DICTA

The Future of Law

2018

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THE FUTURE OF LAW

A NOTE FROM THE EDITOR

Written by AMI SODHA

IN A TIME WHERE OUR SOCIAL, ECONOMIC AND POLITICAL LANDSCAPE IS UNCLEAR AND UNPREDICTABLE, IT IS INEVITABLE THAT THE FUTURE REMAINS OF CONCERN.

Welcome to the 2018 edition of Dicta, the UBLC's annual magazine designed to keep you abreast of the legal issues infiltrating our world.

This year's theme is 'the future of law.' In a time where our social, economic and political landscape is unclear and unpredictable, it is inevitable that the future remains of concern. In the legal realm, the rights of individuals, corporations, public bodies and institutions can anticipate a period of immense change and need to prepare themselves for the future.

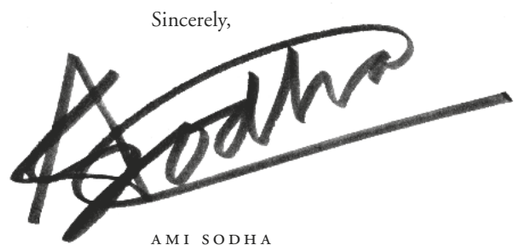
Dicta aims to be informative, useful but also entertaining. Inside, you'll find a mixture of articles, interviews and response pieces on various topics.

I wish to thank all of our contributors, who have succinctly covered a broad range of issues. You should all be incredibly proud of your achievement!

Finally, I express my sincere gratitude to this year's editorial committee, whose support and hard work has ensured yet another successful year for Dicta.

As editors, we strive to keep you, the readers, engaged and enrich your knowledge. I hope you enjoy the magazine!

Sincerely,



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OUR ONLINE PLATFORM

DICTA'S ONLINE PRESENCE, COMPRISING OF THE FACEBOOK PAGE AND UBLC BLOG, HAS PUBLISHED A LARGE VARIETY OF ARTICLES THIS YEAR. TOPICS HAVE INCLUDED COMMERCIAL ISSUES SUCH AS THE 'GIG' ECONOMY AND DATA REGULATION, HUMAN RIGHTS ISSUES SUCH AS EUTHANASIA AND JUSTICE ISSUES SUCH AS SHARIA LAW AND GUN CONTROL. ALL ARTICLES HAVE BEEN COMPELLING AND OPINIONATED, UNITED BY THE CENTRAL THESIS OF LOOKING FORWARD TO THE FUTURE OF LAW. LOOK OUT FOR INTERESTING TOPICS SUCH AS BLOCK CHAIN, CENSORSHIP AND ABORTION, WHICH WILL BE PUBLISHED IN THE COMING MONTHS.

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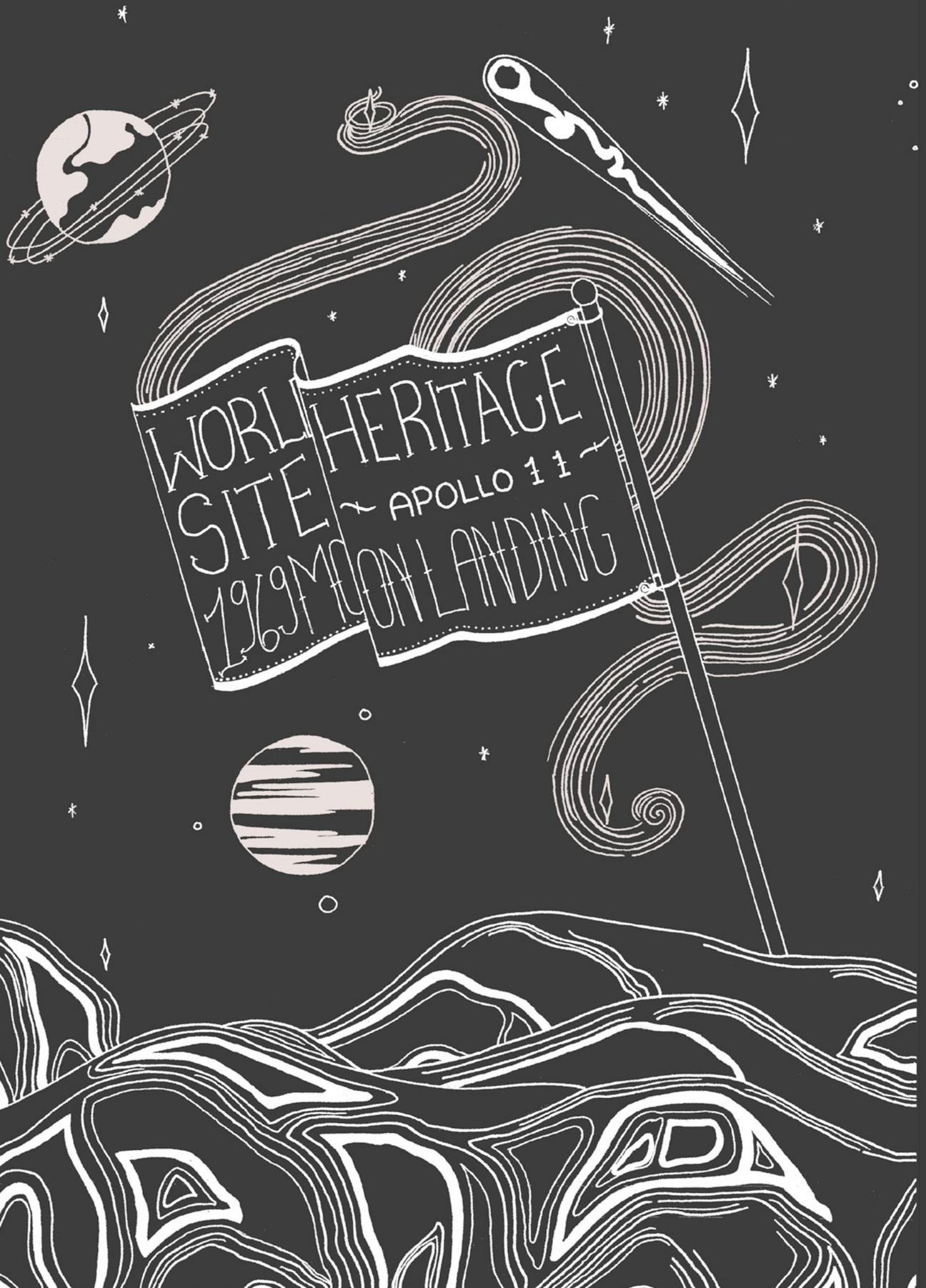


THE LAW & EXTRA-TERRESTRIAL MINING

Written by ADELE ROULEAU *Illustrated by* IONA BARBOUR

THE CONTROVERSY WITH MINING IN SPACE: TO BAN OR TO REGULATE?

LUXEMBOURG is the first EU country to pass a law allowing companies to keep their goods after mining an asteroid. The recent 2017 legislation has not only revived controversy in terms of who owns space, but has opened the debate of what activities should be allowed there, along with how to preserve space for future generations under the principle of 'common heritage of mankind'.

Extra-terrestrial activity is presently governed by the UN Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, ratified in 1967 by 104 countries at the time. It is clear from Article 2 that 'outer space including the Moon and other celestial bodies is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means'. Although it is obvious **no country has the right to colonise the Moon and claim it as their own**, the establishing of a mine is still a form of temporary occupation whether by man or machine.

Although mining in space is currently constrained by technical and financial barriers, there are concerns over the legal implications of bringing back minerals for commercial purposes. America has passed the U.S. *Commercial Space Launch Competitiveness Act* which reassured companies that any 'abiotic' material harvested in space would automatically become their property with the exception of alien microbes. It has encouraged commercial enterprise taking place in space, which many would argue is opening the door to corporate ownership of space.

However, the purpose of mining in space is not a purely commercial enterprise of extracting resources to be then sold on Earth. It is also necessary for 'in situ resource utilisation'. Recent discoveries speculate the presence of water in the lunar ice caps, which could be used as a potential water supply for future space stations. One of the challenges to long distance space travel is finding sources of energy and materials to support a mission of several years' duration.

The possibility of mining the Moon has already raised issues of ownership and jurisdiction. It has been suggested that the first foot prints made by Neil Armstrong and Buzz Aldrin be preserved as heritage sites and protected in the annals of space archaeology. Whether this is viewed as the first sign of claiming ownership of a lunar area by the States or a celebration of humanity's first steps into space remains a matter for debate.

Allowing mining activity in space depends on our definition and view of life beyond the stratosphere. The company 'Moon Express' has described the Moon as the 8th continent and plans to establish interplanetary trade routes to send samples from the Moon back to Earth for commercial and scientific purposes. There have been concerns that a profitable means of mining extra-terrestrial bodies will force the price of resources mined on Earth to decrease. This would prove challenging for countries dependent on land mining, whilst a system of 'benefit sharing' is unlikely to be popular with space mining companies either.

Perhaps the strongest case for allowing mining in space is the meeting of future needs. In the words of Andrew G Haley, '**law must precede man into space**', and furthermore, it must allow flexibility for exploration into unchartered areas to search for solutions to the future problems of humankind. It is understandable that many fear some kind of cosmic gold rush once the technology opens the doors to go there, however, it fails to acknowledge the impact of technological developments which can be used on Earth. The water purification systems used in space are now used in disaster relief on Earth. Networks of satellites have been instrumental in telecommunications and navigation systems, as well as in the monitoring of climate change and the impact of human activity on the landscape from war to industrial activity.

It has been argued that the future challenge of extra-terrestrial activity will be balancing international legal commitments, the interests of private enterprise, and sustainability. As in every generation, the law will need to adapt to allow humanity to solve its problems, even those as remote as the prospect of trans-galactic existence.

DIVERSITY IN LAW

Written by MARINA AZFAL-KHAN

DIVERSITY: ENOUGH 'PATHWAYS' INTO LAW?

Brenda Hale is the president of the Supreme Court, but don't be deceived by her admirable success. The legal profession remains not diverse enough in light of all the *Equality Act* strands, remaining a bastion of middle-class privately educated white males. The UK is a multi-cultural and diverse society, and this should be reflected in the legal sector. Are current diversity statistics underwhelming?

The Equality Act 2010 outlines the framework that all industries must adhere to in order to combat discrimination. We all know that traditionally, the legal profession is viewed as elitist and this has in turn caused many qualified individuals to feel unable to compete for a job in the legal sector. **As a working-class woman from a BME background growing up in a council estate, I amongst many grew up with this mindset and relied on schemes such as 'Pathways to Law' and 'Sutton Trust' to feel eligible to apply for a degree in law.** These are just some of many initiatives that attempt to break the barriers and make the legal profession more inclusive. However, do these measures only succeed up to university? Are we left on our own once we get our degree?

The Solicitor Regulation Authority reports that BME individuals make up just 18% of all lawyers; an encouraging statistic. The Law Society has published reports to support access to the solicitor profession and 'support progress within the profession for the best candidates, regardless of their background.' Nevertheless, part of the problem is that being successful should derive from meritocracy and the idea success requires hard work. For this, we need to be able to have equal opportunities so a candidate can truly be the best they could possibly be. This stems from early education. Everyone, regardless of background and gender should feel as though a career in law is attainable.

The Judicial Diversity Statistics 2017 demonstrate that only 7% of court and 10% of tribunal judges are BME. Most worrying is the low representation of women amongst senior members of the judiciary. This brings me to relay that **of course Baroness Hale has had outstanding success, however, this is a deception to the rest of the legal profession and its diversity levels.** However, it does take time to reach to a senior position in the legal profession. Therefore, to see an increase in diversity levels over the next few years, we must tackle the issue now.

The Bar Standards Board highlights that there has statistically been very slow change over the years with respect to diversity levels. Only 200 BME candidates were successful in joining the Bar over the 6 year span of 2010–2016. What does this show us for 10 years' time? Do we need a change of tactic?

It's important to acknowledge that some government policies have been implemented such as S159 (2) of the *Equality Act 2010*, which allows preference of an un-represented group when both candidates are of equal merit. However, would two candidates every really be equal? It can be seen as subjective and one may have been given more opportunities than the other. Would name-blank applications help choosing candidates? Is that effective enough? Lady Hale, before becoming president of the Supreme Court recognized the problem. In the 'Fiona Woolf Lecture for Women Lawyers' for the Law Society, Lady Hale states improving diversity is for "democratic legitimacy' and the 'judiciary should reflect on the whole community, not just a small section of it' in our multicultural nation.

How can we improve representation for our future and the next generations of workers in the legal sector? Miranda Brawn, founder of the Diversity Leadership Foundation states that you have to 'instigate change yourself… starting by discussing the topic.' She says that there is 'still an elephant in the room,' with regards to diversity. Ultimately, there is still a long way to go. It begins from early education to getting into university and then being able to achieve a career. Let's hope one day we can allow statistics a change of mindset to mean something to cultivate a representative legal profession of the diverse society in which we live.

DIRTY TRUTHS ABOUT DIVERSITY

Written by AKOSUA-ROSE MOORE

THE UNCOMFORTABLE TRUTH ABOUT DIVERSITY IN LAW FIRMS

As talks around 'multicultural Britain' increase, is this same sentiment reflected in the high-rise firms of the solicitor profession? Seemingly so. Top firms boast record levels of diversity. After spending a few minutes trawling online through the diversity shtick of these firms, it becomes apparent they say the same vague things about inclusivity. It is important to note that these firms are not necessarily paying lip service; the percentage of British Black, Asian and Minority Ethnic (BME) workers is increasing, yet the Diversity League Table suggests this is 'painfully slow'. If we navigate the nuances and realities of these seemingly positive statistics, another picture is revealed.
Firstly, when City firms release their diversity data they usually group their minorities into one tidy label ('BME') which allows law firms to avoid awkward intersectional realities. Secondly, international and US firms present promising, innovative drives to diversify their workforce whereas UK firms' policies are on the whole falling behind. Finally, the attrition rate of BME solicitors securing high positions is worrying.

Quantitative data on the individual proponents of the BME category are rare because minorities are usually grouped into this label. Although politically correct, this label carries connotations of 'otherness' where non-white solicitors exist in one category, effectively denying their ethnic differences. **Different minorities of people experience different struggles. By grouping them together, this allows firms to avoid addressing problems where, despite a high BME intake, black lawyers remain under-represented.** This is evident where in the last 3 years BME trainees and associates have shot up 40% but black associates have stagnated at 1.4%. Further figures show in the UK 45% of black children are growing up in poverty and only 4% of black students attain the required AAA to enter a Russell Group institution – which is the primary source of graduate recruitment. It is easy to blame this on systematic racism, but it is necessary to recognise that firms are not doing enough to allow this disenfranchised minority to access their employment opportunities.

Law firms want the best possible talent regardless of social background because they want to be the most successful. This is the biggest driving force behind the diversity policy of leading firms. In the UK, US firms employ the most junior lawyers from BME backgrounds. So why are home-grown City firms' diversity policies falling behind US firms? For one, **these firms go beyond artificial web pages on equality; they set up diversity committees, establish access schemes and collaborate with charities to provide scholarships.** Evidently, these firms embrace diversity and integrate this policy into the skeleton of their culture. Furthermore, American culture is generally more upfront and bold in their recognition of diversity and race, which is why this is reflected more strongly in their firms.

