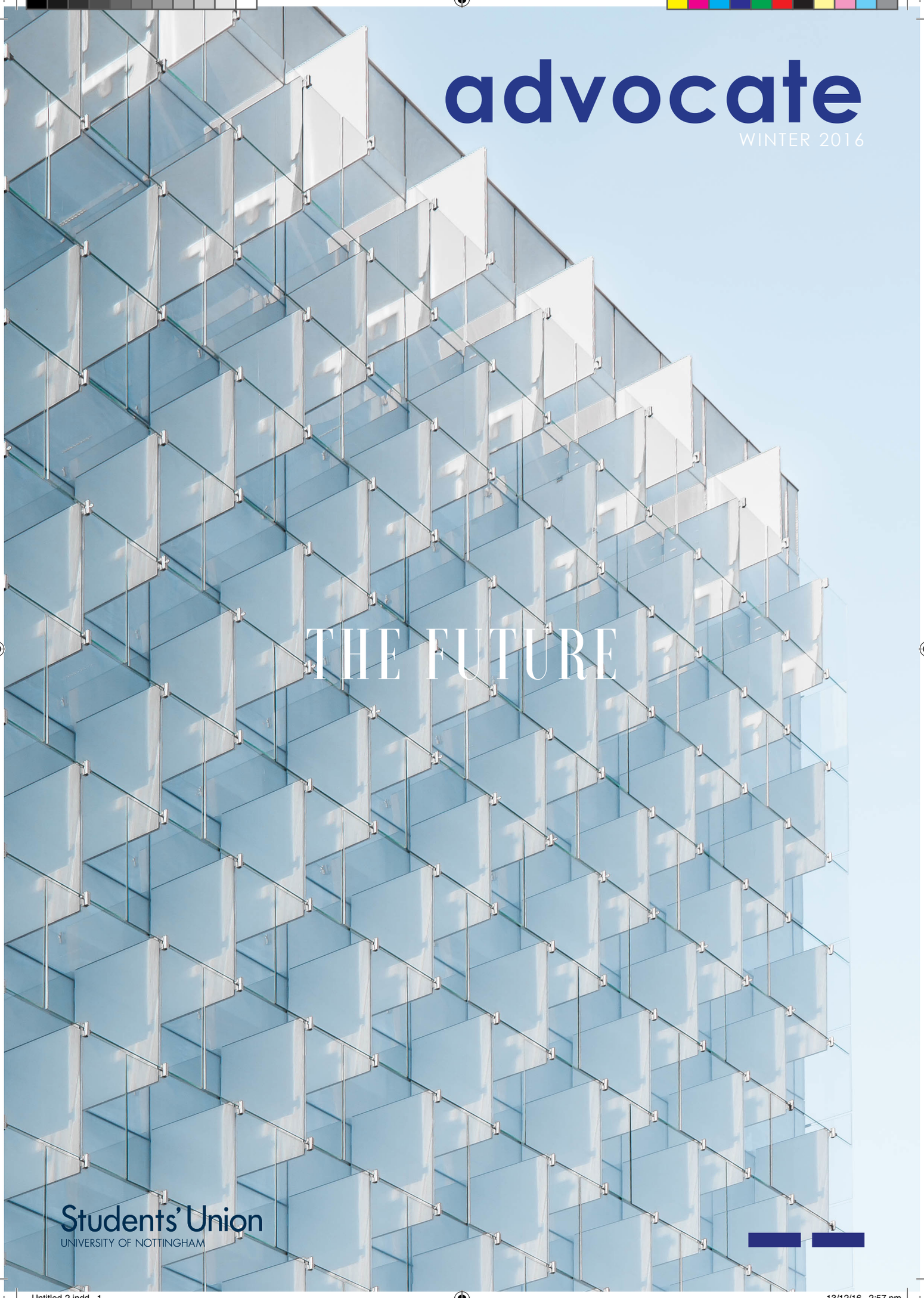

advocate

WINTER 2016

THE FUTURE

Students' Union
UNIVERSITY OF NOTTINGHAM

Editor's Note

Dear Advocate readers,

Thank you for picking up a copy of the Winter 2016 edition of Advocate Magazine!

Firstly, we would like to thank all our contributors for their enthusiasm and their commitment to writing articles for the magazine. We received countless article ideas from a surprisingly wide range of students and we are extremely humbled to have the opportunity to share this magazine with you.

I would also like to extend my appreciation to everyone from Advocate, past and present, for their individual contributions to the magazine and to our society.

This edition contains a collection of reactions to the events of the past year. Topics discussed range from the political developments of 2016, to the technological changes that face our generation. Our journalists have provided their own perspectives to the issues they raised and I am exceptionally proud of their ability to produce these articles.

Our society will be holding events and implementing changes next semester and we cannot wait to share our plans with you all at the start of the New Year. Till then, we would like to wish every one of you a Happy Christmas. Have a well-deserved break and I hope you all have a wonderful time with your friends and family.

Ee Hsien Tan
President
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The Golden Record: What next?

By Bethany Webb-Strong

2017 will mark the fortieth year since NASA sent off voyagers I and II on a tour of the solar system and then beyond into interstellar space. On board these vessels, which were designed to last for thousands of years, was a time capsule of sorts named the golden record. This record was created in the hope that one day extra-terrestrials may intercept the ship and listen. Carl Sagan was commissioned in 1977 to produce the record, which includes a message reflecting the diversity of life on earth and what it means to be human.

The golden record is certainly not our first attempt at a time capsule. William Jarvis recognises that “there have been time-capsule type experiences ever since humans have measured time".[1] A look at the contents (and omissions) of the record show an interesting picture of what a small team in America deemed to be the essence of human life. The record notably omits any images of war, strife or poverty, reflecting an immensely inaccurate, utopian view of our civilisation. The contents are inevitably prejudiced and discriminatory; the record names US senators but leaves persons of other races anonymous. Indeed, it is unclear why NASA thought that Carl Sagan was qualified to produce a message from the entire human race and it was inevitable that an exceedingly limited and predisposed dispatch would follow. “It was very presumptuous of Carl Sagan and the rest of the US to speak for Earth [in 1977],” Lomberg told National Geographic in 2014, “but at the time it was either do it that way or don’t do it at all”.[2]

The record produced in 1977 includes greetings in fifty-five different languages, messages from President Carter and UN Secretary General Waldhiem and ninety minutes of a mixture of all types of music. More controversially, it features a kiss which Sagan was under strict orders from NASA to keep heterosexual (as if we could tell the difference). Clearly, the moral order of the time drastically influenced the material covered on the record. Not only was the kiss censored; the nude images of a man and a woman were only shown as figures without the anatomy depicted in detail. Perhaps there was a concern that extra-terrestrial beings would find this crude. Whatever the reason, it seems ludicrous that such a natural part of humanity was so thoroughly censored. Restraints upon the message did not only come in the form of moral authority. Legal restraints were also present; the copyright for ‘Here Comes the Sun’ was not granted by the publisher, despite the Beatles consenting to its inclusion.

If nothing else, the record represents humanity’s innate desire to make a mark on the future, but what does it really say about the future of our race? Is the capsule timeless? Or would a record produced today look very different from forty years ago?

Perhaps, more poignant is what a record produced today would include. It is pertinent to note that the record created forty years ago was tasked by the United States, which inevitably led to extensive limits on the material. It is interesting to consider how society would approach such a task today. Would it fall again to America? Would their newly elected 'The Donald' spearhead the mission? It seems we would be left with a message of white male discontent, images of walls to keep out outsiders and a farcical assortment of testimonies to 'Great' America. Perhaps women would not even make it onto the record. Or worse still, a message of aggression to aliens may be extended. If Trump feels threatened by Mexican immigrants, imagine how his hostility would extend to extra-terrestrial beings.

It would be nice to think that a record of today would be more inclusive and representative, markedly different from the last record. The reissuing of the golden record to the public and the commentary alongside this move seems to suggest the capsule reflects a timeless depiction of our race. This couldn't be further from the truth. The message inevitably conveys a prejudiced snapshot of a mere sector of humankind. Azzera calls it “kind of like the ultimate selfie of human kind”.[3] Furthermore, what language would be contained on a capsule today? Language is an immense part of our lives and the relevance of slang (and even memes) would surely make an appearance. In the last forty years, humankind has made leaps and bounds in technological and scientific advances. It seems unlikely that we would extend the message in the same vinyl format given the availability of 3D videos and the like.

Not only would the format of the message be different in shape, but it is also undeniable that our progressions, both legal and political, would influence the creation of a new record. The emergence of environmental law would undoubtedly feature. Our increasing awareness of our own destructive nature and the importance of other living creatures and our climate may also lead to inclusion of non-human life on the capsule. However this would depend on whether the creator connected the existence of environmental issues with the meaning of human existence.

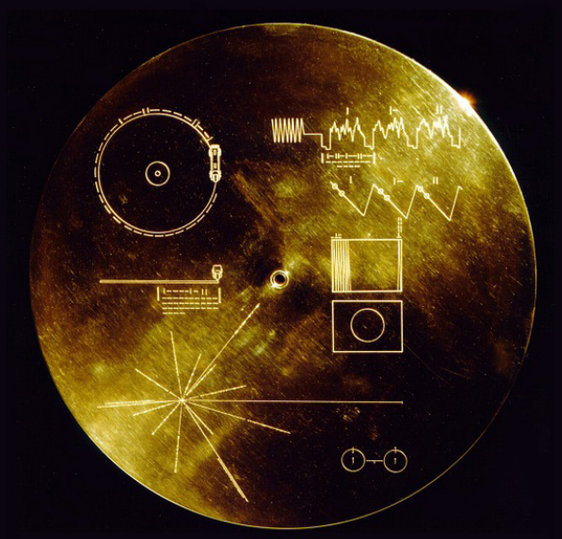
The law has also progressed in terms of human rights and the protection of the vulnerable. One could suggest that this would mean a capsule that would be more indiscriminate and inclusive. It may even attempt to reflect our values of equality, dignity and freedom. However, this would once more depend on how constrained the creators felt by 'political appropriateness'. It would be interesting to see how the record would deal with communication between nations and political alliances, especially given that we are on the brink of Brexit. Or perhaps this would be deemed either irrelevant in the portrayal of what it means to be human, or too controversial to tackle in what could be called a glorified mix tape.

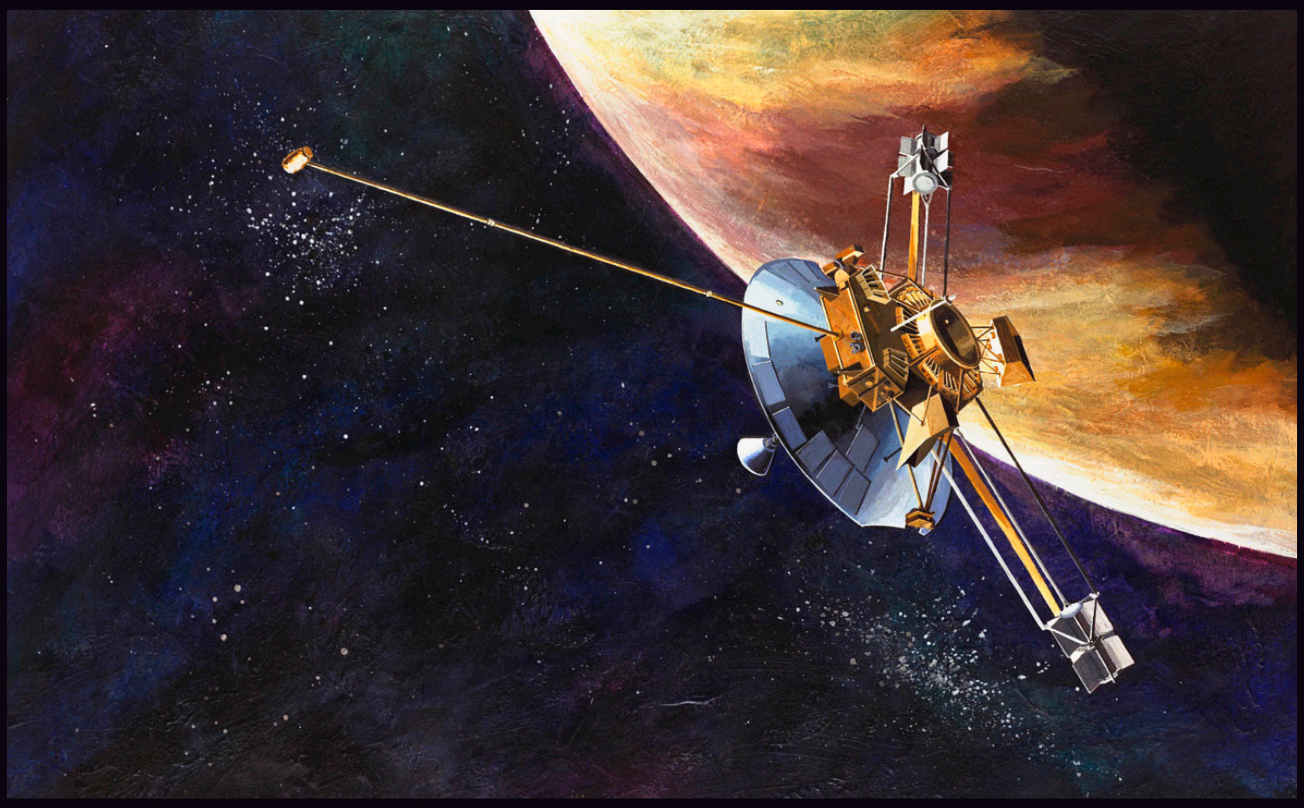
Science takes a higher precedence on the original record. Why, then, is this projected above politics, law, order and society? Do they not constitute what it is to be human just as much? Perhaps science was seen to be less contested and more fixed. However, recent developments disprove this assertion; we continually discover that our previous scientific knowledge was in error. There are messages from various political leaders, but there is a lack of inclusion of civilisation and our functioning beyond everyday life and eating. Culture features in the form of music, but what of our values? A record today should capture more of our lives beyond our physical workings.

