

Independent Law Review

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In this issue

Law on the Silver Screen

Interview with Ivana Bacik

Researching and Understanding International Human Rights Law

Editor

Philip Burke, LLB,
Barrister at Law,
Head of Law Schools,
Griffith College Dublin
Dublin, Ireland.
Email: philip@gcd.ie

Deputy Editor & Research Co-ordinator

Fiona de Londras, BCL, LLM (NUI),
Lecturer in Law, Griffith College Dublin,
Dublin, Ireland.
Email: fiona.delondras@gcd.ie

Book Review Editor

Michelle McDonnell, LLB,
Solicitor,
P Fahy & Co,
Omagh, Co. Tyrone,
Northern Ireland.
Email: ilr1@eircom.net

Web Review Editor

Cian C Murphy,
Law Society,
University College Cork,
Cork, Ireland.
Email: cianmurf@eircom.net

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Email: ilr1@eircom.net

Advertising & Editorial

Patricia McDonnell & Grant Mackie
Tel/Fax: + 353 (0)44 33341
Email: ilr1@eircom.net

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- submit a preview or report on a meeting;
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Contact: Patricia McDonnell on
Tel/Fax: + 353 (0)44 33341 or
Email: ilr1@eircom.net

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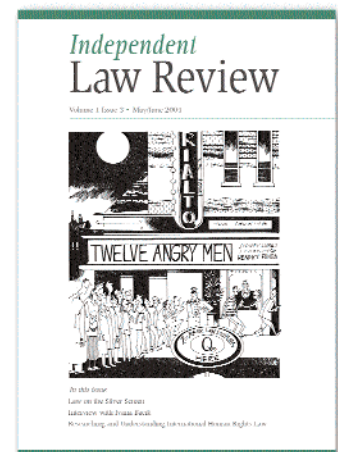
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To pass a law and
not have it enforced
is to authorise the
very thing you wish
to prohibit

Cardinal Richelieu
(1585 - 1642)

From the Editor

Welcome to the third issue of the *Independent Law Review*. In an effort to reflect the lightness of heart that comes with the beginning of the Summer vacation (not to mention the end of Summer examinations), this issue focuses on some of the less academic aspects of legal life.

David Langwallner presents a review of classic portrayals of law and lawyers on screen. He reflects on how these films can be used as aids both to teaching and for the improvement of advocacy skills, as well as giving some suggestions for 'further viewing'!

In the first of a series of interviews with prominent members of the legal profession, Ivana Bacik, Reid Professor of Criminal Law, Trinity College Dublin, practicing barrister, and Labour Party candidate in the forthcoming European Parliament elections, recounts her experiences as Trinity College Dublin Student Union president in the late 1980s, discusses the recently published *Gender Injustice* report (of which she is co-author), and argues why the Left must increase its representation in the new European Parliament.

In the third in her series of research articles, Fiona de Londras reflects on the importance of

researching and understanding human rights law on both global and regional levels. She also considers how international human rights law has fared before the Irish courts, and the potential impact of the European Convention on Human Rights Act 2003 on the work of legal practitioners.

Meanwhile, Cian Murphy faces his fear of becoming unemployable, by reviewing the websites of three of the 'Big Five' Dublin law firms.

This issue also features an enlarged Book Review section to keep you busy over the Summer months, with new (and new editions of) titles on Family, Media, Company law and Evidence coming under the critical eye of our review team.

Since the last issue, Grant Mackie has been enjoying the luxury of Cork's Hayfield Manor Hotel, and the Lifestyle Section features a review of the hotel that should have everyone flocking to Leaside to enjoy the summer sunshine.

As ever, please feel free to contact the Editorial Board should you wish to respond to any matters published in the *Independent Law Review* or contribute to forthcoming issues.

Philip P Burke,
Editor, May 2004.

Editorial Board

Editor

**Philip Burke, LLB (Lond), Barrister-at-Law (King's Inns),
Head of Law Schools, Griffith College Dublin.**

Mr Burke is a graduate of the University of London. He went on to complete the Barrister at Law degree at the Honorable Society of King's Inns, Dublin. He is a practising barrister and has taught various subjects for the University of London's LLB degree. He is Head of The Professional Law School at Griffith College Dublin, and Joint Head of the College's Undergraduate Law School. He has recently written a textbook with Val Corbett on the Law of Torts (Roundhall Thomson, 2003). Philip Burke is Editor of the *Independent Law Review*. Email: philip@gcd.ie

Deputy Editor - Research Section

Fiona de Londras, BCL, LL.M.