Intake of BME candidates in top law firms has led to progression of diversity in this sector. However, what happens when the glass ceiling is broken and another glass roof appears? Progression of BME solicitors to associate or partner level is extremely discouraging; one-fifth of trainee intake is BME yet only 1 in 10 partner-level positions in a firm are held by a person of colour. Although this pyramidal structure is present in many commercial sectors, it is unusual that we are seeing a huge investment into entry-level diversity but lack of progression. Nonetheless, in a few years we may come to see the fruition of BME progression as the trainees begin to secure high-level positions.

Now what does the future hold for diversity in the legal sector? The legal profession is no longer the elitist beast it once was. It appears UK law firms are increasingly taking greater steps to recruit the best talent and there is a greater understanding of the obstacles that professionals face. Yet the pace of change remains alarmingly underwhelming and some groups remain disenfranchised. Real change in the future can be envisioned when the profession makes diversity a priority, and invests substantial time and resources by collaborating holistically with organisations who share a similar vision to diversify the industry. Were this done properly and nation-wide, the impact on the legal sector and British community has the potential to be seismic.

AN INTERVIEW WITH MICHELLE CHARNLEY

Interviewed by NATALIE LIM

Michelle is the Managing Counsel at BP, with previous roles in the M&A corporate team and the trading floor as Senior Counsel. She graduated with a Bachelor of Laws (LLB) from the University of Southampton, and was subsequently admitted as a solicitor in 2003

AS AN INTRODUCTION, COULD YOU TELL ME HOW YOU ENDED UP IN YOUR CURRENT ROLE?

I was working as a Senior Associate at McGrigors (now Pinsent Masons) and was asked by partners if I wanted to go on secondment to BP, to work in their Global Corporate team for three months. Three months turned into six, then twelve, and before I knew it, I joined BP as a full-time employee.

WHY BP? WHAT INITIALLY DREW YOU TO THE ORGANISATION?

I fell into BP because of my secondment, but I loved the vibe in the company – the people felt energised and interested in their jobs. I was very impressed with the senior management of BP and their ability to make complicated subjects look simple and easy to understand. The range of work also played a part – BP is an enormously vast and varied company, you can be working in the upstream business one day and advising traders on the trading floor the next.

WHAT'S A TYPICAL WORK DAY FOR YOU?

The good thing about my job is that there isn't a typical work day, except that there are meetings – and a lot of them! Being part of a wider organisation means that there are numerous stakeholders that you need to work with in order to fully understand your client's needs. Because of the breadth of BP's office locations, the meetings may vary from sitting in my office in Canary Wharf receiving client instructions, to flying over to Chicago or Singapore for board meetings! My ultimate role is to ensure that my client is aware of any legal risks involved in their projects, and I have a great team that helps me with all of this.

WHAT'S THE BEST PART ABOUT YOUR JOB?

I enjoy the fact that every day is genuinely varied – you can never predict what it will look like. When I worked on the trading floor, I found that whatever was on my 'to do list' would often ended up being dealt with later as something urgent would always crop up as soon as you got into the office with your strong cup of coffee!

I am also a member of BP's CR initiatives, such as the Diversity and Inclusion committee and working with school children who are aspiring to become lawyers. Both are extremely rewarding, especially the latter, and I genuinely enjoy the sense of community and being able to build on existing experiences to help others.

WHAT ABOUT YOUR MAIN CHALLENGES?

A huge challenge of BP, like most companies, is that it is now heavily regulated (e.g. Dodd Frank, MiFID, EMIR). This can often cause tension where a client wishes to do something, but due to regulation, it cannot be done. Our job, as in-house counsel, is to find alternatives which are regulatory compliant, as well as explain other options that makes achievable what the business wants to do. On a personal level, this means not only having a thorough understanding of the legislation in force, but being able to explain it concisely to clients, and ensuring that they understand the implications of non-compliance from both personal liability and company perspectives.

TOGETHER WITH NUCLEAR AND HYDRO ENERGY, IT IS ANTICIPATED THAT RENEWABLES WILL PROVIDE AROUND HALF OF THE INCREASE IN GLOBAL ENERGY OUT TO 2035.

MICHELLE CHARNLEY

ClientEarth – a group of environmental lawyers – has been embroiled in a long legal battle with the UK, dating back to 2010 when it first took action against the Department for Environment, Food and Rural Affairs (Defra) for breaching EU nitrogen dioxide (NO2) limits. In recent years, ClientEarth has twice successfully won court orders requiring the Government to produce better plans to tackle air pollution.

THE TOPIC OF AIR POLLUTION HAS BEEN PUT UNDER THE SPOTLIGHT RECENTLY, ESPECIALLY IN LIGHT OF CLIENTEARTH'S COURT VICTORIES AND CARMAKERS BEING FOUND CHEATING EMISSIONS TESTS. WHAT FUTURE DO YOU FORESEE FOR BP AND THE WORLD OF ENERGY, OIL AND GAS?

Renewable energy is a very hot topic at the moment. Together with nuclear and hydro energy, it is anticipated that renewables will provide around half of the increase in global energy out to 2035. Oil and gas still currently continue to be a dominant form of energy, but we anticipate that this will change in the near future.

BP was previously seen as an oil and gas company, but we are now focused on energy as a whole. We are looking to invest in renewables, including nuclear and hydroelectric power as much as we can. As times change, BP looks to work with governments, NGOs and other entities to build on its successes and find alternative ways to provide energy to everyone (e.g. clean energy), as well giving back to local communities through various projects in emerging countries.

FINALLY, IN YOUR OPINION, IS THERE ANY PARTICULAR SKILL THAT ASPIRING IN-HOUSE LAWYERS SHOULD BE TRYING TO GAIN?

The ability to think on your feet and to be analytical and pragmatic at the same time is key. This comes with working very closely with your clients, building trust in working relationships – something that you do not often get in private practice. As in-house counsel, the emphasis on being practical and pragmatic cannot be overemphasised. Without it, clients will soon see you as someone not to approach for legal advice.

THE RIGGED ECONOMY

Written by ANDY HODGSON *Illustrated by* ROBIN TAIT

PUTTING THE BRAKES ON COURIER EXPLOITATION

We live in an age of change – more particularly, an age of changing employment patterns – but it seems the law does not. As it stands, **the foot soldiers of the gig economy are given as many rights as their contracts give hours: that is to say, zero.** This curious state of affairs has come about through the devious manipulation of the woefully archaic legal framework at the hands of armies of lawyers, retained by the likes of Deliveroo and Uber.

There is no more appropriate example of this than the recent decision on whether Deliveroo riders enjoy worker status, made by the Central Arbitration Committee. The CAC is ancillary to the court system, so its decisions are not legally binding in the ordinary sense, but since it uses the same definitions as the courts this decision is certain to hold weight in the wider legal establishment. The lagging state of the law in this area illuminates why exactly this injustice has occurred.

In order for an individual to be considered a worker, and therefore entitled to a basic floor of employment rights, a number of tests are applied. Of particular consternation to any person seeking worker recognition in the gig economy is the requirement of 'personal service'. As you might think, this necessitates that that person must provide whatever service, e.g. delivering food, *personally*. In other words, they can't get someone else to do it for them.

So, the shiny new clause in Deliveroo's latest rider contract, barely months old, that their 'Roos' *can* get someone else to do it, threw a spanner in the works of the claim that riders were entitled to things as, apparently, ridiculous as holiday pay or a minimum wage. A tiny minority of cases where the right had been relied on, in exceptional circumstances, was enough for the CAC to find that the claim failed on the personal service requirement, and so defeat the attempt to gain vital worker protection. A refusal to acknowledge the true working relationship between Deliveroo and the riders on which it depends resulted in a win for the nitty-gritty application of a legal test.

The question we need to ask ourselves is why is this requirement even in place? It was created before the turn of the millennium, well before the gig economy took off in this country, and now is the time for the law to show some initiative, recognise that it is poorly tuned to contemporary employment practices, and do something about it.

The defeat is all the more galling becasue of the means by which it was achieved. The substitution clause was the only substantial change to the courier contracts, and its timing, so close to the CAC decision, indicates a blatant exploitation of the rusted legal framework on the part of Deliveroo. That the description of couriers as 'self-employed' can be entrenched by this decision is entirely unjustifiable. Its nasty effect is to deny essential employment rights to gig economy workers. **But why should access to something as fundamental as the minimum wage hinge on an arbitrary test like this personal service nonsense?** More to the point, why should it hinge on *anything?*

This problem is only going to get worse. There are roughly 1.3 million people in the UK working in the gig economy today, without basic rights, and this number is only going to increase. The success of companies like Deliveroo speaks to the consumer demand for cheap, effective services provided by this informal work, and there's no future in which that demand will not be exploited. And let's face it: we've all, at one point or another, ordered a guilty Wagamama from Deliveroo or arranged an Uber to get home through the rain, so the answer is not to ban this form of work altogether. Lawmakers are tasked with finding a regime which facilitates innovation while protecting those that stand to suffer for want of legal protection. The answer provided so far, to crumble completely in the face of corporate pressure, is far from satisfactory.

CHANGING FASHION, FASHIONING CHANGE

Written by AMI SODHA

TRADEMARK INFRINGEMENT: WHEN IMITATION IS NOT THE SINCEREST FORM OF FLATTERY

Tiffany & Co blue, Hermès orange, Louboutin red – can you visualise these colours immediately? If not, you, as a consumer, have not deemed them to be identifiers of the source of their respective brands. If yes, your visualisation is aligned with the reasoning of The United States Second Circuit Court of Appeals, which accorded Christian Louboutin the valid trademark 'Louboutin red', for its famous red-soled heels.

If the shoe fits…

After Louboutin registered its trademark in the US and Benelux, it brought proceedings against the Dutch footwear brand, Van Haren, resulting in Louboutin being awarded a preliminary injunction. The ongoing battle aimed to stop Van Haren selling red-soled heels in its 'Fifth Avenue by Halle Berry' line.

This is not the first time Louboutin has dabbled in litigation. In 2011, it alleged that Yves Saint Laurent's manufacturing of red shoes with a red sole infringed its federal trademark registration. YSL counterclaimed, seeking to have Louboutin's registration cancelled on the grounds that it lacked the sufficient distinctiveness to qualify for protection. Louboutin proved victorious, with its US validity upheld. Yet, Van Haren is proving more tenacious, referring the matter to the CJEU. Under Article 4 of the European Trade Mark Directive 2015, if a trademark falls within the absolute grounds for refusal, it cannot be registered.

Somewhat remarkably, in February 2018, AG Maciej Szpunar expressed doubt whether the colour alone could 'perform the essential function of a trademark and identify its proprietor' when used out of context, separately from the shape of the sole. He proposed that Louboutin be granted a trademark for the shape of a sole in the shade of red. One awaits a final decision from the CJEU, but the question is raised whether a colour alone is too ornamental to qualify for trademark protection.

Brands must earn their stripes

Firstly, if indeed **colour alone is a mere 'decorative element' and lacks the necessary distinctiveness,** why has Tiffany & Co had its robin-egg blue packaging trademark successfully registered since 1998? Has the plethora of Louboutin battles and decisions not called for revaluation of the validity of 'Tiffany & Co blue'? Legal inconsistencies lie concerning the role a colour plays as a source-identifying feature.

Secondly, following the AG's emphasis on 'shape combined with colour', clarity is needed as to what is legally deemed a 'shape.' This may seem simple prima facie, but one need only look at the legal battle between Gucci and Forever 21 to understand the complexity of 'shapes' in fashion. Gucci filed a trademark infringement claim against Forever 21 for using Gucci's 'blue-red-blue' and 'green-red-green' triple stripes. Yet, judges in California decided that Gucci's stripe colours on garments were not distinctive enough for consumers to automatically denote Gucci. Do the intricate line shapes and colour combinations not fall under the 'shape' umbrella? This too reflects the vagueness of the law and consequent inconsistency in decisions.

The future of the fashion industry

In my opinion, allowing this level of trademarking protection lessens creativity and competition. **Colours are integral to creativity in the fashion world** – after all, colours, shapes and textures make a design what it is. Relatively, in the confectionery industry, it is perfectly understandable that Cadbury has trademarked its shade of purple alone, as the brand's unique selling point lies within the taste and variation of its chocolate rather than its aesthetics. In other words, I don't believe Cadbury's emphasis on colour to be as integral to its competitive standing as that amongst fashion brands.

Pierre Bergé, co-founder of YSL, told *Harper's Bazaar*, 'the future of fashion rests with designers who lead rather than follow…in designers who are truly free.' If true, the unclear notion of distinctive brand identity can only lead to a confused, overly litigious next generation of designers.

The future will be filled with trends being sold straight off the runway and increased efforts to monopolise designs. On a practical level, changes must be made to the law to create a clear, consistent position on what is eligible for trademark protection. On a theoretical level, attention must be given to the stifling effect of trademarking colours on the creativity which permeates this fast-paced, ever-changing fashion industry.

THE TRUE COST OF JUSTICE?

Written by ELLEN BRENNAN

THE PERVERSE SET OFF BETWEEN WEALTH AND EQUALITY BEFORE THE CRIMINAL JUSTICE SYSTEM

On Tuesday 26th September, news of the attractive, educated young woman who had violently stabbed her boyfriend hit headlines across the UK. In itself, the circumstances of this case were far from irregular – she was under the influence of drugs and alcohol, he had allegedly assaulted her throughout their relationship, finally….something snapped.

