IRISH ASSOCIATION of LAW TEACHERS

ANNUAL CONFERENCE 2024
Draft Book of Abstracts

Technology and Humanity: Enabling, Restricting or Prohibiting

Matheson

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Maynooth University
#IALT24

Panel Session 1: Friday, 5 -6.30 p.m., School of Education

1. Sentencing and punishment

Chair: Eimear Brown; Venue: SE009

'Testing Punishment', Rory Kelly, University of Galway
This article is born out of a frustration with a fallacy that has affected numerous judicial assessments of whether measures are punitive to include on behaviour orders, internment, provisions for release from prison, injunctions, licence periods, provisions for recall to prison, and forfeiture. If a measure is punitive, heightened human rights safeguards apply; these include the presumption of innocence and the prohibition of retrospective punishment. Too often when appraising whether a measure is punitive judgments reason that it is not punitive because it is something else, be it preventive or regulatory. I first explain why this 'either/or' approach is problematic. I then turn to examine wider case law of the European Court of Human Rights and expressive accounts of punishment in pursuit of a more appropriate test of punitiveness. I maintain it is particularly hard to find a clear and practicable definition of punishment because the concept itself is fluid and contestable. In response to this problem, I propose a new test of punitiveness: the behaviour-effect-purpose test.

'The Limits of Justice: Sentencing for Non-Recent Sexual Offences', Sinéad Ring (presenting), Maynooth University & Kate Gleeson, Macquarie University.
Adopting a comparative approach, this paper examines how courts and policy makers in Australia and Ireland are meeting the challenge of sentencing people convicted of sexual crimes committed many years prior to detection. We focus on the principle of retribution and ask whether it is a useful frame for sentencing courts in these cases. In particular we investigate how courts should think about the fact of the passage of time; should it be understood as a mitigating factor or as an aggravating factor, or both?

'If It May Please the Algorithm - Can Artificial Intelligence fix Ireland's Inconsistent Sentencing Practices?', Jonathan Boylan, Trinity College Dublin.
Irish judges enjoy considerable freedom when handing down criminal sentences. Even though the sporadic provision of sentencing guidelines through the legislature and case law has aimed to augment consistency in sentencing practices, substantial judicial discretion remains. Some argue that this enables judges to respond with empathy to the facts of the case before them, without the shackles of arbitrary guidelines. However, judicial discretion can also lead to opaque, unsatisfactorily inconsistent sentencing practices. As far back as 1999, Bacik observed that public disquiet can often arise in relation to unaccounted variations in sentences handed down by judges for similar crimes. Indeed, recent national protests in solidarity with sexual assault victim Natasha O'Brien in response to the perceptively lenient sentence handed down to her attacker, illustrate this. ??Dissatisfaction with Irish sentencing practices has come to the fore at a time where assisted decision making aids are being utilised to augment sentencing procedures globally. For example, in State v Loomis, the Wisconsin Supreme Court upheld the use of algorithmic risk assessment tool COMPAS in the jurisdictions sentencing process. While tools such as COMPAS can comprehend statistical considerations humans cannot, potentially offering greater objectivity than humans in the process, there are multiple concerns with the use of artificial intelligence in this domain. My paper explores what those difficulties may be, and, hypothetically, if those difficulties are surmountable. It does so with a particular view as to whether incorporating aids such as COMPAS in Ireland could remedy ongoing public disquiet with our jurisdiction's sentencing procedure.

2. Law and economics

Chair: Liam Sunner; Venue: SE010

'Legitimate Authority and Distributive International Law', Oisín Suttle, Maynooth University.

How should international law's role in determining international distributive outcomes, economic and otherwise, affect how we think about its legitimate authority? Domestic institutions' legitimate authority in respect of distribution derives in large part from their concurrent roles in enabling security and coordination. Internationally, by contrast, functional disaggregation means that distribution must be legitimised in its own right. I begin by distinguishing the phenomenon of Distributive International Law, on which my argument focuses. I next introduce a number of wide instrumental accounts of legitimate authority, including Rawls' Natural Duty account, Buchanan's metacoordination view, and Williams' political realism, showing how each understands legitimacy as an institution-level characteristic, allowing an institution's success in one area to support its legitimacy in another where it may be less successful. This poses the question of how we distinguish amongst distinct institutions, which I answer by reference to the causal and constitutive (in)dependence amongst activities. This approach explains why distributive legitimacy does not arise as a separate question domestically: we cannot distinguish the state's security and coordination activities from its distributive activities, so if the former are legitimate then so, ipso facto, are the latter. Internationally, by contrast, these mutual dependencies are limited, requiring that the legitimacy of distribution be established independently of other roles that international law plays.

'US and EU non-horizontal merger guidelines: a friendly game of leapfrog', Łukasz Grzejdziak, Strathclyde University.

The approach of competition law to non-horizontal mergers largely based on the Chicago School of Antitrust Law and Economics paradigms is criticized on both sites of the Atlantic as too lenient and disregarding developments of the economic theory, and no longer adequate in the reality of the digital economy. Current economic research confirms the legitimacy of the fears about the effects of non-horizontal concentrations that were raised before the Chicago School put them into doubt. The disbelief in the accuracy of the former US non-horizontal mergers policy resulted in the adoption in 2020 by both American Antitrust Agencies of new Vertical Merger Guidelines. The changes they introduced were considered insufficient, leading to the unilateral repeal of the guidelines by the FTC and the start of work on new guidelines introducing a more strict approach. The New US 2023 Merger Guidelines introduced far-reaching changes taking into account the modern views of economists and empirical research on vertical mergers. The EU Commission's Non-Horizontal Merger Guidelines still do not fully, correspond to what the results of empirical research and contemporary economic theories say about the possible effects of vertical mergers. Thus the revision of the EU guidelines seems necessary.

3. **Treaties: respect of human rights and humanitarian law**

Chair: Marcus Gatto; Venue: SE011.

'Deportation and Human Rights: Recent Developments on the Right to Private Life', Clíodhna Murphy, Maynooth University.
It is well established that a deportation will breach Article 8 of the European Convention on Human Rights (ECHR) if it constitutes a disproportionate interference with family and/or private life. This paper examines recent developments in the European Court of Human Rights case law relating specifically to the right to respect for private life - in the sense of social, educational and other ties established between the migrant and the host country - in the context of deportation. Although the private life aspect of Article 8 ECHR is underdeveloped in comparison to family life, in the case of the expulsion of an adult who does not have a 'family life' in the host state within the meaning of Article 8 ECHR, private life assumes a critical importance. More broadly, such cases involve attaching legal weight to the lived experiences of migrants as participants in the society in which they are based. From a human rights perspective, this recognises migrants as rights bearers and community members, rather than primarily as 'non-citizens' or 'aliens' subject to the sovereign power of the state to control its borders.

The paper critically assesses the consistency and coherence of the ECtHR's approach in recent cases and identifies key issues. It suggests that when the 'procedural turn' in the Court's case-law combines with the already wide margin of appreciation enjoyed by states in immigration cases, the effect is that the Court's reasoning becomes unmoored from a rights-based analysis. In these cases, it is argued, the Court is engaged in 'reluctant' human rights adjudication.

'Bridging the Gap Between the UNCAC and Human Rights Approach to Corruption', Valeriia Dymbrylova, Dublin City University.
The United Nations Convention against Corruption (UNCAC) is the primary legal instrument at the international level that regulates corruption, primarily associated with criminal law. Nevertheless, the Convention itself contains many provisions related to other areas of law, such as human rights law. This study addresses a critical gap in the current literature and practice by exploring the under-examined intersection between human rights and anti-corruption efforts within the framework of the UNCAC. It particularly focuses on the benefits of applying the human rights-based approach (HRA) to corruption to the UNCAC. This research conducts a comparative study of the UNCAC and its review process with the existing core international human rights treaties, highlighting similarities and differences as well as identifying various UNCAC's shortcomings. It then considers potential improvements of the UNCAC's text, its implementation, and its implementation review mechanism. Finally, it examines some particularly important aspects of applying the HRA to the prevention of and fight against corruption under the UNCAC. This research sheds light on intersections between treaties, their benefits and shortcomings as well as the merit of human rights approach application to the UNCAC.

4. Seeking Justice

Chair: Alessia Palladino; Venue: SE012.

'Women's Access to Justice in the Kyrgyz Republic', Lia O'Broin, Dublin City University.
This paper explores women's access to justice in the plural legal context of the Kyrgyz Republic. First, it sets out the conceptual underpinnings by delineating the meaning of 'access to justice' in international human rights law as well as the meaning and relevance of 'legal pluralism.' Next, the paper provides a brief overview of the research methodology, in particular, detailing my experience conducting semi-structured interviews in the Kyrgyz Republic last year with members of civil society organizations, justice sector professionals and other experts. Finally, the paper examines the perceptions and experiences of interview participants in relation to multiple aspects of the plural legal system, including the state justice institutions, hybrid institutions known as Aksakal Courts and other nonstate actors and norms. Specifically, the interviews illuminated the grey areas of Kyrgyz legal borderings, enabling me to define the relationship, tensions and interactivity between the overlapping nonstate, state and international legal mechanisms, as well as understanding the different logics underpinning them. Empirical insights reveal nuanced information on all aspects of women's access to justice in this unique context.

'From Silence to Truth: Evaluating Institutional Abuse Investigations', Conor Flannery, Queen's University Belfast.
Non-recent institutional abuse is a global issue, with countries such as France, Australia, and Canada all conducting inquiries into such abuse. Closer to home, Northern Ireland, the Republic of Ireland, and England and Wales have also held several inquiries to address non-recent institutional abuse. This paper focuses on the role of truth within public inquiries into non-recent institutional abuse. Drawing on experiences in Northern Ireland, Republic of Ireland and England and Wales, it aims to provide a comparative analysis of truth recovery models employed in investigating such abuse and will explore various models of truth recovery, including public inquiries, royal commission, and truth commissions, which have been used to examine non-recent institutional abuse. This paper will also evaluate the role of truth in these inquiries through a transitional justice lens, assessing the robustness of these inquiries in terms of truth-gathering. By analysing how different models operate, this paper seeks to address the effectiveness and limitations of each model in uncovering the truth regarding non-recent institutional abuse. This paper will contribute to a deeper understanding of the mechanisms of truth recovery in non-recent institutional abuse inquiries and the importance of achieving truth in achieving justice and reconciliation for victims. By examining the strengths and weaknesses of various truth recovery models, the paper aims to highlight best practices and potential improvements for future inquiries into non-recent institutional abuse.

'Adoption's need for 'villains': Folklore, [legal] fictions, and Northern Ireland's proposals for redress', Alice Diver, Queen's University Belfast.
Adoption lore (found in its laws, policies, and jurisliterature, for example) often seems to demand - or indeed conjure - the presence of a villainous other. Archaic beliefs and customs have long sought to vilify the various participants in adoption processes, legal and de facto: adoptees and foundlings may be depicted as 'demon seeds' or suspect, abhuman changelings, 'relinquishing' parents may be framed as indifferent or feckless abandoners, while the 'wicked stepmother' trope continues to predominate in folk and faery tales, and in popular culture. More recently, the decision-makers behind a century of forced adoption practices (human, church, state) have gradually been identified as particularly culpable, in several jurisdictions where truth recovery

or redress mechanisms are slowly grinding to a conclusion (e.g. Ireland, Australia, Canada, England and Wales) or indeed struggling to get fully off the ground (Northern Ireland, Korea).

The 'shapeshifting' nature of the villainous other's role and identity merits analysis, given its ability to influence public opinion and cause mini moral panics. I argue here that Northern Ireland's current Consultation on the need for a Public Inquiry (and redress scheme) for the victims and survivors of mother baby institutions (and Magdalen Laundries, and potentially, workhouses) contains clear and subtle echoes of some of the more concerning traditions and tropes on forced relinquishment. Its emphasis, for example, on the stigmatising need to maintain secrecies and protect property interests (inheritances of potential awards, preservation of public funds) may prove particularly triggering for older adoptees long-affected by brick-walled searches for identity and ancestors, reunion refusals, informational vetoes, or advice on the need for rescue-gratitude and deferential behaviours.

