



UCD Constitutional Studies Group
UCD School of Law

The Irish Constitution: Past, Present and Future

with the support of the
UCD School of Law & Bloomsbury Professional

CONFERENCE SCHEDULE*

Thursday, June 28th

Launch and opening session in the Royal Irish Academy, Dawson Street, Dublin 2

6pm-7pm: Hon. Chief Justice, Mrs. Justice Susan Denham: *Some thoughts on the Constitution of Ireland at 75*

Prof. Philip Pettit: *The Republican Constitution, Old and New.*

Friday, June 29th

Honourable Society of the Kings Inns, Henrietta Street, Dublin 7.

9.30 – 10.30am

Session A: The impact of the Constitution on the referendum process

Maurice Collins SC: *Considering the McKenna decision.*

Blathna Ruane SC: *Reflections on procedural rights in constitutional referenda.*

Session B: Remedies for unconstitutional acts

David Kenny: *The separation of powers and remedies for unconstitutional legislation: The legislative power and Irish constitutional remedies in comparative perspective.*

Niamh Cleary: *Restitution and Constitutional Law: A Consideration of the impact of constitutional law principles on the law of restitution.*

10.30-11.30am

Session A: Judicial activism and restraint

Conor O'Mahony: *Constitutional amendment and judicial restraint: How restrained should an Irish court be?*

Adam McAuley, Robert Elgie & Eoin O'Malley: *The (surprising) non-partisanship of the Irish Supreme Court.*

Session B: *The Constitution and social change*

Fergus Ryan: *Out of the Shadow of the Constitution: Civil Partnership, Cohabitation and the Constitutional Family.*

Ravi Prakash: *Homosexuals in India and Ireland - in search of constitutional protection & identity.*

Patrick Mair: *The Constitution as an Instrument of Social Change: de Burca & Anderson v. Attorney General.*

11.30am-12.00

Coffee break

12.00-12.45

Plenary address

Cheryl Saunders: *Constitutional Affinities: Judicial Cosmopolitanism in Ireland and Australia*

12.45-1.45

Lunch

1.45-2.45

Session A: The Constitution and administrative law

Eoin Carolan: *The reformation of Irish administrative law.*

Oran Doyle: *Constitutional Review of Administrative Action.*

Session B: The relationship between the Irish and Israeli Constitutions

Thomas Mohr: *Leo Kohn and Constitutional Law in Ireland and Israel.*

Amihai Radzyner: *The Irish Influence on the Israeli Constitution Proposal, 1948*

2.45-3.45

Session A: The executive power

Alan Greene: *Declaring a State of Emergency under Art.28.3.3 of the Irish Constitution: A Purely Political Question?*

Ed Shanahan: *On Identity and Representation: Carl Schmitt and Bunreacht na hÉireann.*

David Fennelly: *Crotty's Long Shadow: the EU, the UN and the Changing Framework of Ireland's International Relations*

Session B: Constitutional identity and values

Mark Tushnet: *National Identity as a Constitutional Issue.*

Aileen Kavanagh: *75 Years of 'Bunreacht na hÉireann: Constitution, Creed and Higher Law.*

3.45-4.00

Coffee break

4.00-5.00

Plenary address

Hon. Mr. Justice Gerard Hogan: *The Origins of the Irish Constitution.*

Saturday, June 30th

Honourable Society of the Kings Inns, Henrietta Street, Dublin 7.

9.30 – 10.30am

Session A: The referendum: a comparative perspective

Marie Luce-Paris: *Popular Sovereignty and the Use of the Referendum – Comparative perspectives with reference to France.*

Gaetano Marzulli: *Direct democracy by judges? The Irish Constitution and the approach of the Courts to the referendum as a model in comparative perspective.*

