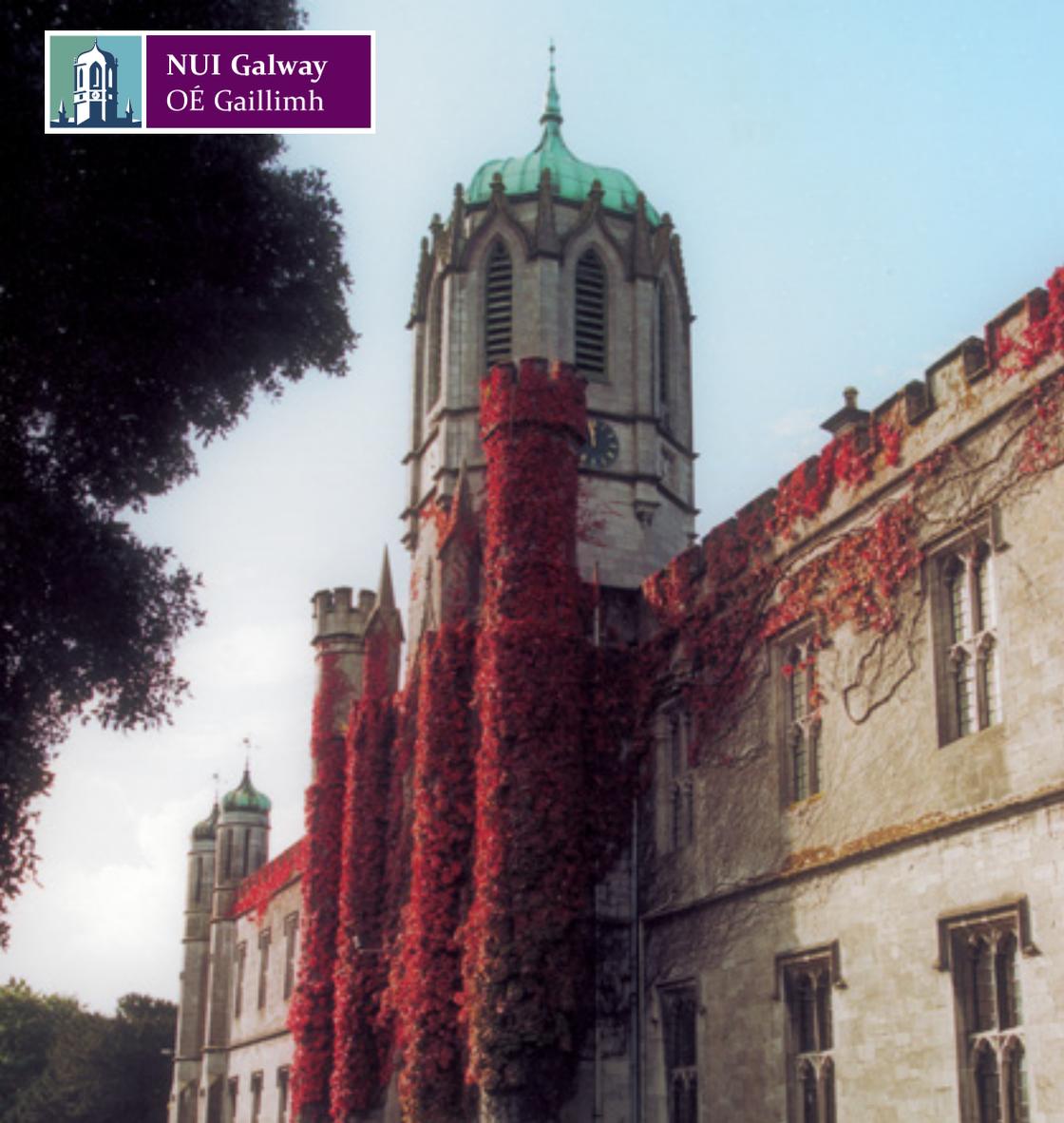




NUI Galway
OÉ Gaillimh



Supreme Court Visit to NUI Galway

4-6 March, 2019



Welcoming the Supreme Court to NUI Galway

4-6 March, 2019

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Welcome from the Head of School

We are greatly honoured to host the historic sittings of the Irish Supreme Court at NUI Galway this spring.