5. **Life and death 1 – cancelled – Natasha Richardson's paper is at 9.30 on Saturday morning instead.**

Chair: Cydney Sheridan; **Venue: SE014**

6. **Judicial deliberations**

Chair: Conor Hanly; Venue: SE130.

'Confronting Bias in International Arbitration: Reevaluation of Diversity and Inclusion through Intersectionality', Yagmur Hortoglu Grant, Maynooth University.
This proposal aims to demonstrate the presence of bias issues in arbitral decision-making and its impact on the legitimacy of arbitration as an institution. It will first review the significance and the concept of bias in international arbitration, through interdisciplinary research. It will then inquire about systemic bias in arbitration law through institutional approach and suggest that by welcoming only certain individual biases, international arbitration risks to create systemic bias. This work will finally explore the impact of particularly legal and cultural backgrounds of arbitrators on the quality of arbitral awards through interviews with arbitration actors from various backgrounds.

'Studying Judicial Deliberations in the Conseil Constitutionnel, France's Constitutional Court', William Phelan, Trinity College Dublin

'Charging Juries: Written Directions, Routes to Verdict and the Supreme Court', Mark Coen, University College Dublin.

The judge's charge in criminal trials is firmly rooted in the oral tradition of the common law. The convention is that the judge addresses the jury about the task before them, but does not provide anything in writing. The jurors may take notes if they wish and may also request the judge to repeat any element of the charge. In the last twenty years common law jurisdictions across the world have accepted the value of supplementing the oral charge with written

directions and other written materials. However, Ireland has stood aloof from these developments. That may be about to change.

In July 2024 in People (DPP) v Lane [2024] IESC 30 the Supreme Court indicated that it wished to see the adoption of written directions, particularly in complicated trials. This paper considers the likely impact of that decision. Qualitative research I conducted with colleagues in 2017/2018 (published as the Judges and Juries in Ireland report in 2020) revealed that Irish judges were very opposed to the idea of written directions. The introduction of more structured judicial training processes under the Judicial Council Act 2019, combined with changes in practice caused by the COVID-19 pandemic, may mean that the current climate is more favourable to procedural innovation. If trial judges are receptive to the Supreme Court's encouragement of written directions in Lane, Ireland's status as a common law outlier in this area may be about to change.

7. Designing AI and technology frameworks

Chair: Luke Danagher; **Venue: SE231.**

'International processes relating to emerging technologies with an impact on the environment: An overview of key moments', Alison Hough, Technological University of the Shannon.
Emerging technologies have direct and indirect environmental impacts and as such international agreements related to them fall within the Almaty Guidelines developed under the Aarhus Convention, which mandates public participation in international forums.

This paper outlines the recent activity of international forums relating to emerging technologies like AI and Blockchain, as well as the related corporate sustainability and due diligence measures, highlighting the lack of public involvement in key decision making processes around these pivotal developments.

'Comparing the Legal Standards for Children's Digital Protection in the United Nations System and the Council of Europe', Mengting Wang, Dublin City University.
Childhood is deeply intertwined with information and communication technologies (ICTs). During this period, children enjoy technological benefits, but they may suffer technological detriments. Global and regional international legal standards play a crucial role in the protection of children's digital rights. The United Nations (UN) system and the Council of Europe (CoE) have established respectively the legal standards for children's digital protection. However, few studies compare comprehensively the standards in these two international organizations at present. In this regard, existing legal comparisons are frequently confined to several known themes of children's digital rights, such as child sexual abuse and sexual exploitation, education and data protection.

This paper attempts to fill this research lacuna. Firstly, it deconstructs children's digital rights and interests into three fundamental elements – subject, context and content. Secondly, it employs a legal positivist approach and a qualitative content analysis to separately collect and analyze the legal instruments of the UN system and the CoE. Finally, this paper finds by comparison: 1) The CoE utilizes more diverse terms of childhood to depict the subject of children's digital rights and interests than the UN; 2) Even though both ICTs and the technological part of media are recognized as the context, the UN supplies a strong technology vein, while the CoE gives a long-established media context; 3) Children's initial digital rights and interests appeared earlier in

the legal instruments of the CoE than the UN; 4) The content of children's digital rights and interests in the CoE is distributed based on priority or urgency, but the UN basically maintains the existing framework of children's rights in this aspect.

This paper recommends that as a global international organization, the UN system should incorporate relevant legal standards from other regional international organizations, innovating its framing of children's digital protection.

'The Emergence of Global AI Governance Frameworks: The Intersection of Technology, Policy, and Human Rights', Maria Helen Murphy, Maynooth University.
Significant global efforts have been made to develop responsible frameworks for the governance of Artificial Intelligence (AI) in response to an acceleration in the development and deployment of AI technologies. As public discourse around AI intensifies, numerous governance frameworks have taken shape, with final texts being agreed in some crucial instances.

The entry into force of the European Union's AI Act raises the possibility of a new 'Brussels Effect', similar to that seen in the data protection context. While parallels with the General Data Protection Regulation are clear, whether the AI Act will achieve a comparable global impact is uncertain for a number of reasons.

Additionally, the first-ever international and binding treaty on AI, the Council of Europe's Framework Convention on AI and human rights, democracy, and the rule of law, has recently opened for signature. Crucially, among the first signatories of the treaty were the European Union, the United Kingdom, and the United States. Although the treaty has important limitations, it also has significant potential to shape global AI governance and influence international norms regarding human rights and the rule of law as AI becomes ubiquitous.

This paper will explore the possible trajectories of global AI governance from a human rights perspective. It will assess the extent to which these new frameworks can influence global AI practices and human rights jurisprudence, examining both the opportunities and challenges presented.

Panel Sessions 2: Saturday, 9.30-11 a.m., John Hume Building

1. **AI and legal education**

Chair: Tobias Lock; Venue: JHT3.

'Enhancing Formative and Experiential Learning in Third-Level Education through Padlet: A Tool for Clinical Legal Experiences', Jessica Bressan and Romina Maddalena, Griffith College Dublin.
This paper explores the transformative potential of Padlet, a 'cloud-based software-as-a-service platform', as an innovative educational technology in third-level education, particularly within clinical legal education. Padlet's real-time collaborative web platform allows users to upload, organise, and share content on virtual bulletin boards known as "Padlets," fostering an interactive learning environment that enhances both formative and experiential learning processes.

In third-level education, particularly in law schools, there is an increasing emphasis on experiential learning, where learners are exposed to real-world scenarios to bridge the gap between theoretical knowledge and practical application. Padlet serves as a dynamic tool in this context, enabling learners and educators to create a collaborative space where legal case studies, documents, reflections, and peer feedback can be seamlessly shared and analysed. This not only facilitates deeper engagement with course materials but also enhances critical thinking and practical skills, essential for legal practice.

Moreover, Padlet's ability to monitor formative learning is particularly beneficial in clinical legal education, where continuous assessment and feedback are vital. Instructors can use Padlet to track learners' progress over time, providing timely and constructive feedback, and identifying areas where additional support may be needed. The platform's visual and interactive nature also encourages active participation, fostering a more inclusive and reflective learning environment.

This paper will delve into case studies demonstrating Padlet's application in an educational environment and its use for formative assessment and in a clinical legal settings, highlighting its effectiveness in enhancing learning outcomes and its potential as a scalable solution for other disciplines within third-level education. Ultimately, this abstract argues that Padlet (and other platforms) is a valuable tool for enriching the educational experience, particularly in fields that require a blend of theoretical and practical learning.

'Redesigning the legal teaching practice: globalised curriculum incorporating AI', Obele Akinniranye, Maynooth University.
The emerging landscape of legal teaching practice necessitates the evolution of a global curriculum that incorporates legal technology, advanced learning methods, and innovative pedagogical techniques. The article investigates the imperative of integrating innovative technology with legal educational knowhow to enhance the application mechanisms and the overall impact on various aspect of the legal profession. By scrutinizing how technology impacts law, communication, and the acquisition of legal knowledge, we reinforce the necessity of fostering advocacy and communication skills essential for legal practice. The article also spotlights the regional and global regulatory frameworks governing the use of technology in legal education, advocating for comprehensive compliance and ethical guidelines. This framework is essential in preparing students for successful legal careers, ensuring they are adept

in navigating the complex legal and technological environments. The examination includes the traditional three academic phases that aspiring lawyers undergo undergraduate legal education, postgraduate specialization, and professional legal training and how these phases must adapt to incorporate technological advancements and ethical considerations. The discussions in this article will further extend to the critical role of academic integrity in fostering judicial integrity, emphasizing the importance of ethical standards and governance within legal education. The Articles concludes by addressing these facets, thus providing a roadmap for developing a global curriculum that not only meets the current demands of the legal profession but also anticipates future challenges. The incorporation of Technology in Legal teaching Practice is posited as a foundation for the development of competent, ethical, and technologically proficient legal career professionals well suited to contribute to an effective and juridical system global.

'AI Literacy for Lecturers and Students', Étáin Quigley, Maynooth University.
This paper explores how Artificial Intelligence (AI) can be integrated into the classroom in innovative yet responsible ways. The rapid advancement of AI has outpaced the development of frameworks for its inclusion in education, leading to gaps in understanding how, when, and why AI should be utilised in this space. This gap is primarily due to a lack of "AI literacy." As with most shifts in the social and educational landscape, there are both positive and negative aspects to consider. It is crucial for educators to become knowledgeable about AI, understanding both its benefits and challenges, and to implement strategies for effectively incorporating AI into their classrooms. Concerns such as reduced engagement with extensive reading, reliance on fewer sources, and diminished critical thinking are valid. However, there are also new opportunities for enhancing student engagement, motivation, and participation in the learning process. This presentation will critically examine these issues, drawing on insights from the Arqus European University Alliance Summer School on Active Learning, with a focus on integrating AI into higher education.

2. Vulnerability

Chair: **Eva Krolla; Venue: JHT4**

'Unhoused and Under-Protected: The Recent Grants Pass Decision by the U.S. Supreme Court, the Criminalisation of Homelessness, and Possible Parallels with the Irish Jurisdiction', Marcus Gatto, Griffith College Dublin.
This paper will examine the recent U.S. Supreme Court decision in City of Grants Pass, Oregon v. Johnson, and draw possible parallels, in terms of the context and consequences of that decision, with the plight of unhoused persons in Ireland. Essentially, this decision removed a barrier imposed by a court in a previous case, Martin v. Boise, that had prevented Grants Pass and other cities from enforcing a variety of administrative measures, such as prohibitions on public camping, to punish those sleeping rough, where the number of homeless individuals in a jurisdiction exceeded the number of shelter beds that were "practically available" at a given time. That previous holding effectively imposed a moratorium on the issuing of citations by city officials in circumstances where individuals had no option but to sleep outdoors. Citing such individuals for sleeping outdoors, where alternatives did not exist, was considered by the lower court in Martin as a violation of the protections afforded by the 8th Amendment to the U.S. Constitution, which prohibits cruel and unusual punishment. This paper will examine the decision in Grants Pass, as well as the important arguments raised in both the majority and dissenting opinions. More broadly, it will discuss the implications of a public policy to criminalise homelessness and looks to recent situations in Ireland concerning unhoused persons for points of contrast and commonality.

'The Implementation Challenges of the Mental Capacity (NI) Act 2016: Where Do We Stand Eight Years On?', James Hugh Carson, University of Galway.

This paper proposes to explore the procedural challenges that have prevented this legislation from coming into full effect. The author will briefly outline why the MCA(NI) was regarded as a visionary piece of legislation and its significance as an example of a 'fusion law' combining mental health and mental capacity regimes.

