Editors' Introduction

Jasmine Moussa^{*}

Bart Smit Duijzentkunst[†]

As with all 'growth spurts', the CJICL's continues to manifest itself in fits and starts: the publication of this issue is a lively demonstration. Thanks to an influx of high-quality submissions, for the first time, the CJICL is publishing a second regular issue, next to its UK Supreme Court Review and its conference issue. Not only does issue 2(3) increase the Journal's output, it also offers a wider variety of articles on international and comparative law, ranging from the law of the sea and humanitarian law to comparative tax law. This is testament to the publishing model of the Journal, which offers a truly open-access platform to young and established academics from across the globe, while maintaining its discernment through a rigorous double-blind peer-review process. It is also an accolade to the hard work of the Journal's editors and academic reviewers, who have put in so much of their time to produce this issue.

With growth spurts, however, come growing pains: as a young player on the field, the CJICL continues to develop its editorial policy and processes. Expanding its operations puts pressure on its resources, in particular the valuable time and effort of all those who volunteer. The annual changeover of the editorial team inserts much new energy into the Journal, but also drains expertise and experience. Moreover, the Journal breathes the rhythm of Cambridge's notoriously short academic year. This means that there continues to be much room for growth and development of the CJICL in future years.

The articles in this issue can be grouped into a number of themes, although the dividing lines are not sharply drawn. The issue opens with three articles that consider rights and responsibilities in the fields of international criminal law, humanitarian law and human rights law. In her incisive article, Beatrice Krebs examines the influence of both the common law and civil law traditions on the Rome Statute's provisions concerning grounds for excluding criminal responsibility. She convincingly makes a case for the classification of 'defences', based on the civil law model, which distinguishes between 'bars to responsibility',

^{*} PhD Candidate, Magdalene College, University of Cambridge.

[†] PhD Candidate, Gonville and Caius College, University of Cambridge.

'justification' and 'excuse'. Not only does such a classification have a 'signalling effect', she argues; it equally has practical implications for the application of the rules on lawful self-defence and complicity. Dan Saxon's timely and novel contribution focuses on journalists in the current armed conflict in Syria, not as holders of rights but as bearers of legal and moral obligations under international humanitarian and human rights law. He examines the tensions that arise between, on the one hand, the freedom of expression, and, on the other, the safety and dignity of prisoners of war (POW's) who feature in televised interviews. Saxon also offers recommendations to guide the conduct of journalists covering situations of protracted violence.

Tim Wood continues this line of thought when he argues that political parties should be considered as duty bearers under international human rights law. He points out that political parties often carry significant political power, particularly when they are in government. He also demonstrates that some international courts already hold political parties to account, for example by invoking the 'abuse of right' doctrine. Wood's article could also fall into the 'political rights' theme of this issue, which is continued by Riccardo de Caria's article on lobbying in the US and the EU. By comparing the constitutional arguments for lobbying and frameworks in which it has developed, de Caria draws out the differences and similarities between practices on the two sides of the Atlantic. Pedro Caro de Sousa completes this theme with his reflections on the horizontal effect of EU fundamental freedoms. Critiquing current approaches to this issue, he argues that fundamental freedoms should be considered as judicially enforceable constitutional rights, employing a comparative methodology to draw lessons from other constitutional systems. This affects which institution—private parties or member states—will have primary responsibility for balancing between the rights and interests at stake and for paying damages to injured parties.

An entirely different theme is introduced by Ruben Martini, whose article offers a fascinating new approach to the study of comparative tax law. By proposing to use the concept of elasticity in the analysis of tax law concepts, Martini develops a rigorous numerical methodology for examination of the subject. This theme is continued in the book review section, where Rav Singh stresses the need for comparative research in the law of taxation.

This issue continues with a special selection of articles on the law of the sea (LOS), with a particular focus on jurisdictional and other issues related to the protection of underwater cultural heritage and the limits of the continental shelf. These articles' timely arrival—particularly in light of their proximity to the questions raised by this year's Jessup problem—fully warrants the dedication

of a special section. The LOS Special opens with an important contribution by Vincent Cogliati-Bantz and Craig Forrest examining the compatibility of the 2001 Convention on the Protection of the Underwater Cultural Heritage (UCHC) with the UN Convention on the Law of the Sea (UNCLOS). Employing the techniques of treaty interpretation, they argue that in various areas of controversy no inconsistency arises between the two conventions. In areas where alternative interpretations do give rise to inconsistencies, they suggest that the interpretation most consistent with UNCLOS' jurisdictional framework should be preferred. This should encourage more states to accede to the UCHC. Under a similar theme, Michail Risvas' article focuses on the duty to cooperate over the protection of underwater cultural heritage. It sets out the extent of this duty under the different frameworks that govern the subject, including the two treaties discussed by Cogliati-Bantz and Forrest, as well as ad hoc regional agreements. Risvas suggests that where traditional heads of jurisdiction may be inadequate, states may wish to consider alternative modes, such as port-state or nationality jurisdiction, to protect underwater cultural heritage. The final article in the LOS Special is Andrew Serdy's analysis of the recommendation of the Commission on the Limits of the Continental Shelf (CLCS) regarding Ascension Island, and the UK's criticism thereof. In its recommendation, the CLCS stated that Ascension Island did not fulfil the conditions for the extension of the continental shelf beyond 200 nm, based on its interpretation of article 76 UNCLOS. The author analyses the CLCS's approach and discusses the options available to the UK should it elect to challenge this recommendation in the future.

The case analysis section of this issue offers a review essay by Berk Demirkol, looking into the possibilities for mass claims in investment arbitration. Starting from *Abaclat v Argentina*, it carefully considers the differences between class arbitrations, traditional mass claims processes and other multi-party proceedings to discuss the extent of consent required for claims initiated by a number of claimants. The note by Catherine Bates looks into the international implications of the abortion controversy that was at issue in *L.C. v Peru*, considering its lessons for both the procedural as well as the substantive aspects of the right to health.

In the book review section Mark Jordan discusses the recent publication by Cambridge alumna and CJILC Academic Review Board member Jessie Hohmann on the right to housing, highlighting the innovative conceptual frameworks of 'privacy', 'identity' and 'space' that Hohmann develops. As mentioned above, Rav Singh reviews the new publication by Reuvan Avi- Yonah, Nicola Sartori and Omri Marian on comparative tax law. This is followed by Daniel Clarry's reflection on the trust in civil law, on the basis of a collection edited by Lionel

Smith, demonstrating that this concept is not merely confined to its common law roots. Finally, Cameron Miles reviews Armin von Bogdandy and Ingo Venzke's edited volume on international judicial law-making. Pointing out the controversial use of the concept of democracy in the book, Miles concludes this issue in style: with a question mark.