A record produced today would inevitably be just as prejudiced as one forty years ago. All that remains clear is our uncertainty about where the human race is headed. However, perhaps the contents of the record are immaterial and merely a symbol of humanity's desperation to cling to a future existence, or at the very least remembrance of ourselves. As Einstein wrote, "anyone who thinks about the future must live in fear and terror".[4]

Given the unprecedented political upheaval this year, the next forty years will certainly be both politically and legally historic, but who will be around to read said history in thousands of years? It is presumptuous to expect that anyone will listen to a record of the human race, or even that other beings would be able to understand our perplexing concoction of sound and images. A capsule is inevitably no more than a snapshot of our existence. We must accept that the record is primarily a message to ourselves, of our values and our prejudices alike, and we learn from what is depicted there, rather than clinging to the fancy of immortalising a partisan version of ourselves in golden vinyl.

Instead of looking outside ourselves for remembrance and recognition, we should reflect inwards and try to resolve the issues of conflict so glaringly absent from the record. Such a record should be a warning of our own misguided, self-serving attitudes, and so too, a celebration of our progress and eccentricities.





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[2]http://news.nationalgeographic.com/news/2014/05/140517-global-selfie-message-new-horizons-space/
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Is the US on the Decline?

By Samuel Edgington

A key theme of the recently successful Trump campaign was monopolising upon the concern of American decline. The call to "make America great again" only resonated because it reflected a genuine feeling in the U.S. regarding domestic and international decline; there is a pervading sense that something has been lost. The majority of Americans now believe that the U.S. is less powerful than 10 years ago.[1] It has become commonplace for people to prophesise that China will soon overtake the U.S. certainly economically and perhaps even militarily. Such an emotive narrative can be utilised by political outsiders like Trump to great effect, but is it true?

If one looks at raw statistics, there is ample evidence of American "greatness". However, such data is usually ignored or dismissed particularly in this era of "post-truth" politics (it is no real surprise that "post-truth" was recently made the word of 2016 by the Oxford Dictionaries). The data is indeed quite encouraging for America; it remains by far the leading economy globally, contributing almost a quarter of the world's entire GDP.[2] This was reflected in the 2008 Crash which originated in America but quickly engulfed the rest of the world. Admittedly, America's economic growth has been sluggish in recent years, particularly in comparison to China, but it has still been faster than many European economies. This wealth enables the U.S. to maintain its colossal defence budget which cements America's place as a world superpower. This is important because it can impose its will on others either via "soft" economic power (sanctions on Russia have shown this to be at least partially effective) or by force using their remarkably powerful military. Permanent status on the UN security council and de-facto leadership of NATO, demonstrated by the panic caused by Trump's lukewarm feelings to the institution, further strengthen America's hand as does the informal influence American foreign policy has on its allies like the UK. If anything, militarily, the U.S. is more powerful now than at any time in its history as it no longer has another real superpower like the USSR (Union of Soviet Socialist Republics) to compete with.

In less obvious ways too, America remains dominant. Most ground-breaking technology originates from Silicon Valley and American culture, from Hollywood to McDonalds, has spread throughout much of the globe. Bearing all this in mind, how can so many Americans feel that their country is no longer powerful?

Some may argue that the election of Trump itself signals an American decline; electing a misogynistic demagogue with no political experience and few realistic proposals to the most powerful post in the land hardly demonstrates a flourishing democracy. His election also continues the loss of moral authority which Iraq and the torture revelations brought particularly into focus. These discoveries harmed the standing of the American government and military both in the eyes of the world and in the view of many of their own citizens. Of course, America has always had some devious foreign policies (Vietnam and the Iran-Contra Scandal come to mind) but never has an American president so openly scorned so much of the world. His attitude to the outside world has proven popular not solely because of a preoccupation with domestic affairs. Many Americans feel slighted by the rest of the world. The refusal of the UN to grant permission to invade Iraq in 2003 led to some of its traditional allies, such as France, failing to join the American "coalition of the willing". This stung. The re-naming of French fries as "freedom fries" in some eateries reflected this bitterness. Likewise, Washington's insistence that NATO members spend at least 2% of GDP on defence has been ignored by most European countries (the UK is an exception). Many Americans have taken this either as a sign of disrespect or of European "freeloading". Trump recognised this feeling and exploited it in his campaign. This scorn, or apathy, which fuels his America-First rhetoric will hardly make America great again on the world stage particularly if crises like Syria worsen while America watches on from the side-lines.

A feeling of vulnerability, previously almost absent, is now present in the American psyche. Before 9/11, America felt almost invulnerable to foreign attack on its mainland owing to its size and distance from hostile countries. Unlike Europe, American civilians suffered relatively little in WWII. This feeling of safety was shattered both by 9/11 and then, less dramatically, the 2008 financial crisis since which real wages for the vast majority of Americans have either stagnated or declined. American optimism suddenly went out of fashion with paranoia taking its place- as draconian legislation like the PATRIOT act[3] shows. The media played a role in this by disproportionately representing the threats posed both by terror and crime; to the extent that Americans perceptions of crime are consistently higher than reality.[4] One only needs to watch Fox News to notice this phenomenon. Therefore, it is perhaps not surprising that many Americans feel as though they are under siege.

America is growing more slowly than economies like China (who, it must be noted, have their own domestic problems too). In this sense, they are in decline. Nonetheless, it is indisputable that they remain the economic, military and diplomatic superpower of the world whether one likes that fact or not. Since the end of the Cold War there has been no real rival superpower to challenge American hegemony. These feelings of decline, understandable but perhaps not well-founded, stem primarily from an economy which does not work for most Americans, a media obsessed with violence and fear and from the rhetoric of politicians who use this narrative for their own purposes.

[1]Pew Research Centre 2013, Public Sees U.S. Power Declining as Support for Global Engagement Slips (http://www.people-press.org/2013/12/03/public-sees-u-s-power-declining-as-support-for-global-engagement-slips/)
[2]P. Bajpai, The World's Top 10 Economies (http://www.investopedia.com/articles/investing/022415/worlds-top-10-economies.asp)
[3]Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, 2001.
[4]Pew Research Centre 2015, Public Perception of Crime Rate at Odds with Reality (http://www.pewresearch.org/fact-tank/2015/04/17/despite-lower-crime-rates-support-for-gun-rights-increases/ft_15-04-01_guns_crimerate/)

Morals & Machines

By Waratchaya Limvipuwat

In 1984, director James Cameron introduced to the world, "The Terminator". This was a film, set in a dystopian world where society is dominated by artificial intelligence networks. Back when the film was first released, the idea of machines and computers being able to revolt against man's control was absurd. Today, it does not seem so impossible. Machines and computers are increasingly assuming a more prominent role in our lives. Technology was first introduced as a tool to ease the burdens of performing daily tasks. However, such tools are now used in making important decisions. From employment and social media, to health and medical care, mankind has since begun to allocate their duties to artificial intelligence systems.

The process of decision-making is undeniably subjective. Man 'decides' based on his preferences; to make decisions based completely on hard facts that are not influenced by our own innate opinions is nearly impossible. In a world full of bias and corruption, it would make more sense to leave such duties to a more objective entity. Yet, we all have doubts. We are very eager to accept new innovations and technologies, whether they are Apple's new product or Google's new software. Despite the fact that we hold the value of these systems, products and software in high regard, we find ourselves extensively criticising computers for failing to perform certain simple tasks that we could have accomplished ourselves.

In 2011, IBM developed a question answering computer system, named after the company's CEO, Watson. Watson's ability to absorb, analyse and calculate information on a scale faster than any average man was demonstrated through the quiz show Jeopardy! Despite outperforming all the contestants on the show, Watson was shown struggling with the final jeopardy question in the U.S cities category. All contestants gave the correct answer, "Chicago," while Watson answered, "Toronto." Many overlooked the fact that Watson had missed the question and directed their interests toward Watson's ultimate victory over the other contestants, dismissing the error as minor. However, specifically because it was such a simple question, others were concerned. While the computer had proven its superiority given that it could absorb and analyse vast quantities of data in a short amount of time, can we truly place our trust in it? IBM has announced that Watson is able to search through up to '1.5 million patient records,' an ability no human doctor can match. Wellpoint's Samuel Nessbaum claims that Watson is able to diagnose lung cancer successfully in 90% of the patients compared to human doctors' less accurate level of diagnosis.[1]

The computer is beneficial as it could act as a 'wise counselor' for medical professionals, offering guidance and this ultimately could reduce the budget spent on healthcare. However, Watson's ability to perform superhuman functions has its limits. IBM research scientist, Eric Brown cautions that when an Urban Dictionary was included into Watson's dataset, Watson was unable to distinguish between polite and offensive speech.[2] Therefore, can we truly rely on it to make important decisions when such flaws are still prominent? Can a computer make decisions on matters that require taking into consideration human instincts and subjective feelings? Instead of seeing a computer as a tool to aid men in making decisions, one could assume that we are, theoretically, attempting to create an omnipotent machine-based entity that could make decisions for us.

In a recent study published by UCL computer scientists, an artificially intelligent 'judge' was introduced. Developed by algorithm software, the 'judge', according to Dr. Nikoloas Alters, can be used to 'identify patterns in cases that lead to certain outcomes'.[3] The system examines data of English cases. By analysing the linguistics in previous cases, the software is able to make its own verdict. The AI 'judge' is a rather outstanding innovation in the field of legal issues as it could relieve lawyers' extreme workloads. But what then will become of people who are replaced by computers?

By transferring our duties to computer machines, these systems are replacing middle class jobs. Another concern is that because these artificial intelligent systems operate by examining decisions of previous cases. This could simply be a reflection and repetition of our biases. They may merely be observing man's previous actions and re-applying them again. By acting upon our past decisions, in a sense, these systems are being trained to achieve the same outcomes that subjective, biased humans have achieved. It seems impossible to deduce whether the artificial intelligence systems are truly objective and incorruptible.

In a more recent developments, commercial companies have begun using a 'hiring algorithm' to assist employers when selecting recruits. These complex algorithms correlate the performance of employees with the candidates' data.[4] It computes the possibilities of a candidate's performance based on his/her characteristics, a process that seems efficient and useful. The computers use mathematical equations to analyse evidence when hiring, intending to eliminate the human tendency to discriminate. Hiring algorithms have since rose in popularity due to their low cost and accuracy.[5] Nevertheless, there are drawbacks to the systems. Algorithms cannot always ensure diversity, especially as the demographic component of working people is constantly changing.[6] More importantly, because the system in hiring algorithms is so complex, sometimes employers themselves do not even understand how it works.[7] The system disregards human nature, which is inherently unpredictable. Due to the contrast between the system and human's fundamental disposition, there are vague ambiguities that become fatal flaws. What if the system is hiring only certain types of people based on the company's workplace culture? This ultimately compromises on diversity.

