Cúirt Uachtarach na hÉireann
Supreme Court of Ireland

Opening of the Legal Year Address 2025

Delivered by Mr. Justice Donal O'Donnell, Chief Justice, at the Opening of the Legal Year Ceremony in the Four Courts on 6 October 2025

1. Good morning, I would like to start by welcoming some people to the Four Courts. In the case of the Minister and the Attorney General, it is of course a case of welcoming them back. And I hope our many distinguished guests here today will forgive me if I also welcome particularly some foreign judicial guests who have come to today's event. We are very honoured to be joined by Judge Eugene Regan of the European Court of Justice; Judge Colm Mac Eochaidh and Judge Suzanne Kingston of the CJEU General Court; by Judge Úna Ní Raifeartaigh of the European Court of Human Rights; by our friend, The Right Honourable Lord Stephens of the United Kingdom Supreme Court; by Dame Victoria Sharpe, President of the King's Bench Division of England and Wales; by The Right Honourable Lord Doherty of the Inner House of the Court of Session in Scotland; and by, I hope I can say, our particular friends from Northern Ireland, Sir Seamus Treacy, Lord Justice of Appeal; by the recently appointed Mr Justice Paul McLaughlin, following in the footsteps of his distinguished father, and also Dame Brenda King, Attorney General of Northern Ireland.

2. This is now the third year of the opening of the Legal Year in the Four Courts itself and quite apart from the benefit of gathering together judges,

lawyers, NGOs, senior civil servants and ministers, it also provides a platform to stand back and take stock of the Court system and its place in our society. It is I think a very important convention that individual judges do not speak in public regarding matters of public controversy, and that judges do not engage in background briefing, social media commentary or any of the other methods of communication that are commonplace today. It is important therefore to take opportunities like these to say somethings about where the system stands. Inevitably the issues I will discuss are random points, and for those who have attended the previous ceremonies some things may be familiar.

Increase in judicial numbers

3. In today's world, there is an increasing awareness of the importance of a court system in a modern diverse and increasingly complex society. One marker of that is significant increase in judicial numbers. 101 years ago, when the Court system was established, there were 9 judges in the High Court and Supreme Court in the Superior Courts combined. Now there are 78. That has put a significant strain on buildings, and this building in particular as Ms Justice Dunne has said. The momentum of modernisation which has been achieved within the Court system in recent years has to be maintained if we aspire to provide a 21st century system of the administration of justice which is the best it can be, and if that is to be achieved, it means having premises, facilities and support which matches that ambition.

The Judicial Appointments Commission

4. The increase in judicial numbers leads me to the next issue, which is to recognise the work of the Judicial Appointments Commission which took up office on the 1st January of this year, although it had been at work on an interim basis in the preceding months. Since then, the Commission has done a prodigious amount of work, establishing itself, finding premises, producing and publishing draft statements of selection procedure and required skills, knowledge and attributes. The Commission also ran processes to provide nominees for vacancies in the District Court, Circuit Court, High Court and Court of Appeal respectively. Overall, it considered 221 applications which included 617 references, and in the end, it was able to provide 24 nominations to the government which have resulted in or will by the end of today have resulted in the appointment of 10 judges. That has all been achieved with a skeleton administrative staff of only three persons. I would like to acknowledge the exceptional work done by the staff of the Commission, and by the Commissioners themselves who have devoted an extraordinary amount of time and effort to the task. The Commission, both in its membership and its support staff, has made a very encouraging start and is working cohesively and effectively but this system is not sustainable in the long run, or even the short term, and it is clear I think that additional staff are necessary to address the anticipated pipeline of appointments over the next period and the coming years.

5. It is important to acknowledge the fact that the Commission has made a very good start. The Judicial Appointments Commission Act 2023 ("the

Act") had a very long gestation and is the product of a number of different authors and different – and sometimes conflicting - perspectives and priorities and has a number of features which could usefully be addressed to make the process easier and more efficient, but that should not obscure the fact that at its core s. 39 of the Act is a standard commitment to appointment based on merit which could not be more important in today's world. Confidence in the administration of justice begins with confidence in the appointment system, and confidence in the appointment process is central to encouraging meritorious candidates to continue to apply for appointment.

Legal Aid

6. This year also saw the publication of the report of the Civil Aid Legal Review group.[1] The Review is something which I warmly welcomed. It is really important that we should carry out a comprehensive analysis of the need for legal aid and assistance, the forums in which it has to be available, and the manner in which it should be delivered. The Review was chaired by my predecessor Frank Clarke, and I think draws upon the work of the Chief Justice's Access to Justice Working Group which was established in 2021 by Frank Clarke, and which I continued, and the findings of a high quality conference in 2023 organised by the working group, to assess the question of civil legal aid.