Fiona de Londras is a graduate of University College Cork. In 2002 she was awarded the degree of Bachelor of Civil Laws with first class honours. In 2003 she was awarded the degree of Master of Laws, also with first class honours, for her thesis entitled *Genocidal Sexual Violence: Experiences, Perspectives and Legal Responses*. She was College Scholar and Ronan Scholar from 2002 to 2003 in UCC. She is a Senior Lecturer in Law in Griffith College Dublin, lecturing in Land Law, Human Rights Law, and Legal Research, Writing and Communications. She is also a tutor in Criminal Law at Griffith College, and formerly at UCC and Trinity College Dublin. Fiona's research interests include criminal justice, international criminal law, human rights law, land law, and legal research and writing. She is Deputy Editor of the *Independent Law Review*. Email: fiona.delondras@gcd.ie

Book Review Editor

Michelle McDonnell

Michelle McDonnell is employed by Patrick Fahy & Co. based in Omagh, Co Tyrone. She is a family law practitioner and a member of the Children Order Panel. She graduated from Manchester Metropolitan University in 1993 with an LLB degree. Michelle graduated from the Institute of Professional Legal Studies at Queens University, Belfast in 1995 and was enrolled as a solicitor in the same year. Michelle worked in general practice before joining the Family Department of Patrick Fahy & Co in September 2000. She is the Book Review Editor of the *Independent Law Review* and is particularly interested in family law. Email: hlr1@eircom.net

Web Review Editor

Cian Murphy

Cian Murphy is currently completing a BCL in University College Cork. His interests include Constitutional and Information Technology law. He has worked in the offices of Henry PF Donegan & Son, Cork and has served as both Recording Secretary and Webmaster of the U.C.C. Law Society. Cian was a member of the Irish Schools Debating team that won the World Schools' Debating Championship in Singapore in 2002. In 2003 he became the Irish and International Champion of the John Smith Memorial Mace debating competition on behalf of the Law Society, University College Cork. Cian is the Web Review Editor for the *Independent Law Review* and will contribute a review of interesting websites for our readers. Email: cianmurf@eircom.net

Contributors

Val Corbett, BCL, LL.M

Val Corbett is a graduate of University College, Cork. He was awarded the degree of Bachelor of Civil Law (Hons). In 1998 he was awarded the degree of Masters of Laws (Hons). He has worked for a number of years as a corporate legal advisor to KPMG. Mr. Corbett is (Joint) Head of the Undergraduate Law School, Griffith College Dublin. He has written a textbook and casebook on the Law of Torts for Roundall Thomson.

Claire McHugh, BCL, LL.B

Claire McHugh, B.C.L., LL.B., graduated with a Bachelor of Civil Law degree from University College Cork in 2002 and an LL.B. (Hons) from U.C.C. in 2003. She is a Legal Researcher with the Equality Tribunal, and her research interests include socio-economic rights, international criminal law and European employment and equality law.

Joan O'Connell, BCL

Joan O'Connell graduated with a Bachelor of Civil Law degree from University College Dublin in 2003. She is currently an intern with Amnesty International's Irish Section. Her research interests include human rights law, equality law, and gender and the law.

**David Langwallner BA (Trinity College, Dublin),
LL.M (Lond.) (London School of Economics),
Barrister-at-Law (King's Inns), LL.M (Harvard)**

Mr Langwallner is a graduate of Trinity College Dublin's Law School. In 1990 he completed an LL.M (Lond.) with merit. He attended the Honorable Society of Kings Inns, Dublin and was called to the Irish Bar in 1991. He was called to the Bar of England & Wales in 1993. He completed an LL.M in Harvard in 1998. He was a Senior Lecturer in Law at Sheffield Hallam University from 1999 to 2000, and in Griffith College from 2000 to the present. He also lectures in Jurisprudence at the Honourable Society of King's Inns.

Mairead Enright BCL

Mairead Enright BCL graduated from University College Cork in 2003. She is currently reading for the MA in Medical Law and Ethics at the University of London, King's College and will begin her studies at the King's Inns in the Autumn.

Caitriona McCarthy

Caitriona McCarthy graduated from University College Cork in 2002. She is a student in the Law Society of Ireland, and a junior solicitor with Arthur Cox.

Louise Crowley

Louise Crowley is a graduate of University College Cork (BCL 1996; LL.M 1997). She qualified as a solicitor in 2000, she is a College Lecturer at University College Cork.

Sarah Fennell LL.B

Sarah Fennell LL.B, Barrister-at-Law is a graduate of Trinity College Dublin and the Honourable Society of the King's Inns. She is currently an M.Litt/Ph.D candidate at Trinity College Dublin, and an LL.M candidate at University College London (UL). She previously held the position of Senior Judicial Researcher to the Irish Judiciary.

Law on the Silver Screen

David Langwallner, Senior Lecturer in Law, Griffith College Dublin, Lecturer, Honourable Society of King's Inns.

Correspondence Address: Law Library, The Four Courts, Inns Quay, Dublin 7, Ireland. Email: david353@gofree.indigo.ie

It would be next to impossible, not to mention impossibly dull, to summarise the multitude of different portrayals of the law and the lawyer in film. This piece is merely a personal selection of favourite films that deal with the law and that, at given points in time, have given me a passion for the discipline. Fans of the films of John Grisham novels need not read any further....

This article is also designed to show, in a light-hearted way, that certain film scripts enhance one's study of law and outline in brief how certain films might give pleasure and a modicum of insight to the busy practitioner. I have endeavoured to choose films that best exemplify different aspects of law and show the different ways lawyers and the law have been represented. I have tried to avoid choices that are exclusively favourable to law and lawyers, and to develop a cross section of choices of lawyers as heroic creatures crusading for justice and inspired by idealism or sometimes as mendacious and self interested, sometimes clever and shrewd and sometimes not. Thus I have attempted to highlight films that display the law in an idealistic light, as well as those which demonstrate its underbelly. Not all of the films selected are conventionally regarded as cinematic masterpieces, but all of them in their own way are fine films blessed by towering performances. On a limited level, I have found that one of them ("Twelve Angry Men") has considerable educational value, particularly for first year law students. I have confined my choice to five personal favourites and have tried to pick films that are readily available on video/DVD.