We are heading towards a future, in which we are unable to understand the mechanisms of our own creations. By giving systems the authority to make decisions on our behalf, we are succumbing to its domination. Human affairs are a complex matter.[8] Artificial intelligence can fail, in the sense that it is unable to comply with the ethical norms that form the basis of human judgments. Techno-sociologist Zeynep Tufekci mentioned that humans have always been biased beings and they are prone to making mistakes. She further states, "but that's exactly my point. We cannot escape these difficult questions. We cannot outsource our responsibilities to machines."[9] That is not to say that technological innovations should not be embraced at all. The uncertainty brought upon by technology pales in significance to the great benefits it brings. Therefore such advancements should be accepted, but with caution. In fact, we should remain mindful of how we handle developments of all kinds. The practicability in using machines, computers and artificial intelligence systems to aid our daily lives and to help us make better decisions is rational. Nevertheless, human morals should not be undermined or displaced by these advancements. Sometimes it is worth noting, as quoted by Sherwood Anderson, "[t]he machines men are intent on making, have carried them very far from the old sweet things."[10]

In an age of technological innovations, in the heat of competition between peers to achieve more luxury and contentment in life, as advised by Tufekci, it is vital that we hold fast to our ethics and morals .

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[9]Ibid
[10]Ibid

Racing Forward

The Future of Technology and Transport

By David Akinwolemiwa

It would not be at all controversial to claim (As Uber itself does), that Uber is "changing the logistical fabric of cities around the world".[1] However, a recent employment tribunal ruling is sure to change the logistical fabric of not only their business model, but that of the 'gig economy' at large. The gig economy has emerged as a result of technological developments combined with innovative business models, and is characterised by workers using mobile phone applications to identify customers requiring delivery service or practical jobs.[2]

As the tale goes, Uber's genesis was on a snowy Paris evening in 2008 when Travis Kalanick and Garrett Camp had difficulty hailing a cab. What ensued must surely be the biggest cultural phenomenon to come out of Paris since a certain Jay-Z and Kanye West collaboration. They came up with the ingenious idea to "tap a button, get a ride".[3] Most of us by now are familiar with the formula: the application allows a customer to request a ride, and sends the nearest Uber driver to the customer's location. Customers can even see the driver's picture and vehicle details, and track their arrival on the map. There's more; Uber prides itself as being "always on, always available",[4] customers aren't required to make phone calls, and can request a ride 24/7.

All of those features have contributed to Uber being available in 66 countries and 538 cities worldwide. Uber is worth a reported $66 billion, which is more than Tesco and Barclays combined.[5] As a relatively frequent Uber user, I would attribute Uber's popularity to its simplicity, ease of access and convenience as opposed to other taxi services. Uber is very customer oriented, affording you an opportunity to rate drivers (and vice versa) removing commonly held negative experiences of dirty cabs, late cars and poor customer service.

That said, Uber's recent success has not come without its pitfalls, naturally for its competitors. The average number of private hire cars rose 11% between November 2015 to June 2016 to 18,453, compared to 11,259 for black cabs over the same period of time. The mayor of London Sadiq Khan has announced plans to bolster the black cab industry such as giving them access to 20 bus lanes and to quadruple the number of officials enforcing private hire regulation.[6]

From the perspective of customers, there has been a certain stigma attached to Uber drivers, mainly because they are not screened and vetted to the extent that traditional taxi drivers are. There is a freelance nature to their job, and in some cities allegations of sexual assault have been commonplace against Uber drivers.

Uber drivers themselves, on further examination, can be said to get the shorter end of the stick in certain respects. Although Uber has always contended that its drivers are in fact self-employed, it is hard to agree on consideration. They are interviewed and recruited by the company, and Uber puts them through a disciplinary procedure and instructs them on how to do their jobs.[7] Due to the tribunal finding that Uber drivers are not self-employed, Uber and its drivers will no longer be allowed to continue their one-sided dalliance. They are now in viewed by the law as the de facto and de jure employers of the drivers, and must be treated accordingly.

The ruling in *Aslam, Farrar and others v Uber Employment Tribunal*[8] meant that Uber lost its right to classify its 40,000 UK drivers as self-employed (subject to a pending appeal). This means it is now open to claims to all of the aforementioned drivers, who are now entitled to holiday pay, pensions and the right to be paid the living wage. The reasoning of the tribunal was that the measure of autonomy of a person in the way they do their job is a definitive way of establishing whether they are self-employed. Uber drivers aren't afforded the opportunity to negotiate with passengers, and "they are offered and accept trips strictly on Uber's terms".[9]

The essence of the judgement can be seen in the quip "Uber does not simply sell software; it sells rides". The judges firmly pull any when dissecting Uber's arguments of being a technology firm not a transport business. They accused Uber of "resorting in its documentation to fictions, twisted language and even brand new terminology".

It's interesting to note the political context in which this tribunal ruling has taken place. The government has been concerned with the growth of the gig economy with regards to lost tax revenues. The autumn statement recently noted the importance of the tax system "keeping pace" with technological advancements, which change the way people live and work. Technological advancements are what drive the gig economy and have changed the orthodox perception of employment in this country, (namely the tradition of people being employed by employers rather than self-employed) especially for the 860,000 people who classify themselves as self-employed since 2010.[10] According to Citizen's Advice, 460,000 people could be falsely classified as self-employed, costing up to £314 million in lost tax and employer national insurance contributions.[11] Although we have an independent judiciary, it is interesting to note the potential benefits the government could recoup from the increase in tax revenues, at the expense of Uber.

It is important not to overstate the significance of the ruling, however. It is subject to appeal and could potentially go all the way to the Supreme Court, due to the importance of the case and the precedents it could set. There will be no pay-outs to drivers for now, but if the company is eventually forced to accept the ruling, it will have to take steps to redraft contracts with drivers and alter its business model as a whole.

But what does this mean for the rest of the gig economy? Uber is not alone in following this business model; City Sprint and Addison Lee function on a similar basis, connecting customers with workers by the use of an application. Both are also facing action from cycle couriers who seek to be classified as workers, which would entitle them to employment rights, such as holiday pay and pensions.[12]

Furthermore, many small businesses in their infancy have attempted to follow Uber's model. The consequence of the recent developments is that they will now owe a lot more to their workers than they previously contemplated. This may ultimately hurt innovation in the market.

The ideas that hatched in Paris 8 years ago will have to travel that much further before reaching your smartphones and wallets. This undoubtedly enriches the treasury and employers, but one wonders if perhaps it is the customer that is hit hardest by these developments.

[1]https://www.uber.com/en-GB/our-story/
[2]http://www.bbc.co.uk/news/business-38147489
[3]https://www.uber.com/en-GB/ride/
[4]Ibid
[5]https://www.bloomberg.com/news/articles/2015-12-03/uber-raises-funding-at-62-5-valuation
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[12]https://www.theguardian.com/business/2016/nov/22/citysprint-faces-tribunal-over-treatment-of-freelance-workers

Deliveroo: Good for who?

Problems with the gig economy

By James Paget-Brown

A quote by Tim Goodwin has been floating around the Internet recently, receiving many likes and shares. It reads as follows: "The world's largest taxi company (Uber), owns no vehicles. The world's most popular media owner (Facebook), creates no content. The world's most valuable retailer (Alibaba), owns no inventory. The world's largest accommodation provider (Airbnb]) owns no real estate. Something interesting is happening."

I am inclined to agree that something interesting is definitely happening, in the way that apps and websites are completely reshaping the structure of businesses to meet consumer demand more efficiently. In particular, the statement regarding Uber stands out. Nowadays, it seems that everyone orders an Uber instead of hailing or phoning a taxi. Notwithstanding transportation, when I want takeaway food these days, I simply use my phone to order straight from Wagamamas or GBK, and it gets delivered to me within the hour, courtesy of a sweaty, breathless man on a bike. It doesn't stop there either; I hardly shop for anything on the high street anymore. If I need to buy something, I order it online and it turns up in a dtelivery van the next day, with certain retail sites even having their items delivered by freelance workers in their normal day-to-day cars. Furthermore, I get to watch these people on their route to delivering my goods with a delivery tracker from my phone or computer screen, in the comfort of my own home. So far, so good. Right?

However, this is potentially not the case. This new separation between corporations and the services that they provide through the Internet and apps is leading to very serious legal and economic issues. We are now truly living in the era of the "gig economy", where temporary, flexible jobs are commonplace and companies tend towards hiring independent contractors and freelancers instead of full-time employees. This is a digitally enabled phenomenon, as companies like Uber and Deliveroo have found great success through their popular and easy-to-use apps. Smartphone technology and the digitisation of services have led to the creation of easily accessible platforms where consumers can utilise any service on demand. This in turn offers flexible work that can be performed by freelancers, and is not tied down to any particular location. However, what really seems to be happening in practice is that the people who work for these companies work the same normal hours, just like any other full-time job, but receive fewer legal rights.

The gig economy raises some obvious employment law issues for the "independent contractors" who work for these companies. The classification of workers as "independent contractors" or "temporary workers" instead of full-time employees deprives them of a number of significant basic workers' rights, such as the national minimum wage, sick pay, a company pension or a right against dismissal. Recently, for example, Deliveroo tried to change their pay structure from £7 an hour and £1 per delivery, to just £3.75 per delivery, which would have denied workers the minimum wage that they are legally entitled to. Understandably, Deliveroo workers protested this decision and the Department for Business, Energy and Industrial Strategy weighed in to say that workers must be paid the "national living wage" of £7.20 an hour unless a court or the HMRC rules that they are self-employed. This shows, at least, some resistance at a governmental level to the exploitative provisions being deployed by these companies. Likewise, there seems to be some hope for the employees here in the form of the recent Uber decision handed down by the Employment Tribunal, which held that Uber drivers can be classed as workers, instead of self-employed and should be paid the "national living wage", sick pay (SSP), holiday pay, and pension contributions.

Hopefully, this sets a precedent that will also apply to other companies similarly exploiting the gig economy to deprive workers of their rights. In an employment context at least, the end of gig economy exploitation might be just over the horizon. Similar cases are being brought against the courier firms CitySprint, eCourier and Excel, and the taxi firm Addison Lee. If the Uber ruling is anything to go by, then it is likely that the cases will be decided in favour of the workers, who will become entitled to the same basic rights. However, Uber is appealing the decision against them, so the issue may not be settled just yet.

The gig economy also presents a serious issue for future tax revenues. The UK's Autumn Statement 2016, published on the 23rd November 2016, clearly demonstrates this. The Office for Budget Responsibility (OBR) estimates that in the year 2020/2021 the gig economy will cost the Treasury £3.5 billion. This is due to various methods of tax avoidance deployed by these companies. One of the key ways in which tax revenues are being lost is through National Insurance Contributions (NICS), as less national insurance is paid on self-employment earnings. Another way that the government is losing tax revenues is through the incorporation of self-employed individuals as their own limited businesses, of which they are the sole director. The individuals who do this can also get much of their earnings as dividends from their corporate profits, for which the tax rate for most people is still lower than that of income tax. As such, it is not surprising that the number of people who are self-employed has risen by 45% since 2000 to 4.8 million workers, approximately 1/7 of the working population. Out of the 2.6 million who have found a job since 2010, over 1/3 of them have been classed as self-employed.

So, how can the UK stop these tax losses and reclaim some tax money from the gig economy? Several suggestions have been put forward: for instance, following the Irish model and reducing corporate tax avoidance by reducing corporate tax. Ireland has a very low corporate tax rate of 12.5%, which presumably discourages companies from pursuing tax avoidance because tax contributions do not eat up too much of their overall revenue. Ireland also has a General Anti Avoidance Rule as part of its 2014 Finance Act, which focuses on whether it would be broadly "reasonable to consider" that a transaction's primary purpose was to give rise to a tax advantage. This is perhaps something that the UK should consider. However, if the suggestion is that we simply lower the corporate tax rate, this would just be bending to the will of these companies, and would probably not make up for the lost tax revenues anyway. Another suggestion has been to follow Norway's example, with the introduction of a shareholder income tax; this could solve the issue of tax avoidance by self-employed people who incorporate themselves as limited businesses.

As it stands in the UK, the Chancellor of the Exchequer Philip Hammond has said that he could claw back some £630m over the next five years from self-employed workers who are not paying tax on so-called "disguised earnings", but this seems a measly sum compared to the estimated losses.