Since receiving Royal Assent in 2016, this legislation has yet to be fully implemented some eight years later. It is notable that the MCA(NI) was heralded as a framework to end the 'anomalous, confusing and unjust' regime that predated this legislation. Owing to political instability and logistical challenges, commencing the MCA(NI) has been fraught with difficulties, with many critical elements of this framework yet to be enacted. Failure to fully implement this framework has left the vision of the Bamford Review unfulfilled, as provisions that may give a 'real and meaningful priority to the challenges of mental health and learning disability' remain undelivered.

By exploring the relevant legislative history, the author will consider the impact of the Statutory Rules, which have slowly brought elements of the MCA(NI) into effect. The author will identify the outstanding provisions that have yet to be commenced, the current standing of the MCA(NI)'s Code of Practice, and evaluate current legislative options available to the NI Assembly during its 2022-2027 mandate.

This paper will provide a valuable resource to researchers and practitioners alike by clarifying the current scope of the MCA(NI) and the implications of critical elements of this legislation that are yet to enter into force.

'Why I Am Not Including Children In My Research: The Participation Of Children And Young People In Criminal Justice Research', Áine Bernadette Mannion, University College Cork.

Including children and young people in criminal justice or social-legal research can offer valuable insights into their experiences, perspectives, and needs. It is often essential for transparent and evidence-based service provision and policy implementation. The UN Convention on the Rights of the Child (Art. 12) also underpins the right for a child to have their voice heard.

However, this paper is in defence of my decision to not include children as participants in my study; a PhD project, which is exploring both role of the and the relationship between the decision-making practices of the Garda Diversion Programme and the Judiciary with the of children in detention in Ireland.

The rationale of the defence anchoring on ethical considerations and a reflexive research framework for undertaking research with children and young people in conflict with the law. The framework provided in this paper considers research question(s) and the application of appropriate methods to answer them and the "why" question when choosing to undertake research. It also reflects on the reality of access to youth justice and detention contexts and explores the relationship between the researcher-child-gatekeeper and the impact these contexts have on both validity and true voluntary participation, therefore, implicating achieving ethical research practices.

Importantly, children and young people in conflict with the law are often not in detention or a service user of a youth justice organisation by choice. They may be compelled by prosecution or at risk of prosecution to partake in an intervention. Also, the goals of diversion include the avoidance of labelling and further entrenchment into criminal justice systems, therefore, recruiting a child who has been diverted into research arguably contradicts this. This is creates the dilemma is ethical, consensual, and voluntary participation in research in this context ever truly possible?

3. **Pre-organised panel: Doing Feminist Legal Work**

Venue: JHT5

Panellists: Maebh Harding, UCD; Aoife O'Donoghue, QUB; Norah Burns, QUB; and Sahar Ahmed, Griffith College Dublin.

Doing Feminist Legal Work (DFLW) is a network of Feminist Legal Scholars funded by the Irish Research Council of Ireland under the New Foundations Shared Island scheme. DFLW connects legal scholars across Ireland, Northern Ireland and Britain addressing emerging issues of gender and law. DFLW is a sustainable network of feminist scholars that builds on existing, but ad hoc, North/South and East/West collaborations. In this panel, we will introduce the network, outline the findings of our recent survey on feminist teaching across law schools in Northern Ireland and Ireland and launch our three newest briefing papers, as well as outline plans for the DFLW Blog, the Morrígan. This will be followed by a networking opportunity for people interested in feminist research, teaching and universities to grow links across the island.

This is a slightly different panel proposal in that the aim is to enable people to network, meet and to launch the Briefing Papers that colleagues generally in attendance at the IALT will have contributed to.

For further information our webpage is here https://dflw.ie/ and the existing briefing document here https://dflw.ie/publications/best-practice-guides/

4. **Life and death 2/life after death**

Chair: Chloe Cass; Venue: JHT6

'Improving Access to Orphan-Technologies and Orphan-Medicines for Patients with Rare Diseases in Ireland – A Classification of Pan-European Public Contracts', Emma McEvoy, Dublin City University.

Approximately one in every 17 people in Ireland are diagnosed at some point in their life with a rare disease, which is often life-threatening and chronically debilitating. Limited innovative 'orphan-technologies' and 'orphan medicines' are available to treat and improve the quality of life for patients with rare diseases. However, these limited technologies and medicines are generally expensive and only become available for use after lengthy reimbursement processes. EU Member States further compete against each other to secure access to newly authorised orphan technologies and medicines, resulting in significant disparities between Member States' abilities to secure treatments for citizens with rare diseases. Ireland is often cited as one of the last countries in the EU to access new approved treatment options and technologies once market authorisation has been approved. The article considers the opportunities for and challenges to the use of pan-European procurements to secure access to orphan-technologies and medicines. It classifies and analyses three different types of joint procurements: pooled or joint procurements organised and operated at a national or subnational level; voluntary joint procurements organised and managed by a small number of participating EU Member States; and finally, joint procurements organised by European Institutions. It offers an analysis of the appropriateness of the legal basis of the different types of EU joint procurement mechanisms and tentatively concludes by acknowledging the potential of pan-European coordinated actions to improve the equitable distribution of affordable, safe, and accessible orphan technologies and medicines.

‘Navigating the Complexities of Assisted Dying: Death Tourism’ Karen Joan Sutton, Griffith College Dublin.

This paper explores 'death tourism', otherwise known as ‘suicide tourism,’ or ‘euthanasia tourism,’ where a person travels to another jurisdiction with more permissive assisted dying laws to seek a legal end to their lives. Under the Section 2.2 of the Criminal Law (Suicide) Act 1993, it is an offence in Ireland to aid, abet, counsel, or procure the suicide of another person, or an attempt by another to commit suicide. Focusing on the legal, ethical, and socio-political implications, this paper examines how the practice of death tourism navigates the often-stark differences in assisted dying legislation across jurisdictions and cross-border differences in end-of-life decision making. While assisted dying remains illegal in many jurisdictions, others, such as Switzerland have become internationally recognised as providing assisted dying to non-resident foreign nationals as contained in Paragraph 115 of Swiss Criminal Code. This creates a complex legal environment where individuals circumvent their home jurisdiction's laws to pursue the right to die by assisted dying, raising questions about the extraterritorial application of laws, and the responsibilities of home states to regulate such acts. Questions that arise include, whether death tourism undermines the legislation that governs death and dying and the autonomy of jurisdictions to control and restrict such deeply personal decisions, challenging state sovereignty. And further, whether the legalising of assisted dying in more jurisdictions might not only eliminate the need for death tourism but also allow for a more peaceful and legally compliant end-of-life experience for those seeking the right to die.

‘The Accessibility of Posthumous Assisted Human Reproduction in Ireland’ Aoife O’Donovan, University of Galway.

Advancements in medical technology have extended reproduction beyond the traditional means, enabling the use of a deceased person’s gametes for reproduction following their death. Upon commencement of the Health (Assisted Human Reproduction) Act 2024 (hereinafter the 2024 Act), posthumous assisted human reproduction (PAHR) will be regulated in Ireland for the first time, albeit in limited circumstances. PAHR generated little media attention during the draft stages of the 2024 Act, yet access to PAHR will be incredibly restrictive. Access to PAHR is limited to a female surviving partner; the deceased must have expressly consented to an identified surviving partner using their gametes after their death. The regulation of PAHR is quite divisive due to the ethical considerations largely surrounding the consent of the deceased, with an express consent model being the preferred model of consent. A fine line exists to ensure respect for the deceased and the interests of the living. As such, this paper will evaluate the requirements under the 2024 Act for the facilitation of PAHR, and the exclusion of male surviving partners from accessing PAHR. Ireland’s express consent model will be considered to determine whether PAHR will be accessible in practice, or if another model of consent may be more appropriate in this context, such as the consent model in the United Kingdom (U.K.). The paper will conclude by focusing on the U.K. model due to the acceptance by the courts there of an inferred model of consent in practice. This emerged as a result of the failure of the express consent model to facilitate access to PAHR.

‘A Frozen Future: The Legal and Ethical Challenges in the Cryopreservation of Embryos’, Natasha Richardson, Maynooth University.

The mere creation of artificial reproductive technologies has revolutionised the way in which we as a society have altered conventional definitions and understandings of what constitutes a family. However, technological progress is often accompanied by controversy. Following fertilisation, there is a substantive possibility that some embryos will remain indefinitely 'frozen in time'. Through my paper 'A Frozen Future: The Legal and Ethical Challenges in the

Cryopreservation of Embryos', I will address the multitude of issues surrounding the storage and disposition of potential human life. As such, both legal and ethical concerns arise as to the fate of these embryos and their status while frozen. A myriad of frameworks have been employed internationally to combat this issue, but perhaps the crux of the problem remains in the contractual agreements signed prior to any reproductive technology intervention. Ultimately, the question remains on how technological advancements should be balanced against the ethical integrity of potential human life. Further, whether these solutions will enable, restrict or prohibit not only reproductive rights, but embryonic status.

5. Duties and remedies

Chair: Rónán Condon; **Venue: JHT7**

'Generous To A Fault? The Impact of Trustees of the Barry Congregation of Jehovah's Witnesses v BXB [2023] UKSC 15 on vicarious liability in employment related personal injury claims', John Eardly, Griffith College Dublin.
This paper analyses the judgment of the U.K. Supreme Court of Trustees of the Barry Congregation of Jehovah's Witnesses (26 April 2023) and where it sits in the context of recent developments in the scope of vicarious liability in employer civil liability case law. The Paper examines these developments from the perspective of both physical and psychiatric harm and how the concept of vicarious liability has evolved to apply to both (McCarthy v ISS Ireland Limited [2018] IECA 287 (13 August 2018); Walker v Northumberland County Council [1995] 1 All ER 737 (16 November 1994)). The Paper addresses the treatment by the courts of cases, in particular, of alleged serious sexual assault within an employment context over recent decades in Ireland and England and identifies how the BXB judgment potentially impacts on this body of case law (Hickey v McGowan [2017] IESC 6 (9th February 2017); Lister v Hesley Hall Ltd [2002] 1 AC 215 (3 May 2001)). Finally, the Paper seeks to explore whether the BXB judgment now means that the courts in England, as a matter of public policy, have reached the limits of where they are willing to expand the principle of vicarious liability in employment cases and whether a similar trend is evident or may be followed in the Irish courts.

'Germaine v Day [2024] IEHC 420 – Case Analysis', Jessica Leahy, University College Cork.
Germaine v Day [2024] IEHC 420 involves a recent application of the Kelly v Hennessy [1995] 3 IR 253 principles which govern the law of nervous shock in Ireland. The plaintiff's claim for nervous shock resulting from her husband's death due to lung cancer was dismissed by the High Court. The judgment, as was acknowledged in the introductory paragraph of the case, "concerns the intersection of the doctrine of nervous shock with medical negligence."

At issue in the case were two, three and five of the Kelly v Hennessy criteria. The case involved detailed examination of what is meant by "shocked-induced" and what amounts to a "sudden shocking event", whether the test laid down in Glencar Explorations Plc v Mayo County Council No. 2 [2002] 1 IR 84 is to be applied in relation to the fifth criterion and also considers what proximity might entail under this same criterion.

This paper provides an overview of the judgment and discusses the applications of the second and fifth Kelly v Hennessy principles in light of previous caselaw.

'The Norwich Pharmacal Order: A Critical Analysis', Michael James Boland, Maynooth University.

