Editorial

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In this first issue of the fifth volume of the *Cambridge Journal of International and Comparative Law*, the authors grapple with the broad theme of rule-making in its many forms. To that end, the authors cover rule-making in both international law, European Union (EU) law and domestic law. They consider the perspectives of the executive, the legislature, the judiciary and that ever-amorphous concept, ‘civil society’. In so doing, certain cross-cutting themes emerge, such as the role of experts and the judiciary, regulatory competency as well as public participation and transparency in rule-making.

The first article to explore the idea of rule-making in this issue is ‘Global Public Goods and Democracy in International Legal Scholarship’, by Samuel Cogolati, Linda Hamid and Nils Vanstappen. These authors argue that international legal scholarship could contribute to democratically defining Global Public Goods. In particular, Cogolati, Hamid and Vanstappen contend that two modern approaches to international law—global administrative law and global constitutionalism—could play a particularly prominent role in including world citizens in the process of defining the global public domain. Specifically, global administrative law and global constitutionalism could import new participatory mechanisms to the global regulatory sphere and could include non-state actors in the process of international law-making.

Inclusion and transparency in law-making are also very much at the heart of Vigilenca Abazi’s article, which focuses on European Parliamentary law-making, in relation to which the author contends that public deliberation is dampened by extensive secrecy practices. Abazi examines the way in which the European Parliament is using its new powers conferred by the Lisbon Treaty to oversee law-making, but contends that this oversight is also taking place behind closed doors. The article calls for the European Parliament to make greater efforts to develop its public deliberation function, and in so doing, to bring to light the secrecy practices currently in place.

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The deficiencies of the European law-making system are further explored in Oliver Bartlett's article, 'The European Union's Competence Gap in Public Health and Non-Communicable Disease Policy'. In this article, Bartlett argues that, on balance, there are compelling reasons for the EU to engage in public health and non-communicable disease (NCD) policy-making. After surveying the European legal landscape with respect to this question, however, he acknowledges that the public health power in Article 168 of the Treaty for the European Union (TFEU) would be insufficient to realise the EU's regulatory ambitions with respect to NCD prevention. Bartlett therefore discusses the way in which the general internal market harmonisation competence in Article 114 of the TFEU might be drawn upon to bridge this competence gap to some extent, though he concedes that its use here is also problematic. While acknowledging that a more specific public health competence would be the most obvious solution, the probability that the EU would be given such an increased power in relation to public health is also conceded as being low.

Continuing on the theme of law-making in the EU, the fourth article, by Carlos Arrebola, Ana Júlia Maurício and Héctor Jiménez Portilla offers an econometric analysis of the influence of the Advocate General on the Court of Justice of the European Union. This insightful elucidation of the role of the Advocate General (AG) via regression models, highlights that the Court of Justice is 67% more likely to annul an act or part of an act where the AG advises to annul. This is in contrast to cases where the AG advises the Court to dismiss the case or declare it inadmissible. The findings raise important questions regarding judicial independence and the relevance of the AG, and provides a good foundation for future analyses on judicial reform.

The fifth contribution in this Issue is by Ioanna Pervou, who considers European Court of Human Rights (ECtHR) jurisprudence on the Greek economic crisis. Specifically, the author analyses the cases of *Koufaki & ADEDY v Greece* App nos 57665/12 and 57657/12 (ECtHR, 7 May 2013) and *Giavi v Greece* App no 25816/09 (ECtHR, 3 October 2013). Pervou considers the findings of the ECtHR regarding the rights to property and economic interests as well as the relevance of the principle of subsidiarity. Further, the interplay between the decisions of the ECtHR and the national courts reveals a level of congruence with the ECtHR reiterating the dicta of the national courts in support of its rationale. The rationale of those decisions from a democratic principle perspective is significant, given the Court sets limitations on property rights based on democratic justifications. Pervou's detailed analysis leads her to argue that European jurisprudence in the

crisis has been devastating for democracy because of the timidity of the Strasbourg Court. This is underlined by the principle of subsidiarity, which the author argues renders the ECtHR ineffective.

Following on from the previous articles is a case note written by Maria Elena Gennusa, which considers the Italian Constitutional Court Judgment No 238 (2014). In that case, the Italian Constitutional Court held that customary international law on state immunity covering war crimes and crimes against humanity had no effect. Gennusa discusses the legal reasoning of the Court and infers the real purpose behind the judgment and evaluates the appropriateness of the approach used to reach the Court's objectives. The author's concise analysis raises questions about whether the Court was seeking to constitutionalise international law.

Issue 5(1) concludes with two book reviews. The first is a book review written by Mark Retter for the book, *The UK and European Human Rights: A Strained Relationship?* edited by Katja S Ziegler, Elizabeth Wicks and Loveday Hodson. The book is a collection of essays and Retter offers an overview of the book, observes the underlying themes, articulates the methods used and offers insight into the effectiveness of the dialogue between the various authors. The second book review for this issue, by Gaiane Nuridzhanian, considers *The Law and Politics of the Kosovo Advisory Opinion*, edited by Marko Milanović and Sir Michael Wood. Following the general structure of the edited collection, the book provides a summary of the most important chapters in the collection and reflects upon the contribution of the book in the legal and political debate on the Kosovo Advisory Opinion.

Finally, it remains only to thank a number of people and organisations without whose support this issue could not have been produced. First, we are grateful for the generosity of the Cambridge Law Journal, the Lauterpacht Centre for International Law and the Centre for European Legal Studies at the University of Cambridge. Additionally, this issue could not have happened without the hard work and dedication of our Managing Editors: Michael Dafel, Darren Harvey, Massimo Lando, Lan Nguyen, Niall O'Connor and Stefan Theil, as well as their teams of Editors. We are also very fortunate to be well-served by a dedicated and illustrious Academic Review Board, the composition of which we set out on the opening pages to this issue. Finally, we are indebted to the previous Editors-in-Chief, most particularly, Naomi Hart and Ana Júlia Maurício, for guiding us through the transition to the role of Editor-in-Chief with their characteristic thoroughness, dedication and generosity.