As such, the newly developing gig economy is still a very problematic area, which will need further review in the future. Whilst the Uber decision might mean that those who work in this sector receive adequate employment rights, it is still a problem for the wider society as the government is losing tax revenues from the corporate forms of these companies.

In reality, it feels like the quote at the beginning of this article should read on to say something along these lines: “the world’s new popular cluster of service providers does not benefit most of its workers, nor the government and the wider society.” Still, some consolation can be found in the fact that the 2016 Autumn Statement has put the issue on the agenda, signalling that the gig economy will be taken seriously in the future.

Afterlife

In a Virtual Reality System

By Kimberly Lee

Humans have been on a quest to find immortality since the dawn of time when we grasped the concept that we will all inevitably face death in time to come. It may be possible that this idea of immortality is not far from reality's reach today.

There are already methods out in the market for one to possibly infiltrate the unavoidable demise of human life. Some have "opted out" from death in favour to have their bodies cryogenically frozen, in hopes that they would be able to come back to life in a future where science has finally reached a breakthrough to immortalise them. Some have chosen to undergo self-funded clinical trials where parabiosis – having younger people's blood transfused into older people's circulatory systems – will be performed with expectations that could conceivably lead to the furtherance of anti-ageing practices. Such procedures require us to live with our perishable biological bodies. However, do we really need our mere mortal bodies to witness possible future events?

The Singularity. A term coined by Vernor Vinge, a computer scientist and science fiction writer, who proposed that increasing technological change would definitely lead to an event where artificial intelligence would match and transcend human intelligence. Ray Kurzweil, world-renowned futurist and Google's Director of Engineering, extended on this idea when he predicted that by 2045, "based on conservative estimates of the amount of computation you need to functionally simulate a human brain, we'll be able to expand the scope of our intelligence a billion-fold."

This forthcoming event can also be referred to as "digital immortality". Futurists believe that humans will be able to exist forever in a virtual reality system by uploading their minds into computers. Mind uploading is a process by which the mind, a collection of memories, personality, and attributes of a specific individual, is transferred from its original brain to an artificial computational substrate.

So how does mind uploading exactly work? Neuroscientist, Randal Koene, explains that:

"The functions of mind that we experience are originally implemented through neurobiological mechanisms, the neural circuitry of our brains. If the same functions are implemented in a different operating substrate, populated with parameters and operating such that they produce the same results as they would in the brain, then that mind has become substrate-independent. It is a substrate-independent mind (SIM) by being able to function in different operating substrates. The popular term "mind uploading" can refer to the process of transfer, moving a specific substrate-independent mind from one operating substrate (e.g., the biological brain) to another. When an operating substrate for mind functions is created by carefully replicating many of the principles of the neurobiology, physiological and architectural characteristics, then we call that approach whole brain emulation (WBE)."

Without a doubt, it is an awe-inspiring ambition, almost teetering on the verge of science fiction. On the grounds that science is currently progressing on, this ambition might be a lot closer to us than we think.

According to Moore's law, the processor's speed, or overall processing power for computers will double for every two years. With this, Kurzweil calculates that humans will have immortality within their reach, with the aid of technology, in a little less than three decades. There are already high-tech efforts in place to understand the distinctive aptitude of the mammalian brain, and highly-funded research establishments have also been set up to find innovative methods to emulate brain substrates onto an artificial neural network.

Famed physicist, Stephen Hawking, stated that, "it's theoretically possible to copy the brain onto a computer, and so provide a form of life after death." Although, he goes on to add that, "this is way beyond our present capabilities." Despite this, mind uploading still seems to be a plausible option in a future that guarantees an exponentially increasing technological rate with promised succession of each technologtical generation.

So what exactly is stalling this mind-boggling process?

To start with, science has yet to answer how our brains actually work. The average human brain has about 86 billion neurons that transmit information to other nerve cells, muscle or gland cells. Neurobiologist Rafael Yuste of Columbia University whose main disciplinary is to explore the mysteries of the brain states that, "[o]ne could say that the rest of the body is pretty well understood, but that once you go higher than the nose, we're still in relatively uncharted territory." The workings of our brain that in turn generates the workings of our mental world, remains a mystery like no other in science.

This futuristic virtual reality might fall short given our current state of technology where there remain grey areas that science has yet to be able to comprehend. However, whether this remains as strictly science-fiction or becomes a groundbreaking step for humanity, there is no doubt that mind uploading is a premise that remains worthy of being explored.

All Eyes on You

The Snoopers' Charter

By Lauren Counsell

Was Orwell right? Are we now living in a real life 1984? Have we all just kissed goodbye to our privacy without knowing it? Unfortunately, the answer is possibly yes. Big Brother (or various government authorities) may soon be spying on you, if they are not already, or at least saving your personal data. The reason for this: the passing of the highly controversial Investigatory Powers Bill.

In an increasingly digital world, we all send a plethora of messages every day, whether it is via text, WhatsApp or Facebook Messenger. However, every time we click send, do we consider this information to be the type of thing we want the government to read, or, more importantly that the Government has the right to read?

What is the Investigatory Powers Bill?

The aptly nicknamed 'Snoopers' Charter 2' was passed on 17th November 2016 and it is expected to become law before the end of the year. Worryingly, it gives the security services a multitude of tools for hacking and snooping. To name a few, this far-reaching set of new legal powers and requirements includes:

- Service providers (Facebook, Vodafone, WhatsApp– or CSPs– communication service providers, as the Bill names them) must store your data for 12 months
- Police and security services may access internet history in investigations - worryingly, without a warrant
- Technology companies have the ability to remove encryption
- Technology companies (CSPs) must legally assist with targeting their customers' data, effectively bulk data collecting – although foreign companies are not under the same obligation
- The legal bugging of computers and phones, with a warrant

Arguably, it is the largest overhaul of surveillance law in almost two decades, and the most extreme form of surveillance existing in the Western world. On Twitter, Edward Snowden deemed it "the most extreme surveillance in the history of western democracy. It goes further than many autocracies."[1]

Why are they spying?

The Bill was first proposed in 2012 and Theresa May, in her role as Home Secretary endorsed it under the coalition. These extreme surveillance provisions arose due to a series of complaints. MI5, the police, and GCHQ had voiced criticisms about the existing law being too complex. Therefore the Bill arose in an attempt to codify the existing laws and regulations. A 2015 report conducted by the Independent Reviewer of Terrorism Legislation also recommended new law following a review of investigatory powers available to law enforcement and intelligence agencies. Interception of personal data for investigatory powers lie at the heart of this report. In a world where online platforms have become a main form of communication, the complaint was that terrorists were becoming too difficult to track. The law was deemed not thorough, nor extensive enough, thus hindering their ability to carry out their function. This new legal framework is supposedly a solution to this problem; codifying powers in the Regulation of Investigatory Powers Act and the Telecommunications Act 1984 into what can only be described as a spy's legal dream.

In a world where it is challenging to switch on the news without being privy to a mention of terrorist threats, ratification and definition of the tools used to fight serious crime and terrorism seems reasonable.

A worrying affair for citizens – what implications does it have for you?

But what implications does the Act have for you? The likes of DWP and the Food Standards Agency will be allowed access to this information under the IP Bill (subject to application for an interception warrant). Clearly, this is unnecessarily intrusive; why would the likes of the Gambling Commission ever need such information? Considering the scope of those within the police force who are able to access the information, this paints a troubling picture. The Bill states that such information will be accessible only to superintendents and inspectors – but according to 2015 police employment statistics, over 8,000 employees fall into this category alone.

The government appearing to take an Orwellian approach is highly worrying for citizens. Most of us would feel uncomfortable with our Internet history being readily available, especially the storage of every website you have visited (I can hear some of you shudder). But soon your texts, calls, voicemails and social media conversations, including WhatsApp and Facebook Messenger messages will be stored for at least one year. Do not forget that this data storage is untargeted, meaning everyone, regardless of whether they are of intelligence interest, is subject to it. The government shows little concern for what they do acknowledge as merely "a degree of interference" with citizen's privacy.

Anyone with overview of the rights afforded under the ECHR must be scratching their heads asking how this can possibly fit with the Article 8 right to a private and family life, or Article 8 of the EU Charter of Fundamental Rights protecting the right to personal data? David Anderson QC, the Independent Reviewer of Terrorism Legislation felt this second issue "dwarfed" all others – although he felt in light of ECHR case law, respect for private life was upheld and in the absence of suspicion, bulk data storage was not disproportionate.[2] However, in light of the passing of the Act, it is likely to be found scrutinised in the ECJ or European Court of Human Rights in the months, or even years to come. These are not even the only freedoms that may be infringed - freedoms of association, assembly, and movement will also be affected.

For now, privacy campaigners continue to fiercely dispute the alleged interference, despite the Home Office insisting the contrary. These arguments appear difficult to reconcile with the intrusive powers. It is difficult to see how we are not edging towards a modern day spy state. To add even further concern, hackers and the threat of cyber-crime are already an enormous fear. James Blessing, of the Internet Service Providers' Association warned "it only takes one bad actor to go in there and get the entire database… try every conceivable thing in the entire world to [protect it] but somebody will still outsmart you."[3] In a world where news of personal data hacks is not at all rare, this is a perturbing privacy law development. In future, it is highly likely that troubling leaks will occur; as Blessing acknowledged, mistakes are often made. Those handling the information will have a challenging task to keep one step ahead of hackers. Ultimately, they need to find ways to adequately protect your privacy.

It must be recognised, however, that the Act does not permit an entirely open-ended access to your personal data. Safeguards have been put in place; Theresa May argues that they are in fact "world beating". An Investigatory Powers Commissioner will be appointed, and judges will approve warrants to access this newly stored information. However, this does little to detract from the fact that mass storage of data belonging to individuals of no interest to Intelligence Services will still be happening. Even if no government agency were to look at your stored data, this remains worrying given hacking concerns; if there were a cyberattack, who knows whose hands your personal data could end up in?

What does the technology industry think?

Citizens are not the only ones who are worried. Technology companies have clashed with the government, lobbying over the Bill's content. Big companies including Google, Twitter and Apple voiced fierce criticism at the Bill stage, sending a note advising which parts needed re-writing. What was the reason for their complaints? Technology service providers will be directly affected by the legislation. The new expectation for them to keep full records of their customers' data for 12 months and to hand it over when asked, will clearly cause them inconvenience. They will also be unable to offer their customers an opt-out scheme.

Encryption, the security measure which means messages can only be read by senders and recipients, lies at the heart of these complaints. Essentially, these companies are being asked to surrender to the government their encryption secrets. Secrets that they have spent millions of pounds developing. Therefore, breaking encryption is not an issue they will take lightly. For technology giants to comply with new law, they must hand over encrypted data from secure products, such as IPhones. It will be highly damaging for both companies and consumers, if this spells the end of strong encryption in the UK. Loss of user trust, particularly when consumers were paying so much for their services, spells a loss of business.

Subsequently, this places technology companies in a difficult position. The requirement may also have wider legal implications for technology companies whom the UK government seem to forget operate on a global scale. Forced decryption could land them in deep water in other countries. Indeed, the outspoken Coalition previously rejected "proposals that would require companies to deliberately weaken the security of their products via backdoors [or decryption]".[4] Compliance with the new law could also be costly. Many firms, including BT, may have to alter their operations to collect such vast amounts of data – an unwanted and enormous financial burden. Back in February, the House of Commons Science expressed concerns that the Bill could commercially damage technology companies, particularly those in the UK without the impressive budgets of the likes of Apple. These smaller companies are hardly likely, nor capable of upping and relocating their servers overseas in an attempt to find a loophole in the new law. This is a solution that international companies have already been exploring. For those with smaller economic resources, complying with these troubling laws will be inescapable. However, it appears that the government has failed to considered these potential wider economic ramifications of this poorly debated Act, which the press have accused of 'slipping through Parliament' as a result of public apathy. As the Bill comes into force, how both the big players and small UK tech companies will respond remains uncertain.

What do these developments mean for the rest of the world?

As is evident, the UK government is not setting a good example. Jim Killock, on behalf of the Open Rights Group sitate, "it is likely that other countries, including authoritarian regimes with poor human rights records, will use this law to justify their own intrusive surveillance powers." For years there has been criticism over the likes of Russia tapping Internet and phone communications without even notifying communication providers during the Sochi Olympic Games.[5] Technology companies including Twitter and Microsoft, as part of the Reform Government Surveillance Coalition had previously tried to make the UK aware of their influence on the rest of the world, and how the final outcome could influence countless similar bills around the world. Yet, with the UK setting a dangerous precedent for surveillance laws, it is a model for other jurisdictions. UK-based tech companies may soon follow in the footsteps of Eris Industries in the wake of the new legislation by moving elsewhere, bringing about another economically catastrophic consequence.