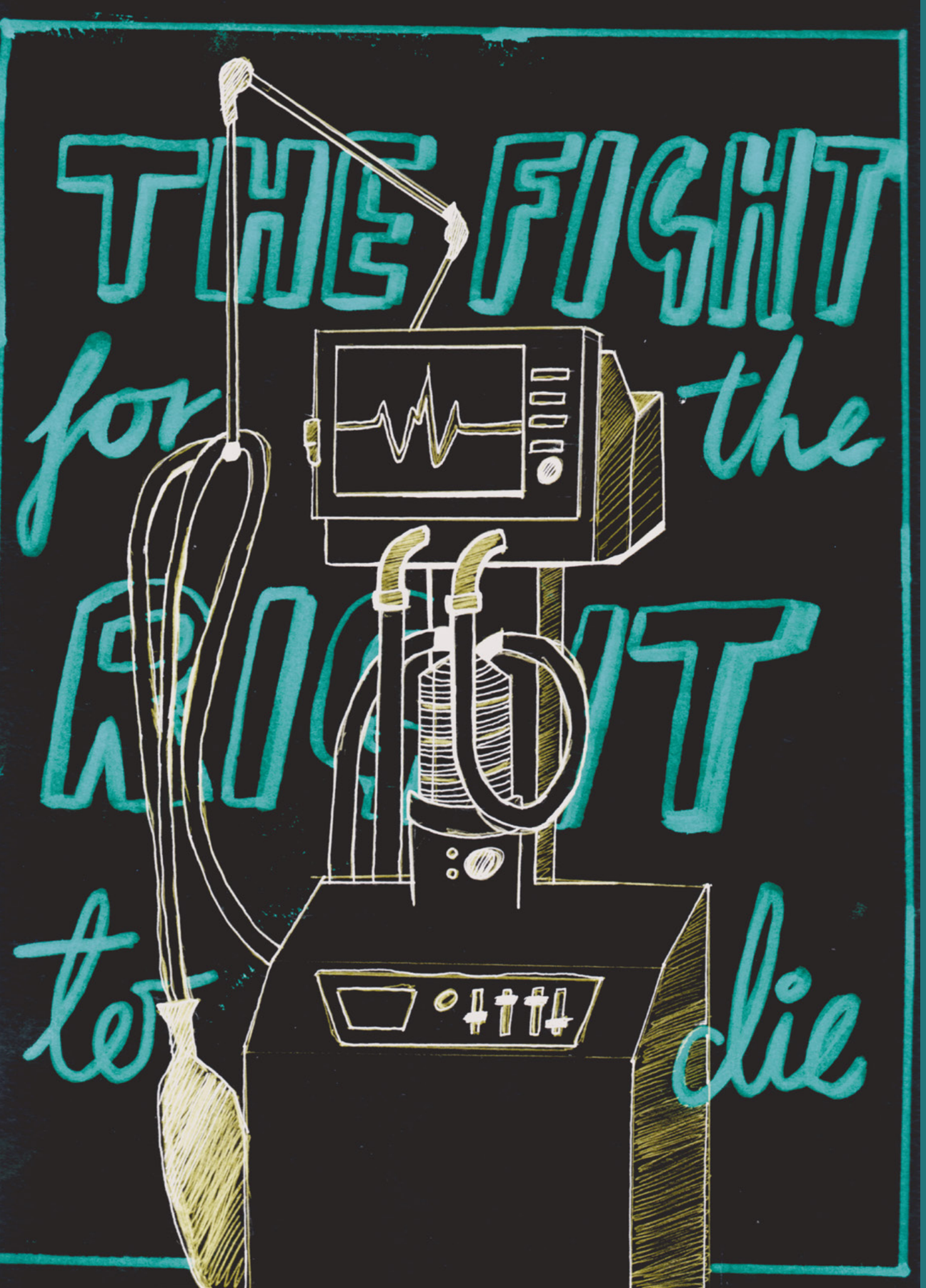
A distressing, yet typical GBH case, some may say. What was not typical was the extreme leniency showed to Lavinia Woodward who received a 10 month custodial sentence (suspended for 18 months) compared with the 18 months minimum incarceration usually prescribed for such offences. At trial, extensive and largely irrelevant character evidence was submitted to encourage leniency in sentencing, given Ms Woodward's potential to assist society. Her QC milked the fact that an 18-month imprisonment would be inappropriate considering Ms Woodward's status as an aspiring heart surgeon, studying medicine at Oxford. HHJ Pringle appeared smitten with the 'mitigating' circumstances, citing Ms Woodward's 'deep sorrow and regret' and 'bright future' as justification for her rather paltry penalty.

Though it is heartening to see the judiciary looking beyond the facts of the crime to consider the circumstances of individual defendants. I do wonder whether Judge Pringle may have overlooked the fact that any defendant, well briefed by their barrister, can devise persuasive strategy leading up to their trial and look tearfully remorseful upon the stand. Such tactics need not be the result of regret but calculation. After all, it is the training before the big match that wins the game. Whilst Ms Woodward can shelter from public scorn at her holiday flat in Rome, this case would make no difference to Jean Valjean. **If he could not afford a loaf of bread to feed his sister's starving children, he will hardly be able to afford a top-notch QC specialising in leniency pleas for celebrities to give efficacy to his case, or render woodcutting a social utility.**

Would leniency remain if Ms Woodward, unarmed with wealth and privilege, were a nursery carer from St Pauls? No medical professional, but arguably still an occupation imparting social benefit by raising future generations. Given the plethora of women in prison (many of whom are domestic violence victims) sentenced for more extensive periods for less serious crimes, I have no doubt the proper sentence would be spared, the rhetoric would revert to its usual stance; 'examples must be made, crime cannot go unpunished.' **The Lavinia Woodward case exposes a worrying trend within the criminal justice system – that wealthy individuals can bypass penalty by virtue of socio-economic advantage** and more importantly; that the justice system gives legitimacy to this.

Far from an isolated instance, this trend is perpetuated both at home and abroad. In a highly publicised US case, Brock Turner, a student at one of America's most prestigious, private Universities, was sentenced to 6 months imprisonment for rape as opposed to the regular 14-year sentence. Tuner's star athletic ability and reaction to the case were considered mitigating factors, made all the more heart rending by his team of specialist lawyers and a psychologist flown in to debunk the victim's claims!

The worrying feature of these cases is that they crudely send the signal that there is one rule for the rich, another for the poor. Does this not defeat the purpose of the criminal justice system? To equally chastise all criminals, protect society and obtain justice or retribution for the victim? The right to a fair trial as accorded by article 6 provides that courts should be free from bias. Though usually concentrated upon the defendant, this equally applies to their victim. The current trend subverts the right to a fair trial and equality before the law by exposing inherent bias towards the wealthy and their supposed benefits to wider society. The fear is that inconsistent application of the law will determine upon individual worth to society and those truly deserving of punishment, by virtue of their own poverty and inopportunity. We need look no further than the Bullingdon Club to demonstrate that the wealthy may see themselves above the law. In order to properly obtain justice, we need to convey consistency in sentencing to discourage individuals from future crime and ultimately for the victim to see justice be done.



THE FIGHT FOR THE RIGHT TO DIE

Written by AMY ADAMS *Illustrated by* ROBIN TAIT

WILL DIGNITY AND SELF-DETERMINATION PREVAIL IN THE CAMPAIGN FOR LEGALISING ASSISTED DYING AND COULD IT BE IMPLEMENTED RESPONSIBLY?

EUTHANASIA can be considered one of the most complex and controversial areas in our society. Not only does it raise difficult legal problems, but the philosophical and ethical implications related to it are vast, since it is concerned with fundamental questions of life and death; namely, whether the sanctity of life can ever be undermined by the right to autonomy or whether it is inviolable. A huge 74% of MPs voted against the proposed 'Assisted Dying Bill' in 2015, but, especially since the implementation of the *Human Rights Act 1998*, the call to recognise autonomy, where the patient is capable, cannot be ignored.

Whilst it was established by the House of Lords in the Bland ruling of 1993 that the 'passive' withdrawal of vital treatment must be allowed if it is in the best interest of the patient, even if death is the inevitable consequence, it remains unlawful under the *Suicide Act 1961* to take active steps to assist or encourage the suicide of another. This has been characterised as 'a horribly artificial divide between 'killing' and 'letting die'...which means that **those people who can breathe without artificial help are denied a choice which is available to those who cannot breathe alone.'**

Grave concerns have been raised that if assisted dying were to be legalised, the social and moral consequences would be severe and even do irreversible damage. Justin Welby, for instance, has argued that to change the law would be to risk 'replacing the type of personal compassion that is forged in a lifetime relationship for a 'process' marked by clinical and judicial detachment.' This is why much thought would have to go into ensuring that during the 'process', the welfare of the individual always remains the objective.

If assisted dying were to be made available, measures could be taken to reduce the chance of the legislation being exploited or producing undesirable outcomes. One of the most pressing arguments against legalisation is that patients could eventually become subject to unjust pressure, whether from family members seeking financial gain from a euthanasia or simply because they feel as if they are a burden on those who care for them or on society as a whole. To lessen the chance of this, a focus on the capacity for consent would need to be paramount. Not only would this help ensure that patients are fully aware of their prognosis before a decision is made, but also that the choice is truly their own and that they have considered the alternatives in terms of palliative care. After all, the choice to end your own life is an irreversible one and if there is a significant risk that an uninformed decision could be made, it would be reckless to provide patients with the choice in the first place.

Perhaps a good starting point for formulating the law would be to establish that the patient should hold a 'rational and clear-minded sustained wish' to end their own life. These are the words of the Dignity in Dying patron, Professor C. Grayling. *The Mental Capacity Act 2005* already provides for a thorough assessment of capacity but, nonetheless the *Act* could be supplemented with further measures, given the importance of an accurate judgment. Dignity in Dying proposes that two doctors and a judge would specifically explore a person's motivation for requesting help to die. This reflects the current law on abortion, where two doctors must agree that certain conditions have been met. A further possibility could be the establishment of specialised 'euthanasia tribunals' to regulate standards, 'establish the boundaries of acceptability,' and provide greater certainty in this area.

Rather than viewing assisted dying as autonomy prevailing over the sanctity of life, we must realise that the duty to prevent cruelty and ease suffering is an equally important obligation. With the right safeguards in place, it is certainly possible to recognise this duty by legalising assisted dying. As Lady Hale has concluded, it is not 'beyond the wit of a legal system to devise a process for identifying those very few people who should be allowed assistance to end their own lives.' It is simply a case of determining the most responsible measures to achieve this.

I'M NOT SURE THAT THERE IS ANY POINT IN REGRETTING THAT YOU DID NOT TAKE A PARTICULAR COURSE.

PROFESSOR KEITH STANTON

AN INTERVIEW WITH PROFESSOR KEITH STANTON

Interviewed by SARAH BLAKE

HAVING lectured at the University of Bristol for almost forty-five years following his graduation from Oxford University, Professor Keith Stanton is a very well-known name amongst law students and academics alike. With such an extensive stretch of his career spent as an academic in Bristol, it is natural to wonder why and how Keith found himself here. 'I moved towards academia when a postgraduate,' he explained, 'Having done a research job for a while, it seemed the obvious next step as opposed to doing more exams and going to the Bar. I did want to get out of London.' When asked why he then chose (and remained at) Bristol, it might be surprising to hear that Bristol wasn't really a 'choice' at all – 'As you look back, you realise that chance played a big part in your life/career. The simple answer is that towards the end of 1972, Bristol advertised a number of posts and I got one of them.'

Forty-five years of lecturing, alongside his role as Head of the Department of Law (1992–1997) and of the School of Law (2005–2009) has kept Keith busy during his time at Bristol University. When asked generally about his experience here, Keith commented that he found it very difficult to summarise that length of time in only a few words, but it 'has always been a supportive place to work' and he has had 'good, constructive working relationships with a lot of colleagues.' When asked specifically about his proudest career moments, Keith noted that being chosen by students as one of the 'Best of Bristol' lecturers was 'an obvious high point', alongside his election of President of the Society of Legal Scholars for 2011–12 and a conference and publication in his honour, organised by his colleagues earlier this year. With respect to anything he would change about his career, Keith was quick to add that he is 'not sure that there is any point in regretting that you did not take a particular course', describing a time he turned down a position elsewhere which might have taken his career down a route of university management.

For many students, Keith Stanton's name alone is almost synonymous with 'tort law', his main area of expertise and research interest. Keith expressed that his decision to study law in the first place was actually taken relatively lightly, describing how he simply 'drifted into it' due to the far less competitive climate of the 1960s. It may come as no surprise by now then that specialising it tort was, again, merely chance: 'As far as I remember I was appointed because they thought I knew something about EU law and it was coming onto the syllabus in 1974. I actually wanted to specialise in Labour/ Employment Law. But, the new curriculum being introduced was moving Tort from the second year to the first so there was a need for two tort units in 1973/4. I was asked if I would be happy to lecture the last second year group doing tort and, wanting to seem willing (as you do), said yes… The rest is history.'

With our interview concluding, I wanted to know Keith's opinions on the future of law, having such extensive experience in both teaching and researching. With respect to problematic areas of tort law that need addressing and resolving in the near future, Keith expressed his wish that 'judges (and some academics: they know who they are) would stop saying silly things about pure economic loss.' However, Keith was much more critical of tort practice and surrounding policy, expressing that 'one has to despair as to the government's approach to reform. If only they would look at the evidence and accept that not all injured victims are fraudsters. However, evidence based policy-making is not fashionable at present.' Regarding the future of legal education itself, and the current political climate it finds itself in, Keith acknowledged that he 'doesn't think that Brexit or politics really matter on this' and is therefore dissatisfied with the Solicitors' Regulation Authority and their determination to produce a new system of legal education which 'no-one else likes'. Keith summarised their approach to academia as 'another example of a policy based on someone's prejudices rather than careful analysis of the facts', eventually concluding that 'It is not a bad time to retire.'

GOOD COP, GOOD COP'

Written by ELLIE DREWRY

TV SHOWS AND POLICING: FREE ADVERTISING FOR A FUNDAMENTALLY FLAWED ORGANISATION

Everyone loves a good cop drama. We watch the good guys – the police – overcome the odds to catch the bad guys – the criminals. Police dramas, comedies, 'factional' TV shows, all portray the police's plight as well meaning and necessary. **Very few shows portray police failure and corruption.**

Crimewatch – a popular 'factional' crime series – shows 3 or 4 'authentic' reconstructions of crimes per episode. The dramatisations bring pseudo-clarity to the cases, blurring the line between fact and fiction. The hosts constantly maintain the truth of its proceedings, yet Crimewatch is mostly interested in what criminals might do in the future; that criminals *may* or *could* reoffend.

A sense of mistrust towards potential criminals is therefore both perpetuated and encouraged in media's portrayal of crime. **As a viewer, we are all encouraged to roll our eyes at a lenient sentencing, because the TV show is framed in such a way that always makes the police the protagonists.** There appears to be no room for a nuanced exploration of character or circumstance, and instead crimes that are more exciting to stage – murders, theft, sexual offences – are disproportionately portrayed on television; violent crimes account for over 60% of crimes represented on prime-time TV.

Modern police dramas – in the past year shows such as Sherlock, Strike, and Rellik – all show brilliant, damaged middle aged white men breaking the rules to outsmart a criminal mastermind. This modern reincarnation of the white saviour trope is an embarrassing addition to culture. **This unchallenged narrative gives a warped perception of crime and policing: that all crimes are big violent atrocities, solvable with enough privilege.** These dramatised versions of reality make policing look glamorous, and detective work endlessly exciting. They legitimise the plight of a police officer, even if that officer is breaking protocol: for these shows, the ends always justify the means.

Similarly, due procedure is often ridiculed in police portrayals on TV. Filing for search warrants in Jane the Virgin is seen as a waste of time, and paperwork is used as a punishment in Brooklyn Nine-Nine. Rule-breaking and risk-taking in and of itself is therefore not morally corrupt within the context of these police dramas, so long as that moral corruption comes from a person in a position of power.

Additionally, 'factional' shows use specific, carefully selected language and images in order to humanise the police they portray. There are clips of junior officers saying they are nervous, and the re-enactments show police doing mundane activities like sipping tea. This is not a luxury offered to the criminals under investigation; instead they are perpetually shown to be 'on the run'.

Humanising the police whilst demonising suspected criminals reinforces the idea that the police are guiltless and suspected criminals are already guilty. At the beginning and end of most re-enactments in Crimewatch, the viewer sees a Victorian prison cell slamming shut, a cyclical narrative reinforcing the importance of firm justice.

