

## Foreword

Schools of Law in the United States of America and other countries involve their students in the editing of journals based at the respective universities as a normal part of the student experience. I have always thought that this must be a very formative activity for students who, at a very early stage in their student career, learn how to review, reflect and comment on original pieces of scholarship written by other students or by established legal scholars. During my time at Liverpool John Moores University, and in my role as a research coordinator in particular, I have often and for various years toyed with the idea of creating a student law journal where student research and scholarship could be published. I am therefore immensely grateful to Dr Alice Diver and Rachel Stalker (editors in chief) for taking the lead on this important initiative and for realising this dream of mine.

The *LJMU Student Law Journal* will add great value to the student experience at LJMU and will become a community where postgraduate taught and postgraduate research students can work together and with staff on the review, editing and publication of high-quality research and scholarly outputs. Our School of Law is one of the most dynamic and innovative legal education providers in the North West and nationally. Research and scholarship are an integral and essential part of our activities and of our identity. Building on the success of our REF2014 submission (the first ever submission in Law at LJMU), in 2019 we established the Centre for the Study of Law in Theory and Practice at the School of Law and we are currently preparing for our second REF submission next year. I have always believed that we needed to think in an innovative way about the meaning of studying Law nowadays. This cannot be confined to the mere, acritical and almost automatic, learning of legal notions nor to the ability to reproduce and apply the relevant knowledge. Technological progress, IT, Artificial Intelligence and machine learning pose for the first time in human history challenges to the intellectual professions and particularly to the legal professions. The lawyers of the future will need to develop different skills from their predecessors. They will need more creative skills, a greater ability to engage in imaginative thinking and a greater ability to reflect critically on the Law, to analyse its meaning and its possible consequences including its ethical implications for society. I believe that this journal will offer to our students an important opportunity to develop some of these skills which are also, and will become even more so in the future, crucial employability skills.

The creativity and imagination my colleagues have demonstrated by initiating this journal are an important response to some of the challenges currently facing the legal education sector. This journal is a reflection of the renewed ambition of our School to become a leading player in creating an excellent workforce for the growing professional and business services sector in the region and nationally, and in educating a new generation of bright legal professionals and scholars. I look forward to reading the excellent scholarship that will originate from this project, and to learn from the work of a new generation of scholars who I hope will move their first steps in academia through this journal.

**Professor Carlo Panara, Director of the Law School, Liverpool John Moores University**

## Preface

I was delighted to learn that LJMU Law School is to publish a Student Law Journal and honoured to be asked to complement the Foreword by the Head of the Law School, Professor Carlo Panara, with one of my own for this inaugural issue.

I owe a great debt of gratitude to LJMU over an association lasting 50 years and continuing. First as a part-time lecturer in contract law in my early years at the Bar at the College of Commerce now a constituent part of the university and later as Liaison Judge to the Law School when, over a period of fifteen years, I regularly had two law undergraduates sitting with me on the Bench in the Liverpool Law Courts. However, it did not end there. After retirement I returned to LJMU and with the help of energetic and dedicated staff was able to achieve an MRes and a PhD on the United States Supreme Court. Attending university as a very mature student meant a great deal to me because I scraped an LLB back in the day simply by reading the standard text-books and law reports and travelling to the University of London to take the examinations. My study for the Bar Finals was carried out in the same manner.

It matters not whether a law degree leads you to the Bar or the solicitors' profession or as a company secretary or, after post-graduate qualifications, a post as a law lecturer. You will have acquired the essential discipline and skills to enable you analyse complex factual and legal problems, see both sides of an argument and, using your new found research skills advise on the likely outcome of a dispute whether it be a civil, family or criminal case.

You will also have acquired expertise in oral and written communication. Many books and guides have focussed on the skill of the advocate which is not surprising given the attention paid by film, television and the Press to the drama of the cut and thrust of a court case. It is a source of regret that little attention has been paid to, what is in my view, the equally important skill of mastering the written word. Whether it is a solicitor writing a Brief to Counsel, a letter to an anxious client or a legal advisor preparing a report for a board meeting, the document must be concise and readily understood by the recipient.

A lawyer who writes unnecessary lengthy and complex opinions is of little use to a client who usually wishes only to know whether proceedings have a reasonably good prospect of success. I am reminded of the famous barrister F.E Smith (later Lord Birkenhead as Lord Chancellor). He was asked by a solicitor to advise a client who complained that he had been defamed in a newspaper. Smith worked all night reading papers nearly four feet thick. The next morning he wrote this one sentence opinion, 'There is no answer to this action in libel and the damages must be enormous,' No jargon. Plain English. Perhaps an extreme example but a lesson to us all to keep it short.

So how is mastery of the written word achieved? The answer is by writing and rewriting until you are quietly proud of the final version of the essay, dissertation or thesis you have produced. My own experience is that when you are first asked to write say 18,000 or 80,000 words you wonder how you can find so many words. Generally you discover after much research you have far exceeded the target and then you learn crucial but painful skill of editing out hard won material and keeping the thrust of the research intact. I can think of no better way of writing

well than submitting articles to journals such as this. You will receive helpful suggestions from those who guide your studies and the more you write the more you will grow in confidence.

I am impressed by the quality and breadth of the articles in this inaugural issue. Child protection and attitudes to sexual violence are matters which I have dealt with over many years and for quite some time I have been greatly disturbed by the very real struggles faced by litigants in person due to Legal Aid cuts.

I am confident the Journal will go from strength to strength and I congratulate those members of staff involved in its inception and production and its first contributors.

**His Honour Dr David Lynch, Liverpool**

## Editorial

This inaugural volume of the LJMU *Student Law Journal* represents just some of the work of our Law students across the 2019-2020 academic year. Of the six peer-reviewed contributions finally selected for inclusion, four pieces represent the efforts of some of our final year LLB students (Dissertations, and Law Clinic reflections) with two longer pieces drawn from the work of our post-graduate students (from the LLM and LPC, respectively). A diverse range of legal topics is covered here: the vulnerabilities of unrepresented litigants, the implications of the GDPR (with a nod to Brexit), the global nature of gendered sex crimes (and the need for wider policy changes), child protection as a ‘triadic’ concept involving state, parent and child autonomy, violations of Indigenous cultural rights, and the increasingly complex and ‘corporate’ nature of sports law. The difficulties of navigating the rapidly changing legal and ethical landscapes within the private sector are therefore well represented here, as are the difficulties of ‘lawyering’ against a backdrop of increasing levels of austerity.

The contributions share a number of common themes, especially in terms of highlighting often unseen - or overlooked – human vulnerabilities, and via their close analysis of the ever-widening gaps within the fabric of social justice. Sadly, characteristics such as gender, age, socio-economic disadvantage – not to mention issues such as cultural prejudice and systemic discrimination - seem set to continue as key factors that are highly relevant to practice, academia, and socio-legal research alike. This is especially so for those of our graduating students who hope to somehow ‘give voice’ to those who are most often overlooked or treated unfairly, and are therefore most in need of legal advice, robust advocacy, and compassionate support.

A word of deep thanks is due to our anonymous, academic peer reviewers, who so kindly gave up their time - for no reward other than our deep gratitude – and without whom this volume would not have seen the light of day. Special thanks also to Cath Dishman, LJMU, whose expertise with the journal software (and her extreme patience) was also invaluable.

Dr Alice Diver

Rachel Stalker

*Editors-in-chief, SLJ*