The Norwich Pharmacal Order is a judicial remedy established in 1974 in a case of the same name, Norwich Pharmacal Co. v. Commissioner of Customs and Excise. The remedy was introduced in Ireland over 30 years ago in the case of Megaleasing UK Ltd v. Barrett. The effect of the Order is to oblige an innocent third-party possessing identifiable information about an alleged wrongdoer to disclose that information to the plaintiff so that they can initiate legal proceedings against the wrongdoer. The remedy has many applications. It has been used in cases of intellectual property theft, defamation and fraud where the wrongdoers were unknown. More recently, the Norwich Pharmacal Order has been applied in cases of image-based sexual abuse demonstrating the effectiveness of this remedy in responding to modern legal issues involving the internet. As they are made at the interlocutory stage of legal proceedings, Norwich Pharmacal applications necessarily require a delicate balance to be struck between the rights and duties of all parties. For instance, the courts must balance the right of the plaintiff to access justice with the right of the wrongdoer (who, it may emerge, is innocent of any wrongdoing) to their privacy and confidentiality. At the same time, the courts must be cognisant of the defendant's duty to safeguard the privacy and confidentiality of the wrongdoer who will invariably be a customer, client or subscriber of the defendant. As a result of this difficult balancing act, the courts have struggled to agree on the appropriate evidentiary threshold that applicants must reach in order to access Norwich Pharmacal relief. In some cases, the courts have considered that a 'prima facie case' of wrongdoing against the wrongdoer is sufficient whereas in other cases the courts have looked for a 'strong case' of wrongdoing to be established. Further uncertainty is caused by the lack of consensus in the case law as to what these thresholds mean in practice with the courts in some cases attributing similar meanings to them while, at the same time, insisting that they are different. Not only does this level of uncertainty risk undermining the effectiveness of the Norwich Pharmacal Order as a tool for accessing justice but it also risks undermining Ireland's positive obligations under Article 8 of the European Convention on Human Rights (ECHR) concerning the right to privacy. Jurisprudence of the European Court of Human Rights (ECtHR) suggests that as part of States' obligation to secure respect for private life, the State must have in place effective tools for the investigation and prosecution of wrongdoing which includes the availability of an effective remedy akin to the Norwich Pharmacal Order enabling the identification of wrongdoers. It is arguable that the uncertainty surrounding the Norwich Pharmacal jurisdiction in Ireland as well as other shortcomings related to the remedy calls into question the effectiveness of the Norwich Pharmacal Order as an avenue for redress and, having regard to ECtHR jurisprudence, might place Ireland at odds with its positive obligations under Article 8 ECHR. Against this background, this paper will attempt to demonstrate the following: (1) How the Norwich Pharmacal Order can be used by individuals and businesses alike to seek redress; (2) How ambiguity concerning the appropriate evidentiary threshold in Norwich Pharmacal applications persists; (3) And how this ambiguity and its impact on the effectiveness of the Norwich Pharmacal Order risks undermining Ireland's positive obligations under Article 8 ECHR.

6. Environment, farming and tech

Chair: Alison Hough; Venue: JHT8

'Farming and the Environment - a sense of custodianship?', Mary Curtin, University of Limerick.
The term 'custodianship' has different meanings depending on the context. In a legal framing, custodianship implies a position of responsibility, protection, guardianship or being entrusted with the care of something or someone. Worldwide, there are examples where nature has been given a legal right within legislation. Nature is seen as an entity and people can take a case on behalf of nature. For example, Ecuador in 2008 became the first country in the world to recognize the rights of nature in its constitution and New Zealand granted legal personhood to the Whanganui River in 2017. There is a change within government both nationally and on a European level and there is an increasing sense of urgency. The Nature Restoration Law is such an example as well as schemes like ACRES and aspects of CAP which are all attempting to tackle the issue. Understanding farmers sense of custodianship is important if we are to understand how to maintain existing ecosystems and design effective incentives for farmers to restore depleted ecosystems, especially given that agriculture has been concentrating on production for the last 50 years.

'**Much Ado About Poo: A discussion on the viability of a European Circular Economy in nutrient cycles, with a focus on the extraction of nutrients from human waste for use as a fertiliser', Aleksandra Czarnik, Maynooth University.**
On the 12th of December, 2015, 196 parties, including the European Union, have adopted the Paris Agreement to both synergise and intensify the global response to climate change with the overall aim of achieving net-zero greenhouse gas emissions by 2050. In order to achieve net-zero greenhouse gas emissions, however, a reordering of human industrial, consumption, and production patterns will be required, as virtually all human activity is reliant on fossil fuels and the extraction and alteration of natural resources. Economic growth, observed as necessary to achieve sustainable development, is nonetheless linked to an increase in intensity in the use of material resources, and by extension, outputs, or 'waste'. Suggested solutions to this predicament include 'green growth', 'degrowth', and the European Union paradigm, 'circular economy.' Though initially adopted in 2015, the 2020 European Union 'Circular Economy Action Plan For a cleaner and more competitive Europe' intends to 'accelerate the transition' towards a 'regenerative model' that gives back to the planet 'more than it takes', while keeping resource consumption 'within planetary boundaries' and 'doubling' its circular material use rate by 2030. This implies a reduction in production, and resource and material recovery from 'waste.' This further implies a systematic shift in not only production and waste management, but the very idea of what 'waste' is, as it no longer becomes that which someone 'intends to discard.' While the European Union has focused on electronics and ICT, packaging, plastics, textiles, and construction, the Integrated Nutrient Management Action Plan, aimed to tackle inefficiencies in the nutrient cycle, remains unpublished. In light of this, as well as literature indicating that the Waste Hierarchy has been inadequately applied by member states, this article aims to discuss the feasibility of the circular economy within the European Union in light of its current growth-oriented policies, while discussing the role of legislation in attaining this aforementioned circularity in nutrient systems.

'Recasting Environmental Crime and Ecocide in the EU', Noreen Christina O'Meara, University of Surrey.

This paper explores the revised Environmental Crime Directive (2024/1203) adopted in 2024 in the context of the EU's broader Green New Deal agenda. Nearly two decades since the original Environmental Crime Directive (2008/99/EC) was adopted, much has changed in the landscapes of environmental crime, criminal justice and the EU's increasingly urgent and comprehensive approach to climate change mitigation. This paper considers innovations of the new Directive – notably the broad expansion of offences, which in the case of qualified offences, includes crimes 'comparable to ecocide' within their scope. In this respect, the revised Environmental Crime Directive offers a concrete breakthrough in the campaign for embedding crimes of ecocide in legislative frameworks. However, with environmental crime now one of the most lucrative forms of organised crime in the EU, prioritizing support for compliance and enforcement are essential if the Directive is to respond effectively to climate, environmental and criminal justice challenges.

Panel Sessions 3: 11.30-1 p.m.

1. **Legal education 1 – 4 speakers**

Chair: Brónagh Heverin; **Venue: JHT3**

'Assessing the Extent of Equality Diversity and Inclusion in Legal Education Curricula through Module Evaluation: A Reflection', Gift Sotonye-Frank, Queen's University Belfast.
The concept of Equality, Diversity, and Inclusion (EDI) in the curriculum is increasingly recognized as a critical element in legal education and for shaping learning environments that are inclusive, equitable, and respectful of diversity. This paper reflects on how legal educators incorporate EDI within legal education curricula, using module evaluations as a key assessment tool. Typically administered at the end of academic terms, module evaluations provide valuable feedback from students on various aspects of their learning experience. Accordingly, by including specific EDI-related questions and the use of technology, law schools can assess the extent to which EDI is embedded into curricula. This paper is therefore a reflection on how staff and students perceive the EDI in the content, teaching methods, use of technology, classroom dynamics, and participation relying on qualitative and quantitative data from student and staff module evaluations. Additionally, it reflects on staff and students' awareness of EDI in the curriculum, as well as the opportunities and challenges of using module evaluations to assess EDI integration in curricula and teaching practices. Ultimately, the paper contributes to the broader discussion on inclusive education and the important role of technology as an integral part of fostering inclusive learning environments for all students.

'Flipping a Criminal Law Classroom, Part II', Conor Hanly, University of Galway.
At last year's Conference, I reported on a limited experiment in flipping a topic in my first semester Criminal Law module. Using this methodology, I prepared narrated videos on the topic of intoxication which students were required to study in their own time, with class time being used for more interactive and discursive activities. The results of the experiment were positive, with indications of high student satisfaction. In this paper, I report on a more extensive experiment in which I flipped the entire Criminal Law module. I present data from two large classes (Law students and Arts students) drawn from detailed end-of-semester questionnaires. The results this time were more mixed: student satisfaction was generally high, and students appreciated the flexibility of this methodology. They expressed concern, however, at the workload generated. From my perspective as a lecturer, two main downsides of flipping the entire module became clearly visible. First, the preparation burden was significantly higher than normal, although I would expect that to fall off if I maintain this methodology in subsequent years. Second, I had hoped that the in-person sessions would be more interactive than they turned out to be. Students were unwilling to volunteer for discussions, and this became more pronounced as the semester wore on. My conclusion is that the flipped methodology has useful attributes, but requires more care than I had anticipated in the in-person classes to overcome Irish students' disinclination to participate in large group interactive activities.

'From the Doctor to the Devil: Interdisciplinary lessons in teaching, from medicine to law', Shubhangi Karmakar, King's Inns and University College Dublin.
This paper presents an auto-ethnographic study of the presenter's experience of ten years of tutoring for small-group-based/1-1 undergraduate and postgraduate healthcare professional training, identifying key aspects from collated student feedback on positive pedagogy. It further

collates notes from the author's internationally presented research in specialty medicine education (Irish Psychiatry postgraduate training) to identify key pedagogical methods developing successful specialised professionals. By applying these methods to undergraduate legal teaching in the role of a Graduate Teaching Assistant at an Irish undergraduate legal program, and evaluating their utility to the student population, this paper analyses strengths and challenges in a transdisciplinary method of teaching for successful undergraduate law students.

'Entrepreneurship 101: The Game - Using gamification techniques to teach basic legal principles', Caoimhe Kiernan, Technological University Dublin.
This presentation explores the innovative use of the Entrepreneurship 101 Game as a practical tool to teach foundational legal concepts to first year university business students with no prior legal background. This experiential game simulates running a business over three fictional years, immersing participants in the dynamics of company law, financial accounting, and risk management.
The game's design incorporates realistic business scenarios, including vicarious liability and negligence claims, allowing students to apply legal principles in simulated high-stakes situations. A disaster scenario presents students with a zombie outbreak in their workplace, prompting them to analyse liability and negligence issues using the ILAC (Issue, Law, Application, Conclusion) method. This exercise fosters a deeper understanding of legal frameworks, including duty of care and corporate liability, by requiring students to devise strategies for risk management and legal compliance.
By simulating complex real-world business and legal environments, the Entrepreneurship Game provides a unique, engaging, and interactive platform for teaching non-law students about fundamental legal principles. Through this method, students not only acquire basic legal knowledge but also develop teamwork and critical thinking skills. This presentation will discuss the educational benefits of this approach, practical insights from gameplay, and feedback from participants. The game's success in demystifying legal concepts for learners suggests a valuable application for similar pedagogical approaches in other non-law disciplines.

2. Adopting/Incorporating Human Rights Law

Chair: Norah Burns; Venue: JHT4

'EU Accession to the ECHR - Try again. Fail again. Fail better?', Tobias Lock, Maynooth University.
The paper explores the implications of the EU's accession to the ECHR from the perspective of the ECHR. The assessment is based on the revised Draft Accession Agreement (DAA 2023), which was made public in March 2023. The paper analyses and assesses the key procedural innovations in the DAA 2023. It explores how the co-respondent mechanism, the prior involvement of the CJEU and the accession agreement's solutions for advisory opinion requests by highest EU Member State courts and for dealing with the EU law concept of mutual trust would likely work in practice. It focuses on the new and unique role accorded to the EU as a gatekeeper in relation to certain procedural questions concerning applications brought against (or by) its Member States. The paper further contrasts the position of EU Member States and non-EU Member States post-accession by pointing out potential inconsistencies – such as the non-availability of the co-respondent mechanism to them, while at the same time trying to adhere to the principle of EU accession on an equal footing – and assesses proposed solutions in light of their effectiveness and workability. The paper suggests that despite the considerable

concessions made to the EU, EU accession to the ECHR would nonetheless result in a strengthening of the ECHR system as a whole and is thus worth the effort and compromises.