Shows that attempt to portray 'real' police work – Law and Order, Cops, CSI – also reinforce the trope of sex offenders being strange, lonely middle-aged men; this misleads the public and further entrenches incorrect and toxic ideas about rape culture and the nature of sexual offences. Sexual offences are statistically shown to be, for the most part, carried out by people who know the victim. Portraying sexual offences as men jumping out from behind the bushes in a dark alleyway is unhelpful as it fails to overturn years of misogynistic untruths, and prevents the police from tackling crime in reality.

Looking to the future, technology has made art more readily accessible, and thus consumers can digest more art in a shorter amount of time. As a result, more content than ever before is being produced. Streaming services allow us to view series after series on demand. Unless we are aware of how media content impacts our perception of the organisations which wield power, we run the risk of allowing their narratives to define our reality.

CHANGING THE BULB OF THE RED LIGHT

Written by SARAH BLAKE

SEX WORK AND THE LAW

The overwhelming stigma still attached to sex work is both surprising and unique considering its status as one of the oldest professions in the world, with an estimated worldwide revenue of over $100 billion annually. Due to this stigma, alongside the UK's long out-dated legislation, **sex workers today have no option but to operate in the shadows,** forcing them into one of the most dangerous industries in action.

In the UK, the selling of sex itself is legal. However, related parts of the industry – such as soliciting and brothel-keeping – is not. Whilst this might sound good on paper, in practice this creates a much more dangerous working environment. All that is required to fulfil the definition of a brothel is two or more sex workers in the same residence, irrespective of the presence of a pimp. This forces workers to be alone with clients, increasing the risk of violence, exploitation, and rape. Those who are caught working together can be fined, placing them in a vicious cycle whereby they have to continue working, usually unsafely, to pay off the fines. In 2013, for example, sex worker Mariana Popa was working late and alone in order to pay off a work-related fine she had received. That night she was stabbed to death.

The failures of the current system are widely acknowledged by government, charities and workers alike, and a need for reform is commonly respected. However, deciding exactly how the law should be changed has led to much disagreement.

Many favour the so-called 'Nordic model' – a system which allows for the selling of sex on the worker's behalf but criminalises the buyer, thus aiming to end demand. I spoke about this with our MP, Thangam Debbonaire, who supported this proposal as 'one which makes a clear statement about the unacceptability of treating women and girls as sexual objects… and also provides a clear legal route for women and girls to leave prostitution safely.' Many women's rights groups also take this view – ending demand will protect female sex workers – but this ignores many of the issues.

The Nordic model would ultimately increase the already inescapable stigma around those who want to work in the sex industry; not all workers are 'victims' or 'survivors' of the system and many are just plying their chosen trade. Furthermore, with clients at risk of sanction for pursuing sex, workers would be forced to lower their prices and put themselves in dangerously secretive situations in order to ensure their work is still appealing. Clients would feel forced to give fake names and hide their identity, meaning they're ultimately untraceable should they put the worker in danger.

The effectiveness of the legislation is also frequently brought into question. There's currently very little evidence that the rate of sex work in Sweden has decreased since the introduction of the Nordic model. Additionally, much of its support (from Ms Debbonaire and women's rights groups alike) seems to ignore not only the opinions of sex workers themselves, but also the noteworthy proportion of workers who are male and clients who are female.

Full decriminalisation of the sex industry is the only way to meaningfully protect the safety and rights of workers. This approach was taken in New Zealand in 2003, making sex work just like any other service-providing work in the country. This decision was made after much discussion with sex workers themselves, removing the inflated sense of morality and politics which seemed to surround the debate.

Under this model, workers can operate together safely. Brothels are treated as any other workplace and are accountable to the state. The rights of sex workers are protected with legal entitlements, easing access to justice. Research shows that under New Zealand's legislation, **96% of sex workers feel safer and 95% feel they now have rights under decriminalisation** – rights that can and have been enforced. Additionally, there is neither evidence that trafficking is a growing problem in New Zealand nor that the sex industry has grown since decriminalisation. Whilst I don't believe the stigma in the UK would disappear overnight, it surely would not grow in this safer, more liberating and viable future.

In a Ted talk on sex work and the law, campaigner (and supporter of decriminalisation) Juno Mac perfectly summarised the relevance of this to all of us – 'if you care about gender equality, or poverty, or migration, or public health, then sex workers' rights matter to you.' It isn't helpful to think 'Would you want your daughter doing this?', she explained, and we should instead imagine that she is. 'How safe is she working tonight? Why isn't she safer?'

SELF–DRIVING CARS

Written by KATIE MCPHEE

SELF-DRIVING CARS: IS THIS THE RIGHT TURN?

Artificial Intelligence is an area of knowledge which is vastly expanding, compelling crucial change within other facets of society as they hasten to adapt to such technological advancement. Self-driving, or driverless, cars are a prime example of such development, with unfamiliar mechanisms and systems quickly seeping into the extensive market.

The cars are designed to mimic the functioning of the human brain. They learn by accumulating information, recognising patterns within this data and subsequently applying the knowledge which has been gained to new circumstances; this is called Deep Learning. The US department of Transportation's National Highway Traffic Safety Administration determined that the autonomy of these vehicles can be categorised into 5 levels, level 0 referring to driving as we currently know it. As the level of autonomy increases, a growing number of tasks are delegated to the car itself. Until level 5 is reached, the car remains dependent on the human driver to carry out specific functions.

Companies such as Tesla claim that the safety levels of their vehicles are 'substantially greater than that of a human driver', whilst **Google emphasises that human error is the cause of 94% of car crashes in the USA.** Although such statistics demonstrate the need for change, companies who are pioneering such change face the task of creating systems so incredibly reliable that the average person would be willing to trust them more than they essentially trust themselves.

Additionally, there are critical moral challenges which require attention. The conventional dilemma which is raised is an adaptation of the trolley problem, an ethical thought experiment. What would be the outcome if a vehicle was left with the options of killing multiple pedestrians on the road in front of it, or swerving into a wall and ending the life of the passenger? We can postulate as to whether we should take a utilitarian stance in promoting 'the greatest good for the greatest number', or whether we would follow Kant's duty-bound ethics and avoid taking an action which explicitly harms other humans. However, there ultimately cannot be a morally correct answer to this dilemma. Possibly the only satisfying solution would be to allow society to decide collectively upon a course of action, although the logistics of this would almost definitely be questionable in practice.

The UK has responded to the increasing prevalence of companies aiming to create self-driving vehicles by drafting the *Vehicle Technology and Aviation Bill 2017*. **Regarding legislation, autonomy and liability somewhat blur the lines of responsibility** by placing the car and the driver in joint control until level 5 is reached. The recently drafted bill attempts to address this in section 2, stating that the insurer
is liable for damages caused when an accident is caused by an insured vehicle driving itself. However, if a vehicle is not insured and causes an accident whilst driving itself, the owner of the vehicle is liable for the damages caused to a person.

Not only do the cars spark important changes within legislation, they also raise questions regarding their impact upon society. If these cars are fundamentally safer than human drivers, this could lessen the pressure put upon hospitals by victims of traffic accidents. The technology also creates a level of ambiguity regarding public transport. Buses have the potential to develop in the same fashion as cars, however, this requires an almost blanket acceptance of the technology in altering a service for the masses. There are also large concerns, for example, that these cars might be open to the risk of hacking, thus entirely compromising the system and endangering lives. Whilst the impacts remain speculative in nature, it seems that the possible advantages cannot yet outweigh the concerns which accompany them.

Although it may be argued that these risks will have potential solutions, **the ultimate problem with self-driving vehicles is uncertainty.** Despite the fact that they are becoming increasingly widespread, the concept itself requires a seemingly inordinate amount of confidence and assurance on the part of humans. At this stage of development, it seems unlikely that the masses could be convinced to surrender themselves to Artificial Intelligence. However, we cannot condemn the future of this technology simply due to a fear of the unknown.

AN INTERVIEW WITH MARCUS COATES-WALKER

Interviewed by NATALIE LIM

Marcus graduated from Cardiff in 2011. He is now a qualified barrister, working at St. John's Chambers in Bristol.

IN MY VIEW, THERE IS NO BETTER FEELING THAN WHEN YOU HAVE ADVISED A CLIENT TO TAKE A PARTICULAR PATH AND THEN SEE THAT THROUGH TO A SUCCESSFUL OUTCOME IN COURT.

CAN YOU TELL ME ABOUT YOUR STUDENT EXPERIENCE?

Studying at Cardiff University was great. It was the perfect combination of studying at a leading law school in a vibrant capital city with lots of extracurricular opportunities. I played rugby for the University and was part of (and eventually led) its Law Society and Students' Union. More importantly, I had the chance to enjoy 'university life' in a general sense. I spent those three years meeting lots of people, many of whom are my close friends today.

YOU JOINED MACFARLANES AND WORKED ON THE FIRM'S SINGLE BIGGEST CLIENT PROJECT BEFORE STARTING YOUR PUPILLAGE. DID YOU CONSIDER SWITCHING TO THE SOLICITOR ROUTE AT ANY POINT?

The simple answer is yes; I was tempted by what the solicitor route had to offer. Working on a high-profile project at a top UK firm was an attraction in itself. There are also a number of other advantages, such as having a closer relationship with the eventual client and the wider project as a whole.

WHAT MADE YOU DECIDE TO PERSEVERE WITH THE BARRISTER ROUTE?

Advocacy was the ultimate deciding factor. I wanted the challenge of formulating cogent written arguments and taking my own cases to court. I also enjoyed the overall responsibility of being a barrister, and the tactical aspect of the job. In my view, there is no better feeling than when you have advised a client to take a particular path and then see that through to a successful outcome in court.

TELL ME ABOUT A PROJECT OR ACCOMPLISHMENT THAT YOU CONSIDER TO BE THE MOST SIGNIFICANT IN YOUR CAREER.

Two immediately come to mind. The first was being President of Cardiff Student's Union following University. That position enabled me to become the Chair of a £7M turnover company and leading charity in the Higher Education sector. It also gave me an insight into the application of the law in a real life commercial setting whilst running a company with over 300 employees.

The second was working at Macfarlanes. Following the BPTC, I joined the firm as paralegal, working on a project which was in its infancy. 7 months later I was promoted to Project Manager. That gave me the opportunity to liaise with senior figures at top banks and consultancy firms, and to develop my ability to make independent decisions while handling high profile work. As a barrister your clients rely on your judgment. Real life experience can only improve that. I like to think that I am a better barrister for my experiences set out above.

YOU SPECIALISE IN ALL FORMS OF PERSONAL INJURY. WHAT ATTRACTED YOU TO THIS AREA OF LAW?

I was particularly interested in personal injury, clinical negligence and inquest work for two reasons. First, there is a great mix of personal stories and challenging legal problems. The application of tortious principles (often negligence) in constantly different circumstances offers many opportunities for interesting legal analysis. That in itself means every case is different and the work is continually varied. It also provides an excellent balance of office and court work. A criminal barrister is likely to be in court every day, whereas a commercial barrister may not see a courtroom for months or years. Personal injury sits somewhere in between. I find myself in court 3–4 times a week on average, with a good amount of drafting (pleadings and advices) on top of that.

ARBITRATION HAS BEEN GAINING POPULARITY OVER THE LAST DECADE. WHAT ARE YOUR THOUGHTS ON IT AS AN ALTERNATIVE FOR PERSONAL INJURY DISPUTES?

From my experience, parties would likely be reluctant to agree to a giving power to an arbitrator rather than a judge to make a binding decision on their case. More common are Joint Settlement Meetings which see the parties sit down with each other in an attempt to resolve the dispute without a third party. It is certainly the case that some form of ADR is encouraged by the courts and the CPR. It might be that mediation is a better halfway house. For instance, in clinical negligence disputes it is arguably a more flexible, non-binding method of providing ADR which could save costs of litigation to NHS Trusts. However, the key for any successful future ADR in personal injury disputes will be the buy-in of the respective parties, which has been a problem to date.

THE TROUBLING EXPANSION OF AN ENGLISHMAN'S CASTLE

Written by SEAN SUTHERLAND

ARE PSEUDOPUBLIC SPACES THREATENING CIVIL LIBERTIES?

Our cities are changing. The processes of gentrification and privatization have indelibly altered the spatial forms of the city and the rights of various groups 'to be' within it.

One trend is the pervasive growth of pseudo-public space: spaces that may appear as public, but are nonetheless privately owned. Examples include: Nine Elms, Kings Cross, Elephant and Castle, and Battersea in London, Cabot Circus in Bristol, Liverpool One in Liverpool, and, the Spinningfields and First Street districts of Manchester are such examples. **This 'quiet revolution in land ownership' is a result of prevailing economic dogma, the austerity process, the high rewards of land-banking, and the binary nature of English property law.** Virtually every new urban redevelopment and regeneration project in the UK will lead to huge swathes of the city being sold off.

Why does this trend matter? For centuries, English Law has tended to treat property rights as something absolute and unfettered, granting the exclusive right to possess and power to arbitrarily exclude, to a single landholder. **But what happens when Coke's famous maxim that *'an Englishman's home is his castle'* is transposed to the city square, street and shopping district?** Gray and Gray described a 1995 case in which groups of youth were indefinitely exiled from their privately-owed city centre as a judgement so antiquated as to have a 'feudal resonance'.

What are the implications of the growth of pseudo-public space for our civil rights and freedoms? It is important to note that, save for very exceptional circumstances, most fundamental rights contained in say the US Constitution or the European Convention on Human Rights do not have horizontal effect. That is, they apply only to the state and not private citizens or landowners. Public bodies may have a duty to respect freedom of expression, of the press, of assembly and so forth, but do not generally have an obligation to ensure that these rights can actually be realized in the positive sense.

The clash between expression and property rights shot to public attention during the 2011 Occupy Protests. In London, protesters were evicted from the seemingly public Paternoster Square (owned by Mitsubishi Estates) and, banned from the Canary Wharf Group's 97 acre property. The possible motives for the strict control of these spaces are numerable –lively protest does not generally make good PR for financial institutions, fossil fuel giants or armaments conglomerates. Moreover, there have been examples of ownership over seemingly public spaces being used to control labour and counter strikes; injunctions against marches by cleaners in Canary Wharf being a recent example. Strict regulation of city-space and processes of exclusion change who the city is for. A mistaken belief that the removal of 'broken windows' subconsciously makes individuals better behaved is also a motive for the sanitization and strict control of the city.

When seeking to discern what rights could be threatened by private ownership of these spaces, it is worth bearing in mind that corporations are far from politically benign – especially in the US since the infamous 2010 Supreme Court decision in *Citizens United*. In addition, the state may *by proxy* use the selling off of public space to achieve certain aims. Uproar erupted in Turkey in 2013 when the ruling AKP party's threatened to sell off one of Istanbul's few remaining open public spaces to a conglomerate with close ties to the Erdoğan regime. The fragmentation and private-ownership of such a space may be of use to an authoritarian regime; in the words of Staeheli and Mitchell, public space is 'where dissent and affirmation [of government] become visible', something that was indeed true during the Arab Spring.

