal.

The Journal aspires to embody its Oxonian principles. Though a young publication by Oxford's standards, we were the first purely undergraduate law review in the country, and in that respect, remain the oldest, much like many other aspects of the

study of Law at Oxford. We aspire to the same principles as the Faculty— a commitment to excellence in the study of the law; uncompromising academic rigour; and leadership in legal scholarship and thought. We shall not lay a claim to being the best or most prestigious undergraduate journal in the country. We shall, however, make no pretence as to the fact that that is what we aspire to. That is the ethos of Oxford, and that is the ethos of the Journal.

As I recall, it was the writer James Joyce who stated that '[t]o learn one must be humble; but life is the great teacher'. My fellow students, I have no doubt that each of you will go on to achieve great things— perhaps in the Law, perhaps outside it, and perhaps in the simple things, for so often those are the most worthy endeavours of them all. But no matter what that may turn out to be, your time reading Law at Oxford will always remain with you.

A hundred, a thousand years from now, there will still be, in some shape or form, an Oxford Law Faculty. It is my hope and belief that there too, existing and thriving alongside the Faculty and the BA Jurisprudence, will always be the Oxford University Undergraduate Law Journal.