Session B: The scope of the Constitution

Hon. Mr. Justice Donal O'Donnell: *Invoking the Constitution.*

Paul Gallagher SC: *The Limits of Constitutionalism.*

10.30-11.45am

Session A: The Seanad

Senator Ivana Bacik: *The role of the Seanad.*

Jim O'Callaghan SC: *Seanad Éireann - An Opportunity for Real Political Reform*

Shane Martin: *The future of the Seanad.*

Session B: The Constitution and the EU

Garrett Simons: *Reluctance of Irish courts to embrace the supremacy of EU law*

Martin Loughlin: *Constitutional Pluralism: An Oxymoron?*

Maria Cahill: *Judicial Conceptions of Sovereignty.*

11.45-12.15

Coffee break

12.15-1.15

Session A: The judicial function and enforcement of rights

Brian Foley: *The judicial role in rights enforcement.*

Gerry Whyte: *Constitutional litigation and disability rights.*

Session B: Religion, natural law and the Constitution

Eoin Daly: *Public philosophy and constitutional interpretation after natural law.*

Declan O'Keefe: *God, the Natural Law and the 1937 Constitution.*

1.15-2.15

Lunch

2.15-3.30

Plenary session

Constitutional reform: rhetoric, rights and constitutional myths

Maurice Manning: *The Constitution; Human Rights Challenges*

Colm O'Conneide: *Constitutional Myths and Realities: Re-capturing the Radical Dimension of Irish Constitutional Thought.*

Ronan McCrea: *Choices, Rhetoric the Ideology of the Irish Constitution*

3.30-5.00

Plenary session

Directions for constitutional reform?

John O'Dowd, UCD: *Another roll of the dice? Prospects for the constitutional reform process in Ireland?*

Seamus O'Tuama, UCC: *Can a Constitution really balance rights & democracy? : Irish constitutional experience and prospects.*

Jane Suiter, UCC: *A constitutional moment: time to listen to citizens?*

Conference speakers

Ivana Bacik is Reid Professor of Criminal Law at Trinity College Dublin, and a practising barrister. She is a Labour Party Senator for Dublin University (elected 2007 and re-elected 2011), and Deputy Leader of Seanad Eireann.

Eoin Carolan lectures in constitutional law, administrative law and human rights in University College Dublin. He is the director of the UCD Constitutional Studies Group.

Maria Cahill is a graduate of Trinity College Dublin (LIB, 2003) and the European University Institute (LIM, 2004, PhD 2008) and a College Lecturer in University College Cork.

Niamh Cleary, LL.B. (Dub), LL.M., (Cantab), has completed a Ph.D. at Trinity College Dublin on "*Restitution from Public Authorities in Ireland*". Her research was funded

the Irish Research Council for the Humanities and Social Sciences. She commences pupillage at Fountain Court Chambers in October.

Maurice Collins was called to the Bar in 1989 and has been a senior counsel since 2003. His areas of specialisation include constitutional law, administrative law and EU law.

Eoin Daly lectures at DCU. His research focuses on questions of political philosophy in constitutional law, with a focus on Rawls, political liberalism and constitutional secularism in France and Ireland. His book, "Religion, Law and the Irish State" is published this summer.

Hon. Mrs. Justice Denham is the Chief Justice of the Supreme Court of Ireland. A graduate of Alexandra College, University of Dublin, Trinity College, King's Inns and Columbia University, New York, she was appointed to the High Court in 1991. In December 1992 she became the first woman appointed a Judge of the Supreme Court. Mrs. Justice Denham is a Bencher of the Honorable Society of King's Inns, and an Honorary Bencher of the Middle Temple in London.

Oran Doyle is a Fellow of Trinity College, Dublin where he lectures in constitutional law and jurisprudence.

David Fennelly is a practising barrister. He is a graduate of Trinity College Dublin (LL.B.(Ling.Franc.), Ph.D.), New York University (LL.M.) and the King's Inns (B.L.). Before commencing practice, he worked as a judicial assistant at the International Court of Justice and as a judicial fellow in the High Court.

Brian Foley is a barrister with a particular interest in issues of constitutional and public interest law. He is the author of *Deference and the Presumption of Constitutionality* and co-author of *The Judge's Charge in Criminal Trials*.

Paul Gallagher has been a senior counsel since 1991. He is an Adjunct member of the School of Law in UCD and was Attorney General between 2007 and 2011.

