Editorial: International Community Law Review Issue 23:4

Kathryn Allinson

Managing Editor, International Community Law Review and Lecturer
in Law, University of Bristol, Bristol, UK

Kathryn.allinson@bristol.ac.uk

This issue of the International Community Law Review considers the operation of international law across the land, sea and air; from access to rights for air passengers to the rights of those on the high seas. It ends with a novel consideration of the application of the prohibition of the use of force to issues of statehood and recognition.

In *Taking Air Passenger Rights Seriously: the Case Against the Exclusivity of the Montreal Convention*, Nicolas Bernard considers the positions of the Montreal Convention, which unifies the rules relating to the liability of air carriers for damage or delay in the carriage by air of passengers, baggage and cargo. Bernard explores the 'deleterious consequences on consumer protection of the exclusivity of the Montreal Convention' in that it inherently favours industry interests at the expense of the consumer. In so doing, he makes the case for adopting a human rights-inspired, subsidiarity-based approach to passenger rights protection. Such an approach, recognises the complementary role of the international, regional and national levels in protecting consumers and enhancing flexibility.

Moving from the air to the oceans, Gabriela Oanta's contribution *Access to Remedy in the European Union in Case of Breaches of Human Rights at Sea by Private Actors* addresses the specific means of access to remedy that individuals have in the European Union (EU) in case of breaches of human rights at sea by private actors. In examining the role of both Member States and the EU, Oanta provides an original exploration of their responsibility in addressing some of the worst human rights violations which occur on the EU's fishing vessels, from both a labour and human rights perspective. It addresses the competences of the EU, the remedial mechanism available to individuals subject to fishing-company-related human rights violations, and considers the possible future developments in the field.

Frederic Megret's article remains 'at sea' but moves from private actor liability to consider the implications of civil society activism involving direct action on the High Seas in *Activists on the High Seas. Reinventing International Law from the Mare Liberum?* Megret looks to three case studies: Sea Shepherd, SOS Méditerranée, and Women on Waves, to consider the role of civil society in the enforcement, interpretation and production of international law. The article raises questions about the law of the sea itself and contextualises activism on the high seas as increasingly transnational and global but also an 'irritant' to the international legal system. This is so because it demonstrates how non-subjects of international law seek to subjectify themselves to this law in the process of upholding it.

The issues returns to earth in China-Taiwan Threats of Force and the Paradox of the 'Nuclear Weapons Principle' where Sondre Torp Helmersen considers the impact of 'statehood' on the application of the laws of war. The article examines the prohibition of the threat of force in international law and how it applies to the relationship between the People's Republic of China (PRC) and the Republic of China (RoC). Helmersen presents a paradox between the prohibition of the use of force and its inability to apply to entities that are not recognised as States. As a result, Helmersen proposes that the conduct of the PRC, in threatening the ROC if it pursues independence, may be both legal and illegal at the same time. In addressing this paradox, more nuanced understandings of the prohibition on the use of force are required.