This is the first time that the Supreme Court will sit outside of a courthouse since the Four Courts reopened in 1932, the first time the court sits in Galway, and only its third time to sit outside of Dublin.

To mark the importance of this occasion, we are running a series of events on campus for the public and for our students.

I would like to thank the Chief Justice and members of the Supreme Court for participating in these events and for giving their time so generously.



Dr Charles O'Mahony, Head of School, NUI Galway

We are particularly grateful for the Supreme Court's willingness to engage with our students. As one of Ireland's leading Law Schools, our key focus is on the development of both critical thinking and adaptability in our future legal professionals. This includes the ability to engage in depth with the new legal challenges arising from social change, and to analyse and apply the law to developing legal problems. The Supreme Court's participation in student seminars on a wide range of current legal issues is not only deeply exciting for our students, but offers them an excellent opportunity to appreciate at first hand the importance of rigorous legal analysis, and the balance between

necessary judicial creativity and maintaining the rule of law. Our students will also be able to avail of unparalleled opportunities to ask questions of some of our leading judicial minds, on topics of direct relevance to their legal development.

Student seminars, led by members of the Supreme Court, on the following topics are part of the programme of events: Tribunals of Inquiry, Workplace Bullying, Consent in relation to Sexual Offences and other Offences against the Person, Restriction & Disqualification of Company Directors, The Role of the Judge, Separation of Powers, and Disability in the Courts. We will also host a public event titled 'Women on Supreme Courts'. Speakers at this event include Mrs Justice Catherine McGuinness, Chief Justice Matilda Twomey of the Seychelles, Mr Justice John MacMenamin and Ms Justice Elizabeth Dunne.

The Supreme Court's engagement with the community and with our law students promotes the rule of law and the concept of open justice, and provides opportunities for greater comprehension of the important role of the Supreme Court. It is also a timely and fitting way to celebrate 170 years of teaching law and of legal scholarship here at NUI Galway. It is therefore with great excitement that we welcome the Supreme Court to Galway and to the West of Ireland.

Sincerely yours



Charles O'Mahony

Head of the School of Law
NUI Galway

The School of Law at NUI Galway

NUI Galway, previously known as Queen's College Galway, was established in 1845 on foot of the Queen's Colleges (Ireland) Act, enacted "for the better advancement of learning among all classes of Her Majesty's subjects in Ireland". Law was one of the three founding faculties of the new institution, and the first students were accepted in October 1849. Two law professors, Denis Caulfield and Hugh Law, were appointed and helped to develop one of the most innovative and substantial law programmes then in existence, consisting of a three-year Diploma of Elementary Law and a postgraduate Bachelor of Laws (LLB) degree. Professor Law noted in 1851 a guiding philosophy of the teaching of law at Galway:

The Queen's Colleges have been the first practically to recognise and adopt the principle that it is but right to impart to the youth of this country some elementary knowledge of that law from which they cannot escape and by whose rules they must be controlled and guided whatever hereafter may be their walk in life; as well so also to provide assistance to the professional student in his abstruse and more tedious course of labour.

The emphasis on innovation, practicality and professional preparation apparent from the first days of the university continue to guide the teaching of law at NUI Galway. Alongside the postgraduate LLB programme, NUI Galway pioneered the interdisciplinary approach to teaching law that has now become so common in Ireland. Today, the School of Law offers a suite of law degrees to suit all interests. The School of Law offers three direct entry law undergraduate degrees:

- Law (BCL)
- Law (BCL) & Human Rights
- Law & Business

From 2020, the School will offer another unique law degree:

- Law and Taxation

In keeping with our tradition of innovation, in all of our undergraduate programmes students will find a unique focus on developing legal skills – researching the law, reading and interpreting statutes using case law. Students will participate in mootings, a simulated courtroom experience, building on

their oral argument and critical thinking skills. Additionally, all students will have the opportunity to participate either in Professional Work Placement or to study in a partner university in another country in their third year. All students will also have the opportunity to take modern languages as part of their programme of study. Students can also tailor their degree by selecting a specialism stream in an area of law or business that is of interest to them.