Can the Investigatory Powers Bill be justified?

With the UK's current terror threat, it appears reasonable on the surface that a delicate balance must be struck between privacy concerns and national security, perhaps with some loss of privacy for the greater good. However, this Act seems to go too far; the rights of citizens no longer appear to be a fundamental priority.

The correct balance has not been found between protecting citizens and national security. The IP Bill goes to unacceptable lengths and is democratically threatening due to the broad availability of the stored information. Futhermore, the provisions given to government agencies, who are never likely to need personal data for security purposes, poses serious questions about the intentions of snooping. The discomfort and potential economic consequences it poses for both citizens and technology companies appear ignored. We do not want our future to be a world where Orwell's fictional predictions become a reality.

[1]https://twitter.com/Snowden
[2]https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2015/06/IPR-Report-Web-Accessible1.pdf
[3]http://economia.icaew.com/news/november-2016/the-investigatory-powers-bill-new-law-enables-hmrc-to-access-taxpayers-internet-search-history
[4]http://www.bbc.co.uk/news/technology-35263503
[5]http://www.theglobeandmail.com/sports/olympics/sochi-security-measures-include-unprecedented-tap-on-communications/article14918762/

The International Criminal Court

International No More?

By Aisling Morgan

On 24th November 2016, the 15th Assembly of State Parties of the International Criminal Court (ICC) left the international community worried for the future. Vocal criticisms of the ICC, withdrawals of membership and a changing political sphere do not do well to quell the fear of the existence of the Court. Over the course of many years, State Parties to the ICC, particularly African nations, have voiced their discontent at the structure, investigations and findings of the ICC. Despite this, withdrawals have never occurred, not until this year. Looking ahead realistically, more withdrawals do not seem impossible.

Will a domino effect be triggered to threaten the very existence of the International Criminal Court?

The ICC currently has ten situations under investigation: nine of which are within Africa. Many argue that the Court is targeting the continent and failing to investigate the conduct of "The West", exemplified by lack of action after the Iraq and Afghan Wars. Notably, this is despite the systematic grave breaches of human rights and humanitarian legal obligations, giving rise to accusations of a "victor's justice".

The Court has notoriously been called "an International Caucasian Court for the persecution and humiliation of people of colour, especially Africans" by the former Gambian Information Minister. How could a respected international organisation of such calibre act in this way?

At a two-day summit for the African Union held in February 2016, the chairman of the summit and the president of Chad, Idriss Déby, criticised the Court for concentrating its work on African leaders. Additionally, the Union largely supported the proposal of Kenyan President, Uhuru Kenyatta, to withdraw from the Court and "for the African Union to develop a roadmap for the withdrawal of African nations." The creation of an African criminal court was considered, but without fruition. Yet, the level of dissatisfaction is far too palpable to be ignored by the international community. This is especially since action has been taken within the last few months, indicating that many African nations intend to act on their opinions.

The first nation to take a stand was Burundi, voting in Parliament by an overwhelming majority to withdraw from the ICC on 12th October 2016. This vote was framed on the injustice suffered by African nations. Not a fortnight later, Burundi was quickly followed by South Africa's submission of withdrawal, stating that "obligations with respect to the peaceful resolution of conflicts at times are incompatible with the interpretation given by the ICC of obligations contained in the Rome Statute."

With Gambia, Kenya and Uganda expressing discontent and plans to withdraw their membership of the ICC, it is clear that these nations do not see the Court as acting internationally. The ICC is even suggested by some to be nothing more than another tool of post-colonial power used to preserve the superiority of the West and to perpetuate the image of barbarian Africa.

However, one common factor of these objecting States Parties, apart from being African, is that they are being investigated, have been of interest by the ICC for international crimes committed in their territory, or are not co-operating. In addition, the above comments were wholly made by each State's respective political wings. Are States using the withdrawal from the ICC to make political gains, while attempting to escape the criminal justice system for potential international crimes committed by, or on the territory of, the State itself?

In the case of South Africa, the failure to arrest Omar Al-Bashir, the President of Sudan, has been acknowledged as the primary reason for withdrawing from the Court. The ICC has issued two arrest warrants for Al-Bashir for counts of war crimes, crimes against humanity and genocide. Despite visiting Johannesburg in June 2015 for the African Union summit of 2015, and the issuance of an interim order by the Pretoria High Court to comply with their international obligations, they did not arrest him. Their justification was his diplomatic immunity as a head of state, hence the "incompatibility" with the interpretation of the Rome Statute.

However, in this case, it seemed clear that South Africa had an obligation to act as such, by both the ICC and their domestic judicial system. Is South Africa's response to withdraw as a member of the ICC nothing more than a political act through a legal means? Have they failed the test and are they now blaming the textbooks?
The ICC is not fundamentally inefficient or skewed against African nations. They are charged with investigating crimes of international concern, like genocide, crimes against humanity and war crimes. They will only act if there is sufficient evidence for recommendation of investigation by the State, Security Council or the Prosecutor.

What is being ignored in the supposed targeting of Africa is that all these events did occur. In Burundi, the deaths of hundreds and over 230,000 people displaced resulting from political violence; in Kenya, crimes against humanity in post-election violence, killing thousands and displacing 350,000; in Uganda, crimes against humanity committed in the context of conflict with the Lord's Resistance Army. Arguably, these investigations are necessary and are within the Court's jurisdiction to do so.

In reality, the ICC is also taking some action towards the acts of Western nations, albeit only in elementary stages. Indeed, both Afghanistan and Iraq are in the preliminary examination stage for potential investigations. Yet, there is a distinct examination of the conduct of the military and not that of political leaders of the regimes, such as George W Bush and Tony Blair. This is in distinct contrast to investigations of leaders amongst African nations, such as Al-Bashir and Kenyatta, the Kenyan President. There appears to be an element of unfairness here, as the crimes have not been altered, but the apparent treatment of the perpetrators has.

The future of the ICC will be an interesting one. In the short-term, further withdrawals, particularly from Africa, could spell an examination of the conduct of the Court and potentially spur investigations of Western powers. In the long-term, the very essence of the Court being international could also be questioned, particularly if the African nations form their own regional criminal court for crimes of this nature. Should the domino effect result in this, the very operation of the ICC could be called into question, and its function could potentially be forever changed.

An Overview

Of the Refugee Panel Discussion

By Freya Cassia

It's a familiar sight. Frightened refugees in overcrowded boats, desperately hoping for a better life in Europe. These images of sinking dinghies in the middle of the Mediterranean Sea should not be commonplace – but they are.

In response to the refugee crisis, the UK government has pledged to resettle 20,000 refugees in the UK by 2020. This undertaking has undoubtedly sparked widespread debate. However, the public appears to be more concerned with the number of refugees, rather than the more pressing issue of what actually happens to these people once they are in the UK.

This is the issue that the recent Refugee Panel Discussion, organised by the European Law Students' Association in collaboration with Nottingham Debating Union, sought to address. Speakers discussed the problems, ranging from language barriers to protracted legal cases, that refugees faced upon arrival in the UK.

The first speaker, Adel Hamad, experienced these problems firsthand. Two years ago, he himself was one of the 265 people on board a small boat in the Mediterranean Sea. When water began pouring into his boat from all sides, he was one of the lucky ones. An Italian rescue boat saved him and brought him to Italy. Afterwards, he travelled to France, and then from France to England in the back of a lorry. Finally, he stepped out onto England, what he thought of as freedom.

Adel is now a caseworker at the Nottingham Refugee Forum. He helps refugees to adjust to their new lives in the UK, to cope with a different language, culture and climate. The real difficulty, he said, is to stop people from losing hope.

When Deirdre Sheehan, a solicitor from Paragon Law, began to talk about the legal issues facing refugees, it was easy to see why.

All too often, she told us, refugees' stories are not believed by Home Office officials. One of her clients, Mr N, was arrested and detained for protesting against the government. He was blindfolded and handcuffed. His cell had no toilet. The authorities would spit on him. There was no mention of going before a judge, and Mr N knew that this treatment would continue until his execution.

Another of her clients, Mr B, was only 13. Men, carrying guns and clubs, broke into his house in Syria and beat his father up. His father started to bleed and the men shot him three times. When Mr B tried to go to his father, he was kicked and stabbed in the eye. He is now blind in his right eye. The Home Office refused to believe either of these two harrowing encounters.

Deirdre drew our attention to the way in which Home Office officials pick on peripheral points of asylum applications to discredit refugees' stories. One Syrian child provided an 11 page statement and endured a 3 hour interview. In both, he tried to give as much information as he could. In his statement, he mentioned that his families kept cows, goats and sheep. In his interview, he mentioned cows and goats only, forgetting to include the sheep. The Home Office argued that because of this discrepancy, his story should not be believed.

The lack of legal aid is yet another barrier refugees must overcome in order to establish a successful asylum claim. There is no legal aid available for these cases until the appeal stage. This means that before refugees can make a claim for legal aid, they must go through the trauma of being repeatedly told they cannot remain in the UK. Furthermore, these cases can last for excessive periods of time. Sajid Mohammed (the third speaker, and co-founder and executive director of Himmah) recounted one such experience where the person he had worked with only had his case heard in a High Court judicial review after being in the system for 12 years.

There are other problems outside the legal arena: problems that relate to simple human dignities. Himmah is a charity organisation that seeks to deal with such problems in practical ways. They offer refugees essentials such as women's toiletries, clothes from charity shops and haircuts.

The system the government currently has in place to deal with the refugee crisis is also slow in allowing the refugees to assimilate quickly, and this lack in providing basic needs in turn brings about a further set of problems. Clive Foster, Hate Crime Project Officer at Nottingham City Council, talked about the difficulty of accessing English language teaching. Many of the refugees who arrive in the UK are well qualified: they are dentists, builders and doctors. Some also have PhDs. The problem is that they cannot speak English, and that they have no access to government funded ESOL teaching until they have waited 6 months for a decision on their asylum application. Sometimes it is all too easy to forget that refugees are human beings, with feelings, opinions, hopes and dreams. Through events like the Refugee Panel Discussion, we can remind ourselves that refugees are facing these problems today in this country.

If this country hopes to make a commitment to deal with the predicament at hand, it has to consider the conditions required to be built and put in place, so as to devise long-term resolutions. When looking to the future, it is clear that society needs to go beyond theoretical declarations of being welcoming to refugees. Instead, the legal difficulties discussed above need to be adequately overcome, while the situation also necessitates the provision of basic necessities and education during this period.

Crisis in the Mediterranean

Lessons Lost from the Indo-China Migrant Crisis

By Aisling Morgan

The magnitude of the migrant crisis faced by Europe appears to be unprecedented. With a flow of people coming into Spain from North West Africa, Italy from Libya and Tunisia, and particularly, into Greece from Turkey, it is undoubtedly at crisis point. Every week, news reports surface of yet another boat capsizing, leaving hundreds dead. The dangers faced by nationals living in Afghanistan, Somalia, Eritrea, and Syria, mean that the journey on a dinghy is somehow safer than waiting for conflict to threaten their very survival. There are no clear solutions in sight, with hundreds of thousands still choosing this perilous journey. However, it may serve nations well to draw on lessons from a migrant crisis that occurred previously in the South China Sea during the late 1970s.

This migrant crisis was a result of changing political regimes in the Indo China region, modern day Laos, Cambodia and Vietnam, resulting in threats of genocide and persecution. A mass outflow of over three million refugees took to the open seas, seeking asylum in the South China Sea in other States such as Malaysia, Thailand and Indonesia. These 'boat people' faced the same risks and consequences as many now do crossing the Mediterranean in an effort to reach Europe, including facing the treacherous conditions of the sea and the risk of not receiving refugee status upon arrival.

First, it is clear that States have not acted in any more progressive a manner so as to ensure the safety of the refugees prior to departure. This failure is the reason why smugglers have began making a business of facilitating boats, and now more often dinghies, for the dangerous crossing of seas. Refugees are being charged thousands of euros for this journey while being made to commandeer the boat themselves without any guidance or training. They are often only given a phone with contact details of the coastguard for rescue when they reach subsequent territorial waters of the arrival State. These boats are often overcrowded, not sea worthy and are likely to sink.

