

## Editorial

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The third Sir William Dale Annual Issue at the European Journal of Law Reform continues what has become its traditional structure. The journal is honoured to present the 2007 Sir William Dale Annual Memorial Lecture. Sir Terence Etherton, Chairman of the Law Commission of England and Wales, analyses the work of the Law Commission and identifies characteristics that have made the Law Commission a model for similar institutions in the Commonwealth. The head article is followed by a number of expert contributions in the field. William Robinson, Coordinator of the Legal Revisers Group of the European Commission, clarifies the intricacies of legislative drafting of Community/Union Acts with a unique insider's view on the difficulties faced and current solutions offered. Professor Ulrich Karpen, President of the European Association for Legislation, approaches best practices in legislative drafting from a German and European perspective. A similar, yet original, approach is offered by Alfred Kellermann, of the T.M.C. Asser Institute, who applies best practices in the context of Albania. Joseph Kobba, an experienced drafter from Sierra Leone, analyses the process of drafting legislation in his jurisdiction by applying the Thornton paradigm. Zione Ntaba, a talented drafter from Malawi, examines the statutory interpretation of the constitution in Malawi by comparing it to the judicial practice in the US. Serena Connor, an enlightened drafter from Anguilla, analyses the contribution of legislative drafting in the combat of corruption using Anguilla's Physical Planning Bill 2005 as a case study. Finally, Mary Vogel, Reader at King's College London, explores the non-legal factors that must be taken into account in the process of legislative drafting.

The question that comes to mind when such prominent experts identify best practices and contribute to their dissemination internationally is whether these best practices can be used in other jurisdictions not just as lessons worthy of academic interest but mainly as models applicable elsewhere. This has been a question central to the work of the Sir William Dale Centre in the past year and in the book published in memoriam Sir William Dale in 2008. The question is not easy to answer: a negative answer would chew away the theoretical framework within which the Centre conducts its training and research activities. It would put to question Sir William's own conviction that comparative legislative studies are an excellent training tool for drafters around the world. Is there a functionality glue that can link drafters of various jurisdictions irrespective of nationality,

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legal system and drafting traditions? A common functional concept would justify transplants of models in foreign jurisdictions, at least in the Zweigert and Kötz paradigm.

In search of such a functional concept prevalent in drafting legislation, notions such as effectiveness, efficacy, efficiency, plain language, clarity, precision, unambiguity, brevity come to mind. Which common value do drafters pursue when drafting legislation? Is it possible that the commonly held, albeit false in my view, belief that civil drafters pursue brevity, whereas common law drafters pursue precision above all could signify the existence of two competing values which prevent these groups from borrowing for one another? If this were true, then how does the EU and its drafting work? How is it that drafters from civil and common law systems can cooperate and produce directly applicable and directly effective pieces of legislation that may work equally well in the 27 different legal systems of the EU member states?

I believe that the common value pursued by drafters all over the world is that of *effectiveness* of the legislation. Brevity, precision, clarity and unambiguity are tools or lower virtues which the drafter uses in order to achieve effectiveness. And it is exactly effectiveness, as part of efficacy in legislation, which I have identified as the functionality glue for legal transplants in the drafting process. It is evident therefore that Sir William was right: there is a lot to learn from each other. Models in the legislative and drafting processes can assist jurisdictions other than those where they originate from.

Within this context of acceptance of legal transplants and models, the 2008 Sir William Dale issue is once again an expert contribution to the legislative studies debate in Europe, Africa and the Caribbean. Sir William Dale would have been delighted with the continuing interest in the topic which he served during his lifetime. As an editor of this issue once again I did nothing else but to admire all contributors for the depth of research and analysis that they bring to the journal and to the discipline!