EDITORS' INTRODUCTION

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The French say that 'to learn a foreign language is to learn a foreign culture'. During the Second Annual CJICL Conference, 'Legal Tradition in a Diverse World', held on 18 and 19 May 2013 at the University of Cambridge, participants explored whether we should say the same about learning foreign law. Legal systems do not merely provide a syntax in which to fit our normative beliefs. They breed intuitions about law, a sense of what is right and wrong, what is proper and what is inappropriate. A common lawyer may delight in the combat of a cross-examination, while a civil lawyer cringes about the complaisance of the judge. One nation may be built on the pages of its constitution, while another seeks to remain free from the shackles of a written code. And one rule may seem liberating to some, but oppressive to others.

Having lived, studied and worked in a wide range of legal systems, many international and comparative lawyers are acutely aware of these contradictions. Perhaps one has studied in a foreign legal system; researched alien laws; or had to navigate a new legal regime in one's legal practice. Novel legal lexicon may feel like a foreign language. Like a language, however, law is not just about rules; it is an institution through which we communicate our moral convictions and desires, reflecting both our shared history and our aspirations for the future. In a world where legal systems increasingly interact, and where global problems call for innovative legal solutions, it is imperative to look beyond law's analytical foundations. To better understand each other's point of view, we must examine the historical, cultural and emotional bases of legal traditions. It is these foundations that the Second Annual CJICL Conference sought to explore, and which has resulted in the present issue.

Similar to the conference, this issue opens with the reflections on the importance of diversity of legal traditions by Judge Abdulqawi Yusuf. In his Keynote Address, the Judge sets out the ways in which the International Court of Justice seeks to protect this diversity; and he reveals the similarities

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between Somali customary law and the contemporary international legal order. Professor H Patrick Glenn, in his Guest Lecture published in this issue, explains why the state is best understood as legal tradition, a term he defines as 'legal information which has come from those who have preceded us'. This issue also features another highlight of the conference, the Keynote Debate between two of the world's most experienced international litigators representing the 'Anglo-Australian' and the French legal tradition. Moderated by Professor Catherine Redgwell, Professors James Crawford and Alain Pellet debate the merits and pitfalls of each other's advocacy traditions—the CJICL is delighted to be able to publish the transcript of their interaction.

Of the many excellent conference papers presented in Cambridge, only a small selection could be published here. The issue opens with a series of three articles on a particularly controversial issue in many legal traditions, namely the role that military courts and commissions play within a legal community. Yaël Ronen examines the use of Israeli military courts in the occupied territories on the West Bank. She warns that, while military tribunals may seem to function as civilian courts, they do operate within a 'dualist legal order' in which security legislation threatens the primacy of the law of occupation. Speaking with the authority of a practitioner, Lieutenant-Colonel Stephen Strickey next discusses the tension between military discipline and the civilianization of military justice in countries that share an Anglo-American legal tradition. His comparative analysis shines light on the challenges faced by both legislators, military judges and military commanders. Jonathan Hafetz completes the series with a discussion of the use of military commissions to prosecute Guantanamo Bay detainees. Having provided legal assistance to Guantanamo Bay detainees himself, Hafetz argues that the use of military commissions in these cases devalues both the legal and the moral significance of war crimes prosecutions.

Moving from the procedure to the substance of international criminal law, Valerie Oosterveld's contribution identifies an 'ongoing dialogue on sexual violence between the international and national spheres'. As she points out in her detailed analysis, neither sphere should adopt a complaisant attitude towards gender violence. Next, Ulf Linderfalk examines how our traditional uses of language can explain the existence and identity of special regimes in international law. Focusing on the notion of 'proportionality', his article explores how the various ways in which legal regimes apply this notion expose their differences and similarities. Seventy years after its publication, Francesco Messineo revisits Angelo Piero Sereni's *The Italian Conception of International Law*, questioning whether there indeed is such a conception, or whether this has been

lost in the globalisation of international legal scholarship. Geoffrey Gordon's contribution also challenges the notion of national conceptions of international law, arguing that there is an innate cosmopolitan tradition, originating from the teachings of the School of Salamanca, which permeates thinking about the legal relations of states and individuals in the international sphere. Cosmopolitan ideals also reverberate in the debate over third generation rights, which Rosa Freedman examines. She proposes to study these rights through the lens of hybridity, which may better explain their roots, appeal and implications. A more down-to-earth—but no less sharp—analysis is provided by Neil Dower's discussion of the demise of the anti-suit injunction in English courts, at the behest of the European Court's of Justice on-going efforts to bring European legal systems under a common tradition. Freya Baetens and Cheah Wui Ling investigate the various traditions in the research and teaching of international law across the world. They present suggestions for the improvement of, *inter alia*, 'clinical' learning, research collaborations and the plight of young academics. Finally, Sir Elihu Lauterpacht concludes the issue with personal reflections on the legal traditions he encountered both in his career as an international lawyer and at the conference.

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