



Editorial

Welcome to the IALS Student Law Review

Welcome to the Spring 2019 issue of the Institute of Advanced Legal Studies Student Law Review (ISLRev). For this issue of the law review towards the end of an academic session we are pleased to present new writing on a range of international, legislative, financial, social and jurisdictional topics.

Dr Wael Saghir explores the various foreign direct investment protection mechanisms through categorising them in order of their application so that foreign investors can clearly understand the nature of these mechanisms, when and how they can be effectively used for their benefit. In today's world, where many investors and multinational corporations (MNCs) looking to explore new markets, the need to properly understand the limits of protection available to them becomes of paramount importance

J. Angelo Berbotto considers the contribution of pre-legislative scrutiny to achieving quality legislation by analysing the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) in respect of access to legal aid in Private Family Law matters. The article seeks to explain why pre-legislative scrutiny was not used in relation to the Bill and the red flags throughout the consideration of the Bill by Parliament. It tracks the monitoring of LASPO once in force and how certain assumptions made by the Government were not accurate. The author suggests that not using pre-legislative scrutiny in respect of LASPO was a missed opportunity and that there should be better safeguards to ensure that pre-legislative scrutiny should be routinely used in respect of Bills that have far-reaching implications for individuals as, at the moment, it is up to the Government to decide what Bills are provided for pre-legislative scrutiny before their formal introduction into Parliament.

Shiqing Yu explores the issue of bank secrecy drawing her inspiration from Switzerland and Singapore. The principle of bank secrecy continues to be regarded as one of the primary aspects of private banking. Switzerland has long been accused of being one of the main tools of organised crime and the underground economy both by governments and Non-Government Organisations (NGOs), particularly after the class action suit against the Clearstream scandal, the Vatican Bank, and the 9/11 terrorist attacks. In addition to Switzerland, Singapore was ranked 5th on the Financial Secrecy Index (FSI) in 2018, and faced a delicate conundrum because of the signs of crisis in emerging economies such as Indonesia and India, and came under growing pressure from the U.S. and Europe, which accused it of providing unfair advantages in the competition of tax havens. With the advent of money laundering and the Anti-Money Laundering regulatory crack down, the author explores the extent to which bank secrecy are still kept as secrets.

Yee Ching Leung takes the two landmark cases, *Stack v Dowden* [2007] UKHL 17 and *Jones v Kernott* [2011] UKSC 53, as starting points to consider the new Common Intention Constructive Trust approach in dealing with the issue of how the beneficial interest of a property is to be shared between two separating cohabitants. The article analyses whether this new approach should be preferred over the traditional Resulting Trust approach. The author explains the two approaches and gives three arguments in support of the Resulting Trust approach. First, it provides a greater degree of certainty, which is crucial in property law. Secondly, the traditional approach is more coherent in principle when comparing to the Common Intention Constructive Trust approach. Thirdly, the author argues that the Resulting Trust approach would not leave the discretion of judges unconfined. Toward the end of the article, the author gives two brief replies to the critics of the Resulting Trust approach. However, the Common Intention Constructive Trust approach is now the law of England and whether the Resulting Trust approach will return remains to be seen.

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Many thanks to all those who submitted their articles for inclusion in this issue of the ISLRev. We hope that the readers of the ISLRev find the new voices, views and insights interesting and informative. If you would like to write a piece in response to an article in this issue or propose a new paper on other current topics to the ISLRev, your submissions will be very welcome, Our editorial board is composed of Doctoral Research students keen to receive scholarly articles, case notes or comments for potential publication.

I would also like to thank our Associate Editors and Peer Reviewers for their time, knowledge and expertise during the submission stage and for helping to ensure the quality of content of the ISLRev.

We expect our next issue to be published in the Autumn 2019, please do submit your papers for consideration as soon as possible. Submissions can be made through the ISLRev's online submission form at: <http://sasojs.da.ulcc.ac.uk/lawreview/user/register> or by email to: ials.islr@sas.ac.uk

Best wishes to all,

Lovina Otudor (Editor-in-Chief, *IALS Student Law Review*)