In *Appleby [2001]*, the European Court of Human Right's refused to address the tension between property and expression rights. It stated that there are always *other* ways of communication (such as going door-to-door or calling people by phone). This judgment ignored the symbolic and practical importance of expression certain public spaces. For example, Kohn argues that the goal of the Occupy Movement was to focus attention on growing levels of economic inequality precisely by laying claim to the 'nodal points of corporate power'. Similarly, the Civil Rights Movement in 1960s America, notably the Freedom Riders, attempted to lay claim to hostile spaces in an age when the American South was still segregated in a *social* rather than a *legal* sense. That the 1963 *March on Washington* could simply be substituted by Martin Luther King Jr. going door-to-door is a notion I find troubling.

In an age of internet monopolization and the possible end of net neutrality, pseudo public space poses a potentially dangerous threat to expression rights. What is needed is a new agenda for expression in the 21st century that recognizes that these rights are not as secure and realizable as they once were. Part of this agenda would be to recognize some limits on the Englishman's castle are perhaps desirable.

(ROBOT) AT LAW

Written by LOUISE HAYES

AI AND ITS (DUBIOUS) POTENTIAL TO REALIGN THE LAWYER-CLIENT AFFINITY

Every year, a contentious subject tends to linger at the forefront of debate in the legal sphere. Terrorism in 2015, in the aftermath of the Charlie Hebdo and November Paris attacks, became the predominant focus of academic discussion. Last year and ongoing still, Brexit, its legal consequences and social reverberations. This year, Artificial Intelligence (AI) has been thrust centre stage.

Deloitte in 2016 predicted that over 110,000 posts in the legal sector in the UK alone will be filled by automated machines. Beyond our pre-rehearsed interview answers within the formidable confines of an esteemed firm's office walls, to what extent can we law students realistically expect to lose our coveted training contracts to the likes of Henna Hotel's Danny the dinosaur? The prospect? Pretty slim.

Of all of the countless defamations circulating in legal news, perhaps the only truth we can all agree on, as contended by Wisskirchen, is that technology growth is on 'an exponential curve'. eBay's SquareTrade online dispute resolution centre has reached unparalleled success in settling over 60 million disputes per year, prompting Professor Richard Susskind, IT Adviser to the Lord Chief Justice, to urge for basic civil court disputes to be resolved via comparable online platforms. Japan's H.I.S. Co, the company behind the Japanese 'Henna Hotel' staffed almost exclusively by humanoids and droids, opened its second hotel just outside of Tokyo earlier this year. Hideo Sawada claims his goal behind the famous concierge, reception, room, and porter robots is to achieve 'the ultimate in efficiency', and after amassing over £522 million in gross profits between 2016 and 2017 (an annual increase of over ¥2 million), the company is celebrating unprecedented growth. However, in spite of the promising progress in technology and the tremendous impact it has had on efficiency in the workplace, the lacuna, as detailed in the IBA's 2017 Report, between legislation and our use of technology in practice, continues to represent a vast crevasse – one which we can only expect to widen in the future.

The extent to which we might expect to compete with automated machines in the legal sector remains, however, very slim indeed. The AI that we could be up against in the future conjures the scenes of nightmares: Lawbots, comparable to that of the robots operating at the Henna Hotel with disconcertingly lifelike features (take Erica, designed by Hiroshi Ishiguro, for example). Despite the fact that **technology and AI are undergoing a 'renaissance' in development,** as acknowledged by Sawada, 'robots still can't really do the things people think they can'. Despite embodying an increasingly realistic human-esque appearance, robots currently lack the capacity to mimic human beings in a convincing fashion beyond rudimentary physical appearances. Their inability to express the most delicate aspects of human emotion and an incessant inability to grapple with circumstances beyond the periphery of their programming leaves droid attempts at unpremeditated conversation 'awkward' and 'in desperate need of humanising'.

The machines which high-profile firms utilise at present remain worlds away from the holistic package of a lawyer. Although we can expect the work of paralegals and receptionists to be somewhat threatened by technological developments in the sphere due to the nature of the work they conduct, the increasing ability for machines to comprehend algorithms and complete repetitive tasks is, in reality, only likely to mean that firms will be able to facilitate working on more cases, fuelled by the resources to complete menial tasks at speed beyond human capabilities. As contended by Dillon, the complex role of the solicitor, since robots currently lack 'sophistication in seeing nuance', remains relatively unthreatened by artificial intelligence. **The lawyer and the android at present remain fundamentally incompatible and mutually exclusive.**

While the concerns of promising new lawyers with respect to the threat AI poses are not entirely unfounded, they are troublingly hyperbolic. Proper execution of the law as we understand it today fundamentally requires human lawyers. Despite being renowned for having exteriors of steel, solicitors embody the very human touch which clients trust in and seek. Of all of the innumerable concerns of law students, AI as a threat to our careers is certainly not the most pressing one. The law and its unwavering dependence on a human hand are, for now, indisputably intertwined.

A PERSPECTIVE FROM THE ALUMNUS

Written by ALEXANDER HOOD

STUDYING AN LLM MASTERS

Never again. When people finish their degree, committing to another year of study would be a dragged out form of torture. Despite most people's perceptions, including my parents, a Masters is more than just extending your student discount by a year. It's not a fear of the job market, although I am still thoroughly unemployed. But 15 grand later, and had an LLM into my year, my Masters is still one of the best decisions I've made so far. It's as many university websites say, a chance to fully delve into your subject. If you enjoy your subject, why at not learn wider and deeper than ever before?

As abstract as that sounds, I'll try and simplify it. A Masters is hard. Not only is the workload more difficult to balance, but the work you do is more complex, challenging and intense. Gone are the days where you could simply rely on case law to get you through. Articles aren't the further reading list which give you the all-important-quotes for your exam essays. You have to understand the author's position, see which side of the fence he firmly sits, how it all fits into the bigger picture. Topic learning goes out of the window. It sounds horrific, but it's genuinely a more engaging way to learn. If you enjoy the module, you enjoy the whole module. Bristol gave me the skills to think legally, but my Masters gave me the passion to study it. Land law doesn't become tarnished with mortgages. Contract is free of misrepresentation. As for criminal – well criminal has and always will be awful. Gone too are pre-arranged questions. The freedom of being able to choose your own questions is unreal. Although on the one hand you actually have to plan a specific enough question, you can choose to research topics that actually interest you. In one essay I'm researching how the EU is analogous to Jesus, another I'm arguing a fundamental legal philosopher is anti-feminist. The days of prescriptive essay, calculating what will earn the most marks against what you enjoyed learning are long over. Staying in a library, although perhaps not where I specifically want to be on a Friday night, becomes borderline entertaining.

It's not just the breadth of the modules syllabuses, but the range of modules available. Since there are no compulsory modules, and classes tend to be smaller, there is generally a huge range of options to do. For example, although I'm doing a Masters in Jurisprudence, with half my degree being philosophy, I had the option to do more curveball options.

On Thursday, I'm researching the philosophical work of Jeremy Bentham, then 2 hours later I'm studying the law regulating armed conflict and international humanitarian aid. The options, both within and outside the course are so much wider than an undergraduate when you are limited each year by your compulsory modules.

A Masters, like wider university, however is more than just studying. There is a huge social element which influenced my decision to apply. And this is probably where you notice the difference: it is a lot more diverse then undergraduate. Probably because of the nature of law, but there are a lot of people who have gone into practice. My friends have done the BPTC, LPC and pupillage(s). Most are qualified lawyers; some of my seminar classmates are married with case. The definition of mature student is non-existent. Everyone is mature. However, still some of my best friends are like me who went straight to a Masters, and we still relive our undergraduate lives (on a budget). Naturally, your social life is quieter. But so is everyone else's. Your friends (who are now working) have even less time. Socialising changes from dirty pints to normal pints and your liver, bank account and grades thanks you for it.

A Masters is different. And for most people, it's a good different. It's an opportunity can finally focus on studying, rather than trying to balance work, socialising and personal life. A chance to go the library becomes enjoyable, rather than a requirement to ensure you complete your coursework on time. In essence, if you're thinking of doing a Masters, do it. Its only one year, you have nothing to lose, and a whole *legum magister* (LLM) to gain.

A CRISIS OF CONSCIENCE?

Written by KIT FOTHERINGHAM

AN EMPIRICAL VIEW OF RELIGION AND THE LAW

Social behaviour is mediated by a careful balance of norms. Norms exist in various guises; the norms familiar to lawyers are the legal principles found in legislation and caselaw. But norms can also be informal. Cultural habits may have little or no legal force but that does not diminish their importance. Political and judicial forums are where favoured configurations of our informal, often unspoken, cultural norms are crystallised and transformed into formal legal rules.

But what about when these norms are in conflict? Religion is one aspect of cultural behaviour where we can put this clash under the spotlight. Modern society recognises a plurality of belief systems and spiritual practices. Competition amongst religious doctrines has the potential to undermine the cultural foundation upon which society is constructed. But, save for a minority of destructive conflagrations such as hate crimes stoked by intolerance and the scourge of terrorism fed by extremism, our society remains cohesive, the shared cultural bedrock still intact.

Religious groups anticipate long term endurance. However, the foremost means of holding assets in perpetuity is to attain the legal status of being a charitable organisation. But charities have a cultural significance as well. Charities represent a shared desire where people come together to pool their resources to create something greater than the sum of **their parts, a commitment to a common ambition.**

Expressing one's freedom of conscience entails some responsibilities so that everyone can also enjoy religious liberty. The task of the Charity Commission, therefore, is to interpret the legal norms in a way that maximises the dissemination of cultural goods throughout society. It does so through its construal of the 'public benefit' rule, a legal principle with which all charities have an obligation to comply.

From a cultural perspective, religious autonomy is seen as a social good that merits the protection of the law. Therefore, the denial of charitable status by the Charity Commission to groups such as the Church of Scientology and the Temple of the Jedi Order may appear to be unduly restrictive interpretation of the law. One argument proposes that traditional religions are favoured under the public benefit rule because they have a track record of involvement in the community. Some religious groups which have only a small following might, therefore, feel under threat from the legal norms that are supposed to protect them.

How can the disconnect between law's commands and cultural customs be reconciled? An assessment of the law often excludes cultural information, vainly attempting to find a solution through scrutiny of the legal norms alone. Empirical analysis of the law, on the other hand, is predicated upon the idea that people mobilise a mix of legal and cultural symbols to successfully navigate the normative soup that surrounds them. A deeper evaluation of the apparent inconsistencies in the law is available when both legal and cultural norms are considered.

During 2017, I collected empirical data about trustees who run the affairs of a religious group commonly known as Quakers. By investigating their cultural practices, I discovered that **Quaker trustees not only have to justify their actions in legal terms, but they must also legitimise their position in terms of the cultural beliefs distinctive to Quakers.** For instance, trustees explain that they satisfy the legal 'public benefit' requirement in the form of worship services and relief activities for disadvantaged individuals in the community. However, coming from a cultural tradition which places a large emphasis on equality, the concentration of legal authority in a small committee of trustees upsets the cultural norm whereby participation in the process of discerning the way forward is habitually open to all, regardless of office.

Good policy making is based on evidence. However, legal analysis alone is wilfully blind to the interaction that informal cultural norms has with formal legal rules. A more complete picture is available; when we use multiple lenses, additional dimensions come into view. My own empirical investigations showed that there's more to normative behaviour then obedience to the monolith of law. Let's dispense with stale legal arguments and recognise the role of cultural values that add vivacity to our normative lives.

A TIME OF TRANSITION

Written by DIANA MARÍA PANIZZON–PINEDA

DOCTOR, DOCTOR… WHY EXACTLY AM I HERE?

DaShanne Stokes once stated that 'privilege is presuming to speak for others you know nothing about'. Nevertheless, thousands in the trans community are having life-altering decisions made for them by professionals claiming to know their gender identity better than the individuals themselves do. To be judged by the very people who view being transgender as a disease seems a fallacy, yet this is our current law. Welcome to the era of transgender patholigisation.

Following the case of *Goodwin and I v UK* in the ECtHR where two transgender women and an individual who identified as 'I' were given the right to alter their gender on their birth certificates, the *Gender Recognition Act 2004* came into force. Transgender people in the UK were given the ability to change their legal gender, legal recognition of their sex being acquired through a new birth certificate. For this Gender Recognition Certificate (GRC), however, the following applies: there is a fee of £140, the applicant must be over 18 and have transitioned 2 years prior to the issuing of the certificate, and evidence must be presented by them before a Gender Recognition Panel – an intrusive and humiliating ordeal in which gender identity is assessed by complete strangers. This evidence must show that the individual suffers from 'gender dysphoria', thus raising several objections in that legal transgender identification is treated as analogous to a disease diagnosis. Regarded as a mental illness, there is an outcry to reform the *Mental Health Act*, removing transgender people from the Psychiatric Disorder Register. Our current law is outdated, discriminatory and in serious need of review.

It is suggested that the UK move towards a system of self-declaration as opposed to insisting on a medical diagnosis. Countries such as Colombia, Argentina, the Netherlands, Denmark, and Ireland have already undertaken such reforms. The desire for this system in the UK is apparent through a petition to the UK Government and Parliament in July 2015 by Ashley Reed, advocating that trans people should have the ability to define their own gender for the purpose of obtaining a GRC. Reed's petition has already gained over 30,000 signatures and seems akin to the Irish *Gender Recognition Act 2015*.

There is further debate surrounding whether the legal age of application for a GRC should be lowered to 16. In Argentina, there is no age limit, but there must nonetheless be a court procedure. Other jurisdictions involve the consent of parents such as the administrative procedure undertaken in Malta, or Sweden demanding parental consent for 12–15s but self-declaration post-15 years of age. Norway mirrors this but from the age of 7.

One argument for lowering the age for applications is that 16 is the legal age for consenting to medical treatment in the UK. London's Tavistock Clinic and other youth-focused services ensure that adolescents have access to supervised healthcare prior to turning 18. In 2016, almost 1,400 under-18s were referred to Tavistock, a statistic which has increased by 50% each year since 2009–10.

Mental health among the LGBT community causes grievous concerns, Stonewall reporting that a quarter of the world's population believe that being LGBT ought to be a crime. Research conducted by PACE found that 59% of transgender youths said they had deliberately harmed themselves as opposed to the 8.9% of all 16–24 year olds. Another survey showed that 48% of trans people under 26 admitted to having attempted suicide, 59% saying they had at least considered doing so.

Unlike with race, religion, and sexual orientation, there are no offences against 'stirring up hatred' in the *Public Order Act 1986*, nor is there any equivalent for transphobic 'aggravated offences' under the *Crime and Disorder Act 1998* as there are for both racial and faith-based hate crimes. There is thus a dire need to introduce effective legislation promoting and enforcing the protection of the entire LGBT community with a specific focus placed on gender identity.

Cicero holds that 'the safety of the people shall be the highest law', thus it is paramount that both future and current legislation is written and altered to echo this. Being transgender is not a disease. It is not a mental illness. There is no 'psychic epidemic'. The only 'condition' we are in desperate need of a cure for is intolerance.