"Twelve Angry Men":

I have used the film "Twelve Angry Men", (directed by Sidney Lumet in 1957), in my advocacy class with first year law students in Griffith College to illustrate themes of persuasion and introduce them to certain basic legal concepts. Of course it is not a film about lawyers *per se* but about the machinations of



the jury system, yet it reeks of legal significance. The film opens in a courtroom where a judge, looking distinctly disinterested, is summing up a capital murder case to a jury concerning a boy who has been accused of murdering his father. The jury retire and rather brusquely vote 11-1 for a conviction. The sole dissenter, an architect played by Henry Fonda in another of his emblematic portrayals of the liberal American conscience, dissents, not because he is convinced of the boy's innocence as such, but in order that the other members of the jury discuss the case in more detail and do the case justice. Without revealing the denouement, the film concerns the many different voices and opinions that constitute jury room discussion. Indeed, almost the entire film is set in the claustrophobic atmosphere of the crowded jury room. Those different voices all exemplify different mindsets that might easily be replicated in the mundanity of any jury room and on any charge (with of course the caveat that there are now woman jurors) For example some of the jurors are archetypes of racism and prejudice against people living in slums, others are thoroughly disinterested in the task at hand, and one, played by Jack warden, will vote whichever way gets him out quickly so he can go to a baseball game! We see jurors who calmly dissect the evidence and above all we see a thorough, if at times stilted, analysis of items of evidence; who saw or heard the boy kill his father, what did they see, what alibi does the boy have, and why is it so faulty? In the stage play (but not the film) there is also a deal of discussion of psychiatric evidence.

"Twelve Angry Men" is a high watermark of American liberal cinema and some people might find the tone somewhat preachy and overly sanctimonious, and there is no doubt that to some extent it is dated. Yet it seems to me of enormous value to engender interest in a passion for law. I have found that the film causes students to think in a very critical way about law, and indeed to learn some basic legal concepts and ideas in an appealing manner.

For example, by using the film as a learning text, students are introduced to the fundamental principle of proof beyond all reasonable doubt in criminal matters. Further, they are encouraged to filter and assess individual items of evidence and proof in determining whether they meet the test of beyond all reasonable doubt and are probative of guilt,¹ and I have found that students are generally very capable of understanding the different factual matters and evidence introduced in the film and in assessing them critically. In particular they are asked to consider each item of evidence in the film in isolation, its strengths and weaknesses and then to consider the evidence holistically to examine whether it is probative of guilt.² In my view, such an exercise assists students in a vivid way in building a case or indeed in understanding how to demolish one, essential tools of the art of the advocate.

Further, essential and basic legal and jurisprudential ideas flow from the discussion – students are introduced to the dangers of identification evidence and eyewitness testimony. Indeed many specific aspects of identification evidence are discussed such as the fleeting glance, obstructed views, the effect darkness has on evidence and the danger of convicting even if the person identified is known to the witness (recog-

tion). The student also considers alibi evidence and to how prejudice and presupposition can influence and sway a fact finding body. Finally, it seems to me also important to stress that a student in viewing that film can appreciate the importance of the right to trial by jury when there are moves afoot (certainly in the UK) to diminish the extent of that right.

But quite apart from the film's usefulness for the student, it also provides insights for the practitioner on a number of levels. First, it demonstrates the different motivations and attitudes that any jury might have towards a case and the importance of mining and assembling facts and arguments carefully to make the most compelling case on behalf of one's client. Second, it has a real passion for the majesty and importance of the law and its doctrines. Finally, although the lawyers are not shown in the film and we are told that the lawyer for the defence gave ineffective representation, the film is about how lawyers should reason. In building a case for the defence, the lawyer should behave like Henry Fonda's barrack room lawyer carefully weighing the pros and cons, weighing and sifting the evidence and its implications in support of his case.

"Inherit The Wind":



A particular favourite film of mine is "Inherit the Wind", a film directed by Stanley Kramer in 1960. The film is based on a real life incident, the Scopes Trial, that caused a sensation in the United States and received saturation coverage. In Dayton, Tennessee in July 1925, Scopes, a high school biology teacher, was put on trial for teaching Darwinism and in so doing, attracted the wrath of the creationist legislature.

In the film Scopes is, to some extent, an incidental figure. The real struggle for hearts and minds takes place between the opposing counsel, two heavyweights of American intellectual life for many years. Scopes was represented by Clarence Darrow and the state by William Jennings Bryan. Although the names are altered in the film to Henry Drummond for Darrow and Matthew Harris Brady for Bryan it is a clear transcription and I will use for convenience the names Darrow and Bryan.

Darrow was the most famous American liberal lawyer of the age and an icon of liberal urban and progressive values. He had been involved in many *cause célèbre* including the Leopold and Loeb Case (which subsequently gave rise to a film with Orson Welles as Darrow called "Compulsion" (1959) and indirectly to Alfred Hitchcock's "Rope" (1948)). Moreover, Darrow was an avowed and zealous atheist who had written treatises on the subject. When given the chance to become involved in the case (he was not first choice) he jumped at it.

