

Editorial

Welcome to the first volume of the 2026 edition of the Irish Judicial Studies Journal.

First published in 2001 as the Judicial Studies Institute Journal, in 2026 we celebrate the 25th anniversary of the publication of the Journal. In this period, while the Journal has undergone some significant changes, not least the change of name, the core purpose of the Journal has remained the same. The first Editor of the Journal, Rónán Kennedy, stated in his first Editorial in 2001:

The purpose of the Journal is to enable the judges to hold a learned conversation on topics of interest, both between those on the bench and those outside the judiciary (be they academics, practitioners or other professionals).¹

These learned conversations have continued over time, with dialogue and discussion between judges, academics, and practitioners on a huge variety of topics. It is a particular delight be Editor of the Journal, which provides an opportunity to review and consider articles on such a wide variety of issues across law and legal practice.

It was through the support of Chief Justice Ronan Keane that the Journal came into being, and with the support of Chief Justice Donal O'Donnell that the Journal has become a stalwart in legal publishing in Ireland today. Over its 25-year history, it has been cited by academics, practitioners, and judges in textbooks, scholarly articles, and judgments, a testament to the success it has had in enabling and generating learned conversations on legal issues in Ireland today.

One of the most ardent supporters of the journal over the last number of years has been Mr Justice Peter Charleton, and so it is only fitting that this issue includes a tribute by the Chief Justice to Mr Justice Charleton and his extraordinary contribution to Irish law. The tribute includes a reference to Mr Justice Charleton's role in reviving and restoring the Journal, and I can say with confidence that he brought the same energy, enthusiasm, and good humour to this role as he brought to all other aspects of his work. His commitment to and championing of the Journal was, I think, key to the success of its regeneration, and I am delighted that we include not just a tribute to

¹ Editorial [2001] 1(1) Judicial Studies Institute Journal iv, v.

Judge Charleton but also a very interesting contribution from him on the topic of judging and judgment writing.

Our second piece in this issue is an article which explores whether a 'constitutional tort' could be used as a basis for climate litigation against high-emitting corporations. In the piece, Calum MacLaren considers the horizontal application of constitutional rights in Ireland as a means of addressing the rates of greenhouse gas emissions from private actors, concluding that there may be an advantage in what Hogan J has called the 'Joycean circular meandering' of constitutional tort actions to a climate litigant.

Next, we have the article from Peter Charleton, 'Discipline and Focus in the Art of Judging' which is a reflective piece which suggests ways in which discipline, clarity, and focus can be brought to judgment writing. Cautioning against treating judgments as literary works, he advises practical measures which can be taken to ensure that the task of writing a judgment is direct, disciplined, and effective.

In the piece that follows, Rory Kelly's article, 'Sentencing Rioters' considers the sentencing principles which apply to those convicted of offences committed during a riot. In this context, he then explores how to distinguish between protesters and riots at sentencing, and examines the issues posed in the piece through three hypothetical examples developed for this purpose. He concludes that sentencing 'at the boundaries of rioting and protest' is particularly difficult given that the distinction between the two can be blurred and contested in practice.

In the next article, Anthony Kennelly reviews a celebrated case in Irish law, *Buckley v Attorney General*,² also known as 'the Sinn Féin Funds case'. Most will know the decision for its importance in relation to the operation of the doctrine of separation of powers in Irish law. Kennelly considers the decision in terms of its impact on 'jurisdiction stripping', and the rule of law more generally, concluding that the decision should be recognised as having had significant impact in this context.

We then have a case note by Louise Wright, who considers the decision in *RGRE Grafton Limited v Bewley's Café Grafton Street Limited & Bewley's Limited*.³ This piece was originally planned for our previous Special Issue dedicated to exploring

² [1950] IR 67.

³ [2026] IESC 10

contemporary conflicts and challenges in Irish land law. Louise had presented at the conference, but very kindly agreed to delay publishing her contribution until the decision of the Supreme Court in the case was published. In the case note, she reviews the history and context of the case, and then details the decision of the Supreme Court. She finally comments on the implications of the case, not just as to how future disputes might be considered, but also advises that the status of fixtures and fittings should be recorded in a lease, to prevent such disputes from arising in the future.

Finally, Niamh Maguire has reviewed Diarmuid Griffin's book, *Sentencing Serious Sex Offenders: How Judges Decide when Discretion is Wide*.⁴ Maguire begins by noting that while the focus of the book appears to be on a relatively narrow topic, it nonetheless provides valuable insights into sentencing practices in Ireland. Griffin's achievement in this regard, she says, is particularly commendable due to the fact that the 'dearth of official sentencing data undoubtedly makes it almost impossible to examine any sentencing matters in evidenced informed ways.' The book, she concludes, provides valuable insights and will be of interest to practitioners across sectors, students, and academics.

In my first editorial, I published the gender breakdown of authors and peer reviewers.⁵ From now on, we will run a cumulative total of both authors and reviewers.

	Women	Men	Other, including Non-Binary
Authors	11	10	0
Reviewers	26	21	0

As all contributing authors to the IJSJ will know, articles published in the Journal are subject to a meticulous copyediting and proofing process by a team of Judicial Assistants. For this issue, the team was once again led by Carrie Anne O'Kelly who did

⁴ Diarmuid Griffin, *Sentencing Serious Sex Offenders: How Judges Decide when Discretion Is Wide* (Bristol University Press, 2025).

⁵ Gender will be assigned in line with fundamental principles of human rights and personal dignity, and the IJSJ will respect the principle of self-identification in this regard. Thus, 'women' includes those who identify as women; 'men' includes those who identify as men; and 'other, including non-binary' includes those who identify outside the first two categories. The number of reviewers does not include review decisions by the Editorial team that the article should not be sent for peer review.



an outstanding job of ensuring that the work was reviewed in a timely and consistent manner. This edition of the journal was proofed and copyedited by Carrie Anne, along with John Blundell, Adam Connolly, Ryan Greaney, Alessandra Grosariu, Adam O'Carroll, Eoin D Ryan, and Majella Votta.

I would also like to particularly thank Deputy Editor, Dr Una Woods, and Book Review Editors Mr Justice Max Barrett and Professor Susan Leahy for their assistance in preparing this edition for publication, as well as Declan Calpin of the Courts Service for his assistance and endless patience in editing the journal website. Thanks as always go to our Editorial Board at the University of Limerick, our Judicial Board and in particular Mr Justice Brian Murray of the Supreme Court, all of the authors who contributed to this edition and all of the reviewers who supported it in giving so generously of their time.

Professor Jennifer Schweppe

Editor in Chief