YES, MS CAULFIELD, IT SHOULD

Written by CHERRY CHEUNG

SHOULD THE ABORTION ACT 1967 BE UPDATED TO DECRIMINALISE THE ABORTION PREGNANCIES NOT CONSIDERED 'AT RISK OF INJURY' TO MENTAL OR PHYSICAL HEALTH?

The recent appointment of Ms Maria Caulfield as the vice-chair for women in the Conservative Campaign Headquarters has raised some eyebrows, considering that she once opposed the full decriminalisation of abortion. Currently, thanks to the *Abortion Act of 1967*, it is not a criminal offence for British women to have abortions performed on them if their pregnancy is considered by at least two doctors to pose 'a risk of injury' to them or their family. However, it follows that abortion is then only partially legal: without permission from her doctors, a woman would commit a criminal offence if she attempts to abort her pregnancy.

It is clear from this dependence on medical judgement that **the common British woman enjoys her current autonomy at the mercy of medical paternalism.** Without the power to interpret the 'risk' of her own pregnancy, the woman is vulnerable to an objective standard of what 'risk' is. This objective judgement of risk is free to ignore private considerations of the woman. An outsider's point of view is more likely to recognise visible and measurable consequences, such as diagnosable mental or physical illness. But in reality, the private life of the woman is often nuanced and difficult to measure. How could stress, placed on a woman to bear responsibility for childcare, be measured? Is she financially stable enough to support a child? What does it mean to be emotionally prepared to become a mother? Matters such as her reputation and opportunities to advance her career are difficult to comprehend from an objective point of view. Surely, the best judge of such a private and complex decision should first be the woman herself and not the doctor observing from the outside.

It is noted that the current legal standpoint is a safe and pragmatic one; as doctors (deemed more capable with their expert objective judgement) are able to control when abortion would be offered, thereby worries of abortion becoming too freely available and unregulated are avoided. Ms Caulfield, in citing her position against the full decriminalisation of abortions, says that 'extreme abortion practices' such as sex-selective abortions would become prevalent as abortion becomes 'on demand'. She further claimed decriminalisation would fuel 'unethical and unsafe' procedures.

With due respect to Ms Caulfield, I cannot agree with her views. Not only is she jumping to conclusions by making unsupported assumptions about abortions, her insistence on imposing criminal liability on women also cannot prevent the extreme abortion practices that she is so worried about.

In insinuating that decriminalising abortion would inevitably open the floodgates to women seeking extreme and unethical abortions, Ms Caulfield has in fact committed a slippery slope fallacy. Although extreme abortion practices do exist, and would be a possibility if abortion is fully decriminalised, the potential of criminal liability is not the sole deterrent stopping women from getting these extreme abortions. Common sense, considerations for her own reproductive health and the opinions of the people around her would also influence her opinion and dissuade her from acting rashly. Therefore, a large increase in numbers of 'unethical' abortions remains unlikely.

There is also the important distinction to be made between decriminalisation and allowing dangerous abortions to be performed unregulated. As an action in law, the effects of decriminalising abortions fully would be actually limited to giving the woman further protection of her legal rights to autonomy. It does not immediately follow that all abortions would be allowed: medical guidance as to how abortions should be safely performed would still be in place, and persons that attempt to perform unsafe procedures would still be liable in tort for negligence.

It should be stressed that there exists a necessity to decriminalise abortions even if such extreme abortions exist. Instead of helping the woman get the help she needs to back away from these extreme abortions, making it a crime further needlessly punishes and harms her when she already risks emotional trauma and damage to her health in seeking the 'unethical' abortion. Therefore, the *Abortion Act* as it stands should be abolished, to make way for a new *Act* so that abortion may rightfully become fully decriminalised.

SYMPATHY FOR STILLBIRTH

Written by KATIE RAW–REES

WHAT HAPPENS WHEN THE LAW BECOMES A TOOL USED TO COMFORT?

Each day about nine babies in the UK are born dead. Babies who have been carried by their mothers for many months. Babies whose fathers have heard their heartbeats. Babies whose families have purchased gifts for their arrival.

Cot death might be more frequently discussed, but stillbirth is 10 times more common. And the parents often feel their grief is worsened by the attitude of the law. In many jurisdictions – including the UK unless the mother has carried the child for 24 weeks – their baby is not legally a person. What can, or should, the law do to help?

De facto, the quest for legal reform has become an issue for legal systems across the world, most prominently in the United States.

The shift in US law has been spurred by the counsellor and activist Joanne Cacciatore. In 1994 she applied in Arizona for a birth certificate for her daughter, who had died 15 minutes before birth. 'You didn't have a baby,' she was told. 'You had a foetus and the foetus died.' Instead of a birth certificate, she received a 'Certificate of Fetal Death'.

Dr Cacciatore lobbied for the 'Missing Angels Act', which allows parents of stillborn babies to request a birth certificate for their child if they believe it will bring them comfort during their grieving process. And in 2001 her daughter, Cheyenne, became the first US baby to receive a 'Certificate of Birth Resulting in Stillbirth'.

Lobbyists argue that a birth certificate provides dignity and validation for a stillborn child, as a tangible and objective proof that the baby existed. At the time of writing, 34 states have enacted the 'Missing Angels Act' and in a further three the bill is pending.

The UK is also seeing a push for greater legal recognition for stillborn babies. In 2014, Tim Loughton, the Conservative MP for East Worthing and Shoreham, introduced the Registration of Stillbirths Bill. His bill would enable parents to register the death of a stillborn baby before the threshold of 24 weeks' gestation through amending the *Births and Deaths Registration Act 1853*.

This bill failed to proceed through parliament. But Loughton has continued to raise petitions in parliamentary debates for the registration of stillbirth from 20 weeks, regardless of the 24-week viable abortion limit.

The conflict between legal personhood for shorter-term stillborn babies and the UK's current abortion law is unavoidable. How can we recognise that a child is a legal person while providing women with the crucial right to dictate the fate of their body? Yes, it is sad that women have no recognition of their lost child. But recognition would come at the cost of criminalising women who make the free choice to abort a foetus. **Establishing 'foetal personhood' of a stillborn baby would give a platform for anti-abortion protestors** in a society where women already feel reluctant to decide the fate of their body.

The battle for the rights of stillborn children hinges on the relationship between private grief and public recognition. Is it the role of the law to comfort and support parents who have suffered a bereavement? Authorising birth certificates for children who have never lived would appear to be an eccentric gesture rather than a reasonable response. Law should not be created merely out of sympathy – it is not its role.

I applaud parents breaking the stillbirth taboo by sharing their experience. However, if we allowed a more empathetic legal system to develop, law would be reduced to providing comfort, jeopardizing crucial human rights such as freedom of choice.

CRISPR: A TALE OF TWO CAMPS

Written by KHUSH KOTECHA

A PATENT DISPUTE TO DECIDE A NOBEL PRIZE

CRISPR is a revolutionary technique that allows DNA to be edited, will a battle between two rival innovators stunt its progress?

CRISPR-Cas9 (Clustered Regularly Interspaced Short Palindromic Repeats) is a system for gene editing with broad ranging applications including agriculture, genetic modification and biomedicine. CRISPR allows laboratory researchers to create a small piece of Ribonucleic Acid (which carries information from DNA to the ribosome) with a short 'guide' sequence that binds with a specific target sequence of DNA in a genome. As a result, the Cas9 enzyme cuts the DNA at the intended location and researchers can make changes to the DNA by replacing it with a customised DNA sequence. It is hoped that this method may be used to treat complex diseases like cancer, heart disease and HIV. However, this depends on whether the system is cleared for human application. **It is expected to become a commonplace technique in laboratories worldwide in just four years.**

As with any new discovery which causes a seismic shift in its field, CRISPR is now the focus of a huge patent battle. Two groups are rivalling each other to stake their claim as the inventor of the primary components of the CRISPR system. On one side are a team from UC Berkeley and the University of Vienna ('the UCB camp'), on the other side are a team from Harvard and MIT ('the Broad camp'). By filing patents in multiple countries, each group has secured a market niche in respective jurisdictions which has in turn led to lucrative licensing agreements with pharmaceutical companies, such as Germany based Bayer, who have spent $335 million to licence CRISPR to develop a treatment for blood disorders and blindness. In such a profitable market, these two groups are vying with each other for royalties as well as a potential Nobel prize, such is the ground-breaking nature of this discovery. Between them, the teams have created 4 spin-off companies and issued 28 licences to corporations.

There is currently a limited ability to ascertain the ownership of CRISPR's intellectual property as it is the basis of a prolonged patent dispute in the US and Europe between the two camps. The UCB camp were the first to file a patent, however, the Broad camp have been incredibly successful in their strategy of aggressive filing and patent prosecution. As a result, it has allowed them to build a patent family four times larger than UCB, covering different aspects of the CRISPR technology on both sides of the Atlantic. Despite this, UCB were recently granted a wide ranging patent by the European Patent Office and the UK Intellectual Property Office which should over time redress the imbalance of patent ownership between the two camps. **However, this protracted patent battle between the two rivals may be harming their own efforts.** Investors will be reluctant to funnel funds for research when outright ownership of the discovery, and therefore royalties, may not be guaranteed. Researchers may also be unwilling to enter the CRISPR market if their hard work may be beaten to the punch by a rival team, thus leaving one party with no ability to gain money from licensing fees. Despite this, I believe that the wide-ranging application of CRISPR and its constant evolution means that there will, at least for the foreseeable future, be scope for scientific advancement. Furthermore, it is important to ensure that the CRISPR technology does not get abused. There is an ethical concern that this method of gene editing may one day allow editing of genes to increase character and behavioural traits such as intelligence. As a result, a UNESCO panel has called for a ban on editing human DNA, potentially scuppering CRISPR's ability to save lives.

Ultimately, the advancement of the CRISPR system means that patent lawyers will be kept busy with filings and disputes as scientists battle it out for a 'slice of the pie.' CRISPR is a huge medical advancement and, if cleared for human application, will undoubtedly save countless lives by treating and potentially curing the diseases that cripple our society. In the meantime, patent lawyers might need to leave the office a bit later than planned.

LEGAL AID IN THE 21ST CENTURY

Written by SADETA MUJKIC

THE EFFECT OF THE 'LEGAL AID AND SENTENCING OF OFFENDERS ACT 2012' ON LEGAL AID

EVERYONE is equal before the law, therefore everyone should have equal access to the law. The U.K's justice system is underpinned by the principle of equality before the law; the principle that each independent human being must be treated equally and that all people are subject to the same laws of justice. Legal aid, as the Law Society has stated 'performs a crucial role in providing fair and equal access to justice to those most at risk of being excluded from our legal system'. Arguably legal aid gives effect to the principle of equality before the law which in essence maintains a just legal system in keeping its doors open to everyone, not just those who are wealthy enough to pay for their own representation. However, cuts to legal aid which began in the 1990s have year-on-year continued to increase. In 2012 the *Legal Aid and Sentencing of Offenders Act 2012* (Laspo) was introduced. Laspo made the following four pledges: 1. Discourage unnecessary and adversarial litigation at public expense; 2. Target legal aid to those who need it most; 3. Make significant savings in the cost of the scheme; and 4. Deliver better overall value for money for the taxpayer.

Its intentions appear to be promising, its effect, in practice, has proven to be controversial. The introduction of Laspo saw a decline of £350 million a year of legal aid funding. **The question that it boils down to, is whether or not cutting back to such magnitude (£350 million) on justice really is worth sacrificing the long standing principles of ensuring that justice is not only available to everyone but also free.**

A range of areas including, areas of family law, employment law, non-asylum immigration law cases no longer qualify for legal aid. It was found that after Laspo had come into effect, a third of cases that were eligible for legal aid were no longer able to claim assistance. Naturally those who can afford representation will continue to use the courts and those who do not have the means simply will not have their issues resolved. Consequently, by default, the *Act* is in danger of creating a two tier-system; thereby increasing the inequalities in our society. Britain's most senior judge, Lord Thomas of Cwymgiedd, has reported that 'our justice system has become unaffordable to most'. **Laspo therefore makes the process of getting to court more challenging,** as if there is less financial assistance available some cases will be unable to be heard.

There has, however, been an increase of litigants in person (LiPs). LiPs are claimants who represent themselves at court. Judges and consequentially the justice system have witnessed the effect of this. The U.K has an adversarial system, so it is natural for judges to engage with arguments every now-and-again when presented in court; although judges have expressed frustration at the extent to which they are having to get involved. In particular saying that too much time is being spent on aiding the litigant in person, that as a result produces a backlog of trials. All of this shows that despite savings being made, the cutback in funding has been felt by those involved in the legal system.

Notwithstanding cuts, legal aid has not been forgotten about. Student led pro bono units, such as the Law Clinic as found at the University of Bristol, are working to provide advice to people who need it. Although this is not substitute for a legal aid system, the fight for equality before the law continues.

MERIT TO DIVERSITY

Written by ABDULLA KHALAF

FINDING COLOUR IN A WORLD OF GREY

EMANCIPATE yourselves from mental slavery, none but ourselves can free our minds. No legislation will ever be so powerful as to set one free from the chains of prejudice. We reach out for equality but the chains that bind us are only so long.

The greatest decision we are faced with when attempting to combat discrimination in the legal profession is that of the choice between merit and diversity. My problem with this dilemma is that it rests on a false dichotomy between the two. The argument that increased workplace diversity violates meritocracy is based on the fallacy that the two are mutually exclusive.

The unspoken premise that undergirds this train of thought is that there is no merit to diversity; a sacred, objective criterion far from ethnicity, race, religion, or sexuality. Diversity isn't just about equal opportunity: it's also about having the best team to tackle the challenges faced by a diverse range of clients. **Cultural diversity isn't a cynical showcase of 'equal opportunity' to ward off allegations of bias and prejudice,** rather a growing commercial imperative, because a team with different perspectives and life experiences can serve clients best. You see, my argument is that we have been supporting diversity for all the wrong reasons. With the emergence of global markets and shifting demographics amongst firms, a diverse workplace is truly needed now more than ever.

The crux of the matter is that although diversity is increasingly coveted by firms and has always been widely desired by virtue of morality, the most significant burden to securing a diverse workplace is prejudice. Overhauling such a burden, however, is a confounding puzzle.

Perplexed by the ubiquitous proposition that anti-discrimination legislation is the ostensible solution to prejudice, I argue this is not the case. In practice, **prejudice is embedded so deeply into the minds of those that perpetuate it that it is more often than not imperceptible.** Surely then, to filter out such unintentional bias, one must turn to positive discrimination. French professor of Public Law, Anne Levade, puts it best when she states that such a solution 'seeks to compensate for inequalities by creating discrimination that paradoxically redistributes equality'. The problem is that **positive discrimination is more detrimental to egalitarianism than subconscious prejudice, for it explicitly does what has been previously unintentionally performed; it merely replaces racial nepotism with plain favouritism.**

The law cannot be expected to solve an issue it cannot identify. **We're talking about racism by non-racists as a result of unsubstantiated preconceptions and cognitive biases we can never prove to exist.** Everyone is susceptible to implicit bias because by definition, you cannot possibly be aware of your subconscious. This is the very reason why such prejudice is so difficult to tackle, and why the future lies beyond anti-discrimination legislation.