[1] Civil Legal Aid Review Group, 'Civil Legal Aid Review 2025' (Final Report and Recommendations to the Minister for Justice from the Majority of Civil Legal Aid Review Group on the Future of the Civil Legal Aid Scheme, Civil Legal Aid Review Group 2025).

7. I am old enough to remember the publication of the Pringle Report in 1977, and the scepticism then expressed about establishing a legal aid board. It seems that for all of its lifetime the Legal Aid Board has been severely stressed by the increasing demands made on it. It deserves real credit for the service which it has nevertheless managed to provide but it cannot expect to continue in this way and I hope that the consideration of the report will lead to a development of the legal aid system which will build upon the foundations of the Legal Aid Board and provide legal aid and assistance to those who cannot afford it when they find they must navigate an increasingly complex legal world.

Personal Injuries

8. Anyone who comes into this Round Hall on a working day, and who was around 20 years ago would see a physical manifestation of significant change. A few decades ago, this was an arena in which very many personal injuries claims were brought, large and small, and adjudicated on or settled. Allowing all claims to come to this spot was however inefficient and costly, and there has been substantial efforts made to reform that system. Now many fewer claims come here for resolution. The reduction in court resolution does not depend upon an impressionistic sense of the number of cases on any given day. The Courts Service's Annual Report for 2024 recorded that, to take just one metric, personal injury awards in the High Court had reduced by 45 percent in comparison with the previous year, 2023.

9. The reform of personal injuries litigation took some time because it requires a complex structure. In simple terms there are two main components: what is now the Injuries Resolution Board (formerly the Personal Injuries Assessment Board) to provide the possibility of early settlement, and guidelines on awards intended to ensure consistency and predictability. Both of these have been established with legal structures designed to ensure compliance with the mechanism. The fact that the system is quite complex and sophisticated recognises the fact that the determination of whether a person has been injured through the fault of another and, if so, what compensation should be assessed, is, and has always been, a core part of the administration of justice. Any reform of the system is constructed around that fact. Therefore, for example, at certain points flexibility was built into the system, so that, the Judicial Council Act of 2019 which establishes the personal injuries regime, provides that a judge and a court may depart from the guidelines, but must provide reasons for doing so.

10. Personal Injuries Guidelines were introduced in 2021, in accordance with the provisions of the Judicial Council Act 2019 ("JC Act"). Under the JC Act, the Personal Injuries Guidelines Committee, had to take into account a number of things, including the level of damages awarded in other jurisdictions as might be considered relevant.[2] The Committee took legal advice on this and identified England, Wales and Northern Ireland as the most useful comparators. It also took advice from economists on conditions

[2] Judicial Council Act 2019, s.90(3)(a)(ii).

in the economy. The outcome was a set of Guidelines which established a relativity and proportionality between all personal injuries awards scaled by reference to the award for the most serious injuries and which resulted in a significant reduction in the awards for soft tissue injuries which were the most common claims.

11. As most of us know, the JC Act also provided for regular review and requires review of the guidelines every three years.[3] That review is again a key feature of the system, and it necessarily contemplates that the guidelines will be updated in accordance with changes during that time, to keep them up to date.

12. The Personal Injuries Guidelines Committee, which was chaired by Ms Justice Dunne, engaged in the exercise of revising the guidelines. It again took legal advice and the advice of economists. It was advised that England, Wales and Northern Ireland remained the relevant comparator jurisdictions, and it took account of the fact that both of those jurisdictions had procedures for the review of their guidelines which provided that the awards were to be adjusted in line with changes in the retail price index in those jurisdictions. Accordingly, it recommended the same step here and, in due course, Guidelines updated in this way were approved by the Judicial Council.

13. As is known, as a consequence of the decision of the Supreme Court in *Delaney v The Personal Injury Assessment Board*,[4] the JC Act was amended to have any guidelines laid before and approved by the Oireachtas, before

[3] Judicial Council Act 2019, s.18.
[4] [2024] IESC 10.

they can have statutory effect. As everybody here knows, there was a short media campaign that involved what I would regard as some misplaced criticism of the Judiciary. As a result, it appears that the revised guidelines are not to be put before the Houses for approval. In this case the Personal Injuries Guidelines Committee, the Board and the Judicial Council were simply complying with the letter and spirit of the statutory scheme. But even someone who is concerned about awards and/or who disagrees with the level of recommended awards, whether generally or by reference to specific categories of injury, should not be opposed to the amendment of the Guidelines. Looking at this purely from a practical and pragmatic point of view it is simply counter-productive to seek to prevent the revision of guidelines in this system. The failure to update the guidelines will put the guidelines system itself at risk. If the Injuries Resolution Board and Courts are increasingly invited to depart from the guidelines and make higher awards reflecting the effect of inflation, the guidelines will inevitably begin to fray. Overtime they will petrify and decay. Given the benefits of the guidelines in terms of certainty and predictability, it is not easy to understand why that would be allowed to occur.