In addition to its teaching programmes, the School of Law has a reputation for excellence in research. In 1980, Professor Kevin Boyle established the Irish Centre for Human Rights, which today is a world-renowned centre for the study and promotion of human rights and humanitarian law. Since 2000, it has offered a suite of postgraduate degrees and attracts students from around the world. The School also hosts the Centre for Disability Law and Policy, founded to develop the study of disability law in Ireland and internationally. Most recently, the School formed the Centre for Housing Law, Rights and Policy Research, under the directorship of Dr. Padraic Kenna. Other School members have national and international reputations in the fields of constitutional law, criminal law, equality and legal theory.

Welcome to the School of Law at NUI Galway!

www.nuigalway.ie/law



The Supreme Court of Ireland

The Supreme Court is the highest court in the land, the ultimate arbiter of the law. Prior to Independence, this function was reserved for the House of Lords in Westminster, and the courts in Ireland largely mirrored those in England. Thus the structure of the courts was itself a reminder of Britain's subjugation of Ireland. With the creation of the Irish Free State in December 1922, one of the first tasks was to establish a new court system: W.T. Cosgrave, President of the Free State's Executive Council, wrote in January 1922 that "there is nothing more prized among our newly won liberties than the liberty to construct a system of judiciary and an administration of law and justice according to the dictates of our needs and after a pattern of our own designing." Legislation enacted in 1924 – the Courts of Justice Act – created this new court system, including a Supreme Court as the final court of appeal in Ireland, subject to an exceptional right of appeal to the Privy Council in London. By 1935, this final right of appeal had been abolished, and the Supreme Court – the predecessor of the current Court – became the ultimate court of appeal in Ireland. In 1937, our current Constitution took effect, Article 34 of which sketched a new court system. Legislation to establish these new courts was enacted in 1961, and it is from 1961 that the current Supreme Court dates.

The Court is comprised of a Chief Justice and nine ordinary justices; the presidents of the Court of Appeal and the High Court are *ex officio* members of the Supreme Court as well. The Constitution guarantees the independence of all members of the judiciary: Judges are forbidden to be members of the Oireachtas or to hold any other office or paid position, and their remuneration may not be reduced while in office. The Supreme Court's primary function is to act as the final court of appeal for this country. Since the 33rd Amendment of the Constitution in 2014, which created the Court of Appeal, the Supreme Court will hear appeals only in exceptional cases involving matters of public importance. The Court also acts as a court of first instance on two occasions: to determine incapacity on the part of the President, and more commonly, to decide the constitutionality of bills referred to it by the President under Article 26. Legislation that survives an Article 26 reference is immune from further constitutional challenge.

Using its constitutional power, the Supreme Court has developed a distinctly Irish jurisprudence that has helped to guide the development of our country.

In *Ryan v. Attorney General* (1965), the Court laid the foundation for a doctrine of unspecified constitutional rights. Upon this foundation the Court has identified, among others, a right to marital privacy and a general right of privacy, a right to earn a living, a right to travel, and to marry and found a family. In *Crotty v. An Taoiseach* (1987), the Court ruled that elements of the Single European Act could not be ratified by the State without the consent of the people. As a result, Irish people have a greater say in the development of the European Union than the people of any other country. And in *McKenna v. Ireland* (No.2) (1995), the Court ruled that the government may not use public monies to advocate for a particular result in a constitutional referendum.

By tradition, the Supreme Court, like its predecessor court, has a permanent seat in the Four Courts in Dublin. With the exception of the post-Civil War period, when the Court sat at Dublin Castle while the Four Courts was repaired, the Court has always sat in a formal, purpose-built courtroom, as it did when sitting in Cork and Limerick. By sitting in the Aula Maxima at the National University of Ireland, the Supreme Court has for the first time chosen to conduct its judicial business in a non-court setting.