The solution must lie in a recruitment criteria free from the influence of unconscious sexism or racism. Firms are already using blind CV reviews, aptitude tests, and standardised interviews as part of their recruitment process. Goldman Sachs is set to implement a 'personality test', and law firms are increasingly partnering up with organisations like Rare to make applying more accessible to candidates who may otherwise be disadvantaged. The future should therefore lie in diversifying the search for applicants, and embracing diversity as the asset it is.

I conclude that legislation can no longer be the solution to prejudice. That it is implicit not explicit bias that is our greatest fight. That there is as much merit to diversity as there is a moral duty to support it. In this ever so interconnected world, we can't help but feel further apart. It's a grey world out there, and only once we embrace our differences may we find the colour to it all.

AN INTERVIEW WITH OMAR AL-NUAIMI

Interviewed by SARAH BLAKE

Omar Al-Nuaimi is a Partner and Head of the Infrastructure Finance Group at International legal practice Osborne Clarke. He graduated from Bristol University with a Law degree in 1994.

WHY DID YOU CHOOSE TO WORK FOR OSBORNE CLARKE?

I had some contact with Osborne Clarke while I was at University. I had fallen in love with Bristol and was quite keen to explore working both here and/or London. Osborne Clarke came across as somewhere I could make a really good start to my career in the City I liked best. I secured a summer vacation scheme with them and clicked instantly with the culture and style. I knew the firm would be an ideal fit for me.

WHAT WAS THE PROCESS FROM FINISHING YOUR DEGREE TO BEING WHERE YOU ARE NOW?

I did an LPC at UWE before starting a two-year training contract in 1995. I consider myself really fortunate to have made Partner within four years of qualifying at Osborne Clarke. I am the first to recognise that isn't normal, and it was really a function of a lot of hard work, some luck, and being in a firm that is a genuine meritocracy. The firm enabled me to be entrepreneurial and focus on an area that was not well-served in the Bristol market at the time, which was a launch pad for my practice. I also had a really great Partner-mentor who helped to accelerate my understanding of the business, by sharing her practice with me from an early stage in a completely unselfish manner, which also speaks to the culture of our firm, and is something I have never forgotten.

WHAT DOES YOUR DAY-TO-DAY LIFE LOOK LIKE AS A PARTNER AT OSBORNE CLARKE?

The week starts really well – I usually have Monday's off as the firm is supporting me to gain a little time back for my family! The rest of the week is full-on and includes a mixture of time spent in our offices in Bristol or London, or with clients or other lawyers in between. I usually try and spend mornings with my head-down working on client projects, with afternoons for internal or external meetings. I try and get home to see my family early evening and am often found glued to my laptop after that. Thankfully, if I am organised, my weekends are rarely interrupted.

WHAT ADVICE WOULD YOU OFFER STUDENTS AS THEY EMBARK UPON THEIR LEGAL CAREERS?

Understanding how new technologies such as AI, blockchain, IoT, etc. impact on business is going to be important. In the future, lawyers will also likely need to use these technologies in order to better deliver their services to clients, just like any existing technology in a lawyer's toolbox. You don't need work experience in a software company to get that understanding, there's a ton of free information out there you can easily access.

HOW CAN APPLICANTS STAND OUT?

It is incredibly valuable to have broad and diverse skillsets. So understanding technology or languages, for example, is a great way for candidates to standout. At Osborne Clarke, one of our biggest sectors focusses is digital business, so having some skills and or knowledge in this area will help.

Firms are looking for candidates with strong soft skills and an inquisitive and commercial mind-set. Any experience that allows candidates to understand people around them, develop their soft skills and business awareness is hugely valuable, so extra-curricular activities and academic study is just as important as work experience and vacation schemes.

WHAT DO YOU THINK THE FUTURE HOLDS FOR THE LEGAL MARKET?

Client demands are changing at an accelerating rate. The market is moving away from what firms want to sell, to what clients want to buy. Increasingly law firms are using technology to deepen client relationships. Since 2015, we've had a full-time team focusing on client service innovation and care. We're delivering a wide variety of solutions, from simple yet operationally significant projects through to complex multi-party and multi-jurisdiction asset management platforms.

WHAT CHALLENGES DO YOU EXPECT BOTH YOURSELF AND YOUR CLIENTS TO FACE IN THE NEAR FUTURE? DO YOU EXPECT BREXIT TO HAVE A SIGNIFICANT IMPACT?

A big hurdle to the adoption of any technology is the change in working practices of both the in-house and private practice legal teams required to make best use of that technology. This is where law firms can choose to have the advantage and use scale and their client relationships to bring about that change. It's certainly the approach we've been using to build a variety of applications to deliver our client solutions. Regardless of what happens with Brexit, businesses from outside the EU will still want to trade with the UK given the size of our economy. Businesses will want to have multiple entry points into Europe, through the EU and the UK and we believe our European network puts us in good stead for future opportunities. We are expecting to be busier, not quieter.

MIGRANT BIRDS

Written by EVE MAKRIDOU

SORRY MY CHILD, YOUR FLIGHT WAS CANCELLED (!)

EVERYONE knows the term 'migrant birds'; birds that have to move from their countries in the North of the globe to southern ones in their attempt to survive. Everyone knows the term 'immigrants' as well; people that have to move from countries in areas like the Middle East and Africa to European ones in their attempt to survive. Let's imagine for a moment that all migrant birds that have left their home countries are no longer allowed to enter warmer ones or are left to wait at the borders of these countries where devastating weather conditions could prove fatal to their chances of survival. We would label such an act 'insane' and take action on this 'insane' limitation. And this is exactly what has to be done in relation to immigrants, not only regarding animals, but with respect to humans, especially vulnerable children.

11,186 unaccompanied minors have been recorded in France, 13,867 in Italy and 9,700 unaccompanied children have entered Greece alone this year. The Human Rights Watch reports that some are left in dirty cells infested with bugs and vermin, without mattresses or showers. European governments are well aware of these circumstances and, despite being able to afford more refugees than countries dealing with economic crises (e.g. Greece), they do not take measures to provide an effective solution. **Whilst European politicians chose to ignore this humanitarian crisis, a 15-year old Syrian refugee was attempting suicide.** This child was then transferred to the UK. This begs the question: must children reach the point of committing suicide to be transferred? The UK is bound to accept 480 children under section 67 of the *Immigration Act*. In April 2016 the Dubs amendment to the *Act* was passed. This identified almost 300 unaccompanied minors in Greece as eligible to be transferred to the UK. The amendment captured public attention, triggering a campaign to move 3,000 children from refugee camps to Britain. However, changes introduced by the Home Office in March decreased the number to 40, with only one child transferred so far.

The UK also does not implement these legally binding pieces of legislation because the UK Immigration Rules and the Dublin Regulation set out significantly different approaches to family reunion eligibility. The Immigration Rules only permit a parent to sponsor a child for family reunion, while the Dublin Regulation permits family reunions with extended family. This results in children with extended family in the UK only reaching family members by making their own way to Europe. **In the majority of the cases, however, these children turn into trafficking victims.**

The future of the law is clear; the legislation exists albeit, with gaps, especially concerning family reunions. The UK government's responsibilities to unaccompanied children must be equal to adult refugees, maybe even greater, and be granted international protection and sponsorship so that they reunite with their families under the UN Convention on the Rights of the Child. Immigration Rules must expand the criteria for qualifying family members to include: young adults who were dependant on the family before the flight, parents, siblings and any dependent relative. The extended family would preferably include adult siblings, aunts, uncles, and grandparents, while a provision should be drafted so that it permits sponsorship to child relatives to join them.

Implementation policy of current legislation is the primary cause of concern with relation to the unaccompanied minors' crisis and needs to be urgently changed. First of all, transfers to the UK have to start as soon as possible, preventing other children from suicide, illnesses, sexual abuse and human trafficking. UK agencies should ensure that transfers designed under the *Immigration Act* and the Dubs amendment proceed from Greece, France, and Italy within the scheduled time and in a safe manner. UK intelligence should identify these vulnerable children and work to secure and facilitate a safe trip to the UK. Finally, it is essential that the UK government be bound to providing funding and establishing a body of forces along the coast line and the borders where the risk of children trafficking is higher.

Otherwise, the same time we are 'closing our eyes', all these 'birds' become victims of smugglers, victims of death, victims of suicide.

ROHINGYA 2017

Written by LACHLAN STEWART

HOW A BROKEN SYSTEM IS BREAKING A PEOPLE

SINCE THE 25th of August 2017, 600,000 Rohingya, a Muslim ethnic minority, have poured from the state of Rakhine, Northern Myanmar, into Bangladesh. They flee a government backlash in reaction to Arsa, an insurgency group fighting for the rights of Rohingya, who had attacked 30 police posts the day before. There have been reports of village burnings, police brutality and mass rape. The UN has labelled it 'textbook ethnic cleansing'. They are right to flee but the situation is also grave in Bangladesh, with refugee camps lacking shelter, running water and proper sanitation.

The international community's duty is to alleviate the humanitarian crisis and subsequently delve into the issues which have caused such a travesty. Through such an examination, citizenship rights arise as an integral part of the problem, and a vital part of the solution. The figures tell a troubled tale – only 4,000 out of 1,000,000 Rohingya have full citizenship. By reforming citizenship law, enduring stability could begin to be brought to the area.

The underlying cause of these damning statistics is the highly discriminatory 1982 Citizenship Law and its surrounding procedure. If you are not born a citizen of Myanmar, you can become one through naturalisation and only after turning 18. Hence, Myanmar violates the UN Convention on the Rights of a Child, by allowing Rohingya children to be born stateless. The application process for naturalisation is lengthy, and requires a form of identification, which many Rohingya don't own. Verification cards can be issued during this process, and have been a consistent feature of government rhetoric around repatriation since its 1992 joint statement with Bangladesh. In response to fresh talk of verification procedure, a current refugee Anwar Begum, who has fled Myanmar three times in the past said: 'I don't believe the government', and you can't blame her.

Myanmar needs a legal framework that clarifies the status of its non-citizens. Citizens by naturalisation need to be put on equal footing to citizens by birth right. **Currently naturalised citizens can lose their citizenship for 'acts of moral turpitude' such as theft.** The government must also recognise the Rohingya as a race, in the 2015 census they could only put themselves down as 'Bengalis' which is a derogatory term used by the ruling Buddhist class.

The effects?

A lack of citizenship is not the only cause of the social exclusion and radicalisation of Rohingya but it is inarguably 'a key aspect of the discrimination and exclusion that have shaped their plight' says U.N. Commissioner Filippo Grandi. You need to be a citizen to hold political office or work in the civil service. **How can a race be and feel respected when not a single one of their million members holds a position in government or the civil service?** Within the Rakhine state there is little access to justice or respect for the rule of law: **extra-judicial killings are a common occurrence for the Rohingya.** Many who fled see the atrocities as a ramping up of the persecution that has been taking place in the region for years.

Giving them their citizenship rights is a gateway into obtaining genuine regard for their human and socio-economic rights. If these are respected, then Arsa's radicalism becomes unnecessary and unattractive. Arsa's decline is of the utmost imperative for the stability of the region. The Kofi Annan foundation reported in August 2017, that the persistent oppression suffered by the Rohingya meant it was a matter of when, not if, terrorism will emanate from the region.

The Rohingya can ill-afford to make their environment anymore inhospitable than the present situation. 50 years of military rule has sought to enforce the ethnic superiority of the Buddhist ruling class. Although Aung San Suu Ky leads a civilian government through her role as State Counsellor, the military's might has not diminished. They get to elect 25% of parliamentarians and crucially still control the Home affairs department, handling important administration like tax collection or birth registration. To overturn citizenship law, military power must yield.

There has been global outcry demanding aid for the 'world's most friendless people' – now it is time that they found some friends amongst the people of Myanmar, equal citizen to equal citizen.

A.I.: MASTER OR SLAVE TO LAWYERS?

Written by EDWIN TEONG *Illustrated by* IONA BARBOUR

A POTENTIALLY PRICKLY ROSE IN THE BRAMBLE BUSH

As Artificial Intelligence proliferates, becoming far more efficient than Man, we find ourselves confronting the frontiers of transition and the relevance of lawyers. Cue the recent use of Contract Intelligence (C.O.I.N.) by JP Morgan Chase which saw A.I. complete the work of 360,000 hours in seconds. The recognition of A.I. and its uses was also documented in a report released in November 2017 by silver circle firm, Herbert Smith Freehills. In the wider context of employment, a recent study conducted by PricewaterhouseCoopers predicted that 30% of jobs in the UK will be replaced by A.I.. That should spur consideration of the inevitable – given the current rate of technological advancement, how relevant will the skills of law and lawyers be in 50 years?

The use of technology is currently confined to procedural systems for filing of court documents. For example, we have the E-Litigation system in Singapore for Litigation cases, while in the UK, the HMCTS provides existing online services to inform the public of legal means and the costs involved.

Yet with the rise of A.I., there are further procedural benefits that could greatly improve administrative networks. For instance, with A.I. and data storage in clouds, judiciaries can utilize these resources to view judgments made contemporaneously by judiciaries in other countries through cloud sharing. This can help facilitate legal discussion and avoids the hassle of waiting for publication of law reports on BAILII etc.

Another procedural benefit is that algorithms can be used for 'minor' cases to inform the layman on the street which relevant legal routes can be taken in more straightforward cases. These include neighbor disputes, traffic offences or minor crimes.