States have done little to nothing to ensure safe passage of these refugees. They fail to target the exploitative tactics of the smugglers, and are letting thousands die through this omission. Unsafe passage occurred both in the South China Sea and now in the Mediterranean. However, instead of learning from the consequences, the situation in the Mediterranean has worsened. Furthermore, it continues to be ignored by European States.

Human Rights Watch has criticised the actions of some States in driving the smugglers underground, incorrectly returning refugees, and not concentrating their efforts on rescue at sea. One such example is the friendship agreement secured between Italy and Libya, two major points of passage, and debated on in the case of Hirsi v Italy in 2012. Italy would provide money, rescue boats and training to Libyan officials to return refugees to Libya, even if they are now in Italian waters. Similar tactics were previously used during the Indo-China Crisis, particularly by Australia, as seen in the Tampa case. In that case, a ship bound for Christmas Island, an Australian territory, was forcibly commandeered and turned away, even though it placed the refugees on board in the dangerous situation of the open waters again. Fortunately, in that case, a Norwegian vessel rescued the refugees. However, passengers in similar occasions have not been so lucky.

In both situations, the international principle of non-refoulement, the prohibition of returning the refugee to a place of persecution and danger, was not respected. It is clear that States are acting selfishly, breaching their own general international obligations and failing to improve on many criticisms that arose in South-East Asia during this deeply alarming crisis.

Additionally, within a year of the crisis in the Indo-China region, the Orderly Departure Program was enacted, allowing for applications for refugee claims to be processed prior to departure, ensuring a safer passage and disembarkation. In the case of the Mediterranean crisis, this is not the case. Balkan States have closed their borders; Turkey has permission by the EU to turn down refugees, forcing them back into Syria and Iraq as a result. Additionally, asylum seekers are not being evaluated by biometric measures as obligated. Refugees continue to suffer, despite a framework that should work because of the lack of State co-operation.

During the Indo-China Crisis, the duty to rescue those in distress at sea was largely complied with, particularly with disembarkation schemes such as Rescue at Sea Resettlement Offers (RASRO) and Disembarkation Resettlement Offers (DISERO). However, these schemes were specifically for the Indo-China Crisis, and have not been applied in the Mediterranean. Even with the UN Convention on the Law of the Sea, there is very little evidence of practical disembarkation procedures being implemented for the Mediterranean, meaning that much of the suffering that occured in the South China Sea has not be learnt from.

One can hope that in the near future, provisions will come about for the protection of these refugees. It is estimated that more than 5,000 people have died this year in crossing the Mediterranean, with numbers continuing to grow. With estimates of the UNHCR putting the figure of those that died in the Indo-China Crisis being between 200,000 and 400,000, the Mediterranean Crisis is a long way of being this severe.

But unfortunately, this may be another case of saying 'never again', if States are unwilling to comply with their international obligations. There has been an attempt to justify state inaction, with statements such as; "we do not have room", "refugees are a threat to national security", or "we are already swamped with refugees." However, these are obligations that cannot be negated, even if it goes against the political machinery of each State. Politics is separate from the Law. Europe cannot seem to process this, and as a result, thousands have and will continue to die.

Common Law and Civil Law

Same Difference or Worlds Apart?

By Eleanor Gill

Cultural differences have always fascinated me. Over the years, summer holidays spent exploring continental Europe have made me aware how many things can differ within a relatively short distance. So perhaps it was to be expected that over the course of my Law with French and French Law degree (which includes a year studying French Law in Toulouse as well as an introductory module on civil law systems), I have become interested in how the French and English legal systems can be so different. Despite their differences, each still provide a solid, coherent framework of rules.

For those of you who do not know, the legal systems of England and France are quite distinct; whilst the former is a common law system, the latter follows the civil law tradition. But why does this distinction exist? What does it mean in practice? And will this distinction continue to exist in the future?

The doctrine of precedent: the key to understanding the difference between common law and civil law systems

On paper, the presence or absence of the doctrine of precedent is one of the most obvious differences between the two legal systems. As an integral part of the common law system, the doctrine of precedent can be defined as the policy of courts to adhere to principles established in earlier cases. In contrast, civil law systems contain no such doctrine, meaning that in theory, each case is decided in isolation on the issues of the case at hand alone. Why the difference? To me, it seems that the answer lies in differing attitudes to resolving issues. By placing judge-made precedent at the heart of their legal systems, common law jurisdictions reflect the typical Anglo-Saxon approach of dealing with problems as they arise. On the other hand, the presence of a code in civil law systems is largely influenced by the spread of code-heavy Roman law throughout continental Western Europe.

Common law and civil law: not so different after all?

Today, although the presence/absence of the doctrine of precedent is still one of the most fundamental distinctions between common law and civil law systems, it can be argued that the two structures are moving closer together, departing from the ridged definitions adhered to in the past. This trend shows no sign of stopping (at least it didn't prior to Brexit), particularly with regards to the common law moving towards a more civil-like system. This means that in the future, the two systems will be even less distinct. As any student of common law knows all too well, the common law system now contains many statutes; I see these as 'mini codes' that are created to address specific problems, or to simplify or rationalise the law. The law of England and Wales is becoming more and more statute-based. Statutes are seen by many as the way forward; not only setting down the law on paper and encouraging legal certainty as a result, but also promoting adhesion to the Rule of Law by the judiciary. This is achieved by providing a tighter framework with less room for interpretation. Therefore, it can be argued that the future of the law of England and Wales is one that involves partial codification of our common law system.

Similarly, although there is no legal precedent in civil law systems per se, judges are still inevitably influenced by previous cases. For example, French judges sitting in the higher ranks of the court system sometimes manipulate the Civil Code to adapt to situations which could not have been predicted at the time of its creation in 1804. The majority of courts across France often follow these interpretations. In the very important *Jand'heur* case, the *Cour de Cassation* (France's court of last resort – a court most similar to our Supreme Court) manipulated the Code to produce the general principle of no-fault liability in relation to accidents involving motor vehicles. In theory, this interpretation isn't binding, and is certainly not part of official practice like the creation of statutes in common law systems. However, in reality, because this judicial interpretation was made so high up in the French court system, the lower courts were highly unlikely to deviate. This position has since been replaced by a law, the *Loi Badinter*.

In addition, many French legal codes are often updated (physical copies of many codes are updated yearly, meaning the attractive prices of last year's Code may not be such a great bargain after all…). These updates frequently make a significant impact on French law. As I approached the end of my Business Law module in Toulouse, the lecture hall was informed that certain ambiguous parts of the relevant Code had been reworded, new parts had been added to clear up misunderstandings, and some chapters now had edited headings, a sure sign that the civil law system in France is far from rigid.

That being said, there are no signs that the French legal system will move away from codification any time soon; the attitude towards common law expressed by juristes is generally negative. Their reasoning is along the lines of the common law being an overly complicated, uncertain system that is fundamentally opaque to laypeople.

To conclude, it appears that although the doctrine of precedent is an important distinction between the two legal systems, today it is more important in theory than in practice. This stands to reason given the French courts are often using the Napoleonic Civil Code, which still contains many elements of the original version written over 200 years ago and inevitably requires adaptation to fit cases of today.

My experience of studying the law of England and France leads me to conclude that today one of the most obvious differences between the two countries' legal systems, and perhaps between common and civil law systems more generally, centres on to whom the law is more sympathetic. Having studied contract law and tort law in both jurisdictions, it seems to me (albeit it being a broad generalisation) that French law is much more willing to protect the 'little guy', whilst English law favours enabling business to function. An example of this can be seen in the fundamentals of contract law. Take the rules surrounding offer and acceptance: generally, in English law an offer can be revoked by the offeror at any time before it is accepted by the offeree. This favours businesses; for example, if the item they offer suddenly becomes unavailable before the offeree accepts the offer can legally be revoked. However, French law limits revocability, citing the principle of legal certainty. Here, it is argued that the untimely revocation of an offer, before the offeree has had time to think about the consequences of accepting, will engage la responsabilité civile of the offeror.

Thus, the offeror will be liable under tort law for damages (he is not liable in contract law as a contract had not at this point been formed). This approach favours the offeree, who is often a private consumer. A further distinction can be found in the French approach to silence as acceptance. In England, it is well known that silence cannot constitute acceptance (*Felthouse v Bindley* [1862]). However, in France the opposite is true; except in the case of a tenancy, silence constitutes acceptance, provided that the offeror intended to create an offer. This approach ensures the intentions of those who are not well versed in the intricacies of the law surrounding offer and acceptance are respected, where such parties are usually private individuals.

The future progression of both legal systems remains uncertain; they adapt to new challenges faced by the world such as the anti-globalisation sentiment that seems to be on the rise throughout the Western world. Differences in approach will undoubtedly not only echo cultural differences between each society, but will also highlight how the organisation of civil law and common law systems impacts upon their ability to adapt and evolve. This is illustrated directly by Brexit; the question remains whether common law will move back to relying more on the doctrine of precedent, turning its back on codification as something too heavily associated with EU law.

In my opinion, the benefits of statute law outweigh the disadvantages; it would be a significant blow to legal certainty to let go of the framework that statutes provide to our legal system. Only time will tell if Brexit will have any such impact on English law.

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Will Trump Really Change the World?

By James Doherty

Donald Trump has long touted himself as the ultimate dealmaker (he even wrote a book entitled “The Art of the Deal”), but how will this self-professed talent affect the world?

Trump’s largest obstacle most probably comes in the form of his Russian counterpart, President Vladimir Putin.

The US-Russia association is on a pivotal position between progress and failure. This is more so than at any time since the fall of the Berlin Wall and the collapse of the Soviet Union. With an Islamic terror organisation currently ripping through the Middle East and attacking European capitals with growing devastation, America and Russia need to act in unison. Both leaders have vowed a strong approach against the insurgent caliphate that is terrorizing both the Middle Eastern countries it occupies and the Western nations it targets. However, this may not solve the problem.

It is pertinent to note that ISIS thrives off of instability and will be able to effectively adapt to changing circumstances.

Following the attack on Paris late last year, Putin launched airstrikes in Syria. This was the first time that Russia had engaged in major military action outside the former Soviet Union, since the end of the Cold War. The airstrikes and an intensive bombardment of Aleppo in February prompted tens of thousands of Syrians to flee. Unfortunately, tens of thousands of refugees serve to create more instability.

It seems that Vladimir Putin’s landmark military intervention in Syria, ostensibly aimed at hurting Islamic State, may not have helped. One other effect that Trump and Putin need to hash out between themselves is the fact that this action helped to keep Bashar al-Assad in power, separating and exasperating the international community. According to activists, it has also claimed the lives of more than 1,700 civilians.

It is into the murky depths of this divided international community that Donald J. Trump steps into as the future ‘leader of the free world’.
Whilst his predecessor, President Obama, has had long-standing human rights commitments that occasionally cause friction with the Russians, this may not be such a problem for the President Elect. It is arguable that a civilian death toll and hard-line approach will not be a distraction for the man who referred to Mexican immigrants as rapists, drug dealers and murderers. The Russo-American relationship, and more notably that of Obama and Putin, ran into a particularly frosty patch over the Crimean Peninsula in 2014. Following Russian military intervention in Ukraine, a large number of countries imposed trade sanctions, namely the U.S., which has contributed to a Russian financial crisis. Regardless, Putin won his war in the Ukraine with the annexation of Crimea and the de facto capture of eastern Ukraine, which lies on the borders of NATO and the EU.

However, an unlikely friendship may just be formed. Trump has said; "I have always felt that Russia and the United States should be able to work well with each other towards defeating terrorism and restoring world peace, not to mention trade and all of the other benefits derived from mutual respect." By extending a friendly hand to Russia, President Trump’s favourable approach might indeed prevent the world from facing another Cold War. The Cold War, for all its horrors, did at least give the world a rigid system of good vs bad, West vs East, and right vs wrong. However, as the years have gone by, these lines have eroded and there has been a decrease in US dominance. This may lead to a power struggle for supremacy that could have catastrophic effects. Throwing China into this mix, a nation that Trump has regularly verbally attacked), how will the growth of Russia sit with the People’s Republic?

