

Preface to Issue III

Law in Changing Times

It is a privilege to write the preface to the latest issue of the *Bournemouth University Law Review*. This issue is being published at the time of UK's withdrawal from the European Union (EU) and what the journal shares with 'Brexit' is a concern for change.

Readers of the journal will note that the theme of change is alluded to in the image chosen for the cover of the current issue. This journal is concerned with change not merely because it is a young journal and because it is driven by innovative student writing, but also because its institutional home is a newly created Department of Humanities and Law. In wishing that new department and this new journal a prosperous future, I want to offer a few thoughts on law's historical culture of resistance to change, especially where that change involves changes of state including institutional change of various sorts. These thoughts are offered as an encouragement to all those involved in the new department and with this journal to continue in their efforts to innovate and challenge the settled routines of legal studies and legal thought.

The law is historically and habitually constituted to prefer stability and continuity to change and transition. Think of that word 'constituted'. At the heart of it, is the element 'stit' which as well as supplying 'constituted' and its correlates 'constitution', 'constitutes' and so forth, also gives us a raft of legal words associated with stability including 'state', 'estate', 'statute', 'statement' and even police 'station'. At the root of the 'stit' is a pre-historic Proto-Indo-European word-set concerned with 'standing', and 'standing' too has its legal usage in the notion of having 'standing' to appear in court, 'standing by precedent' (*stare decisis*) and the 'standing orders' which are the written rules that regulate the proceedings of both Houses of Parliament. Since ancient times, Proto-Indo-European civilizations have cherished the values of law and order associated with the notion of standing. Indeed, in ancient Greece the earliest laws and land boundaries were published by means of standing stones called 'steles' (another word derived from the Proto-Indo-European root for standing). Given the long-

standing linguistic association between stability and law and order, it is perhaps unsurprising that the Conservative party under Theresa May entered the 2017 General Election with the slogan ‘strong and stable leadership in the national interest’. That the slogan failed is down in part to the fact that it was repeated *ad nuseam*, but more fundamentally because a message of stability did not appeal to an electorate who in the previous year’s referendum had either voted for change by leaving the EU or were now seeking change by overturning that vote. It seems that legal cultural values of stability and standing are not always popular values. Brexit’s dramatic tensions between change and stability, between moving and standing, have been played out in Parliament and in the formal, forensic setting of the highest court in the land. Given what we have discovered about law’s resistance to change it was inevitable that the perfectly lawful, and inherently legalistic, behaviour of the legislature and the courts has produced a perfectly law-like resistance to change in the context of Brexit.

Who knows if the contributors to this journal or its readers can make any sensible contribution to finding a solution to the Brexit impasse? The state of the nation’s body is currently in what medics call ‘stasis’, which is where normal bodily movements (such as the circulation of blood) are unhealthily obstructed. It is, in the metaphorical sense, at a stand-still. Still, there is something that we can all do as teachers, writers and students of law. We can move and change our own settled notions of what law is. We can encourage imagination over institution, or better still we can promote institutional imagination. It was concern to challenge the static habits of law which led me and my then co-editor to found the *Journal of Law and Humanities* in 2007. That journal carries articles on arts and humanities scholarship around the subject of law. I note that the previous issue of the *Bournemouth University Law Review* included a book review on “Comic Art, Creativity and the Law” and that one of the titles in the current issue alludes to the same genre of creative animation. Who isn’t intrigued to find out more about “The Coyote and the Road Runner: ICC, Gaddafi and the pursuit of international justice”? Articles of that sort might have found a home in the journal *Law and Humanities*. Does that mean that the *Bournemouth University Law Review* is stepping on our toes? I hope so, because that sort of thing happens when you first start to dance. Lawyers dancing instead of standing still - wouldn’t that be nice for a change?

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