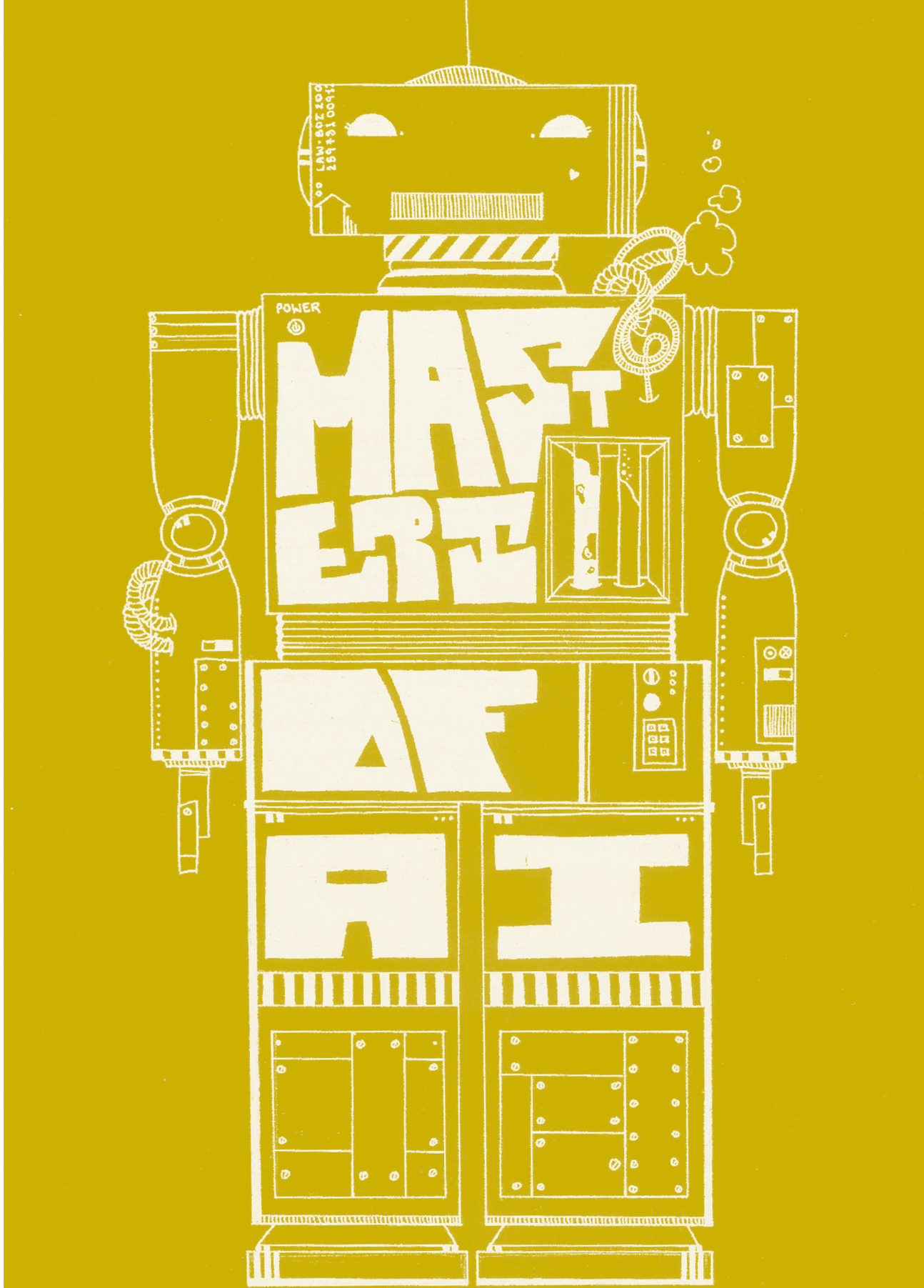
Having established its benefits, the rise of A.I. can potentially displace lawyers. However, while algorithms can provide answers to straightforward cases such as theft and grounds of mitigation, how will algorithms cope with the sophistry of large commercial cases and produce the most efficient legal solution to them?

Law goes beyond being a science for it is an art. In the context of commercial realities, it represents the client's need for trust and reliance on the lawyer's capabilities and ability to break down legal solutions to him. A.I. excels in providing uniformly efficient solutions, but can it adequately weigh up the considerations of law and the client's predicament in formulating these solutions?

Having said that, I feel lawyers will seek to utilize A.I. rather than be utilized. The study of law enables us to be versatile and transcend outmoded mindsets, paralleled by how judiciaries value judicial craftsmanship. We are thus more likely to utilize any A.I. to better suit our needs. A.I., on its own, lacks the humane touch and values related to the practice and study of law. Applying the same reasoning, any prospect of A.I. replacing judges is simply not feasible as much as it seems thinkable. The technology of A.I. cannot comprehend advocacy, given that advocacy is a craft, perfected through failure, while technology is focused on deadly efficiency without room for error. However, judicial experience is layered. For instance, A.I. will not be able to comprehend the need for judicial review given that it is programmed for perfection, which does not include acknowledging mistakes. This is in reference to the quashing of illegal decisions, a fundamental aspect of judicial review.

While A.I.-programmed robots are good companions as substitute caregivers for the elderly in Japan, the combination of expertise, being grounded, and judicial equity are values distinguishing practitioners of law from A.I.. This is especially as judicial equity requires an abstract understanding of ethics combined with decision-making intricacies that cannot be programmed with empirical algorithms.

But say some years later, A.I. incorporates the entire law syllabus: statutes, principles and case law into an automatic, 'Ultron-like' robot designed to substitute lawyers. Will we be comfortable with the same idea of letting our Volkswagen complete an automatic parking function as with our judiciary? Certainly not. After all, law is 'a leap of faith'. It entails choice between acts, uncertainty, and unpredictability, none of which are aligned with the core of A.I. programing, neither would it ever be able to comprehend 'faith' in numbers.



AN INTERVIEW WITH OLLIE LOCKE

Interviewed by AMI SODHA

Ollie Locke is a British television personality, famously rising to fame on the reality show 'Made in Chelsea'. Locke recently turned tech entrepreneur when he launched the gay dating app 'Chappy.'

WHAT IS CHAPPY?

Chappy is a gay dating app which is a sister app of Bumble. We met with Bumble about a year ago when we decided that we want to do for the gay community what they do for feminism.

WHAT MADE YOU WANT TO START CHAPPY?

As I was a gay man, the idea of going onto different apps was terrifying because they were unwelcoming, unsafe, irresponsible – they don't seem like a place where I would feel proud to be a gay man. They can be predatory and the stigma behind it was awful, it would make gay men feel like they could only have a hook-up. With gay-marriage, we are in such a lucky position in Britain, to have so much more than that, and I wanted a platform that could reflect that.

SO YOU FEEL THAT WHAT DIFFERENTIATES CHAPPY IS ITS INCLUSIVE NATURE?

Yes, we call ourselves the first ever gay dating app, because all the others are hook-up apps. So on *Chappy* you can choose Mr Right or Mr Right Now, you can choose something more serious or something more spontaneous.

CAN YOU TELL ME MORE ABOUT THE CHAPPY TOUR?

I am doing eleven dates around Britain, going round the whole country talking to students about LGBT and bringing in special guests to talk about their experiences. I think when you at university sometimes you can feel like you don't know where the future is going to go. When I was at university, I didn't know my sexuality. I would have loved to have sat there with amazing figures in front of me saying 'I'm gay and it's fine, you can still be successful,' things which, when you are younger, you doubt often.

HAVE YOU HAD A GOOD RESPONSE FROM THE STUDENTS?

Oh my god it's been amazing, like incredible. Last night was one of the most amazing nights, I met someone who was really struggling. I know that by the end of that evening we helped her so much and she said it was one of the best days of her life because of it.

WHAT MADE YOU CHOOSE BRISTOL AS ONE OF THE UNIVERSITIES ON YOUR TOUR?

I think Bristol is one of the best cities in Britain by a long way. If I were to live anywhere other than London it would either be Cambridge or Bristol. It has such a hugely diverse population, it is such great fun, the university is great…I love Bristol and I couldn't leave that one out.

DO YOU THINK LGBT ISSUES STILL GET ENOUGH COVERAGE IN MAINSTREAM MEDIA?

No I don't think they do. I always find that quite interesting actually. Whenever I read *The Daily Mail*, I always sit there and think that it's funny that they talk about the straight relationships and not about the gay relationships often. I think that it's more and but we are on a path and we are getting there.

WHAT DO YOU THINK IS THE GREATEST CHALLENGE FACING THE LGBT COMMUNITY IN 2017 IN YOUR OPINION?

Mental health and talking about it. The suicide rate of young gay men is enormous, particularly under-40s in Britain. That's something that I think we need to talk about more. We are talking about mental health more and I think that Kate, William and Harry are doing amazing things, talking about mental health and bringing it into a sphere that people can understand. I think that's wonderful but it would be nice if we talked about it slightly more.

DO YOU THINK HIGH-PROFILE LGBT STARS HAVE A RESPONSIBILITY TO SPEAK OUT?

Each to their own but for someone like myself that has some sort of influence to talk to people, I feel it is an obligation. I think that if I were in the public eye, it would be stupid, naïve and dumb of me not to talk about it. I think it's a social obligation, a part of the job – you should do it. Each to their own though, there are lots of people that don't and I feel you have to work with the community for a better future.

GAY MARRIAGE IS LEGAL NOW IN 22 COUNTRIES AND LAWS HAVE COME A LONG WAY CONCERNING LGBT RIGHTS – WHAT WOULD YOU IDEALLY LIKE TO SEE IN THE FUTURE?

Complete equality around the world would be wonderful, I think that is the ultimate goal isn't it? I would love America to have no discriminative barriers behind any LGBT – I think what Donald Trump is doing is an awful thing. I don't know why he is bringing us backwards. It's ridiculous that he can sit there and try and state a law that trans(gender) people cannot be in the army and it is complete lunacy. We're humans so why can't we be equal? It's madness.

THE SUICIDE RATE OF YOUNG GAY MEN IS ENORMOUS, PARTICULARLY UNDER-40S IN BRITAIN. THAT'S SOMETHING THAT I THINK WE NEED TO TALK ABOUT MORE.

OLLIE LOCKE

AN INTERVIEW WITH OLLIE LOCKE:

A RESPONSE PIECE

Written by DIANA MARÍA PANIZZON–PINEDA

The history surrounding the position of gay marriage in the UK is both a troubling and disconcerting one. Homosexuality's clash with Christianity in the 16th century led to it being viewed as sinful, and thus, outlawed. Punishable by death under the *Buggery Act 1533*, the death penalty was only removed in 1861 by s61 of the *Offences against the Person Act*. Prior legislation such as the *Marriage Act 1949*, the *Nullity of Marriage Act 1971*, and the *Matrimonial Causes Act 1973* all highlighted the stringent resistance within UK law to allow same-sex marriage.

Until 2005, following the *Civil Partnership Act 2004*, there was no legal recognition of same-sex relationships in Britain. It was only on 13th March 2014 as a result of the *Marriage (Same Sex Couples) Act 2013* that same-sex marriage was legalised in England and Wales, the analogous *Marriage and Civil Partnership (Scotland) Act 2014* permitting the same in Scotland.

Despite recent legislation confirming that all the rights and responsibilities of civil marriages may take place on consented premises – including religious venues – various limitations still loom before us. No religious body is compelled by law to accept civil marriages, the Church in Wales and the Church of England explicitly banning it. In Northern Ireland, same-sex marriage is still neither performed nor recognised. Nonetheless, some may argue that the UK has come a long way, the ILGA-Europe's 2015 review of LGBT rights giving it a score of 86% regarding the progress towards 'respect of human rights and full equality' of the LGBT community – the highest score in Europe.

Nevertheless, mental health remains a prominent issue at the forefront of the LGBT community. While there exist laws against hate speech based on sexual orientation in England and Wales under the *Criminal Justice and Immigration Act 2008*, this is not the case for Scotland or Northern Ireland. More concerning is that there is yet no law against hate speech on gender identity anywhere in the UK but Scotland.

More than a quarter of homosexual and bisexual people have felt the need to disguise their sexual orientation to prevent themselves from becoming victims of hate crimes. As PSHE classes in schools are not compulsory, LGBT sex education and relationships often go undiscussed, a lack of understanding leading to intense bullying where homophobic slurs are common, and devastating consequences more so. 45% of LGBT pupils – including 64% of trans pupils – in Britain's schools are bullied for being LGBT. Alarming studies show that suicide is attempted 3 times more frequently by LGBT youths than by their heterosexual counterparts. To say we live in a wholly-accepting, omnigender-encompassing 21st century Britain is a farce until effective government policies are introduced to raise awareness and ensure education in schools and beyond surrounding LGBT issues.

Concerning military service, the LGBT community have been allowed to serve in Her Majesty's Armed Forces since 2000, civil partnerships being further recognised by the military through the granting of identical housing rights as those of heterosexual couples. Discrimination on the grounds of sexual orientation has been forbidden since the *Equality Act of 2010*, as has pressuring LGBT people to come out.

Under Obama – since June 2016 – transgender people could serve in the US military following Ash Carter's decision. They also had access to medical care surrounding the process of formal transition, as well as the ability to change their gender identity within the official systems of the Pentagon.

Trump's America, however, is taking a greatly disturbing step backwards concerning LGBT rights. Trump decided to ban transgender people from the military as US forces 'cannot be burdened with the tremendous medical costs and disruption that transgender in the military would entail'. Chad Griffin has argued that Trump is 'undermining [the] military' by attacking its transgender service members, particularly considering how there are between 2,500 – 7,000 currently serving. It is unsurprising, therefore, that Trump's vile and ignorant discriminatory assertions are condemned by many to constitute a significant breach of human rights.

As DaShanne Stokes stated, 'If you love your country, you must be willing to defend it from fraud, bigotry, and recklessness – even from a president'. Let us hope that America will now fight for the rights and freedoms of the personnel who defend theirs. America is, after all, the land of the free – is it not?

JUSTICE DELAYED, JUSTICE DENIED

Written by THE HOWARD LEAGUE

THE RIGHTS OF PRISONERS

THE CASE of Hirst v UK 2004 should have been a revolution for prisoner's rights. John Hirst had been serving life imprisonment and was released on licence, but was barred from casting his vote in elections according to the *Representation of the People Act 1983*. The *Act* states that a convicted person serving time in a penal institution is legally incapable of voting at any parliamentary or local government election. According to Government figures, 48,000 other prisoners were in a similar position. Mr Hirst claimed that Section 3 of the 1983 *Act* was incompatible with the European Convention of Human Rights.

The European Court of Human Rights ruled that the rights given by Article 3 of Protocol No 1 were not absolute, but that any limitations on the rights would have to be in pursuit of a legitimate aim and be proportionate. So: what aim is being pursued by limiting prisoner's right to vote? The government submitted that the aim was the deterrence of crime, and the limitations of rights were a sanction, much like the limitations placed onto prisoners' right to liberty. The Court accepted this aim as legitimate, but its effectiveness as a deterrent to crime is doubtful. When faced with the possibility of future detention, the possibility of losing one's voting rights most likely is not such a large factor in crime prevention. More likely, the government's aim was to prevent prison populations from using their vote to demand better living conditions. The prison conditions and cuts in funding to the prison system are political issues that prisoners would be passionate about and would want their vote to be used to improve their lives. **Prisoners are also arguably the best placed to speak on such issues.**

However, the Court found that the 'blanket ban' on prisoner's right to vote was disproportionate as it included a very wide variety of prisoners and **there was no attempt by courts to remove the rights of only specific prisoners: the removal was assumed.** Parliament would need to specify the removal of rights if the domestic courts are to apply it on a case-by-case basis.

The aftermath of this ruling in 2004 was frankly underwhelming. The government did not give the 48,000 people affected by this incompatibility the rights given to them by the European Convention of Human Rights. As Frances Crook, Howard League's Chief Executive points out, the government is not giving a good message to prisoners by ignoring a court ruling. **A change in the law is long overdue, and the UK government should be held responsible for the infringement of rights that it has upheld for over a decade.**

David Lidington, the justice secretary, apparently confirmed to MPs in November that, in order to end the 12-year dispute with the Strasburg Court, there will soon be an end to the unlawful blanket ban. However, this will affect fewer than 100 prisoners and the goal is merely to tie up loose ends with the judgement. Prisoners – who are having their rights violated – will see no real affect.

The future of prisoner's rights in the UK is looking stagnant.

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