The Judges of the Supreme Court

The Hon. Mr. Justice Frank Clarke Chief Justice

Mr. Justice Frank Clarke was appointed the 12th Chief Justice of Ireland on the 28th July, 2017, by the President of Ireland Michael D. Higgins.

Chief Justice Clarke was born in Dublin and educated Drimnagh Castle CBS, University College Dublin (B.A. in Mathematics and Economics), The Honorable Society of King's Inns (B.L.)

Having completed his legal studies at The Honorable Society of King's Inns he was called to the Bar in 1973 and to the Inner Bar in 1985. He practiced mainly in the commercial and public law fields (including constitutional law) and was twice appointed by the Supreme Court as counsel to present argument on references of Bills to the Supreme Court by the President under Article 26 of the Constitution. He also acted as counsel to the Public Accounts Committee on its inquiry into the DIRT tax issue and was external counsel to the Commission to Inquiry into Child Abuse (Laffoy and Ryan Commissions). In 1994, Mr. Justice Clarke became a Bencher of the Honorable Society of King's Inns. He was elected as an honorary member of the Canadian Bar Association in 1994, and admitted as an honorary member of the Australian Bar Association in 2002. In 2018, he was made an honorary Bencher of The Honorable Society of the Middle Temple.

While at the Bar Mr. Justice Clarke served for many years on the Bar Council including for a term of two years (1993-1995) as its Chair. He also served as Chair of the Council of King's Inns from 1999 until 2004. He was a member of the Council of the International Bar Association from 1997 to 2004, serving as co-Chair of the Forum for Barristers and Advocates (the international representative body for the independent referral bars) from 1998 to 2002.

Mr. Justice Clarke was appointed a judge of the High Court in 2004 and was mainly assigned to the Commercial list and also presided over the

establishment of the Chancery and Non-Jury List in Cork. While a judge of the High Court, he was chairman of the Referendum Commission on the 28th Amendment of the Constitution (Lisbon Treaty II) in 2009.

In 2012, Chief Justice Clarke was appointed as a judge of the Supreme Court. Since 2013, he has been a representative of the Supreme Court on the Association of Supreme Administrative Courts of the European Union (ACA-Europe). On his appointment as Chief Justice, he became a Member of the Network of the Presidents of the Supreme Judicial Courts of the European Union and was elected a member of the Board of that Network in 2018.



Chief Justice Clarke has since March 2018 been a member of the panel provided for in Article 255 of the Treaty on the Functioning of the European Union, the function of which is to provide an opinion on the suitability of persons for appointment as Judge and Advocate General of the Court of Justice and General Court of the European Union.

In the academic field Mr. Justice Clarke was a professor at King's Inns from 1978 to 1985 and has been Judge in Residence at Griffith College Dublin from 2010 to date. He was appointed Adjunct Professor in the Law School in Trinity College, Dublin in September 2012, and Adjunct Professor of University College Cork in 2013. He was awarded the Griffith College Distinguished Fellowship Award in 2017.

The Hon. Mr. Justice Donal O'Donnell

Mr. Justice O'Donnell was appointed to the Supreme Court in 2010.

Mr. Justice Donal O'Donnell was born in Belfast and educated at St. Mary's C.B.S., University College Dublin (B.C.L.), The Honorable Society of King's Inns (B.L.) and the University of Virginia (LL.M.).

Judge O'Donnell was called to the Bar of Ireland in 1982, commenced practice in 1983 and was called to the Bar of Northern Ireland in 1989. In 1995, he was appointed Senior Counsel and has practised in all the Courts of Ireland, in the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECtHR).



In 2009, he became a Bencher of the Honorable Society of King's Inns.

The Hon. Mr. Justice William M. McKechnie

Mr. Justice McKechnie was educated at Presentation Brothers College and University College Cork, from which he graduated in 1971, University College, Dublin and King's Inns, Dublin. He was called to the Bar in 1971, and admitted to the Inner Bar in 1987. As a barrister he practised in the area of commercial, chancery and local authority law and had a special interest in medical negligence.

He held a number of senior positions in the Bar Council of Ireland for several years and was elected Chairman in 1999, and re-elected in 2000.

