

Editorial

Fáilte go dtí an chéad eagrán 2024.

Our first article in this edition explores the area of discretionary life sentences. Diarmuid Griffin points out that there are few studies that analyse the judicial practice of imposing life imprisonment and so this article examines judicial rationales in imposing and upholding discretionary sentences of life imprisonment in Ireland, from 1987 to 2022. The findings shed light on the type of offending that results in the imposition of a discretionary life sentence, and so the author argues that these findings can contribute to the wider discourse on the increasing use of life imprisonment. It may also impact the growing understanding of how important it is to examine how local legal processes and culture can influence penal outcomes and patterns.

The second article by Siobhán Keegan deals with what Chief Justice Donal O'Donnell has recently referred to as a 'looming challenge' for the Courts. The Lady Chief Justice of Northern Ireland writes that AI represents one of the most exciting – but also potentially existential – developments in the legal sector. Her piece attempts to answer the question: what are the rule of law implications on justice by AI? After discussing the rule of law as an ideal, and examining the question of AI as a congruent judge, she outlines some applications of AI in the judicial process as well as the hurdles that a truly AI-driven justice model must overcome before briefly commenting on the impending EU draft Act on Artificial Intelligence.

For something a little bit different then, John Considine and John Eakins examine the idea of hurling referees as judges. John Roberts, Chief Justice of the United States Supreme Court, famously used the analogy; 'judges are like umpires'. Something which was questioned by Richard Posner, who reversed the analogy and used it to distinguish between his categories of judicial decision-making. Posner employed empirical evidence from American legal, rather than sporting, arenas to classify American judges. However, the authors of this article add empirical evidence from the sporting side of the analogy; and using data from the sport of hurling, the article suggests that hurling referees are similar to Posner's constrained pragmatists and that line officials in hurling might be closer to what Roberts had in mind.

Peter Charleton and Victoria O'Connor tackle the thorny issue of contempt of court in the next article. They point out that the law on contempt has become a minefield that threatens to undermine the administration of justice itself and so the article attempts to illuminate key areas where the common law has damaged itself in relation to contempt and proposes a full statutory restatement and reform.

The interaction of competition law and patent law is the subject of the next article, where Max Barrett considers the obtaining of injunctive relief in the context of FRAND-pledged standard essential patents (SEPs). He examines the European Commission's decisions in the *Samsung* and *Motorola* cases, as well as the landmark decision of the Court of Justice in *Huawei v ZTE* and he concludes that the latter decision has left a number of questions unanswered.

Finally, Kevin Costello conducts a survey on the constitutional right to habeas corpus, or; 'The Great Constitutional Remedy of the Right to Liberty'. He observes that while in England, habeas corpus has largely been replaced by judicial review, in Ireland the process

remains ‘widely used and dynamic’ and aspects of the process have even been strengthened in recent years. He also notes however, that there may be a threat to the remedy in relation to the standard of review and he warns against a drift to the English position.

We also have a rather unusual book review in that it is an online guide, rather than a book, which is under review. Norah Burns assesses Maebh Harding and Aoife O’Donoghue’s ‘Doing Feminist Legal Work Best Practice Guide: Feminist Legal Pedagogies and how to do them’.

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Go mbainfidh sibh taitneamh as.

Dr Laura Cahillane
Editor in Chief