Darrow was opposed by William Jennings Bryan, a figure of much complexity in American public life. Bryan, had stood and narrowly lost the Presidency of the United States (he

stood in 1896, 1900 and 1908) and had also been closely involved in progressive causes, particularly in the achievement of social justice and the improvement of the plight of poor workers and farmers. His sobriquet was in fact "The Great Commoner". However, he was also a religious fundamentalist and had been instrumental in ensuring that 15 states were about to ban the teaching of evolution. The actual Tennessee Statute read that it was unlawful:

"to teach any theory that denies the story of divine creation as taught by the bible and to teach instead that man was descended from a lower order of animals."

"Inherit The Wind" was written by Jerome Lawrence and Robert E Lee and was intended as a covert attack on the anti communist hysteria that was gripping America in the 1950's by using the Scopes Trial as an example the message was to protect Freedom of Speech and Conscience against the tide of anti-intellectualism which the McCarthy era brought about. Although it differs in many material ways from what actually happened in the Scopes Trial. (not least in the fact that the real Scopes was more than willing to be test case and the real trial was to a large extent a make up to engender publicity for the town). Vast chunks of the actual trial were repeated near verbatim in the film.

From the opening speeches the stage was set as Darrow stated to convict would be the "opening of the door for a reign of bigotry equal to anything in the middle ages" and Bryan arguing that "if evolution wins, Christianity goes." The trial commences and various witnesses are called including Darrow's experts on evolution. The real drama is left towards the end when Darrow calls Bryan to the stand! Darrow forces Bryan into a series of damaging admissions, noting that the bible was not to be read "literally" on the subject of creation, and that the 6 days of creation were "periods". One particularly damaging exchange, which left the court in peals of laughter, went as follows:

Bryan: *I do not think about things I don't think about.*

Darrow: *Do you think about things that you do think about?*

Bryan: *Well, sometimes.*

Scopes was convicted as was inevitable but the Tennessee Supreme Court historically overturned his conviction, and of the 15 states that were going to adopt creationist statues, only two did.



Although the film pulls no punches in its siding with Darrow as he caustically criticises the values and beliefs of creationism, it nonetheless has a lovely feel for the ambivalence of Bryan, a champion of the poor and underprivileged throughout his life yet a virulent fundamentalist and representative of what H.L. Mencken, the noted American satirist who was present and documented the trial, described as inter alia *“the booboisie”* and *“gaping primates.”* Mecken wrote of Bryan *“It is a great tragedy to begin life as a hero and to end it as a buffoon”*. Bryan died a few days after the trial and not, as the film represents inaccurately, at its conclusion, and his obituary was famously written by Mecken.

The film is a real life dramatisation of the fundamental importance of freedom of expression, speech and conscience of ideas that are often contrary to the prevailing values of a community. In particular, the right to say, in the terms of the jurisprudence of the European Court of Human Rights on Article 10 of the Convention, that which *“offends, shocks or disturbs”* and of the need in a community to respect and endorse the values of *“pluralism, tolerance and broadmindedness”* necessary in a democratic society.³ It is also a very useful illustration of the jurisprudential theme as to whether and to what extent law should reflect the moral values of the majority of the community and should criminalise behaviour that the majority feels to be immoral as Lord Devlin contended⁴ or conversely as H.L.A Hart contended⁵ should law accept and indeed protect in a pluralist culture different moralities.

The film is also useful as an illustration of trial techniques although some of the tactics used may not gain contemporary acceptance when, as aforementioned, Darrow calls Bryan (the opposing counsel) as a putative expert to the witness stand to question him precisely on how God made man within six days....

“Witness for the Prosecution”:



“Witness for The Prosecution” is a dramatisation of an Agatha Christie novel but, perhaps more importantly, is a 1957 film of one of the greatest of all directors, Billy Wilder. The plot concerns a man Leonard Vole (played by Tyrone Power) accused of murdering an older lady. Power is married to Christine Vole/Marlene Dietrich in one of her best performances who purportedly is going to act as an alibi for him at

the trial. To give more away would be to spoil the viewers enjoyment save to talk about Charles Laughton, who was one of the great screen actors. In his sole directorial role, Laughton was responsible for one of the great masterpieces of cinema “Night of the Hunter” (1955). In “Witness”, Laughton plays “legendary” English Q.C. Sir Wilfrid Roberts who agrees to represent Power/Vole and much of the film concerns the courtroom drama of the trial. Laughton’s performance is the classic portrayal of the mock heroic fat cat Q.C. or S.C. and the film presents the profession of the bar as a noble one.

Wilder was captivated by Laughton as an actor and filmed him by placing him alone in all the shots so he could fill up the frame. In later years he enthused about the actor’s perfectionism:

“When we had a big scene coming up the next day, Laughton would come to my room, and he would do that big scene, and know every word... Then he would do it another way, twenty times. And he was better and better and better.”⁶

The film is also a very useful illustration of aspects of the barrister’s craft. The importance of the cab rank rule is present where Laughton, whose character has just recovered from a major illness, steps into the breach once more in a capital case as part of his sense of professional obligation (and also, it must be said, for the sheer thrill of it).