'An 'International Covenant on Economic, Social and Cultural Rights Act': Sub-Constitutional Legislative Incorporation of International Human Rights as a Means of Resolving the Impasse Regarding the (Lack of) Judicial Protection of Socio-Economic Rights in Irish Law?', Jamie McLoughlin, University College Dublin.

A now long-running debate in Irish constitutional law and public policy is whether justiciable social and economic (and more recently environmental) rights should be added to Bunreacht na hÉireann. However, despite recommendations in support of such a development from the Convention on the Constitution (2014), various Citizens' Assemblies, the Irish Human Rights and Equality Commission, and the Housing Commission, successive Governments have failed to take meaningful steps to implement these recommendations. Indeed, the failure of the referendum on carers' rights in March of this year is arguably attributable, at least in part, to the weak wording of that proposal which critics suggested did not create any concrete entitlements. In addition to the posture of wariness on the part of various Irish Governments to constitutionalising socio-economic rights, there exists in Ireland a judicial culture of deep reluctance in relation to interpreting the Constitution as respecting such rights. This attitude even extends to the enforcement of those socio-economic rights which are expressly enumerated in the constitutional text. Given this eco-system of politico-judicial scepticism towards justiciable socio-economic rights, the question arises as to how a habitat for such rights can be located within the Irish constitutional order. This paper argues that legislative incorporation (via an Act of the Oireachtas modelled on the ECHR Act 2003) of social and economic rights as expressed in international human rights law might provide a path beyond the current impasse in the debate over the protection of justiciable socio-economic rights in Irish law. The paper, highlights, therefore, those provisions of the 2003 Act which can be used as a template for the adoption of an 'International Covenant on Economic, Social and Cultural Rights (ICESCR) Act' and explains why such an Act would likely be more impactful than the 2003 Act has been.

'An Alternative Bill of Rights for Northern Ireland: Assembly Incorporation of International Rights Instruments', Colin Murray, Newcastle University.

The Belfast/Good Friday Agreement 1998 emphasized human rights, incorporating the European Convention on Human Rights (ECHR) and proposing a Northern Ireland Bill of Rights and a potential Charter of Rights for Ireland. However, amid political disagreement no progress has been made towards these goals and rights and equality protections have come to lag behind the UK and Ireland in important respects. Meanwhile, Scotland and Wales have advanced novel rights protections. Wales integrated the UN Convention on the Rights of the Child (UNCRC) in 2011, and Scotland followed in 2024. This has been cast as a prelude towards broader incorporation of a broad range of international rights instruments. These initiatives demonstrate how devolved legislatures can advance rights within their jurisdictions, providing a fresh opportunity to explore options for Northern Ireland. Specific measures incorporating international human rights treaties could potentially enhance Northern Ireland's lawmakers' understanding of rights issues and help to counter existing obstacles to progress on rights and equality issues.

3. Family relationships and violence

Chair: Aaron Harte-Hughes; Venue: JHT5

'Reclaiming Control: An Examination of Coercive Control in the Republic of Ireland', Precious Abebe, Griffith College Dublin.
Coercive control is defined as behaviours which are controlling in nature and results in a serious effect on a relevant individual. The offence of coercive control was introduced by the Domestic Violence Act 2018. This paper seeks to explore the statutory developments regarding the offence of coercive control within the jurisdiction. This paper examines the need for enhanced societal awareness and the need for further developments to be made regarding the restricted application of the offence.

'Prevention of benefit from homicide in the case of joint tenancies', Ann-Marie Dooley, Technological University of the Shannon.
S.120 of the Succession Act 1965 provides for partial codification of the doctrine that a person who has unlawfully killed another should be precluded from acquiring a benefit as a consequence of that killing. However, the Act does not apply to property held under a joint tenancy. When a joint tenant dies, his or her legal estate in the assets passes to the surviving joint tenant. Therefore, if there are two joint tenants and one kills the other, the killer becomes the full legal owner of the property and arguably, benefits from their wrongdoing. This issue was dealt with in the case of Cawley v Lillis (2011) where the husband killed his wife. The family home was held under a joint tenancy. The court considered three options: 1) A pre-decease rule i.e. the killer's interest in the property would be extinguished before the victim died; 2) Severance of the joint tenancy; 3) A constructive trust in favour of the killer and the deceased's estate. Laffoy J opted for the constructive trust with one half for the husband and the other half for the estate of his deceased wife. Laffoy called for legislation to bring clarity to the area and highlighted some areas of possible ambiguity such as the impact of ss.30 and 31 of the Conveyancing and Law Reform Act (which was not in force at the time), the possibility of unfair outcomes where there are three or more joint tenants and the constitutional issue of the right to hold property. This led to a Law Reform Commission report which was met with sharp criticism as the LRC recommendations proposed severance at law with the possibility of reducing the killer's share further with the use of discretionary factors.

'The Case for Prohibited Steps Orders in Ireland: a Proportional Restriction on the Rights of Guardians?', Brian Tobin, University of Galway.
Recently, there has been significant focus on Valerie's Law, a law reform proposal emanating from the relatives of Valerie French Kilroy, a woman whose husband was convicted of her murder and sentenced to life imprisonment. Valerie's Law proposes that a parent who intentionally kills their children's other parent should automatically lose their legal guardianship rights in relation to those children.

The proposal, while meritorious, would strip a married parent of their legal guardianship rights, albeit in the most extreme circumstances. However, because of its ability to completely dissolve legal guardianship ties between married parents and their children, something that hitherto has been impossible, and the resounding failure of the recent referendum to extend the definition of 'The Family' in Article 41 beyond married families, a result that arguably reinforces the centrality of marriage and the family in the Irish psyche, it is unlikely that the political will to attempt to introduce Valerie's Law will be forthcoming.

Thus, this paper will instead advocate for the introduction of the Prohibited Steps Order. Such orders have been available in England and Wales for quite some time, and have been used by the courts there not to dissolve, but to restrict a parent's Parental Responsibility. This paper will attempt to demonstrate that such orders would be compliant with the provisions of Articles 41 and 42A of the Constitution, as well as the statutory requirement under the Guardianship of Infants Act, as amended, that in any proceedings before any court, where guardianship is in question, the court, in deciding that question, shall regard the child's best interests as the paramount consideration.

4. Constitutional law and political leaders

Chair: David Nagle; Venue: JHT6

'The arms crisis and Irish Constitutional law', Donal K. Coffey, Maynooth University and Saoirse Enright, University College Dublin.
In 1970, the Irish State was rocked by a political crisis which involved allegations that senior members of the Government were involved in the illegal smuggling of arms with an intent to funnel these arms to the North. While the Arms Crisis has been the subject of intense political discussion since those times, this presentation aims to consider the influence the effect that the Crisis presented for the Irish Constitution. It does this by considering the effect that it had on the political and legal constitution, and by analysing the way in which it shaped the trajectory of Irish Superior Court jurisprudence in the 1970s, with repercussions that lasted for decades.

'Does the Irish Constitution forbid a vocal presidency?', Seán Rainford, Dublin City University (presenting) and Jamie McLoughlin, University College Dublin.
Constitutional and political orthodoxy holds that the President of Ireland should be 'above politics' and must refrain from engaging in commentary that is partisan or against Government policy. We call this the constitutional 'convention of silence'. Using the Jennings test for conventions, we argue that this convention is not mandated by the Irish Constitution and that political commentary by the President is constitutionally permissible. First, 'precedent' and 'belief' in the convention among relevant actors are no longer present. Second, the stated 'reason' for the convention – ensuring constitutional harmony – is undermined by the fact that the President and Government are constitutionally distinct. Third, it is further undermined by the President's direct election which gives the officeholder legitimacy in speaking on matters about which there is political disagreement. We conclude by offering potential advantages that a more openly political Presidency may bring to the Irish constitutional system.

'A Tale of Two Heads of Government: Comparing and Contrasting the Legal Woes of Donald Trump and Charles Haughey', Carol Rasnic, Virginia Commonwealth University, USA.
During the past two years, Donald Trump, the first U.S. President ever charged with a felony, has been the defendant in civil and criminal charges in three state and three federal actions. Three guilty verdicts are on appeal as he again campaigns for the office of the presidency. The criminal judgments are in limbo following a U.S. Supreme Court holding that presidents have absolutely immunity from criminal prosecution for performance of official constitutional duties and presumptive immunity for actions within the outer perimeter of those duties. A federal court will determine on remand whether his involvement in the January 6, 2021, attempt to prevent certification of the election falls with that second category.
Similarly, three-time Irish Taoiseach Charles Haughey was embroiled in numerous legal entanglements: the 1970 Arms Crisis; (peripherally) the infamous 1982 "GUBU" Affair; the

1992 phone=tapping scandal; and the 1997 Moriarty Tribunal. He has been described both as the most brilliant and talented, and as the most devious and deceptive, politician of 20th century Ireland.
Both (thus far, in Trump's case) avoided ultimate responsibility. How did these men and the charges against them differ? Were these evasive tour-de-forces absolving the guilty but clever, or unfair and persecutory accusations?

5. AI justice

Chair: Emer Shannon; Venue: JHT7

'Mechanical Turk and the Artificial Artificial Intelligence', Ruhi Anand, University of Limerick.
The rapid development of Artificial Intelligence and its increasing permeation into various aspects of society has created a pressing need for ensuring its safe, ethical, and equitable development and deployment. However, one must first stop to question, how artificial is artificial intelligence? There are numerous instances of services claiming to be supported by sophisticated software, but in fact are driven by human drivers much like the chess-playing Mechanical Turk from the 1770s.
There is a wide variety of 'data work' such as content moderation, travel itinerary planning, price comparisons, targeted and personalised ads, transcribing voice to text, image annotations, to name a few, that rely heavily on human actors to undertake monotonous low-paying jobs to hold up this façade. Often these data workers are unaware and ill-informed of the overarching goals for the Human Intelligence Tasks (HITs) set out for them. It is crucial for us to consider how we may have found ourselves in this position. A key cause of the problem at hand is the power imbalances between the data workers and the companies that employ them. These workers face serious barriers in building bargaining power and overcoming inequalities in representation.
While as legal scholars we may not be able to control the development of AI technologies, we have some control over the ethical deployment of them. This may be achieved by establishing fair, accountable, transparent and inclusive governing principles that facilitate higher visibility of the duplicity of the technological innovators and their role in the running of 'digital sweatshops'. Therefore, the aim of this paper is to explore the key challenges and potential solutions for governance of AI technologies. To be able to do that we first need to start by defining and implementing ethical principles for the development of AI.
This paper aims to explore the historic development of the concept of Artificial Artificial Intelligence. The paper then seeks to investigate the implications on labour in the digital age. Finally, it will conclude by assessing the state-of-art of governing principles in place for AI technologies.

'Corporate Psychopaths, criminal responsibility, and the limits of technology', Luke Danagher, University of Limerick.
This paper will critically synthesise philosophical, scientific, and legal understandings of responsibility, both moral and criminal, and apply them to the curious case of psychopaths. This paper will resultantly seek to define the various types/degrees of psychopathy and demonstrate how this affects determinations of responsibility. From there, an illustration of the various, and oft-conflicting, approaches to attributing responsibility to psychopaths in the philosophical, legal, and neuroscientific literature will be discussed. This discussion will then be applied to a subset of psychopaths, namely those who are generally classified as 'corporate psychopaths'.

The use of technology to support a finding of psychopathy, in both the legal context and in the neuroscientific world, has grown from relatively crude beginnings to the use of cutting-edge diagnostic equipment and tests. This paper will argue however that while technology and scientific research plays an important role in furthering our understanding of this mental disorder, it has distinct limitations. One must utilise it carefully when assessing the level of responsibility of an offender and it should not replace careful analysis of responsibility in distinct cases and contexts. This paper has important policy implications for judges at the sentencing stage, as well as for researchers in the area of mental disorders and moral/legal responsibility.