He was appointed a High Court Judge in 2000 and took charge of the competition list from 2004 to 2010. As such, he presided over all competition cases, both civil and criminal. He made the first Declaration of Incompatibility under the European Convention on Human Rights Act 2003, in the transgender case of *Foy v. An tArd Chlaraitheoir*, which was instrumental in bringing about significant changes in that area of law.

Mr. Justice McKechnie was Chairman of the Valuation Tribunal from 1995 to 2000, and from 2002 was the Chairperson of the Editorial Board of the Judicial Studies Institute Journal. He has been a member of the Courts Services Board for several years, as well as the Rules Making Committee. He is a member of the Executive Council of the Association of Judges of Ireland and is heavily involved with the European Law Institute.



The Hon. Mr. Justice William M. McKechnie

He was appointed to the Supreme Court in June, 2010.

In 2010 he was elected President of the Association of European Competition Law Judges, which represents each of the 27 Member States of the European Union, as well as judges from the Court of Justice and the General Court of the European Union, and from the EFTA Court. He is the third President of the Association following Sir Christopher Bellamy and Dr. Joachim Bornkamm. He holds a Masters Degree in European Law.

He has written several papers, participated in and presided over many conferences and delivered the Fourth Annual CCJHR Lecture at UCC on 4th March, 2010.

He is a Bencher of the Honourable Society of King's Inns.

The Hon. Mr. Justice John MacMenamin

Mr. Justice John MacMenamin was appointed to the Supreme Court in 2012.

He was born in Dublin, and educated at Terenure College, University College Dublin, (B.A. (History)), The Honorable Society of Kings Inns (B.L.). As a student he was a Council Member of the Free Legal Advice Centres, and was involved in running a Free Legal Advice Centre in Ballyfermot.

Mr. Justice MacMenamin was called to the Bar of Ireland in 1975. He was called to the Inner Bar in 1991, and engaged first in general practice, then specialising in Judicial Review, Administrative Law and Defamation. He acted for a number of clients before the Flood/Mahon Tribunal of Inquiry, and for the Department of Health and members of the then Cabinet, including the Taoiseach, before the Ryan Tribunal.



He was legal assessor to the Fitness to Practice Committee of the Medical Council for ten years. Having previously served four terms as an ordinary member, he was elected Chairman of the Bar Council in 1997, serving in that office up to 1999. He was a Director of the VHI from 1995 to 1997.

Mr. Justice MacMenamin was appointed to the High Court in 2004. There he dealt primarily with Judicial Review matters; cases with a constitutional or human rights dimension; the rights of asylum seekers; children in need of special care; treatment of prisoners; and single parents. He was in charge of the High Court Minors List for three years. He was appointed a member of the Special Criminal Court in 2009.

The Hon. Mr. Justice John MacMenamin

He was also, for a period of three years, Ireland's representative on the CCJE, the Consultative Council of European Judges, an advisory committee to the Council of Ministers of the Council of Europe.

Mr. Justice MacMenamin has written and lectured on a range of legal subjects. He delivered the 2014 National University of Ireland Garrett Fitzgerald Lecture on the future of the European Union. He has lectured in St. Louis University School of Law, and led a course of lectures on comparative constitutionalism at NALSAR, The National Academy of Legal Studies & Research at Hyderabad, India. He is an Adjunct Professor at Maynooth University.

The Hon. Ms. Justice Elizabeth Dunne

Ms. Justice Elizabeth Dunne was appointed to the Supreme Court in 2013.

Ms. Justice Dunne was born in Roscommon and educated at University College Dublin (B.C.L.), The Honorable Society of King's Inns (B.L.)

Ms. Justice Dunne was called to the Bar of Ireland in 1977. During her practice, Ms. Justice Dunne was elected to the Bar Council.

Ms. Justice Dunne was appointed as a judge of the Circuit Court in 1996 and was subsequently appointed to the High Court in 2004. She served as a member of the Education Committee of the Honorable Society of the King's Inns and subsequently served as Chair of that Committee for a number of years.