In a similarly depressing vein, Trump has been no friend of Human Rights – at an Ohio rally during the Presidential campaign Trump renewed his praise of waterboarding, which was banned by the Bush administration in 2006 as both potentially illegal and ineffective. “What do you think about waterboarding?” Trump asked the crowd, “I like it a lot” he worryingly asserted, and proceeded to add “I don’t think it’s tough enough.” If the support of tactics that even the Bush administration thought were to extreme is not enough to set off warning bells in the minds of liberals, then Trump’s last comment certainly will. In the most common method of waterboarding, the captive's face is covered with a cloth, and the subject immobilized on their back whilst water is poured onto the face causing an almost immediate gag reflex and creating a drowning sensation for the captive. This causes extreme physical damage and needless to say long lasting psychological problems. However, Trump does not think that this illegal form of 'enhanced interrogation' is enough.

Barack Obama has in recent years, although not flawlessly, run a tight ship with regards to international relations. One of his most important roles during his 8-year shift at the helm has been to check Russian power. Looking into the future, it is indeed possible that human rights violations result from this potentially new Russo-American friendship.

Donald Trump has made no secret of his admiration for strong political leaders such as Putin. While the two speak the "same language," conflicting interests could still pull them apart, most obviously over dealing with ISIS in the Middle East and the support of Syrian President al-Assad. Trump will also face stiff resistance at home, where prominent Republicans like Senator John McCain denounce the Russian bombing as "barbaric".Aside from these circumstantial divisions, one big factor that could prevent the formation of a friendship is the fact that both Russia and America still seek to dominate on the world stage.

Perhaps, the best we can realistically hope for in the next few years is for no change whatsoever. In the words of former MI6 Chief Sir John Sawers, “the world has always seemed to be on a cliff edge, but we are yet to have completely fallen off”.

Photo: Gage Skidmore

A Centre Without a Future?

By Thomas Hughes

Amongst other things, 2016 will be remembered for the passing of so many much-loved celebrities. David Bowie, Alan Rickman, Terry Wogan, Prince, Victoria Wood, Ronnie Corbett…the list goes on. Yet have we also seen the death of something far more significant?

This year has potentially seen the demise of the centre ground of British politics, as highlighted by the Brexit vote. The Leave campaign's victory represented an immense desire for change and a direct shift away from the centre. Voters on both sides of the spectrum felt that mainstream, moderate politics was not tailored to their interests and was not producing the Britain they wanted. The Remain campaign misjudged the mood of the electorate, making the fatal error of relying on intimidating facts and statistics. There merely fuelled Leave's accusations of unpatriotic scaremongering. The further one strays from the centre, the more powerful emotion and rhetoric become. Such powerful rhetoric, together with the exploitation of existing prejudices over immigration, globalisation and sovereignty, as well as the vague promise of an independent self-centred Britain, swung the vote.

In their desperate attempt for change, the British voters flocked to the left or right, leaving a large gaping hole in the centre. This black hole swallowed up some of the most prominent centrist politicians of recent years: the downfalls of David Cameron, George Osbourne, and Tony Blair were all symbolic of how detested moderate politics has become. Instead, it was the more extreme figures of Nigel Farage on the right and Jeremy Corbyn on the left who rose to distinction, with the Liberal Democrats still being very much a party on the periphery. The centre finds itself voiceless as it is constantly being silenced by the dangerously influential right-wing newspapers that outrightly reject anything even remotely moderate, branding alternative views as 'socialist', 'deluded', and 'unpatriotic'.

As recently as last year, the Conservatives used a more centrist message to great effect in the general election. With a manifesto that encouraged, and promised to reward independence and aspiration, they displaced Labour as the party of working people to secure an unexpected majority.

However, despite the numbers of aspirational British voters who generally voted Remain, and they were still outnumbered. Farage called Brexit 'a vote against the big businesses', yet it was also a vote against metropolitan life. The ambitious, socially mobile students and young professionals who overwhelmingly voted Remain are detested by Brexiteers. For them, they are a sign that Britain is going in the wrong direction, a symbol of the modern world of globalisation. The fact that they live in London and other major cities, the fact that they work in the tertiary and quaternary sectors, the fact that they are willing to welcome foreigners to these shores, are all factors that mark them out as different and dangerous.

Leave voters saw that the country favoured these sorts of people, and rather than seeking to change with the times and adapt to this new world, they rejected it completely. They voted for a return to 'the good old days', a Britain in which a quiet, comfortable life is more desirable than opportunity, a Britain that is treasured not for its economic strength or cohesive society but for its preservation of tradition and uncompromising attitude towards foreign influences.

These ideas are most commonly associated with UKIP's right-wing populism, yet the collapse of the centre is also due to the Labour party sliding further left than in decades. While the ministers urge the party to re-adopt the New Labour ideas that sparked their greatest triumph in 1997, this simply will not gain the support of Labour members who backed the unashamedly socialist Corbyn over more moderate candidates. This is a symptom of how stale centrist policies have become. After years of 'same-old, same-old' politics in which Labour was accused of becoming 'Tory-lite', the centre-left policies of Owen Smith were hardly a breath of fresh air. Instead, Labourites turned to Corbyn, a candidate who made no secret of his contempt for austerity and enthusiasm for traditional Labour ideas such as nationalisation, unionism, and social change. In a sense, the Labour and Conservative parties were both so desperate for victory that they abandoned their unique identities. They attempted to appeal to everyone and anyone in the hope of outflanking the Opposition. Yet this finally backfired this year as voters declared they wanted a return to more traditional policies, as shown by Corbyn's popularity.

So can the centre come back from the dead? It is surely not gone forever, yet a lot needs to happen before it can return to politics. Firstly, it needs its voice back. The centre requires a party that clearly stands for centrist values. Ideologically, this would most likely be the Liberals, yet they may never again be a significant force after last year's election. There appears little chance a Labour victory until Corbyn is gone, which given his huge popularity with Labour members and the younger generation, is unlikely to happen any time soon. The Conservatives would be the most likely candidate, especially as Theresa May attempts to broaden the party's appeal to the working-classes. Yet her message of 'an economy for everyone' is not enough to convince an electorate that wants hard change in the shape of a quick exit from the European Union, an electorate that now views border control as a priority over economic prosperity. Indeed, many do not trust Theresa May any more than they trusted David Cameron, and the party must shake off its associations with 'the establishment' and out-of-touch politicians before it can win back disillusioned right-wing voters.

Even if one of the major parties does take up the centrist gauntlet, they need to be savvy with their policies and rhetoric. Promises of economic opportunity will only convince the population if they are accessible to all, regardless of their age or where they live in the country. A strong centrist party must also be prepared to talk openly and unapologetically about uncomfortable topics such as immigration, integration, and religion, otherwise voters will feel that their concerns are being ignored. Aside from policies though, this party must understand how the political climate has changed and must learn to adapt accordingly. The centre has traditionally relied on cold hard facts and logic to win over voters, yet the Brexit outcome showed that these tools are now less effective than appealing to the emotions of voters. The focus must be on British interests and the rhetoric has to be patriotic in nature. Otherwise, voters will listen to the nationalist bile of the tabloids instead. Above all though, the policies must be fresh, innovative and must promise real change. In order to defeat the current populist movements, the centre must match them in terms of strength of identity. The Left and Right despise have torn themselves even further apart, opening deep divisions in British society, between the young and the old, the North and the South, the urban and the rural. This polarisation has left a vacuum in the middle. The centre ground that for so long has been the epicentre of British politics, is now a wasteland. When will we see its rebirth?

Trump and Brexit

By Rhiannon Jackson

On November 8th 2016, many woke to the news that Donald Trump had been elected President of the United States of America under the electoral college system that the President-elect himself described as 'phoney'.[1] On one hand, the win was a promising one for the anti-establishment ideology, which had seen the triumph of those who Nigel Farage refers to as the 'little people' over the political elite. On the other hand, Johnathon Powell viewed the election result as a dystopian win for 'isolationism, nativism and protectionism'.[2] It was not long before commentators began to speculate what impact the election of the self-proclaimed 'Mr Brexit'[3] across the pond would mean for the UK, and more specifically, what it would mean for Brexit.

Simon Fraser has commented that the 'twin pillars of recent British foreign policy', namely membership of the European Union and our special relationship with the United States, have been 'shaken'.[4] Indeed, Tom Raines agrees that those two twin poles are 'both in tatters'.[5] Even if we were to assume that Trump will be in the UK's corner as a pro-Brexit ally, it is clear that his credibility in many European Member States is diminished in comparison with Hillary Clinton's. The stark differences between the congratulations offered to him by Theresa May and Angela Merkel are striking examples of this. However, what will Britain's 'enduring and special relationship' mean for future negotiations?

There are two competing interests that may affect the EU's approach to negotiations regarding the UK's exit. On one hand, it will be inclined to defuse the populist anti-EU sentiment in France. On the other hand, regard will no doubt be given to the rising tensions with Russia in the east. The former will perhaps incentivise the EU to deal strictly with the UK, being mindful not to give too generous one-sided concessions that may in turn incentivise other states to also exit the EU (affectionately termed by some as 'Italeave', 'Czechout' and 'Departugal' among others). Comparatively, the latter tension may drive the EU and its 'awkward partner' together again.

In an interview with The New York Times, Trump stated that he would be prepared to come to the aid of Baltic nations against Russia only when they have 'fulfilled their obligations to [the US]'. The principle of collective defence under Article 5 means that an attack against one ally is to be considered an unqualified attack on all. The commitment is often considered a pivotal part of deterring attacks against smaller European nations like Estonia, Latvia and Lithuania. To deviate from this fundamental idea at a time when, in the words of NATO Secretary General Jens Stoltenberg, 'our countries face unprecedented security challenges', is indeed extremely dangerous.[6]

Trump's objections seem to be financially motivated. On this point, it is self-evident that a country such as Estonia, with a population of just over 1 million, will contribute less in comparison with the United States – home to over 318 million consumers. However, view is detached from reality and surely blown out of all proportion. Furthermore, the Estonian President took to Twitter to assert that Estonia is one of just five NATO allies in Europe meeting its expenditure commitment of 2%. On the back of this, it is possible to speculate that the future uncertainty regarding the United States' commitment to NATO, and particularly its obligations as a member, could lead the EU to forge ever stronger links with the UK in negotiations and beyond.

It is easy to see that it is in the UK's interests to remain allied with the EU on matters of foreign policy, national security, and in maintaining a strong resistance to Russian expansionism. In essence, a shrivelled NATO, an ineffective EU defence arm and an aggressive Moscow would be the worst possible outcome of the negotiations.[7]

Conversely and independent of the Trump question, there still remains the goal to combat populist euro-scepticism. The outcome of the French and German elections in 2017 will be in the minds of many with respect to this. With the exclusion of the United Kingdom, France and Germany are the two richest and most populous EU Member States. In France, many have been led to question whether the National Front could well pluck a 'surprise' victory. Le Pen has already pledged that her election to the office of President would lead to closer cooperation with Russia and the US. Giving the UK a favourable deal will do little to dissuade these movements from gaining popularity. If one nation can go it alone, then what will stop the rest?

[1]https://www.washingtonpost.com/news/fact-checker/wp/2016/11/15/trumps-flip-flop-on-the-electoral-college-from-disaster-to-genius/?utm_term=.64972e2350cd
[2]https://www.theguardian.com/commentisfree/2016/nov/10/donald-trump-britain-greatest-fear-isolationist-president
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[6]http://www.nato.int/cps/en/natohq/opinions_132351.htm
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Internet and Private Life

The Legal Challenge of Our Virtual Life

By Rayan Kalfat

Three years after Snowden's revelations about the NSA, mass surveillance is still doing pretty well. As a matter of fact, after France and Germany, the UK has now adopted a new law on intelligence that will result in the loss of privacy.

The protection of private life has taken a new turn. The Internet changed our lives, making knowledge, information, and culture easily accessible to everyone without cost. The biggest companies in the world, Google, Apple, Facebook and Amazon (GAFA) provide services we all use on a daily basis at no cost. Whether you asked Google about a recipe, searched to find out more about an author you were unfamiliar with, or checked out that odd cough you had last week, you did not need to pay a penny. How then does Google make such a huge profit?

The trick is that every time you use Google's tools, they save it and translate it into a virtual picture of yourself. Every time you type something or click on a link, a new dot is added to the drawing, and the more you use it, the more "accurate" the picture becomes. For advertising companies, this is essential in providing advertisements that are as relevant to your interests as possible. Google makes money selling this data. This is a win-win situation for both the customer and the corporate. The customer is faced with advertisements that are personally engaging while Google profits substaintially.

However, this issue with this virtual picture is that it includes private information that you might not want to share, such as your credit card details, your name, your address, your friends, and family members. Without strong legislative protection, there is almost nothing preventing the increasingly intrusive mass surveillance of our lives. It is the duty of the legislation to set a clear limit on this matter, as neither contract nor negotiation can give enough guarantees when it comes to the fundamental right of private life.