Alan Greene is a Ph.D candidate at University College Dublin. He held the UCD School of Law Doctoral Scholarship from 2009-2011 and was awarded an IRCHSS government of Ireland Postgraduate Scholarship to complete his research in 2011. He is currently holds a Visiting Researcher position at Columbia Law School, New York.

Hon. Mr. Justice Hogan was made a judge of the High Court in 2010. He previously lectured constitutional law in Trinity College Dublin and is co-editor (with Gerry Whyte) of Kelly: The Irish Constitution. His work on *The Origins of the Irish Constitution 1928-41* has recently been published by the Royal Irish Academy.

Aileen Kavanagh is a Reader in Law in the University of Oxford, where she teaches and writes in the areas of constitutional law, human rights and constitutional theory. She is the author of *Constitutional Review under the UK Human Rights Act 1998* (CUP, 2009) which was shortlisted for the Society of Legal Scholars Peter Birks Prize for Outstanding Legal Scholarship 2009.

David Kenny is a graduate of Trinity College Dublin and Harvard Law School. He is currently completing his doctoral thesis at TCD, and will take up a post there as an Assistant Professor of Law in September 2012.

Martin Loughlin is Professor of Public Law and Head of the Department of Law at the London School of Economics & Political Science.

Marie-Luce Paris is a lecturer in the UCD School of Law. She is a graduate of University Paris II Panthéon-Assas (France). She is a qualified Barrister-at-Law (*avocat*). Her primary research interests are in comparative constitutional law, and European human rights law. Her particular focus is on the reception processes of European norms into the national legal order. She has also an interest in legal education.

Ronan McCrea is a law lecturer at University College London and a former référendaire in the cabinet of Advocate General Poiares Maduro at the ECJ. He is the author of *Religion and the Public Order of the European Union* (OUP 2010) and is a member of the Bars of Ireland and England and Wales.

Patrick Mair is an attorney with WilmerHale in New York. He is a graduate of University College Dublin, the King's Inns and New York University School of Law."

Maurice Manning is the President of the Irish Human Rights Commission, Chair of the European Group of National Human Rights Institutions and Chancellor of the National University of Ireland. He spent much of his academic career in the Department of Politics at UCD and is currently Adjunct Professor in the School of Politics and International Relations at UCD. He has also previously served in both Dáil and Seanad Éireann.

Gaetano Marzulli is a barrister and he has a bachelor in Legal Science, a master in Law and a Ph.D in Comparative Institutions and Politics from the University of Bari. He was a visiting scholar at the University of Glasgow. His interests lie mainly in the topic of the judicial control of direct democracy in a comparative perspective.

Thomas Mohr is a Lecturer at the School of Law, University College Dublin where he teaches evidence, jurisprudence and legal history. Thomas is honorary secretary of the Irish Legal History Society and book review editor of the *Irish Jurist*, Ireland's oldest law journal. He has been a member of the Council of the Irish Association of Law Teachers since 2009. The subject matter of his published works on Irish legal history range from the brehon laws to the origins of the current Irish Constitution.

Jim O'Callaghan is a councillor on Dublin City Council and a senior counsel. He is the legal adviser to the Fianna Fáil front bench.

Colm O'Conneide is a Reader in Human Rights Law at University College London (UCL). He is currently Vice-President of the European Committee on Social Rights of the Council of Europe. He has also acted as specialist legal adviser to the Joint Committee on Human Rights of the UK Parliament, as UK *rappporteur* for the European Commission's network of independent legal experts on anti-discrimination law, and as consultant expert for the UK Equality and Human Rights Commission, the Northern Irish Human Rights Commission and the Irish Equality Authority.

John O'Dowd has lectured constitutional law in UCD since 1992. He is a member of the European Group of Public Law and regularly contributes to conferences and publications of that international group of experts on constitutional and administrative law and in other for a.

Hon. Mr. Justice O'Donnell was appointed as a judge of the Supreme Court in 2010. He is a graduate of University College Dublin (B.C.L.), King's Inns (B.L.) and the University of Virginia (LL.M). He was called to the Irish Bar in 1982, commenced practice in 1983 and was called to the Bar of Northern Ireland in 1989. He took silk in 1995 and has practised in all Courts in Ireland, in the European Court of Justice (ECJ)

and the European Court of Human Rights (ECtHR). He has been a member of the Law Reform Commission since 2005 and is also a member of the Royal Irish Academy Committee on the Origins of the Constitution.

