Editorial

1 INTRODUCTION

This inaugural issue of the Cambridge International Law Journal (CILJ) marks a new and exciting development for the Journal. CILJ is committed to continuing the tradition of its predecessor, the Cambridge Journal of International and Comparative Law, in providing a platform for both young and well-established academics to engage in outstanding research in the field of international law. It is in this spirit, and with the aim of promoting a wider readership for the Journal, that we have recently entered into a collaboration with Edward Elgar Publishing, who share our dedication to high quality scholarship. We are grateful to them for embarking on this new venture with us. The advice and support of Luke Adams, Ben Booth, Helen Craven, Marina Bowgen and the Edward Elgar editing team has been particularly invaluable. We look forward to strengthening our continued partnership into the future. This collaboration was made possible thanks to the endeavours of our predecessor Editors-in-Chief, Catherine Gascoigne and Barry Solaiman, to whom we would also wish to convey our gratitude.

As ever, the production of this issue would not have been possible without the help and support of a number of people. Particular thanks are owed to the authors for their contributions. It has been a great pleasure to engage with and promote such thought-provoking scholarship. Our Managing Editors, John Adenitire, Ya Lan Chang, Raffael Fasel, Natalie Jones, Ridhi Kabra and their teams of editors have been tireless in their efforts and dedication to the Journal. We are also grateful for the continued support of the Lauterpacht Centre for International Law, its Director and our Honorary Editor-in-Chief, Professor Eyal Benvenisti, the Cambridge Centre for European Legal Studies, the Cambridge Law Faculty and the members of our Academic Review Board for their continued guidance.

2 OVERVIEW OF VOLUME 6(1)

Recent world events have shown a renewed need for awareness and appreciation of international law. This issue contributes to this endeavour via its exploration of diverse topics in the field. Among the subjects covered are international dispute settlement, human rights law, the law on the use of force, law of the sea and international investment law. While situated in what could be considered among the most conventional areas of international law, each article offers an insightful analysis of new developments.

In Part I, two articles are dedicated to examining the work of international courts and tribunals, albeit with different focuses. In the first, entitled ‘The Dispute That Wasn’t There: Judgments in the *Nuclear Disarmament* Cases at the International Court of Justice’, Michael A Becker scrutinises the way in which the International Court of Justice handled the jurisdictional question of whether a dispute existed in the case brought by the Marshall Islands against three nuclear powers: India, Pakistan, and the United Kingdom. Based on an analysis of the Court’s reasoning with respect to the existence of a dispute in these three cases, Becker argues that

the restrictive view that the Court has adopted towards 'dispute requirement' in its recent case law has taken a wrong turn. He then calls into question the supposition that votes in the *Nuclear Disarmament* cases can be explained by judges' nationalities, and cautioned against jumping to conclusions about the factors that may have influenced the ways in which judges have decided a case. The article concludes by offering some thoughts on the challenges these cases posed to the Court and its judicial function.

The second article relating to judicial function comes from Letizia Lo Giacco. In her article 'Swinging Between Finding and Justification: Judicial Citation and International Law-making', Lo Giacco conducts an examination of the practices of judicial citation by both international and domestic courts in cases relating to international criminal law. She argues that there is a fundamental difference in the way in which international courts and domestic courts deal with international judgments. Whilst domestic courts rely on international judicial decisions primarily as a finding device, international courts invoke domestic judicial decisions as one of justification. The significance of this conclusion is two-fold. At the domestic level, the dynamics of judicial citation will likely pave the way towards inter-domestic judicial cross-references, signalling the migration of authority from international jurisdictions to domestic jurisdictions. At the international plane, instances of judicial citation as a finding exercise will foster the scholarly debate of how international judicial decisions shape international law and create expectations on domestic courts regarding how to decide a certain matter of international law.

In the next article 'The Representation of Disability in the Media in the UK and France: Implications for Free Speech and Diversity in Light of Article 8 of the Convention on the Rights of Persons with Disabilities', Andreas Dimopoulos provides a normative account of Article 8 of the Convention on the Rights of Persons with Disabilities (CRPD) which imposes on States Parties an obligation to encourage all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the CRPD. The author engages in a comparative examination of EU, French, and UK law on broadcasting, focusing specifically on the manner in which they have dealt with disability-related complaints about television broadcasts. On that basis, the author argues that the current regulatory framework on broadcasting services is inadequate to fulfil the obligations under Article 8 CRPD. The article, therefore, calls for careful revision of both the regulatory framework for broadcasting, as well as the practice of the relevant regulatory bodies in order to conform to the obligations imposed by Article 8 CRPD.

The fourth article 'War, Weapons and Watchdogs: An Assessment of the Legality of New Weapons under International Human Rights Law' similarly pays homage to the importance of international human rights law, but in this instance, in the assessment of the legality of weapons. Helin M Laufer begins with a critique of the International Committee of the Red Cross (ICRC) for its failure to take into account international human rights law (IHLR) as a guide to the legal review of new weapons. The author argues that human rights law is part of the law applicable in armed conflict and should, therefore, have been included in the ICRC's guide. On that premise, the author proceeds to examine whether the use of unmanned aerial vehicles and autonomous robot systems complies with IHLR, focusing in particular on the right to life and the prohibition of torture and cruel, inhuman or degrading treatment. Using such a practical framework as an example of a human rights assessment of the legality of weapons, the author recommends that the ICRC reassesses its New Weapons Review, so as to clearly state the need to consider weapons from a human rights perspective.

Part II begins with a case note examining a recent high-profile case in investment law, the *Yukos* cases. The author pays particular attention to the controversial reversal of arbitral awards by the Dutch Hague District Court, premised upon different interpretations of provisional application as laid down in Article 45 of the Energy Charter Treaty. The author argues that while the Arbitral Tribunal endorses the ‘all-or-nothing’ approach in interpreting the provisional application, the Hague District Court adopts the ‘piecemeal’ approach that requires provisional application to be dependable on the consistency of each provision of the Treaty with domestic laws of a signatory.

The second case note is with regard to an equally highly-anticipated case concerning the law of the sea, the South China Sea case brought by the Philippines against China before an Annex VII Arbitral Tribunal under the United Nations Convention on the Law of the Sea. While the arbitral award covered many issues, Yen Hoang Tran focuses, in this note, only on the implications of the award on fisheries management and cooperation in the South China Sea. She argues that the award has laid the foundation for future regional or bilateral efforts to cooperate, especially those of fisheries management and fisheries management cooperation in the South China Sea as its fisheries now, are on the brink of collapse.

This issue concludes with Sarulakshmi R’s review of *International Law and Migration* by Vincent Chetail and sets out the author’s exploration of interrelated themes in the law of migration.

Lan Nguyen and Niall O’Connor
Editors-in-Chief