“Paths of Glory”:

“Paths of Glory” was directed by Stanley Kubrick in 1957 before he became renowned as a film maker. The title is derived from Thomas Gray’s “Elegy Written in Country Churchyard”:



“The paths of glory lead but to the grave”

Kirk Douglas, in what he considers his finest role, plays a French colonel (Colonel Dax) during the First World War. One of the other French general’s (General Paul Mireau played by George Macready) orders a suicide attack on the German trenches. The troops attack but are forced to come back due to heavy fire and lack of support. General Mireau is incensed and in order to save France’s honour (or more precisely, his own) Mireau (with the complicity of the higher command) ensures that three soldiers be selected at random in order to be executed or as he puts it:

“If these little sweethearts won’t face German bullets, then they’ll face French ones”

The soldiers are selected and Douglas defends them. Although the film is not intrinsically about law so much as the military, it is a sobering insight into a legal and social culture where a finding of guilty is necessary to save the reputation and honour of an institution. The soldiers are mere scapegoats for the interest of the higher command and the trial no more than a cover up and a show trial. For example the film also shows how the high-

er command, in the shape of General George Broullard (brilliantly played by Adolphe Menjou), disapprove of General Mireau's action in ordering the attack and are conscious of the fact that he ordered firing on his own men which caused the retreat. Mireau will be relieved but the men will be shot!

Colonel Dax provides an eloquent rebuttal of the legal proceedings in his closing speech:

"There are times when I am ashamed to be a member of the human race and this is one such occasion...I protest against being prevented from introducing evidence that I consider vital to the defence, the prosecution presented no witnesses, there has never been a written indictment of charges made against the defendants, and lastly, I protest against the fact that no stenographic record of this trial has been kept. The attack yesterday morning was no stain on the honour of France, but this court-martial is such a stain...Gentlemen of the court, to find these men guilty will be a crime to haunt each of you to the day you die. I can't believe that the noblest impulse in man, his compassion for another, can be completely dead here. Therefore, I humbly beg you to show mercy to these men".

Alas these words were unheeded and the kangaroo court convicts the men who are executed.

The film is a disturbing insight into how expediency can trump the interests of justice and is thus of relevance to any legal setting where scapegoating and victimisation takes the place of justice. The film is immensely moving and harrowing, and such an outcry did it provoke within the French establishment that it was banned there until the early 1970's.



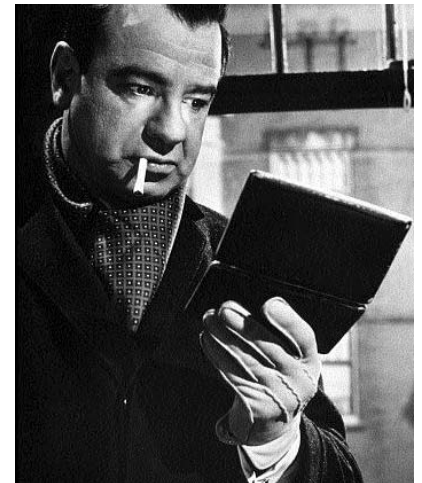
"The Fortune Cookie":

I have chosen, as my final selection, the greatest portrayal of lawyerly venality that I have seen in the cinema. As it transpires it is in another Billy Wilder film, "The Fortune Cookie". (1966). The plot is totally law driven and concerns a personal injuries suit. The Jack Lemmon character is knocked down by an American football quarterback whilst he is working as a cameraman at a game. He is rendered unconscious but when he wakes up in the hospital is fine. Enter his personal injuries lawyer brother-in-law played by Walter Matthau (called Walter Gaingridge), the epitome of the lawyer as shuckster and shyster (interestingly the film was initially called "Meet Whiplash Willie") who persuades him to fake an injury for settlement purposes. Suddenly, a massive lawsuit is in swing.

The film is a masterly portrayal of greed and mendacity and full of interesting revelations as to how to conduct settlement



negotiations and develop the crucial lawyerly techniques of bluff and counter bluff! Although an obvious caricature, it may get the thinking lawyer to reflect on his craft. Moreover, Matthau's lawyer has a certain heroic, if sordid, appeal as we see him pitting his wits against, and outsmarting, a respectable corporate law firm. The film represents the mirror opposite of the idea of law or the Bar as a noble trade and profession but there is a certain painful, if distorted, resemblance to elements of legal practice. It is most decidedly not a film to use as a learning aid for students.



The compilation of such a list is always a painful exercise and among other omissions was Gregory Peck's Atticus Finch in "To Kill a Mockingbird", which is, in many respects, the classic portrayal of the liberal lawyer, or Sean Penn's totally corrupt, mendacious and cocaine fuelled lawyer in "Carlito's Way" and the contrasting styles in lawyering evident in Sidney Lumet's "The Verdict" or.... I could go on but have to stop somewhere. Clearly, the portrayal of law in cinema can be a useful learning tool for students, a source of inspiration and an unending series of insights into the practice and values of law for the busy practitioner.

References

1. Woolmington v. DPP [1935] AC. 462.
2. The film can also be used as a text to which Wigmorean principles of proof can be applied.
3. There are many cases expressing these views in a wide variety of contexts. See for example *Lingens v. Austria*. (1986) 8 EHRR 103. Though the jurisprudence of the court on moral and religious issues is more circumspect in the absence of uniformity throughout the conventions states on such points and permits a significant margin of appreciation for member states. See for example *Murphy v. Ireland* application No 44179/98, Judgement of 10th July 2003.
4. Lord Devlin, *the Enforcement of Morals* (1965). Although it must be noted that Devlin only argued that the morality of the common man or man in the jury box should only be enforced through the criminal law when it evinced a sense of intolerance, indignation or disgust.
5. H.L.A Hart, *Law, Liberty and Morality* (1965).
6. Crowe: *Conversations with Wilder*: at 155.