In 2004, Ms. Justice Dunne became a Bencher of the Honorable Society of King's Inns.

In 2013, Ms. Justice Dunne was appointed as the Chair of the Referendum Commission that was established in advance of the Referendums to establish the Court of Appeal and abolish Seanad Éireann.

Ms. Justice Dunne is currently the correspondent judge for the Supreme Court of Ireland on the ACA-Europe. ACA-Europe is a European association composed of the Court of Justice of the European Union and the Councils of State or the Supreme administrative jurisdictions of each of the members of the European Union.



The Hon. Mr. Justice Peter Charleton

Mr. Justice Peter Charleton was appointed to the Supreme Court in 2014.

Mr. Justice Charleton was born in Dublin and educated at Trinity College Dublin and The Honourable Society of King's Inns. He lectured in Trinity College Dublin from 1986 to 1988 in criminal law and in The King's Inns in tort law from 1982 to 1984.

Mr. Justice Charleton was called to the Bar of Ireland in 1979. In 1995, he was called to the Inner Bar. From 2002 to his appointment to the High Court in 2006 he was counsel to the Morris Tribunal; a statutory enquiry which looked into certain misconduct in An Garda Síochána. In the High Court he was assigned principally to the commercial list.



From February 2017 to June 2018 he was the Chairman of the Tribunal of Inquiry into protected disclosures made under the Protected Disclosures Act 2014 and certain other matters. The tribunal published two substantive reports on the issues before it, the last in October 2018.

He has published on intellectual property, criminal law, torts, constitutional law and executive power in journals, including the Maastricht Journal of European and Comparative Law, the International Journal of Law and the Family, the Yearbook of the International Commission of Jurists, Intellectual Property Law and Policy, the Journal of Criminal Law, the Bar Review, the Journal of the Judicial Studies Institute of Ireland, the Irish Law Times, the Gazette of the Incorporated Law Society of Ireland and the Irish Criminal Law Journal.

The Hon. Mr. Justice Peter Charleton

Mr. Justice Charleton is the author of:

- *Controlled Drugs and the Criminal Law* (An Cló Liúir, 1986)
- *Offences Against the Person* (Round Hall Press, 1992)
- *Criminal law: Cases and Materials* (Butterworth, 1992)
- *Irish Criminal Law* (Butterworth, 1999, with McDermott and Bolger)
- *Lies in a Mirror: An Essay on Evil and Deceit* (Blackhall Publishing, 2006)

Mr. Justice Charleton was a founder member of the RTÉ Philharmonic Choir and was chairman of the National Archives Advisory Council from 2011-2016. He is the Irish representative on the Colloque Franco Britannique Irlandais.

The Hon. Ms. Justice Iseult O'Malley

Ms. Justice Iseult O'Malley was appointed to the Supreme Court in 2015.

Ms. Justice O'Malley was born in Dublin and educated at Trinity College Dublin, The Honorable Society of King's Inns (B.L.)

Ms. Justice O'Malley was called to the Bar of Ireland in 1987, In 2007, she was called to the Inner Bar. She practised at the Bar for twenty-five years, mainly in criminal law and also had experience in judicial review, extradition, immigration and housing law.

She was a Director of the Free Legal Advice Centre (FLAC) from 1985 to 2012 and was Chairperson of the organisation for three years.

In 2012, Ms. Justice O'Malley was appointed to the High Court.

She is a former Chairperson of the Refugee Agency from 1985 to 2012 and a former member of the Employment Appeals Tribunal from 1995 to 1998 and the Hepatitis C Compensation Tribunal from 1995 to 1999.

In 2004, she received an ESB Rehab Person of the Year Award for her work with FLAC.

In 2012, Ms. Justice O'Malley became a Bencher of the Honorable Society of King's Inns.



The Hon. Ms. Justice Mary Finlay Geoghegan

Ms. Justice Mary Finlay Geoghegan was appointed to the Supreme Court in 2017.

Ms. Justice Mary Finlay Geoghegan was born in Dublin and educated at the Convent of the Sacred Heart, Monkstown, University College Dublin (B.A. in Mathematics/Mathematical Physics, 1970) and the College of Europe, Bruges.