The other issue with this virtual picture is that this virtual representation of an individual is not actually completely representative. In order to give you access to the content that is relevant to your interest, and to show you the advertisement that suits you best, Google links your search terms to different principle boxes in order to personalise your future searches. This allows you to find relevant content as quickly as possible when searching on a particular subject. The main problem arises where Google gets to decides which dot goes to which box, which mean that it has to decide whether a complicated subject like euthanasia will be added to the murder box or medical box. These kinds of choices have huge consequences, especially as Google singlehandedly owns more than 60% of the search engine business in the US and around 90% in the EU. Their influence inevitably creates a bubble around users in which most of the content and opinions that are disagreeable to them is removed.

Furthermore, social networks, which are supposed to give you the opportunity to see and exchange different opinions, also use the same system. The chances of seeing a friend's post regarding a significantly different point of view is low. As a result, you are pushed into thinking that your preferred viewpoint the only viewpoint. What is even more worrying is the fact that there is nothing illegal or morally reprehensible about this system in principle: it does not twist your opinion nor seek to imprison you inside a bubble. Rather, its main purpose is to have you consume as much as possible, which is ultimately the goal of every business, regardless of whether or not they are online.

The protection of consumers' privacy is an imminent challenge we face, even though it is difficult to imagine a solution as present. It seems unimaginable to have legislation forbidding these practices, since it would disrupt the entire Internet system of remuneration. A realistic solution would be to adapt competition law in order to prevent a situation where companies enjoy a monopoly or an oligopoly, where currently half of the worlds' online traffic goes through a handful of websites. We have seen how the EU has achieved this in the past by giving the opportunity to new actors to grow. This was evident when Microsoft was instructed to inform every Windows user that there were alternatives to Internet Explorer (when it previously had held a monopoly). Customers were also protected when it was held that Google should offer the "right to be forgotten". It is only by giving users as much protection as possible that the Internet will be able to grow and connect users even more efficiently in the future.

The Polish Constitutional Crisis

Why it Matters

By Aleksander Konrad Kalisz

In October 2015, the conservative Law and Justice party (PiS) won the parliamentary elections in Poland. Prior to stepping down, the predecessors, the centrist Civic Platform, nominated five judges to the Constitutional Tribunal. This is the high court supervising compliance of state institutions with the national constitution. The Constitutional Tribunal consists of 15 fully independent judges and it is arguably the most important institution overseeing the rule of law in the country. Upon election victory, PiS nominated its own judges, deeming the previous nominations as unconstitutional. Statutory changes were also introduced to make the process more efficient and to stop the court itself from intervening. However, the Tribunal's judgement that deemed the statutory changes unlawful was subsequently ignored and went unpublished by the government.

Conservative political parties, with similar agendas to the Polish PiS, are gaining ground in elections throughout most of continental Europe.[1] Whether or not these groups will follow the same policy direction remains unclear. It is common, however, for different parties to follow the models of their foreign counterparts. For example, PiS, draws a number of its political doctrines from the Hungarian Fidesz and vice versa.[2] The issue does not lie in whether or not the choice of action of the Polish government was right or wrong. Rather, heart of the matter is in the consequences of such decisions as they may mirror the course of action of numerous states in the near future.

A source of the problem may lie in the difference in approach taken by the aforementioned political groups towards constitutions and more generally, towards the law. The problem is usually not the law itself. In fact, conservative parties are often among the strongest advocates of maintaining the law. The issue lies in its position and its functions within the state.

Law is aimed at creating 'traffic', as a tool scrutinising the executive and legislature.[3] This 'traffic' means time, which all political parties cannot afford due to the need to implement political promises. As a result, political groups may be tempted to avoid the lengthy judiciary procedures. A major obstacle is the Constitution. The solution to this is a reinterpretation of the constitution, where its adjustment is a recognition of inferiority to the democratically elected government. It is easier to amend the Constitution than it is to change the law. These amendments can be assessed both ways. On one hand, they can potentially become infringements of the sacred legal principles in the long term. This principles include the rule of law or separation of powers. The Rule of law, for example, is established in article 2 of the Polish constitution.[4] The vacuum created by the absence of these principles could potentially be filled by the expanding and more arbitrary branches of the legislative and executive. However, this is also a potential threat to individual rights, which are maintained by the balance of power. Furthermore, uncertainty and unpredictability of the law in also increasing. This scenario would destabilise the country's democracy and the majority of international organisations, such as the European Union, which was built on the pillar of the rule of law.[5] The Copenhagen Criteria, stating the requirements for countries to fulfil in order to join the EU, also identifies the rule of law as a key element and requirement of European integration.[6]

By rejecting the underlying legal principles, decades of international integration would be in peril. Also, an international conflict of interest would be more likely, since the agendas of states will prioritise self-interest rather than compromise. All these changes would lead to further polarisation of political climate. In such a model, the vulnerable minority will have no means to object to the changes introduced, where some of these changes could violate their rights.

On the other hand, all of the described changes can be interpreted as a positive and natural evolution of democracy. The position of the constitution would simply be inferior, rather than superior, to the government, while it would still exist firmly in the system. It would nonetheless be hard for some to accept that the constitution is no longer "the act […] of a people constituting a government",[7] but "an act of the government". By imposing fewer restraints on the government, it could function more efficiently and fluently in domestic circumstances. This would require social trust and stability, but it should have a positive impact on the flexibility of the whole system. Furthermore, a regulated constitution allows for a regulated judiciary. Such a body be able to reflect the majority in society. In these circumstances, the recent English High Court case of *R (Miller) v Secretary of State for Exiting the European Union*,[8] would never be judged against the wishes of the majority who voted for Brexit in the referendum. This could arguably allow for a more direct enforcement of policies and democratic principles.

Ultimately, it does not matter if the decisions of the Polish government were sound. Rather, this remains a political question. However, the consequences of these policies, especially if they continue to follow in the same direction and if they serve to influence surrounding countries, will certainly have a significant impact on the position of constitutions. This will then also affect the position of the law in states. The final decision on the position of constitutions in the aforementioned circumstances will rest with the government alone, not the electorate. Fortunately, there is still time before any of these consequences materialise. Nevertheless, the mechanisms causing such consequences are already in motion in a number of states, with Poland being one of the clearest examples.

[1]Aisch Gregor et al, 'How Far is Europe Swinging to the Right' (The New York Times, 5 December 2016) <http://www.nytimes.com/interactive/2016/05/22/world/europe/europe-right-wing-austria-hungary.html?_r=0> accessed 04.12.2016.
[2]Chapman Annabelle, 'Poland and Hungary's defiant friendship' (Politico, 1 June 2016) <http://www.politico.eu/article/poland-and-hungarys-defiant-friendship-kaczynski-orban-pis-migration/> accessed 04.12.2016.
[3]E Łętowska and K Pawłowski, About the Opera and About the Law (Wolters Kluwer, 2014).
[4]Constitution of the Republic of Poland 1992, art. 2.
[5]European Commission, 'Rule of Law' (European Commission, 24 November 2016) <http://ec.europa.eu/justice/effective-justice/rule-of-law/index_en.htm> accessed 05.12.2016.
[6]European Council, 'PRESIDENCY CONCLUSIONS Copenhagen' (European Council, 21-22 June 1993) <http://www.europarl.europa.eu/enlargement/ec/pdf/cop_en.pdf> accessed 05.12.2016.
[7]Tom Paine, The Rights of Man (Cambridge University Press, 1989) 81 and 174.
[8]R (on the application of Miller and Dos Santos) v Secretary of State for Exiting the European Union [2016] EWHC 2768

The Fate of Democracy

By Charissa Loh

Through the outcome of the EU referendum and US presidential elections, 2016 has proven to be a year that introduced significant changes to international politics. These outcomes are both the result of public votes. Yet, do the results really reflect what the people want?

The concept of democracy was founded on the principle of the 'rule of the commoners'. This conceptualises a system of government comprising of elected representatives. This concept was based off the Greeks, and some modern democratic systems still to this day employ methods that are past their prime.

Following the results of the US presidential elections, where Donald Trump emerged victorious after a fierce battle with the Democrats, thousands of people took to the streets in protest. Throughout his campaign, Trump brought up many controversial issues, highlighting his views against Muslims, Mexicans, and offering promises of mass deportation. Many alleged hate crimes against minority groups have been reported, with the alleged attached professing their support for the president-elect.[1] Some protests have also broke into riots. This occurred in Oregon, where 26 arrests were eventually made.[2] The series of events that occurred in wake of the election brings us to a question: Is this outcome truly what the American citizens intended for their nation, or is it merely a product of the Electoral College?

The Electoral College gives votes to the states (or the electors) and not to individual citizens. While this allows for better representation of the smaller states, this system also means that the vote of an individual in one state is not equal to the vote of another individual in a different state. As a result, Democratic presidential nominee Hillary Clinton, who garnered over 2 million popular votes more than Donald Trump, still lost to the President-elect due to the implementation of the Electoral College.[3] This system, like any other political system, has both its strengths and weaknesses. However, the flaw of the Electoral College is that it appears to undermine democracy, where individuals do not seem to be provided with an equal platform to vote.

Referendums are not legally binding within the constitutional arrangements of the United Kingdom. Therefore, parliament would have to decide and vote on whether or not to take action on the result of the referendum. Since referendums are purely persuasive, the government could, theoretically, ignore these results. However, it would be highly problematic and undemocratic for parliament to ignore a direct and decisive expression of the public's opinion.

The UK voted to leave the EU by a narrow margin of 52% to 48% in the referendum. However, the British Election Study showed that while 1% of remain-voters regret their choice in the referendum, 6% of leave-voters regretted and expressed stronger feelings of remorse. A further 4% of leave-voters were uncertain if they made the right decision. These numbers would have been enough to change the result of the referendum for the UK to remain in the EU.[4]

With such a slim victory by the Leave Campaign, a small percentage of the population could have been sufficient to sway the results. The national voter turnout in the EU referendum was 72.2%, thus leaving out 27.8% of the voting population who did not vote. It has been argued that if voting was compulsory in the UK, perhaps the numbers would have been sufficient to change the outcome of Brexit.[5] The issue of voter turnout appears to be a recurring problem in both the EU referendum and the US presidential elections. Implementing a policy of compulsory voting would increase the number of ballots and would better represent the nation as a whole.

However, many argue that forcing an individual to vote would not lead to that individual becoming more inclined to political engagement and discussion. Yet, while there is no guarantee that a person will feel obliged to be politically aware, it can be argued that when given a nudge in the right direction, people will actively seek political discourse.

Another criticism against compulsory voting is that it is at its very core, undemocratic. If an individual has the right to vote, then he or she should also have the right to not vote.

A democracy serves as a system that revolves around the people. With the resulting unhappiness and voiced regrets held by many after the political events of 2016, it can be inferred that our democracy is not as representative as it should be. Yet, there are no systems of government that are perfect. There are flaws in every system, and perhaps occasionally, change is necessary for a democratic nation to take a step forward in representing its people.

[1]Lizzie Dearden, 'Donald Trump's victory followed by wave of hate crime attacks against minorities across US – led by his supporters' Independent (10 November 2016) http://www.independent.co.uk/news/world/americas/us-elections/donald-trump-president-supporters-attack-muslims-hijab-hispanics-lgbt-hate-crime-wave-us-election-a7410166.html accessed 28 November 2016.
[2]'Trump presidency: Protests turn violent in Portland, Oregon' BBC (11 November 2016) http://www.bbc.co.uk/news/election-us-2016-37946231 accessed 28 November 2016.
[3]Tim Marcin, 'Clinton, Trump Latest 2016 Election Results: Popular Vote Tally has President-Elect Way Behind Democrat' International Business Times (28 November 2016) http://www.ibtimes.com/clinton-trump-latest-2016-election-results-popular-vote-tally-has-president-elect-way-2451745 accessed 28 November 2016.
[4]'Brexit Regret' The Economist (12 October 2016) http://www.economist.com/blogs/graphicdetail/2016/10/daily-chart-6 accessed 28 November 2016.
[5]'Could compulsory voting in the UK have changed the Brexit result?' The Irish Examiner (30 June 2016) http://www.irishexaminer.com/examviral/real-life/could-compulsory-voting-in-the-uk-have-changed-the-brexit-result-407787.html accessed 28 November 2016.

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