'Augmented Humanity & Social Citizenship For Harris, Social Citizenship', Anthony O'Dwyer, South East Technological University.
Augmented Humanity & Social Citizenship For Harris, Social Citizenship '... acknowledges that public authority must be deployed according to moral principles. The appeal to community is an appeal to values to constrain self-interest. The goal is a political system in which citizens take an expansive view of their obligations to their fellows; a system in which the social order is not conceived purely instrumentally as a mechanism to be exploited for personal gain. Citizens are not expected to hold the community to ransom by extracting the highest price possible as a condition of their providing services. The community belongs to everyone equally, though not everyone is in the same position individually to derive advantages from it. Social justice requires that the benefits of social cooperation be fairly distributed, that those who are excluded be included.' The question that this paper attempts to address is how AI may be employed to foster community rather than furthering the challenges wrought by late-capitalism.

6. Healthcare, technology and Human Rights

Chair: Natasha Richardson; Venue: JHT8

'Use and Potential Impact of AI in Healthcare', Lorraine Lally, University College Dublin.
While the integration of AI in healthcare is promising, it is essential to ensure these tools are used ethically and responsibly, with a focus on patient privacy and data security.
AI tools are used in a variety of ways in healthcare, including:
Diagnosis and Screening: AI systems can analyse medical images, lab results, and patient histories to help diagnose diseases such as cancer, heart conditions, and infections more quickly and accurately.
Treatment Planning: AI can assist doctors in developing personalised treatment plans by predicting how a patient might respond to different treatments.
Patient Monitoring: AI can monitor patients in real-time, alerting healthcare providers to potential issues before they become serious.
Administrative Tasks: AI can automate administrative tasks such as scheduling, billing, and managing medical records, freeing up time for healthcare providers to focus on patient care.

Potential Impact of AI in Healthcare
Improved Accuracy: AI can reduce human error, leading to more accurate diagnoses and treatments.
Increased Efficiency: Automating routine tasks allowing healthcare providers to focus more on patient care.
Personalized Medicine: AI enables the creation of personalised treatment plans tailored to individual patients, potentially leading to better outcomes.
Early Detection: AI's ability to quickly analyse vast amounts of data can lead to earlier detection of diseases, which is often crucial for effective treatment.

'Navigating Intersex Rights: Exploring Lived Experiences at the Intersection of Medical Technology and Legal Framework', Somya Dixit, Dublin City University.

Intersex people are born with reproductive or sexual anatomy that does not align with typical binary notions of male or female bodies (UN Free & Equal, 2017). These traits are often stigmatised in medical setups (Garland & Travis, 2018), leading to intersex people facing discrimination, particularly through unnecessary medical interventions aimed at 'fixing' their bodies to fit binary norms (Carpenter, 2016). Advocacy for intersex rights has highlighted the harm caused by these medical practices, prompting some countries to implement policies restricting such medical interventions (Ní Mhuirthile et al., 2022). Nevertheless, the intersex community remains largely hidden (Ní Mhuirthile et al., 2022), resulting in limited data on the effectiveness of existing legal protections (Mestre, 2022; (Bartolo Tabone, 2020)) and perpetuating their marginalisation within medical and legal realms.

This research seeks to bring forth intersex people's lived experiences within the medical and common law systems, focusing on how medical technology intersects with the right to bodily autonomy, and the role of law in protecting their rights. Using Martin Heidegger's hermeneutic phenomenology and Hans-Georg Gadamer's legal hermeneutics, the study focuses on understanding the meaning participants give to their lived experiences and how social and historical contexts shape law (Dibley et al., 2020; (Vertsman, 2022)). Through hermeneutic interviews with intersex individuals, their families, and stakeholders, the research seeks to highlight the interconnectedness between lived experiences, the medical system, and legal frameworks. Ultimately, it aims to provide insights into what it means to be intersex in these systems and inform policies that protect intersex rights.

'Human rights implications of ectogenesis under the European Convention on Human Rights (ECHR)', Alanna Kells, Maynooth University.

Ectogenesis refers to gestation of a fetus within an artificial womb technology (AWT). While full ectogenesis, (gestation entirely within the AWT), is not currently possible, advancements in partial ectogenesis, (transfer of a fetus to AWT during pregnancy), are developing at pace in animal models. As these technologies emerge, it is important to anticipate the legal and ethical challenges that may arise when AWT is applied to human reproduction, particularly regarding the rights and interests of the intended parent(s) and child(ren) born via AWT.

This paper explores the implications of ectogenesis through a human rights framework, specifically focusing on how existing legal provisions under the European Convention on Human Rights (ECHR), can be applied or adapted to protect the human rights of the parties involved. It examines the potential legal and ethical issues of recognising rights for entities gestating within AWT, and the conflicts that may emerge between the rights of the parent(s) and the developing entity.

By analysing, in particular, Articles 2 (right to life) and 8 (right to respect for private and family life) of the ECHR, this paper questions whether current human rights frameworks are adequately equipped to address the novel issues posed by the use of AWT. The discussion highlights the need to re-evaluate legal assumptions based on biological norms, which are likely to be challenged by these emerging reproductive technologies.

This presentation aims to advance the discourse in health law regulation by offering a new perspective on the intersection of human rights and emerging reproductive technologies such as ectogenesis.

2-3.15 p.m.: Plenary session, 'Technology and Humanity: Enabling, Restricting or Prohibiting'

[VENUE: John Hume Lecture Theatre 4]

Chair: Adam Buick

'The Role and Limits of Regulation in an AI-Ascendant World', Deirdre Ahern, Trinity College Dublin & member of Ireland's AI Advisory Council

'Elle's Adventures with Law, Tech & Learning: Tech assisted teaching in the near-future', Lucia Otoyo and Andy Unger, London South Bank University

Andy & Lucia teach Law and Technology to a mixed group of Computing and Law students who design and create access to justice prototype resources for real clients drawn from the local community. They are members of the LSBU AI Working Group and have helped to develop the University's policy on the use of Generative AI. They will introduce their practice and reflect on the potential impact of Generative AI on teaching, learning and assessment in Higher Education through the medium of a comic they created using ChatGPT called Elle's adventures with law, Technology and Learning.

Panel Sessions 3: 3.45-5.15 p.m.

1. **Legal education 2 Communities**

Chair: Norah Burns; Venue: JHT3

'Doctoral Students-as-Partners in Curriculum Development' Niamh Guiry (presenting) and Owen McIntyre, University College Cork.
This paper explores the process and benefits of adopting a doctoral students-as-partners approach to curriculum design and development. Specifically, it discusses how research from the ongoing doctoral project 'Mapping the Legal Influences of and Implications for International Law of the 2030 Sustainable Development Goals' has been used directly to shape teaching and learning practices through the co-creation of a new postgraduate module at University College Cork (UCC) - LW6651 International Law and the Sustainable Development Goals (SDGs).

Established through PhD student-supervisor collaboration, LW6651 is an elective module available to students on the LL.M. Environmental and Natural Resources Law programme in the School of Law, UCC. This module provides students with a critical understanding of sustainable development and explores the complex normative interactivity occurring between the SDGs and the system of international law with a view to understanding the impact and influence of the SDG governance framework on the elaboration, implementation, and interpretation of international law and policy, and vice versa.

In this paper, insights are presented into the practical experiences gained in this research-informed curriculum design and development process including how course learning outcomes and module structure were modelled and built upon ongoing PhD research and the way in which

critical pedagogical methodologies and institutional academic expertise on international environmental, human rights, water resources, and disaster risk and reduction law were incorporated into LW6651 module content. The paper concludes with reflections on this experience as a means to embed doctoral perspectives and novel research outputs into curricula in Higher Education.

'Between Towers and Trenches: when teams teach international human rights law', Norah Burns, Queen's University Belfast. Co-authors Not Presenting: Prof Therese Murphy (QUB), Dr Conall Mallory (QUB), Christine Evans (Raoul Wallenberg Institute of Human Rights & Humanitarian Law), Dr Anna Nilsson (Lund University), Dr Matthew Scott (Raoul Wallenberg Institute of Human Rights & Humanitarian Law & Lund University)

The team teaching of international human rights law (IHRL) at postgraduate level is largely unexplored in pedagogic literature. Indeed, until recent years there has been a general sense that the teaching of IHRL is an undertheorised area.[1] As Tobin notes, 'there is scant guidance and/or reflection on what we are teaching, how we should teach it, and why'.[2] As Coysh states 'there appears to be a general lack of questioning and critique in human rights education practice'.[3] While there is an increasing recognition that how we approach teaching IHRL 'involves a complex set of decisions that are informed by values and judgments that are both overt and invisible to us', recognition that this complexity is amplified by diverse multi-member teaching teams is yet to be addressed.[4] This paper will explore the 'types' of teams that teach graduate courses in IHRL, whether team teaching influences student's perspective on IHRL and finally examines who is considered an expert when teaching IHRL in a university lecture theatre.

'Public Legal Information: How an online resource can enhance participation by vulnerable, minority or disadvantaged groups', Siobhán Cullen and Brónagh Heverin, Atlantic Technological University.

A project aimed to provide legal information to members of the LGBTQI+ community in Donegal commenced in 2021. The project was funded by the Department of Children, Equality, Disability, Integration and Youth under Scheme A: Supporting Community Services for LGBTI+ persons being part of the 2021 LGBTI+ Community Services Funding Call. The objectives were to provide free, interactive workshops to facilitate skill and legal information on the basis that access to legal knowledge would empower participants to understand and assert their legal rights. It was anticipated that this would primarily focus on areas of specific interest to the LGBTI+ community. A key feature was the teaching and learning methodology adopted - accessible, engaging and interactive to positively impact participants and their communities. Participation in the workshops was also be supported by the availability of counselling services should they be required through the Donegal Women's Centre. Despite significant promotion locally, the number of participants was extremely restricted which significantly limited the scope of the project. The evaluation suggested that, despite a need for relevant legal information, there was a marked reluctance to attend legal advice clinics in public forums, especially in what is a relatively small community. As a result, it was decided that online resources would be developed to enable participants to retain their anonymity whilst availing of the legal information. As a

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[1] **Alperhan Babacan and Hurriyet Babacan, 'The Transformative Potential of an Internationalised Human Rights Law Curriculum' (2012) 10 Journal of Transformative Education 199, 211.**

[2] **John Tobin, 'Teaching Human Rights: Four Key Capabilities' in Nehal Bhuta, Florian Hoffmann, Sarah Knuckey, Frédéric Mégret and Margaret Satterthwaite (eds), The Struggle for Human Rights (OUP 2021) 189–203, 190.**

[3] **Joanne Coysh, 'The Dominant Discourse of Human Rights Education: A Critique' (2014) 6 Journal of Human Rights Practice 89, 95.**

[4] **YG Woldeyes and B. Offord 'Decolonizing Human Rights Education: Critical Pedagogy Praxis in Higher Education' (2018) 17(1) International Education Journal: Comparative Perspectives 24–36, 29.**

result, a digital resource was co-created which is now available to service users at Donegal Women's Centre, has been widely used and positively evaluated. As a result, a similar resource will be developed to support migrant women's rights.

'Amplifying Voices: Podcasting as a Reflective Tool in Legal Education and Prison-University Partnerships', Marianne Doherty (presenting), Gillian McNaull and Russell Orr (presenting), Ulster University

The adoption of interactive pedagogical methods, particularly podcasting, is increasingly recognised as an effective approach to enhancing legal education. This innovative tool diversifies educational experiences by fostering active engagement, encouraging deeper critical reflection and placing students at the centre of their learning. In addition to promoting inclusivity and creativity, well-scaffolded podcasting can provide a positive space for collaborative and individual reflection.