She practised as a solicitor from 1974 to 1979 before being called to the Bar of Ireland in 1980. In 1988, she was called to the Inner Bar and practised primarily in the areas of constitutional law, European law, administrative law and commercial law. She was also called to the Bar of England and Wales (1987), the Bar of Northern (1989) and the Bar of New South Wales, Australia (1992).



While at the Bar, she was a member of the Law Reform Commission, Head of the Irish Delegation to the Council of the Bars and Law Societies of European Communities (CCBE) and Chairman of the CCBE Standing Committee to the Court of Justice of First Instance. She was a member of the Constitutional Review Group; the Working Group on Qualifications for Appointment as Judge of the High and Supreme Courts; and Chair of the Incorporated Council of Law Reporting

Ms. Justice Finlay Geoghegan was appointed a judge of the High Court in 2002 and was assigned principally to the Commercial Court upon its establishment in 2004.

She was an ad-hoc judge of the European Court of Human Rights from 2009 to 2010. She chaired the Referendum Commission on the Thirty First Amendment of the Constitution of Ireland in relation to the rights of children (2012) and was

The Hon. Ms. Justice Mary Finlay Geoghegan

a member of the Working Group on a Court of Appeal established by the President of the High Court (2013-2014). She was a member of the Superior Courts Rules Committee from 2016 to 2017. Upon its establishment in 2014, Ms. Justice Finlay Geoghegan was appointed a judge of the Court of Appeal.

In 1996, Ms. Justice Finlay Geoghegan became a Bencher of the Honorable Society of King's Inns. In addition, she is a Bencher of Middle Temple (2013) and is a member of the Standing Committee of the Council of King's Inns and chair of the Law School Development Committee (2000 to date)

Ms. Justice Finlay Geoghegan is the daughter of Thomas A. Finlay, former Chief Justice of Ireland. She is married to Mr. Justice Hugh Geoghegan, former judge of the Supreme Court.

Ex-officio member

The Hon. Mr. Justice George Birmingham President of the Court of Appeal

Mr. Justice George Birmingham was appointed President of the Court of Appeal in 2018.

President Birmingham was born in Dublin and educated at St. Paul's College, Trinity College Dublin and the Honorable Society of King's Inns (B.L.).

President Birmingham was called to the Bar of Ireland in 1976. In 1999, he was called to the Inner Bar.

In 2007, he was appointed as a Judge of the High Court and in 2014, upon its establishment, was appointed as a Judge of the Court of Appeal.

In 2007, President Birmingham became a Bencher of the Honorable Society of King's Inns.



From 1981 to 1989, he was a member of Dáil Éireann and served as a Minister of State of the then Government from 1982 to 1987.

In 2002, as a Senior Counsel, President Birmingham was requested by the Department of Health to conduct a preliminary investigation into allegations of historical clerical child sex abuse in the Roman Catholic diocese of Ferns.

In 2006, President Birmingham was the sole member of a Commission of Investigation set up pursuant to the Commissions of Investigation Act 2004 in relation to the late Dean Lyons.

Ex-officio member

The Hon. Mr. Justice Peter Kelly President of the High Court

Mr. Justice Peter Kelly was appointed President of the High Court in 2015.

Mr. Justice Peter Kelly was born in Dublin and educated at O'Connell's School, University College Dublin and the Honorable Society of King's Inns (B.L.)

President Kelly was called to the Bar of Ireland in 1973, commencing practice in 1975. He was called to the Bar of England and Wales in 1981 and the Bar of Northern Ireland in 1983. In 1986 he was called to the Inner Bar.

He was appointed as a Judge of the High Court in 1996 and was the judge in charge of the Chancery List 1997-1999, the Judicial Review List 1999-2003 and was head of the Commercial Court since its inception in 2004. Upon its establishment in 2014, he was appointed as a Judge of the Court of Appeal.

In 1996, President Kelly became a Bencher of the Honorable Society of King's Inns.

In 2014 he was elected a Bencher of Middle Temple.





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