Interview

IVANA BACIK, LLB, LLM (Lond), BL, 35, is the Reid Professor of Criminal Law, Criminology and Penology at Trinity College Dublin. A 1989 Trinity Law graduate, she holds a Masters from the London School of Economics and practises as a barrister in Dublin. She is a Labour Party Candidate in the upcoming European elections, and in this interview she speaks to Fiona de Londras about law, feminism, life ... and handing out condoms.

As President of the Student's Union in Trinity College you were taken to court by Society for the Protection of Unborn Children for providing abortion information to students. Do you think that experience shaped your career in law or were your politics and interests already settled at that stage?

Well I was already a law student before I was elected President of the Student's Union, so I was already interested in a career in law. I wanted to do something practical that involved politics and involved argument. So I could see that the law was the direction I was heading. But certainly the experience of being sued by SPUC, and being threatened with prison for contempt, did sharpen my interest in law, shall we say, and in how law can be used. It was already abundantly clear, but that experience made it clearer, that of course the law is political: the law is politics. And I think it's very important to recognise that and to be able to use law for political purposes, because you can be sure that the Right are doing it and so we learned at that stage that we should do it on the Left as well. The law can be a powerful instrument of social change.

Together with Dr Eileen Drew and Cathryn Costello you recently published a study on gender and the legal profession (Gender Injustice), revealing a number of startling facts and experiences. If you knew then what you know now, would you still choose a career in the law?

As you say our study did reveal for the first time the empirical truth about gender in the legal professions in Ireland, and I suppose it did startle or surprise a lot of people, that is the extent to which women are discriminated against, harassed, the extent to which women tend to suffer or experience inappropriate comments and so on. We were surprised, certainly, by some of the findings ourselves, although, having been a practitioner for some years now, I would have had a fair idea of the reality for women. We've had the experience of lots more women coming forward and telling us stories since the study came out. So I think it's had a huge importance in just letting people feel it's ok to express these experiences and I think that's hopeful for



women. We certainly didn't want to put anyone off studying law! So I think if I knew before I'd started law the findings we made I would have still chosen a career in law. If anything it would have made me more keen to pursue legal studies and try to change things. And, you know, what we were trying to do with the study was to change things, and empower women, not put women off studying law - I hope that it does not have that impact. But just to let women know that there is still an issue around gender and that's why it's so important we have more women studying law. We're delighted to see, across the board in law schools, that women are now making up the majority of students: probably because they're doing better in CAO points. So I think the profession is changing and what we were trying to do was demonstrate what's happened in the past, empower women for the future, and to try to be a catalyst for change.

And do you think that that's the best method of bringing about change - to challenge the profession from the inside?

Yes, I do think it's important that there are women challenging it from the inside of the professions, but I think you also do need to be sure, or to be careful, when you are a professional lawyer that you don't get drawn in to the profession. Mary Robinson actually put it very concisely when we interviewed her for the study. She said there are women who climb the ladder, and then they pull the trapdoor closed after them and pull the ladder up behind them. There is a danger that women, and indeed men, who enter the legal profession become seduced by the profession and by the professional status and sort of forget, and so lose their distance and objectivity. So I think, again, what we were trying to do with the study was to show that, objectively, there is a collective experience that women have that is different to men in the law, and that it's ok to recognise that, and that you can still be a very good and a very professional lawyer if you recognise that.

You're a strong advocate of improving access to education, and particularly to third level education. Given the exceptionally high cost of vocational legal education in Blackhall Place and the King's Inns, do you think that there is any way, or any willingness, to make the law more accessible?

I think there is a problem with accessibility in legal studies and I think it starts a long time before Blackhall or the King's Inns, and indeed before third level. In Trinity we did introduce in Trinity a system of scholarships and a system of reserved places for students from disadvantaged backgrounds. When I started in Trinity I pushed that and we got it through, and it's now been adopted across the faculties. There are a number of places that are outside the quota for students from particular disadvantaged schools and they get scholarships. Obviously that's only a very very small and a very micro-level way of trying to change things, and I think far more fundamental change is necessary in education to increase the number of people from disadvantaged backgrounds studying law. I believe investment should start at preschool level. The lack of state investment in childcare is a scandal in Ireland and the lack of investment in primary level is scandalous, particularly in disadvantaged schools. If we were just looking at how to make King's Inns and Blackhall Place more accessible, well I think there are a range of options. Again you could have reserved places for students from disadvantaged areas, you could offer scholarships if you look at what they're doing in England, and you try to make all sorts of changes – you can make the experience of becoming a barrister, for example, a lot more accessible through paying a wage for pupillage or devilling. That would be a huge step forward. I also think that modernising the King's Inns course would be a huge step forward, and I must say our study was quite critical of the King's Inns course. Blackhall Place has reformed and become much more professional. It is now a proper vocational training programme. The way the Inns is now - a two-year part-time course - assumes people have another income. So I think there are a lot of problems with it, but I'm glad to see it's changing.

Of course they've changed the course in King's Inns now to a one-year full time course. Do you interpret this as a sign of their willingness to make the Inns more accessible, notwithstanding the increased fees?

