

Introduction

Welcome to the second edition of the Irish Judicial Studies Journal for 2021.

This edition begins with an article which considers some major questions around the treatment of victims in the criminal process and which, I think, many will find very thought-provoking. The piece by Peter Charleton and Orlaith Cross asks whether more can be done to accommodate and ensure fairness for victims and whether it is possible to balance this against fairness for the accused. Reforms such as separate legal representation or providing the judge with more control of proceedings are assessed and suggestions for potential reforms include limiting cross-examination in cases with multiple defendants and the possibility of judicial control of cross-examination. The piece concludes by calling for consideration on the action to be taken in terms of balancing of rights in the criminal process and warns against a knee-jerk response to a future controversy which may not ensure fairness to victim or accused.

Jamie McLouglin then explores how the Constitution might be used in future to advance arguments that the State has obligations to protect the environment, in particular from the threat posed by climate change. This article reviews the Supreme Court's judgment in 'Climate Case Ireland', in particular, examining the constitutional rights arguments made in the case, critiquing the Court's finding regarding the claimed unenumerated constitutional right to a healthy environment, and then explores the cases concerning those constitutional provisions which the Supreme Court suggested may have a role to play in future climate litigation to assess if they may provide a basis for a State duty of environmental protection in the future.

In the next piece, Nuala Butler considers how to approach the task of judgment writing. With the advent of judicial education and training in Ireland, this particular aspect of judgecraft is gaining increasing attention with issues like plain English and accessibility of judgments now being widely spoken about. This article considers both the practical and structural issues around judgment writing as well as some of the bigger questions such as: who is the judgment for? I suspect we will see more analysis of this issue in the coming years.

Davy Lalor then brings us through the Supreme Court of Canada's judgment in *Ontario (Attorney General) v G* [2020] SCC 38. In this case, the Court purported to 'clarify' and 'update' the principles governing its remedial practice in cases where it finds a violation of the Canadian Charter of Rights and Freedoms has occurred and attempted to narrow the grounds on which suspended declarations of invalidity could be granted. Lalor notes that Court appeared to create something approaching a presumption for the use of 'tailored' remedies where Charter violations are found and he argues that Irish courts should consider greater use of tailored remedies for laws which violate constitutional rights.

In the final article, Mary Stefanazzi, picking up on a piece published in IJSJ (2020) by Peter Charleton, examines the concept of evil, through the lens of the Jung-White letters.

In the book review section, Seán Hurley looks at the New York Times best seller *A Republic if you can Keep it*, by US Supreme Court judge Neil Gorsuch, who writes about his journey to the Supreme Court as well as the role of the judge under the US Constitution and Margaret Fitzgerald O'Reilly considers the recently published *Reflections on Irish Criminology: Conversations with Criminologists*.

As always, I would like to thank our editorial team at the University of Limerick, our Judicial Board, our copy-editor – Bláithín O’Shea, and all of the authors who contributed to this edition. I would also like to say a special word of thanks to all of the external reviewers who give their time very generously and always provide very thoughtful and constructive feedback to writers submitting to the journal.

Bain taitneamh as.

Dr Laura Cahillane

Editor in Chief