

## **EDITORIAL INTRODUCTION**

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We are pleased to introduce a special edition of the Denning Law Journal. It is a themed edition entitled: “Energy: Contemporary Legal Issues in the Oil and Gas Sector.”

This special edition contains papers from the conference proceedings of the University of Buckingham Centre for Extractive Energy Studies (UBCEES) as well as contributions from members of the Advisory Board.

The papers are structured under the following sub-themes:

1. Law and Governance
2. Risks, Change and Uncertainty
3. Current Developments in Law and Emergent Legal Thinking
4. Perspectives of Justice and Legal Governance

These are themes that Lord Denning identified with in his long career as a progressive reformer. He passionately canvassed for the law to keep abreast with societal changes. In “The Way of an Iconoclast”<sup>1</sup> he called for the “Law to be saved from stagnation and decay”.<sup>2</sup> The evolving global energy industry also requires iconoclastic legal thinking as it navigates its way through interesting and volatile times.

The edition begins with an illuminating comment by LaMaster and Hammerson on the Brexit referendum. Their article discusses the potential risks and uncertainties that the Brexit referendum has created in the UK Oil and Gas industry. They debate whether the referendum will necessitate a radical departure from the current legal framework. They argue that a second referendum in the form of “a Scottish independence referendum” may be the catalyst that intensifies further uncertainty in the sector.

Holland’s article is also developed on the theme of risks, change and uncertainty in the energy sector. He considers whether the decrease in global oil prices has any impact on decommissioning securities. It explores the impact that the current market conditions has had on request for data

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<sup>1</sup> Lord Denning, “The Way of An Iconoclast” (1959) 5(2) S.P.T.L. 77.

<sup>2</sup> *Ibid*, 89.

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and scrutiny of operator's projections. He forecasts the heightened risks of decommissioning disputes particularly with regard to how "net value" and "net costs" are to be computed. He considers the role that the ADR mechanism of Expert Determination will play in resolving these disputes.

McEldowney and Salter debate current and new developments in energy taxation. Their article focuses on the relevance of environmental taxation in combating climate change. They point to the fact that unlike other forms of taxation, environmental taxation does not only raise revenue, but it also seeks to change behaviour and to promote environmental protection. They argue that the full potential of environmental taxation can only be realised if the business community (and the public at large) buy into the concept of green investment.

Sundaram's article discusses current legal developments and emergent thinking in offshore pollution compensation. It queries why there is a lack of a cohesive legal framework on civil liability claims for incidents arising from offshore platforms. This is in contrast to the comprehensive regime that governs vessel-source oil exploitation. The article reviews current national and regional regimes as a basis for the development of a new international regime for liability for offshore oil and gas exploitation.

Hatchard's article is developed on the theme of law and governance in the energy sector. It considers the developing strategy of the "Art of Persuasion" and how it has been utilised to tackle the supply side of transnational corruption. It presents Alstom SA as a case study on how to persuade even the most powerful corporate entities to commit to good governance and to "reveal all" about the payments of bribes to obtain or retain business. The article argues that persuasive threats, such as the threat of debarment, are now key to tackling transnational bribery.

Finally, Egede's article is themed on perspectives on justice and legal governance. It considers the role that African "social ordering" norms can play in the development of an African *Lex Petrolea*. It interrogates whether these indigenous rules have attained the status of Grundnorms as canvassed by some African scholars. It queries why the recent study of the African Petroleum Producers Association on the standardisation of petroleum rules in Africa failed to take into account these indigenous rules. It utilises the 'Two Publics' model developed by Ekeh to explain why the current framework of petroleum governance developed on received Western Law has been ineffective in tackling the underlining reasons for resource conflicts in Sub-Saharan Africa.

We would like to thank Prof. Susan Edwards, Dean, Buckingham Law School, Dr. Carol Brennan and Dr. James Slater (the editors of the Denning Law Journal) for their support and assistance towards the successful production and launch of this special edition of the Denning Law Journal.

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Our thanks also to Michael Pollard, Wilfred Ferguson and Nkechi Ugwu (the student editors for this special edition) who helped with the proofing process. We hope this special energy edition of the Denning Law Journal will make for interesting reading and contribute to the further development of energy law.

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