14. This is an issue which we all have to face up to.

Judgments

15. Alexander Hamilton in the Federalist Papers No. 78 famously stated that the Courts were the least dangerous branch because the judiciary has no influence over the sword or the purse but merely judgment. Recently it has

been suggested that there has been too much even of that, and that in particular, judgments of the Irish Courts are just too long.

16. Much of this commentary is of the casual variety that circulates on social media, and it is therefore perhaps not much different from public house conversation which, in the past, would have been forgotten in the morning. However, nowadays commentaries such as this have a half-life which can leak into the water table and affect more general perceptions of, and confidence in, the court system.

17. I think as judges we are painfully aware of the phenomenon of judgments of increasing length. Whatever effort it takes to read a judgment it takes a lot more to produce it. We do look at ways of shortening judgments by avoiding unnecessary disagreements and the proliferation of individual judgments, and we will continue to do so. Everyone aspires to the ideal of the succinct elegant judgment encapsulating the principle and clarifying the law. But as anyone who has ever tried to write a judgment will tell you, it is not that easy.

18. There are some points which I think have not been considered or considered sufficiently. First, I think it is important to say that this is not a phenomenon which is unique to Ireland. If you take our major common law comparators, England, Wales, Scotland, Australia, New Zealand and Canada, it is entirely commonplace to find judgments that exceed 100 pages. When the United States Supreme Court whose reasoning is often compressed (and criticised for that) recently overruled *Rowe v Wade* in *Dobbs v Jackson*, the judgments ran to over 200 pages. Nor is this a phenomenon of common law courts alone. The European Courts of Human

Rights judgment last year in *KlimaSeniorinnen v Switzerland* runs to 260 pages, which is still not even the longest recent judgment delivered by that Court in the last few years.

19. Nor do I think that the issue limited to judgment writing. It is commonplace that trials which in the 1970s took a few days, will now take some weeks. Textbooks are another useful comparator. Two of the landmark works in Irish law now run to over 2000 and 3000 pages respectively - the Companies Act of 1963 was a mammoth of its time and contained 399 sections and 331 pages, but the 2014 Act now runs to 1,648 sections and 1,415 pages. The Local Government (Planning and Development) Act 1963 was a major piece of legislation and ran to 99 pages: the 2024 Act has 637 sections and 906 pages.

20. So, I think a question arises as to whether this can be treated simply as a problem or whether it is a phenomenon and a reflection of a number of things that have happened and are happening in the legal system. First, our system of law has become increasingly complex. Second, our expectations of how rigorous and transparent the reasoning of courts should be have increased considerably. Lord Burrows of the United Kingdom Supreme Court is someone whose opinion is entitled to particular respect as he was a highly regarded academic lawyer before his appointment to the Supreme Court and has therefore been both a writer and a user of judgments. He said:-

> *No-one ought to favour returning to the very short judgments on the law that predominated in this jurisdiction at the end of the 19th Century. The reason that judgments on the law have become longer is*

because we have greater transparency of reasoning and greater rigour.[5]

21. There are many different audiences to whom a judgment is addressed, and some only want to know the *what*, but there are others who are entitled to the *why*. It is a fundamental obligation of judges, which I think we recognise today, to engage fully, fairly and conscientiously with arguments addressed by the parties. And in a world of increasing complexity, that means nuanced judgments and fine balances are an essential part of the system, particularly when dealing with cases which are recognised as being of general public importance.

22. In that regard it is worth saying something that does not figure in the commentary, and while I appreciate, I am not an entirely dispassionate observer, I think it can be said that the judgments of the Irish Courts in recent times, particularly, are of a high quality. This really matters. Rigour, transparency and the fair analysis of the arguments of the parties are all essential to courts which have only judgment and those judgments must command respect and acceptance of their own force.

23. I do understand the inward groan when confronted with a lengthy judgment, and that there are people who are interested only in what has been decided, or want to know whether they need to read in further detail. Since 2021, the Supreme Court takes the step of issuing at the same time as

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[5] Lord Burrows, Justice of the Supreme Court of the United Kingdom, 'Judgment-Writing: A Personal Perspective' (Annual Conference of Judges of the Superior Courts in Ireland, 2021) <https://supremecourt.uk/uploads/judgment_writing_a_personal_perspective_lord_burrows_aa1b4f5676.pdf>.

its judgment a summary of that judgment explaining what was in issue, what was decided and providing cross references to the relevant paragraphs of the individual judgments. And in the next term the Courts Service will start linking Supreme Court judgments and summaries to its LinkedIn page, which has almost 23,000 followers, to make them available to a wider audience.