Well, that's the unfortunate thing because obviously the fee increase won't make it more accessible. If anything it will make it more inaccessible. And, at least under the current arrangement people can work full time and do King's Inns part-time. I mean I'm in favour of making it a more professional training course and moving to one-year full time but I certainly don't agree with the increase in fees. I actually did my professional training in London, where they had done a huge amount more to make law accessible and to make legal training accessible. There were large numbers of bursaries and scholarships available. I think that's a first step. Even if you do nothing else, if you offer those then you're going to open it up a little bit.

What do you believe is the greatest challenge facing the law in the future?

I think the greatest challenge will be accommodating diversity, which sounds like just jargon, but what that means is making law more accessible to people, particularly from disadvantaged backgrounds, from working class backgrounds, as well as obviously accommodating women. It's also important to ensure that there isn't discrimination on other grounds that we didn't have the capacity to go into in our study. For example, people made comments to us about sexuality, about religion, about race – these are issues that I think the law will have to face and the legal professions will have to face. But the biggest challenge is class, and again, it comes back to making legal training more accessible. But it also is about mak-

ing people's experiences of the law more democratic. Certainly in criminal law, in my area of practice, it's very much biased against those from working class backgrounds. Some research we did some years ago drawing on my own experiences of the District Court showed absolutely conclusively that the majority of people appearing before the District Courts are drawn from the most disadvantaged working class pool, and that really there is a bias in the system against people from certain areas. We don't often see white-collar criminals before the courts and, I think, that's a huge challenge for the law – to at least appear, and really to be, more democratic and less elitist.

In 2003 Ireland became the last member state to incorporate the European Convention on Human Rights and Fundamental Freedoms by way of the ECHR Act 2003 – what is your reaction to this development?

I think it's a pity that it wasn't done in a more substantive way. I, and others, would have been critical of the minimalist approach that the government have taken, in the sense that the Courts can't strike down legislation that's incompatible with the Convention. So it's disappointing that they've taken the same approach as the British Government. On the other hand, it will at least have an impact, even in the minimalist way it's been brought in. Certainly in criminal procedure there will be changes. Practitioners are predicting that delays between conviction in the Circuit Criminal Court and getting to the Court of Criminal Appeal will have to be reduced because they're shocking at the moment. So I think we'll see developments in criminal procedure, even with its minimalist adoption, but certainly it could have been done at a more substantive level.

You identify yourself, among other things, as a feminist. Are you concerned at the low level of involvement in the feminist movement on the part of younger women, and what do you believe has caused this disinterest?

Yes I'm a strong feminist like my mother who trained me in to distribute condoms years ago, when I was growing up in Cork at the age of 10 or 11, and it didn't put me off. But, am I concerned? Well, I think the end of feminism has been predicted since the sixties. As soon as feminism reared its head, second wave feminism, the backlash began and what we're seeing now is the continued backlash. And I'm not surprised that women, particularly young women, don't identify as feminist. But, you know, that was put to me at 18 or 19 as well – that young women in the 1980s were not identifying as feminist. So it's not that there was ever a huge tendency among women, young or otherwise, to identify as feminist so I don't think much has changed. Women are still reluctant – now as before - to take on a label that they see as being confrontational, or that they fear may make them unpopular. And there's been a successful media backlash against feminism because it's seen as being sort of dungaree-wearing, man-hating and leftie and somehow a bit of a joke. But I actually think that if you pare it away, and if you ask women their views – especially younger women and my younger colleagues – they are expressing feminist views. They don't identify themselves with the label of feminism, but they're certainly in favour of equality for women, and I do think that women under forty have a much greater expectation now of equality, than our mothers' generation would have had. But having said all that, there's still a big problem at the child-bearing stage because, at this stage that I'm at and with a lot of my friends having children, we see suddenly the equality between men and women slipping and women, for example, opting for part-time work. They're usually very happy to do so but it's them

doing it and not their male partners, so I'm disappointed that among my contemporaries it's still difficult to maintain an equal status with men at every level because I think there's a lack of provision of child-care and there's a lack of culture of acceptance of men taking on more of a child caring role.

You have been selected as a Labour Party candidate, alongside Proinsias de Rossa MEP, to stand in the 2004 European Parliament elections in the Dublin constituency. What prompted you to take your political involvement to this level?

I've been a Labour Party member for a long time, I first joined the party when I was 18 in Trinity. I was very inspired by people like Michael D. Higgins, who'd still be a huge hero of mine, and now Liz MacManus and other very strong candidates that we have. I had stood for election as an Independent for the Trinity seat in the Seanad on two occasions and I hadn't won. Then I realised that the Labour Party was going to be selecting a second candidate with Proinsias de Rossa, and it seemed to me that it would be a really exciting and useful campaign to run, because I think there's a lot about the European Parliament that you can't do at a local or national level. It's a much more ideological position.

