

Editorial

The Editorial Board (2023/24) is excited to present the inaugural volume of the Hull Law Review. This volume showcases an outstanding quality of diverse legal content selected from student research at the Law School throughout the year. The aim and purpose of the Editorial Board was to build on an ethos of collaboration, creating a culture of pride and value in exceptional undergraduate research, and encouraging the engagement of students as co-producers and facilitators of their work. We strived to create a forum of intellectual discussion on the contemporary developments in law, encourage student participation in their research, and provide critical, lively feedback contributing to the legal discourse more actively.

In this volume, we have selected, peer-reviewed and published six student papers covering diverse issues ranging from administration of justice, administrative law, international law, human rights law and international humanitarian law.

First among those is Farah Farid's paper on the *Principles of Distinction and Proportionality in IHL*. It is based on an important purpose of protecting the civilians, a disproportionate target of wars and fighting. *How can we alleviate the suffering of these people?* She argues that the solution lies in the proper and effective application of the principles of "Distinction and Proportionality" which are foundations of international humanitarian law under Articles 48 and 51 of the Additional Protocol I to the Geneva Convention. Failure to adhere to the principle of discrimination in World War II led to massacres, ethnic cleansing campaigns against civilians, and genocide. Such as happened in Yugoslavia 1991-1995, Rwanda in 1994 and as recently as in Gaza. The bottom line of Farah's argument is that the two principles influence each other, and when applied effectively, the principle of distinction facilitates the proportionate use of force. We understand that the balance of military necessity is crucial to the principle of proportionality.

Next, Archana Bijay Kumar's piece critiquing the *Montevideo Convention of 1933 in the Context of the 21st Century* argues that Article 1 of the 1933 Convention on the Recognition of States by the International Community has become flawed and needs radical amendments. Art 1 of the Convention defines the elements of a state (permanent population, defined territory, independent and effective government, and legal capacity to enter relations with other states). She shows that Article 1 fails to specify the requirements for immigration and dual citizenship to form a permanent population. It also does not commit to defining a specific territory characterized by borders with its neighbours. Also, number of international recognitions of independent countries without an effective government has muddied the criterion of an independent government. While such practices are consistent with the Constitutive Theory, disagreement lies over the question when a state should be admitted to the UN as well. Art 1 also fails to specify the elements of the legal capacity as an expression of the state's sovereignty. *Do international restrictions imposed on a state affect its independence and therefore its legal capacity?* Kumar concludes by arguing that the requirements of Art 1 are unclear and ineffective in addressing the state's challenges and require flexibility from major countries.

In the third paper, Yuhang Xing examines whether *Anticipatory Self-Defence Doctrine* might have been deployed by the Chinese government in relation to the Taiwan Strait. The doctrines of pre-emptive and anticipatory self-defences argue for the use of unilateral military force even in the absence of an imminent threat. Dubious application of the doctrine in the 2003 US war on Iraq undoubtedly undermined the principle. Xing asks, *Could the PRC mimetic the United States and justify its action by undertaking Preemptive actions against Taiwan because of its policy or destructive weapons and terrorism and invoking stronger reasons depending on the proximity of the distance?* The paper

emphasises the principle of necessity and proportionality as a fundamental element of customary international law governing self-defence and argues that its effects must not extend to creating justifications to serve the interests of major powers. Moreover, advanced weapons may lead to the development of a new rhetoric that challenges international law. Xing concludes that disagreement and tensions remain prevalent between the theory of preventive defence and the Chinese elites, who consider it an unnecessary aggressive warfare, consolidating American hegemony.

Fourth, Oluwagbenga Onojobi critically analyses the *legal and governance challenges associated with Marine Geoengineering (MG)* and its existing legal and administrative frameworks and renders some recommendations. The experimental studies aim to modify oceanic and atmospheric processes to counteract climate change inherent of the marine environment. The legal framework for geoengineering consists of customary international law, the 1982 UNCLOS, the 1972 London Convention LC, the LP 1996 and its amendment 2013 (Ocean fertilization), and the Convention on Biodiversity. They collectively aim to promote sustainability in utilization of its components and ensure the fair and equitable sharing of genetic resources. However, they have significant limitations in effectively governing these new technologies due to lacks specific regulations for geoengineering. Onojobi argues that despite the indirect IMO's regulatory and enforcement role, in the absence of a dedicated international treaty enforcing compliance and ensuring responsible geoengineering practices will be limited. He recommends that adaptive governance mechanisms should be adopted, and international cooperation be strengthened to achieve a balance between scientific research and developing climate solutions.

In the fifth paper, Olugbenga Falade examines the nuances of *the Witness Oaths and its impact on the English judicial system*. While religious beliefs greatly influence oaths and the consequences of perjury, the development of the common law and statute laws, such as UK Oaths Act 1978 and Rules of Criminal Procedure Rules 2020, has formalised Oath as a procedural requirement in judicial proceedings. However, some criticise the practice as a non-binding formality, and challenge its seriousness and authenticity in a virtual or digital environment. Although witnesses are protected, they may be exposed to lying due to fear, emotions, external pressures, or personal gain. Hence, Falade asks, *can it be argued that an oath should not be a strict rule? Is there the possibility of discrimination against defendants who are not willing to swear by God?* He concludes that religious beliefs, integrity, and moral standards combinedly motivate one's conscience to commit internally to honesty. Therefore, better education on cultural values and public awareness should reinforce the seriousness and importance of the oath.

Lastly, Arjan Singh's intriguing paper on Group Identity and Rule which argues that the idea of Group Identity has an inherent and unavoidable contradiction with the concept of the Rule of Law. Therefore, successful legal reforms must strive to strike a delicate balance between the two concepts. Singh forcefully stands for granting rights and freedoms to citizens irrespective of any identity politics that may be affecting the social psyche of a given time. Singh took the UK's Online Safety Act 2023 (OSA) and the Gender Recognition Act 2004 (GRA) and its 2022 reform as interesting case studies to develop the argument.

We would like to express our deep gratitude to our Patron, Dr. Caroline Gibby, the pool of Peer Reviewers, Authors and our Faculty Coordinator Dr. Jashim Chowdhury for their continuous support and invaluable advice throughout the Journal process. We would also like to thank and congratulate all the members of the Editorial Board 2023/24 who worked tirelessly and devoted significant part of their time scrutinising, reviewing and proofreading the Journal. We wish you find this volume of the journal intellectually intriguing. From the Editorial Board (2023-24)'s part, that was the standard of success we set for us.