24. And separately, from this term on, and starting on Thursday, the proceedings in the Supreme Court will be recorded and broadcast on the Supreme Court website. This is a pilot project because we have had to produce that system on something of a shoestring: the budget of the Courts Service could not possibly absorb even a fraction of the cost that is involved in the transmission of proceedings in other jurisdictions. There are also technical constraints in broadcasting in a building of this age. The fact is that we cannot stream the proceedings live as it would disrupt the wider network performance within the Four Courts complex. So, the proceedings in the Supreme Court will be uploaded to the Supreme Court website during the evening and made available the following day.

25. The debate about length of judgments and proceedings, the need for concurrences or dissents, will always ebb and flow particularly in common law courts and among those who take that business seriously. And it is a good thing that people take that seriously. I suppose that taking a more philosophical view it can be said that if this is the worst thing on the judicial report card here, things are not too bad. As anyone who has read my judgments will know, I could go on – and on, but I think it is enough to

recognise that this is at least a little more complicated than casual commentary might suggest.

Conclusion

26. Finally, I do want to say something about the broader position of the courts in this country, and their place in our system of government. We are living in dangerous times, where there is now an increased understanding and appreciation of the role of the courts in a modern liberal democracy. The fact, however, that there has recently been more focus on and appreciation of the vital structural role of courts in a modern democracy is itself a warning indicator that the model is under stress. But it is in these difficult times that we come to recognise that a court system, at every level of that system, is fundamental to a citizen's sense that they live in an ordered State with values of fairness and justice which therefore deserves their allegiance.

27. But I think there is also an increased appreciation that the business of keeping the State on an even keel and maintaining the values of a western liberal democracy, is not a job for courts alone. There is a fine but strong web of office holders, functions and conventions all of which together provide structure and resilience to a modern State. Many of those people and institutions are in this room, including the legal professions, civil servants, particularly in the DOJ, the Courts Service, the Judicial Appointments Commission, the Gardaí and the Army, the public prosecution service, the Legal Aid Board and the NGOs who work in the justice sector and the media who report it. That point was made in a recent

book, "*Could it Happen Here?"* by Professor Peter Hennessey and Andrew Blick in the context of the UK constitutional structure, but the point also applies here. And it is really important that we take the time to check that web of institutions, conventions and structures, repair some strands, and reinforce others. That for example is the importance of the GRECO recommendation viii in its Fourth Evaluation. GRECO recommended that "an appropriate structure be established within the framework of which questions concerning constitutional safeguards of the judiciary in connection with employment conditions are to be examined – in close dialogue with judicial representatives – with a view to maintain the high levels of judicial integrity and professional quality in the future". GRECO's recommendation, which was accepted by the Government but has not yet been implemented, is important. Structures are put in place in the good times to protect against the bad times. Last year Norway amended its Constitution to enhance the protection of judicial independence not because of any immediate domestic concern, but because it saw this as a point of vulnerability that had been exploited in other countries and Finland which has one of the highest rankings in Europe for perception of judicial independence has established a working group to consider reinforcing its safeguards for judicial independence. We should not be complacent.

28. One of those conventions or structures is often overlooked precisely because it involves the virtue of silence. Courts have, as Hamilton said, merely judgment. And as I say, it is accepted that courts and judges do not engage with any controversial matters, and I think that that self-denying

ordinance is regarded as an important part of maintaining a judicial role and respect for it. But it makes courts increasingly outliers in the modern world, and means that it is required that the system be defended by others. And I would like on this occasion to acknowledge that on every occasion in which he speaks, Minister O'Callaghan has to my knowledge always taken the opportunity to express his belief in and support for the role of courts, and I can say that that is genuinely appreciated by the members of the judiciary.

29. But when we in the courts come to express appreciation for what the Minister for Justice says, it is not a personal thing, or dependent on the identity of the Minister. There is a positive and constructive institutional, constitutional relationship, that deserves to be recognised.

30. Some friction between the Executive and legislative branches on the one hand and the judicial branch on the other is an inevitable consequence of a system of checks and balances. Such moments of friction can be challenging for, and skew perceptions of, each institution involved, and it is important therefore to pause and take in a broader perspective.

31. One such perspective is that that beneficial silence operates in both directions. It is important to recognise that there has been an unquestioned recognition by the Executive branch of the role of courts in the constitutional structure. That recognition is not merely perfunctory or performative, but reflects at its best a belief and understanding of the importance of the system which transcends any frustration, irritation or disagreement which may arise. In the 103 years of Irish constitutional democracy, there has been a strong and unbroken convention where the

other branches of government have not merely accepted the decisions of the courts, but have accepted and supported the function of the courts and defended them when challenged.

32. Looking around, a world in which the system of checks and balances is increasingly being challenged in countries where it would previously have been thought unimaginable should make us realise that the relative stability of our system cannot be taken for granted. It is something that we must protect, renew and reinforce, and so it is particularly important to acknowledge it here in this place, and at this time.