This article examines the value of podcasting through the lens of the Ulster Prison Project, a law-focused prison-university partnership between Ulster University and HMP Magilligan in Northern Ireland. Grounded in the pedagogy of the Inside-Out Prison Exchange Program, the project brought together 13 law students from Ulster University (outside students) and 15 students from HMP Magilligan (inside students) for a 12-week study of law and criminal justice. As part of the project, the outside students were tasked with designing, structuring, and delivering four 1-hour podcasts for the University's UU Talks Law series, focusing on key themes emerging from their prison-based classes.

The authors advocate for the integration of podcasting as a core pedagogical tool in legal education and more specifically, in law-focused prison-university partnerships. They emphasise the potential to foster meaningful dialogue and a nuanced understanding of justice and imprisonment through podcasting.

2. Legal theory and plurality

Chair: Etáin Quigley; Venue: JHT4

'Developing the theory of Plurality in Understanding the Right to Freedom of Religion', Sahar Ahmed, Griffith College Dublin.

There is much scope for collaboration and interdisciplinary research between Law and Religious Studies, particularly in Ireland, where the relationship between law and religion has always been complicated, but the two fields often tend to work in silos. This paper examines the work being undertaken through the Royal Irish Academy's Charlemont Grant, which I was awarded in 2023, to travel to Cape Town, South Africa, to explore the development of the Theory of Plurality or Pluralism as a valid form of understanding and interpreting International Human Rights Law (IHRL) on the Right to Freedom of Religion and Rights of Religious Minorities.

The two-week research visit to Cape Town, South Africa, to the Desmond Tutu Centre for Religion and Social Justice, University of the Western Cape, was to work with Dr. Lee Scharnick-Udemans, Senior Researcher, who focuses on religious diversity and pluralism. The Desmond Tutu Centre in general, and Dr. Scharnick-Udemans in particular, are doing ground breaking research on exploring intersectional ways of understanding religion's place in the world. Taking our combined expertise in the subject through the lens of Law, the project aimed to develop a new theoretical framework and using the resources at the Centre to develop a theory of plurality that is rooted in ground-breaking scholarship yet applicable to the law and its purposes. This paper explores the learnings from that trip and thinks through steps forward to advance the project beyond the Grant.

'Private Law Theory - on the up-and-up, or over the hill?', Steve Hedley, University College Cork.
How can we make sense of private law? It often seems stuck in the past. Real property and equity constantly reference their medieval roots. Contract and tort seem more modern, but they too inhabit a world where 'carbolic smoke balls' are the best that can be offered against epidemic respiratory diseases, and soft drink manufacture takes place in snail-infested tenement houses. Through the continued efforts of private law lecturers, these rather antiquated legal materials still serve as foundations for understanding much of the modern legal system. Yet what has been built on top of those foundations seems to have a very different character. Private law theorists, who try to make sense of all of this, tend to take one of two different approaches. The first is conceptual, looking back to identify unifying themes, and reconciling them with the modern law. The second is purposive, justifying the law n historically but by the social goods supposed to follow from it. Between those views – one looking backward, the other forward – are a host of different perspectives, with differing weights are attached to continuity with the law's past and promotion of law's future utility. All of which results in much confusion. In this paper, I sketch the landscape of modern private law theory. While usually treated as an inherently conflictual area where incompatible approaches vie hopelessly against one another, it seems more fruitful to treat it as different but mutually enriching approaches.

'Affective Law: From the Trees to the Wood', John Stannard, Queen's University Belfast.
Much has been written in recent years about the relationship between law on the one hand and feeling, affect or emotion on the other. In the past law has been considered as essentially the province of reason, the assumption being that, in the words of one leading scholar in the field, there is a world of difference between reason and emotion, that the sphere of law admits only of reason, and that in this sphere it is essential to keep emotional factors out of the picture. However, this assumption has come under increasing challenge in the last twenty five years, as can be seen by an ever-growing body of literature in the field. That said, one of the difficulties of study in this area is the variety of disciplines and research silos under which it is done, including not only what might be termed law and emotion proper, but also law and psychology, therapeutic jurisprudence, alternative dispute resolution and the restorative justice movement. The aim of this paper is to consider how these disparate fields relate to one another, and the extent to which they might be brought together under the umbrella of what might be termed 'affective law'.

3. Family law

Chair: Maebh Harding; Venue: JHT5

'Piercing the Shroud: Conducting family law research using the researcher exception to the *in camera* rule', Méabh Browne, Technological University Dublin.
The in camera rule creates barriers to collecting information on family law cases at Circuit Court level, where there are typically no law reports and no written judgements published. As a result, there is a lacuna of data on the application of Ireland's divorce legislation and procedure. Despite the introduction of a statutory exception permitting researcher attendance, no empirical

data has been collected in this area since 2013. This article outlines the researcher's experience of obtaining permission to conduct family law research in the Circuit Family Court using the statutory exception to the in camera rule. It examines the language of the statutory exception, the process for obtaining ministerial permission and liaising with the courts service, and the practical elements of physically attending in camera cases. It analyses the existing issues with the in camera rule and the statutory exception, flagging the barriers to research, as well as investigating governmental proposals for research and reform in this area. Finally, it makes suggestions for reform of the statutory exception, to facilitate future research and ensure evidence-based reform of family law.

'Dependent Spouses and ancillary relief – a review of cases in the High Court', Deirdre McGowan, Technological University Dublin.
This article reports the results of a comprehensive review of all High Court ancillary relief decisions between January 2000 and December 2022. In addition to general information regarding the types of case (judicial separation or divorce), length of marriage and number of children, it focuses specifically on the prevalence of dependency model marriages and clean break awards at this level. The results are contextualised with an overview of appellate decisions in the area and analysed from the perspective of how care is valued by the court.

'Codifying Nullity Law: the case for a consolidated statutory provision on decrees of nullity of marriage', Fergus Ryan, Maynooth University.
A decree of nullity of marriage is a formal declaration by a court that a valid marriage does not exist and never existed between two parties, notwithstanding the fact that they may have gone through a formal marriage ceremony with each other. In Ireland, the grounds upon which such a decree may be granted are based on a mixture of case law and miscellaneous legislative provisions scattered across a variety of diverse and sometimes very old sources. By contrast, in Northern Ireland, the grounds for nullity are set out in a single statutory provision. In Ireland, the grounds for nullity of civil partnership are similarly codified. In Ireland, while the statutory impediments to marriage partially mirror some of the grounds of nullity, the grounds of nullity themselves are not comprehensively listed in any one authoritative statute. This potentially gives rise to a lack of certainty and accessibility of grounds, particular as some of the sources are very dated. Consolidation and codification of the grounds might provide an opportunity to reflect on and refine the grounds, and possibly also lead to reforms of some outdated provisions and gaps in the nullity code (particularly around reliefs following a decree) Equally, however, the task of codification may be complex and time-consuming relative to the benefits; comparatively few decrees are sought or granted each year.

4. Law, code and information

Chair: Cydney Sheridan; Venue: JHT6

'The Digital Services Act, disinformation and "dark patterns"', Fiona O'Malley, University College Cork.
My paper will argue why "dark patterns" should be considered a form of disinformation. "Dark patterns" are described in the DSA (Digital Services Act) as 'practices that materially distort or impair, either on purpose or in effect, the ability of recipients of the service to make autonomous and informed choices or decisions' (Recital 67). Dark patterns should be considered a form of disinformation in that they deliberately mislead users into making choices they didn't intend to make with false information. Dark patterns align with the concept of disinformation because they

impair fully informed decisions through concealing or misrepresenting. They disinform (deliberately misinform), therefore, dark patterns should be considered a form of disinformation. If dark patterns are considered a form of disinformation, they could be included in the content that the VLOPs (Very Large Online Platforms) and VLOSEs (Very Large Online Search Engines) signatories aim to regulate in the Code of Practice on Disinformation. The Code of Practice on Disinformation is currently a voluntary code, with no real teeth (seen in the fact that X pulled out of the signatory list without any repercussions). Leiser suggests that the Code of Practice on Disinformation may become a more powerful instrument in the future – 'it is perfectly acceptable for a Digital Services Coordinator to mandate compliance with the Enhanced Code of Practice on Disinformation if it gains status as an official "Code of Conduct".'

'Code is F(law)ed: DAOs and the Continuing Need for Contract Law', Cormac Kilkenny, Dublin City University.

Decentralised Autonomous Organisations (DAOs) are a new form of virtual business, facilitated by the blockchain, in which the processes of the organisation are conducted primarily by computer code. DAOs are formed using a multilateral network of smart contracts which automate parties' obligations to one another. As such, little or no human involvement is necessary for their management once their cyber infrastructure has been deployed online. This paper argues that DAOs are problematic for contract law because of the prevailing view that "code is law", and that the courts must use contract law to uphold parties' intentions rather than defer entirely to the code. Proponents of the "code is law" philosophy argue that the output of a smart contract's code ought to be upheld notwithstanding any defects in its performance.

The code is law approach first notably found support within blockchain ecosystems when the first DAO was hacked in 2016, but its judicial development began in the Singapore Court of Appeal in Quoine Pte Ltd v B2C2 Ltd [2020] SGCA(I). In that case, an oversight in the computer-coded contract which executed a cryptocurrency trade at 250 times the market value was upheld despite a mistake made by Quoine's software developer on the basis that the code performed as it was instructed. This paper argues that the reasoning in Quoine may be persuasive to the courts in other common law jurisdictions and therefore, parties may not recover for financial loss attributed to the smart contracts which constitute a DAO. To counteract its effect, this paper argues that the courts must treat smart contracts as mere tools for performing agreements used by DAOs and their participants rather than accepting that the code is the contract.

'Copyright and AI training data – transparency to the rescue?', Adam Buick, Ulster University.

Generative AI models must be trained on vast quantities of data, much of which is composed of copyrighted material. However, AI developers frequently use such content without seeking permission from rightsholders, leading to calls for requirements to disclose information on the contents of AI training data. These demands have won an early success through the inclusion of such requirements in the EU's AI Act.

While such requirements offer benefits, this paper argues that transparency alone cannot rescue us from the difficult question of how best to respond to the fundamental challenges generative AI poses to copyright law. The impact of transparency requirements is contingent on existing copyright laws; if these do not adequately address the issues raised by generative AI, transparency will not provide a solution. This is exemplified by the transparency requirements of the AI Act, which are explicitly designed to facilitate the enforcement of the right to opt-out of text and data mining under the CDSM Directive. Because the transparency requirements do not sufficiently address the underlying flaws of this opt-out, they are unlikely to provide any meaningful improvement to the position of individual rightsholders.

Transparency requirements are thus a necessary but not sufficient measure to achieve a fair and equitable balance between innovation and protection for rightsholders. Policymakers must therefore look beyond such requirements and consider further action to address the complex challenge presented to copyright law by generative AI.

5. AI and technological frameworks

Chair: Maria Murphy; Venue: JHT7

'Does Ireland address the needs of image-based sexual abuse victims when seeking redress?: An analysis of the Online Safety and Media Regulation Act 2022 in the context of image-based sexual abuse', Emer Shannon, Atlantic Technological University.
As technology and social media continually infiltrate daily life, the recording and/or sharing of intimate images without consent known as image-based sexual abuse (IBSA) remains a challenging issue for humanity. Remediating harm in the world of the internet where both identities and jurisdictional boundaries are blurred is challenging often leaving victims of IBSA without an effective remedy. While various legislative measures have been implemented globally to combat these harmful behaviours, enforcement challenges remain and the needs of victims often remain unaddressed.

In Ireland, IBSA was criminalised in late 2020 under the Harassment, Harmful Communications and Related Offences Act. While this legislation was an important step, the criminalisation of IBSA alone is insufficient in adequately addressing the harms of IBSA. In particular, the criminalisation of IBSA does not necessarily address the priority of many victims which is to first regain control of their intimate image and later prosecute their perpetrator.