Declan O'Keeffe was admitted to practice at the Bar of Ireland in 2010. He holds doctorates in law, philosophy, theoretical physics and mathematics. He is currently employed by the Central Bank of Ireland.

Conor O'Mahony lectures in constitutional law at University College Cork. He has published widely on educational rights, constitutional interpretation and judicial enforcement of rights in journals such as the *International Journal of Constitutional Law*, *Public Law*, the *Irish Jurist* and the *Dublin University Law Journal*.

Eoin O'Malley is a lecturer in Political Science at the School of Law and Government, Dublin City University. His main research is in the area of cabinet government and the power of prime ministers. He is co-editor (with Muiris MacCarthaigh) of *Governing Ireland: From Cabinet Government to Delegated Governance* (IPA 2012).

Seamus O'Tuama is Director of ACE (Adult Continuing Education) and a senior lecturer in political science at the Department of Government, University College Cork. He has a background in both political science and sociology. In the Department of Government his work covers democracy especially in relation to science and technology, citizenship, human rights, and political thought.

Philip Pettit is L.S. Rockefeller University Professor of Human Values and Politics in Princeton University and Distinguished Professor of Philosophy at the Australian National University. He published *'Republicanism'* with OUP in 1997 and *'On the People's Terms: A Republican Theory of Democracy'* is forthcoming this year from CUP. He is an honorary member of the RIA as well as a fellow of the American

Academy of Arts and Sciences and of the Australian Academies of Humanities and Social Sciences.

Ravi Prakash is a graduate of Hidayatullah National Law University, Raipur, India. He has published widely on matters of Indian law and was law clerk to the Honourable Justice Cyriac Joseph of the Supreme Court of India between 2010 and 2012.

Amihai Radzyner is a professor in the faculty of law, Bar-Ilan University, Israel. His main research fields are Jewish Law and Israeli legal history.

Blathna Ruane has been a senior counsel since 2009. She has published several articles on aspects of Irish constitutional law, including a forthcoming article for a special edition of the Irish Jurist to mark the 75th anniversary of the enactment of the Constitution.

Fergus Ryan (LLB (Hons), PhD) is a lecturer in law at the Dublin Institute of Technology. A former Head of the Department of Law at DIT, Fergus has also served as President of the Irish Association of Law Teachers. He has written and spoken widely on several legal topics, including law and the family, civil partnership, and the Constitution.

Cheryl Saunders is a laureate professor at the University of Melbourne and founding director of its Centre for Comparative Constitutional Studies. She has specialist research interests in comparative public law, constitution-making and comparative constitutional theory and method. She is a President Emeritus of the International Association of Constitutional Law and a member of the Advisory Board of International IDEA.

Edmund Shanahan is a barrister and doctoral student at the School of Law, TCD. Trained as a financial economist he was for some years a member of the faculty of Yorktown University in the United States. He is an adjunct scholar of the Ludwig von Mises Institute in Auburn, Alabama.

Garrett Simons is a senior counsel specialising in Public Law and EU Law. He is the author of "Planning and Development Law" (2007), and is currently working on its third edition. Garrett is a former lecturer in Administrative Law at the King's Inns.

Jane Suiter is a lecturer in government at UCC. She has an interest in political reform and is one of the co-founders of the political science blog www.politicalreform.ie and was on the academic team of We the Citizens, a pilot citizen assembly held in Dublin last year.

Mark Tushnet graduated from Harvard College and Yale Law School and served as a law clerk to Justice Thurgood Marshall, specializes in constitutional law and theory, including comparative constitutional law. His research includes studies examining (skeptically) the practice of judicial review in the United States and around the world.

Gerry Whyte lectures in the Law School, Trinity College Dublin and is co-editor (with Gerard Hogan) of Kelly: The Irish Constitution. He has also written on public interest law in Ireland and has worked with a number of NGOs addressing aspects of social exclusion