

# EDITORIAL

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It is my pleasure to introduce the fourth volume of the York Law Review. In keeping with tradition, this edition features outstanding dissertations crafted by the Law School's undergraduate and postgraduate students, just like the previous three volumes. This year's selection includes one undergraduate dissertation and three LL.M. dissertations on a variety of topical issues, nevertheless connected to each other in that they attempt to bring to our attention those narratives that often go unheard. Two of the articles focus on gender, two on refugees, and one on drug use; four of these are reaction pieces to contemporary policies, whether domestic or international, while one argues for the development of a new policy to address a longstanding problem. All provide a thorough theoretical examination of the legal issue at the heart of these policies and put forth a well-crafted analysis critiquing the weaknesses in the methods employed by the state in addressing them.

In the only undergraduate entry in this volume, Holly Robson directs her attention to the ubiquitous occurrence of sexual harassment in public places. Placing the tragic deaths of Sarah Everard, Ashling Murphy and Sabina Nessa as the backdrop, this article argues for the recognition of public sexual harassment (PSH) as a specific offence in England and Wales. Robson first highlights the importance of naming and defining the unwanted behaviour as the first step towards regulation. She then proceeds to show how PSH meets the standards of harm and wrongfulness, with specific reliance on Article 8 of the Human Rights Act 1998. The driving force behind the argument for criminalisation is the inability of the current framework to effectively regulate PSH. Robson's writing urges the reader to consider how the legal system can be utilised to battle the everyday sexism faced by several members of society even today.

The next article in the line-up also focuses on gender but on the larger, international stage. Brook Morrison's piece is auto-ethnographic and draws on her lived experiences as an Army Officer in the Canadian Armed Forces. She has first-hand experience of the resistance to gender mainstreaming as a NATO military officer and this gives her voice the credibility and positionality absent in several commentaries on the implementation of the Women, Peace, and Security Agenda in the NATO command structure. While considering NATO's evolving role in the global theatre, from a defence organisation to a security organisation engaged in crisis management, Morrison's piece highlights the disproportionate effect conflicts have on women and girls, as well as the need to include women in the peacebuilding process. Her main claim is that a human rights-based approach to development may be more successful in tackling the issue of gender inequality in the wider peace and security realm.

Seconding the discussion on the interrelationship between human rights and international law, Taran Cheema's piece analyses the 'normalisation' of the regime of Syrian President Bashar al-Assad. Despite the ongoing human rights violations in Syria, the international community is confident in its assessment that Syria is safe for the return of its refugees. Cheema showcases how this approach violates the principle of non-refoulement and places the lives and well-being of the refugees in serious jeopardy. She argues that the limitations of the criminal justice system in holding the Syrian regime accountable indicate the viability of transitional justice mechanisms as a means to achieve justice and reconciliation. Overall, this piece asks the reader to reflect on the effect of normalisation on the efficacy of the international refugee protection regime and the necessity of centring Syrian voices in the decision-making process.

Turning attention to the domestic front, Rhys Drakeley analyses the controversial Rwanda Plan through the lens of legal interpretivism. He first makes a case for the application of Dworkinian interpretivism to

the realm of international law before delving into a brief history of the UK's asylum policy. Drakeley's main argument is that the Rwanda Plan falls foul of the UK's obligations under the international refugee law regime as it violates the principles of non-refoulement and non-discrimination. To do so, he compares the Plan with the other asylum arrangements in place, namely the Ukraine Schemes, the Hong Kong British Nationals (Overseas) Route, and the Afghan Citizens Resettlement Scheme. Drakeley's intriguing argument is independent of the country of Rwanda being the host country of the asylum seekers who are turned away at UK borders; he posits that it is morally unacceptable for the UK to discriminate on the basis of nationality, regardless of whether the country chosen for relocation is Rwanda or possibly Sweden. Both Cheema's and Drakeley's articles broaden our understanding of obligations under international refugee law and provide a new understanding of highly controversial and deeply significant moments in our collective history.

In the last piece of this volume, Ed Clothier engages with another UK policy – *From Harm to Hope* – a decade-long drug policy that bifurcates drug users into recreational users and those with a drug dependency. It is this bifurcation, that results in a regime of part decriminalisation and part continued criminalisation, which is challenged by Clothier as being violative of the rule of law. Clothier uses a thick rule of law conception which he names *Civic-Equality-Plus* to gauge whether the three fair conditions of non-arbitrariness, full fidelity, and capacity are met by the policy in question. The answer is a qualified yes, dependent on key changes being made to the statutes relating to equality and mental health. In his writing, Clothier suggests that we should approach the issue of drug addiction as a mental health concern rather than just a criminal one. He believes that a public health approach would be more effective than a strict prohibitionist one.

Putting this volume together has certainly been a labour of love. I am grateful to the student editorial team for maintaining a positive outlook in the face of challenges and when things did not seem to go our way,

their deep engagement with the articles and the numerous back-and-forth exchanges they had with the authors and the copyeditor to get the final product looking as it does. My personal thanks to Sam Guy, the outgoing editor-in-chief, for helping me find my feet during my first year on the Review and patiently answering countless questions. Thanks are also due to Salwa Eweis, Louise Stokes, Helen Thornton, Fran Mclean and Phil Cole for the administrative support they have provided throughout the year, be it sharing recruitment calls among the student body or tracking down email addresses. Last, but certainly not least, many thanks to Martin Philip, the York Law School library liaison, and Dr Jed Meers and Dr Mattia Pinto, the academic liaisons, for their continued support, help and encouragement. In our own small ways, we all have contributed to creating this volume and we hope you enjoy reading it.