In 2022, the Irish Government implemented the Online Safety and Media Regulation Act (OSMRA). The OSMRA is a substantial piece of legislation designed to achieve several diverse goals including provision for the regulation of online safety in Ireland. This was a significant development for victims for IBSA as the OSMRA has the potential to provide a different type of remedy for victims of IBSA compared to that of the criminal justice system.

This paper identifies the key needs of victims of IBSA and analyses whether the most recent legislative innovation – the OSMRA – addresses the key needs, at least in part. This paper examines the relevant sections of the OSMRA from the perspective of victims of IBSA and aims to provide recommendations on how it can better remedy victims of IBSA.

'Fundamental Rights Impact Assessments in the EU AI Act: Promises, Challenges and Pitfalls', Marta Lasek-Markey, Trinity College Dublin.
One feature of high-risk AI systems, as regulated in the recently enacted EU AI Act, is the requirement that a fundamental rights impact assessment (FRIA) be carried out. The purpose of this paper is to analyse the adequacy of FRIAs as a means of safeguarding human rights in the context of high-risk AI systems and to identify limitations that need to be addressed if FRIAs are to provide the protections expected of them in the AI Act. The paper begins by identifying fundamental rights referenced in the AI Act and links these to the provisions of the EU Charter of Fundamental Rights. It is argued that, in addition to the 23 rights identified by the AI Act, AI has the potential to impact nearly all substantive rights of the Charter. With Article 27 of the AI Act as the baseline context, the paper then analyses the 'genre' of impact assessments. Drawing on this analysis the paper highlights limitations in the conceptualisation of FRIAs that will compromise their capacity to identify and mitigate the fundamental rights impacts of AI. The

paper concludes by arguing that meaningful FRIAs in AI will likely require recourse to frameworks unconventional in EU Law, such as intersectionality and the vulnerable subject theory.

'Would *you* like to verify your account? The potential applications of blockchain technologies in safeguarding and empowering users of AI implementations in light of the AI Act 2024 and Cybersecurity Bill 2024', Romy Higgins, McCann Fitzgerald LLP (presenting in personal capacity).
The core focus of this paper is the widespread development of end-user trust in AI platforms and technology broadly. This paper considers the ongoing social and legal discourse around the implementation of AI technologies in a rapidly-developing field, highlighting the key concerns and opportunities expressed by lawyers and laypeople alike. It examines some of the more relevant provisions of the EU Artificial Intelligence Act 2024 ("the AI Act"), analysing the measures implemented thereunder where relevant. It then analyses in particular the risks-based approach under the AI Act and identifies the developing AI areas of most concern on a European level. The paper then turns to consider the potential for blockchain technologies to act as effective verification tools, particularly by virtue of the fundamental exercise of consensus for confirming originality and authenticity. This paper proposes that providing an effective verification tool is essential for promoting, encouraging reliance and fostering trust in a variety of existing, beneficial AI platforms. The legal barriers to such blockchain implementations are discussed, with a brief review of some of the proposed provisions of the current National Cyber Security Bill 2024 ("the Cybersecurity Bill") where relevant.

6. "The Role of the EU in Advancing Disability Rights: Internal and External Dimensions" – pre-organised Panel

Chair: Delia Ferri; **Venue: JHT8**

DANCING

This project has received funding from the European Research Council (ERC) under the European Union's Horizon 2020 Research and Innovation programme (grant agreement No. 864182).

Panel description:
Disability issues have featured to different degrees in the process of European integration and progressively consolidated in a European Union (EU) disability acquis. This panel critically addresses the role of the EU in advancing disability rights internally and externally. It analyses the role of the European Commission, evaluates the EU's external actions, and the impact of EU non-discrimination law and cultural action in advancing disability rights. In particular the panel presents interim findings of the European Research Council (ERC) funded project 'Protecting the Right to Culture of Persons with Disabilities and Enhancing Cultural Diversity through European Union Law: Exploring New Paths – DANCING' led by Professor Delia Ferri. It consists of three papers and will be chaired by Prof. Delia Ferri. The first paper, presented by Eva Sophie Krolla (early career researcher in DANCING), focuses on the role of the European Commission as a leading institutional actor within the EU legal order and as driving force behind the development of EU disability law as a distinct field of EU action. The following paper

presented by Iryna Tekuchova (PhD Candidate in DANCING) investigates the role of the EU in protecting and promoting the rights of persons with disabilities in the context of the Eastern Partnerships and illustrated by a case study on Ukraine. The third paper, presented by Léa Urzel Francil (PhD Candidate in DANCING), is a case study looking at the role of EU law and specifically the Employment Equality Directive and the Creative Europe programme in protecting the right to cultural participation of persons with disabilities. Prof Delia Ferri in her role of chair will also act as discussant teasing out connections between the papers and the role of the EU in advancing disability rights internally as well as externally.

Paper Abstracts:

The European Commission as Driving Force in Shaping EU Disability Law
By Eva Sophie Krolla (early career researcher DANCING; Maynooth University School of Law and Criminology)

Based on desk-based research and a set of qualitative semi-structured interviews with European Union (EU) policymakers conducted under remit of the larger European Research Council project 'Protecting the Right to Culture of Persons with Disabilities and Enhancing Cultural Diversity through European Union Law: Exploring New Paths (DANCING)', this contribution is based on a chapter prepared for a forthcoming volume on 'Actors and Roles in EU Disability Law'. Considering how and to what extent disability features in EU constitutional law the chapter traces the milestones in advancing disability rights within the EU legal order and specifically interrogates which role(s) the European Commission assumed in the advancement of the growing EU disability acquis. The chapter argues that the European Commission has been decisive in protecting and promoting disability rights by way of setting the disability agenda, initiating relevant disability provisions and disability-specific legislation and monitoring the implementation of EU disability law at Member State level. By contextualising the European Commission as an institutional actor within the EU legal order the contribution moreover investigates the interaction with other EU institutional and non-institutional actors in the area of disability law and the inherent constraints of its mandate to act on disability matters. Yet, the European Commission's latest efforts to put in place participatory mechanisms to involve persons with disabilities are also examined to gauge the effects of these tools and the future potential of the European Commission as institutional driving force behind the advancement of EU disability law.

The Global Reach of EU Disability Law: The EU as an Actor in Advancing Disability Rights in Eastern Partnership Countries
By Iryna Tekuchova (PhD Candidate DANCING; Maynooth University School of Law and Criminology)

The conclusion of the UN Convention on the Rights of Persons with Disabilities (CRPD) by the European Union (EU) in 2010 functioned as a catalyst in advancing disability rights internally, but also externally. In the European Disability Strategy 2010-2020, released to facilitate the implementation of the CRPD, the EU set out its role as advocate for the rights of persons with

disabilities outside its jurisdiction and renewed this objective in the current Strategy for the Rights of Persons with Disabilities 2021-2030. This aim is also reflected in the EU's policy under the Eastern Partnership under which the EU has tried to enhance the protection of disability rights. This contribution considers the case study of Ukraine whose evolving relationship with the EU and now candidate status in the context of the ongoing war is informed by the Association Agreement (AA) signed in 2014. The AA impacted on the domestic regulatory and legal framework of Ukraine in the disability domain, and although disability matters were not explicitly addressed in the body of the agreement, the Annexes to various chapters of the document outline a set of regulations to be transposed in domestic legal order. Numerous legal acts that Ukraine should adopt to align with EU directives and regulations, mainstream disability rights. On the whole, it appears that the legal approximation process facilitated by the AA has prompted Ukraine to enhance mechanisms for protection and promotion of rights of people with disabilities.

Addressing the Challenges faced by Persons with Disabilities in the Cultural and Creative Sectors: The EU as a Key Actor?
By Léa Urzel Francil (PhD Candidate DANCING; Maynooth University School of Law and Criminology)

The paper examines the role that European Union (EU) law plays in advancing the participation of persons with disabilities in cultural life. In this connection, it specifically focuses on persons with disabilities as professionals in the cultural and creative sectors (CCS) and highlights the importance of doing so. Indeed, working in the CCS is often perceived as a specific exercise which differs from the mainstream labour market, and as such is often thought to not fall under the common regulatory framework. On the basis of a qualitative study carried out under the remit of the ERC DANCING Project 'Protecting the Right to Culture of Persons with Disabilities and Enhancing Cultural Diversity through European Union Law: Exploring New Paths', this paper first highlights the existing challenges faced by cultural and creative professionals in the EU, as well as the unique set of barriers experienced by those professionals with disabilities. Adopting a socio-legal approach, the paper then discusses two EU instruments – the Employment Equality Directive and the Creative Europe Programme – and how they may benefit professionals with disabilities. Starting with EU anti-discrimination legislation, it highlights how the Employment Equality Directive contributes to advancing the participation of cultural and creative professionals with disabilities, with a particular emphasis on the provision of reasonable accommodation. Finally, it considers how the cultural action of the EU can help to promote equal opportunities for persons with disabilities in the CCS through the Creative Europe Programme.

7. Legal profession and diversity

Chair: Obele Akinniranye; **Venue: John Hume Boardroom**

'Women Judges Are Important: An examination of the perception of legal stakeholders', Caoimhe Kiernan, Technological University Dublin
In 2021, online surveys were disseminated to Irish solicitors, barristers, Professional Practice Course students, and Barrister-at-Law students. These surveys were an exploratory exercise

to see whether survey participants believed gender diversity in the judiciary to be important, and if so, why. By analysing and disseminating the results of this survey research, I address the question of whether women judges are perceived as important.

In Ireland in 2024, women judges represent 43% of the judiciary. The most recent statistics revealed that women represent 65% of the 7,850 students studying law in all Higher Education Authority funded Higher Education Institutions in Ireland, 53% of all practising Irish solicitors are women, and 37% of all practising Irish barristers are women.
To address my research question, I will introduce the arguments for judicial diversity, before examining the themes which emerged in the survey answers. I will also briefly address an empirical study of women's judicial opinions and the importance of the perception of reality. As part of this presentation, I will also discuss the success and obstacles faced when conducting survey research as part of Ph.D. research.

'Predictive Justice: Towards a Major Anthropological Break?', Clémence Pellisier, Trinity College Dublin.

On an earth devastated by a nuclear war, and almost abandoned by humankind, the religion of 'mercantism' derives from enabling its followers to 'feel the emotion of Jesus' via an 'empathy box' (in Blade runner, Philip K. Dick, 1968). This robotic empathy box calls into question the relevance of the criteria for distinguishing between man and the rest of the world. Here, the problem is the question of empathy. But would the question be different if it were a question of judgement? In other words: could we create a 'judgement' box, like the one for empathy?

Current legal and technological developments suggest that such a machine could exist. In France, the decree of 27 March 2022 launched the 'DataJust' project.The aim is to set up an algorithm to calculate the amount of compensation for personal injury. This project is part of the overall development of the use of AI in the courts. For some legal experts, this is a 'culture shock', i.e. a problematic interference of neoliberal methods in the judicial world (Lassegue and Garapon, 2018), or a mismatch between legal logic and arithmetic logic (Babeau Alexandre, 2023). There are also advocates of predictive justice, arguing that this mechanism is easier to understand, more accessible and more transparent (Sauve, 2018).

These debates raise the question of what the increasing mechanisation of justice means anthropologically. While the machine has always been thought of as an 'extension of the human being' (Leroi-Gourhan, 1963; Sigaut, 2022), the current development of technologies is calling this traditional relationship into question (Anders, 2002; Rosa, 2012). The legal world is a privileged witness to this evolution. Specifically, predictive justice is a profound challenge to the relationship between humans and machines.

This paper uses the anthropology of technology and the Frankfurt School's theory as a starting point for thinking about this question of legal theory.

'Key actions identified in the LRSA report regarding barriers to entry to the legal profession and suggestions for increasing diversity and inclusion at entry level', Jonathan Patel, Law Society.