You can put forward policy and do more about policy on a broader level than perhaps you can do in local politics or at national level. So I was interested to do that, and went for nomination and was elected by the party to run alongside Proinsias. It's a growing interest – I had voted 'no' to every EU referendum until Nice II and I finally had a bit of a wake-up call around the whole debate about Nice I and Nice II. I suppose I realised then that the Left can't just oppose

Europe. We've got to be proposing some sort of alternative. And I'm fairly critical about how the EU has evolved – I think it's far too much about Neo-Liberal economics and there's still not enough emphasis on social protection, and yet at the same time we've gained hugely in Ireland in terms of things like parental leave and equal pay: as women and as workers. So on balance, I think it's better, again, to try to change things from within. Also there's huge scope now for MEPs to change things within the Parliament, because the Parliament has been given a greater role in most areas. So the Parliament will have a huge role to play, particularly from this election on, and I think it would be really exciting to be in there and to increase Ireland's socialist representation. We have only one socialist MEP and Ireland has been weak in terms of pushing for social legislation – our Government is blocking the protection of temporary workers at the moment. We're not kicking up a fuss about it because we don't have the numbers.

And finally, can you sum up, in one sentence, what you think that you as a feminist, socialist and lawyer can bring to the European Parliament?...You can think about that one.

I'll have to think of a really good sentence.

Ok, you can stretch it to two sentences then.

Well, I think increased social provision, better protection for women and for workers, and a challenge to the Neo-Liberal consensus – in other words a challenge to the Right – for that, we need more socialist MEPs.

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Researching and Understanding International Human Rights Law

Fiona de Londras,

BCL, LL.M (NUI), Lecturer in Law,

Correspondence Address:

The Law School, Griffith College Dublin, South Circular Road, Dublin 8, Ireland.

Email: fiona.delondras@gcd.ie

Human rights discourse is not a new phenomenon; it is only the language of human rights that is new. The recognition that every individual has, by virtue of the dignity they possess as human beings, certain rights, duties and obligations is, however, an ancient concept as reflected in the Hindu Vedas, the Babylonian Code of Hammurabi, the Bible, the Quran (Koran), and the Analects of Confucius.¹ Despite these ancient foundations of what we now know as the concept of human rights, it was not until the 1940s that the international community enshrined these doctrines in legal instruments. Since then, human rights law has undergone a metamorphosis of titanic proportions, and both our legal system and our work as legal professionals are now heavily influenced by global and regional human rights systems and instruments.

The purpose of this issue's research article is to trace the development of human rights law and identify both where modern human rights instruments and precedents can be found, and how they interact with and influence municipal law in this jurisdiction.

What is human rights law?

Human rights law is a particular branch of public international law. Despite the fact that public international law is predominantly concerned with inter-state relationships, human rights law is mostly concerned with the relationships between states and individuals, making it a relatively unique branch of international law. The influence of the development of international human rights law has led to a drastic change in conception of international law. For example, in 1912 Oppenheim wrote that

... it is maintained that, although individuals cannot be subjects of International Law, they can nevertheless acquire rights and duties from International Law. But it is impossible to find a basis for the existence of such rights and duties. International rights and duties they cannot be, for international rights and duties can only exist between States...But what is the real position of individuals in International Law, if they are not subjects thereof? The answer can only be that they are objects of the Law of Nations. They appear as such from many different points of view...It is through the medium of their nationality only that individuals can enjoy benefits from the Law of Nations.²

A later edition of *International Law: A Treatise*, revised and written by Lauterpacht in the wake of the two World Wars, however, recognises that "the fact that individuals are normally the object of International Law does not mean that they are not, in certain cases, the direct subjects thereof".³ The temporal alignment between this alteration in legal thought and the Holocaust is not merely coincidental – it was, in fact, the Holocaust that compelled the international community to codify a series of rights and obligations of the individual into international legal instruments. Largely, as a result of this development, international law can now be described as

The body of rules which are legally binding on states in their intercourse with each other. These rules are primarily those which govern the relations of states, but states are not the only subjects of international law. International organisations and, to some extent also individuals, may be subjects of rights conferred and imposed by international law.⁴

Sources of international law

The principle of sovereign equality of states dictates that consent be the primary source of international obligations. The principle of sovereign equality is enshrined in Article 2 of the Charter of the United Nations,⁵ and means that all states are conceived as being equal and sovereign, meaning that their internal affairs are solely within the competence of that state and not of the international community. Modern international law presupposes a structure where all states exist on a co-equal basis. The structures and sources of international law demand and depend on the interaction of States in the form of treaties and other bilateral and multilateral international agreements. In other words, international law deals almost exclusively with states, and treats them all as equal, sovereign entities. In general terms, therefore, states cannot be bound by international legal obligations unless they have consented to being so bound.

In addition to this basic source of international law, Article 38(1) of the Statute of the International Court of Justice states that the court will apply numerous sources in its decision-making processes, namely:

1. International conventions (i.e. treaties);
2. International custom;
3. The general principles of international law recognised by civilised nations;
4. Judicial decisions and academic commentary.⁶

International treaties can be defined as international agreements concluded between States in written form,⁷ and are the means by which states create certain and specific obligations between one another. Treaties have always been acknowledged as one of the most important sources of international

law, and as the International Law Commission continues its work of codifying international law in its entirety, they are bound to become even more important to the legal researcher. Researching international treaties has been greatly simplified by the emergence of online legal databases specialising in international law such as the University of Minnesota Human Rights Library,⁸ though the quickest and easiest way of sourcing the texts of these treaties is through the online homes of the organisations from which they emanate.⁹

However, in researching and applying international treaties it is important to always clarify whether or not a State has entered either reservations or derogations to the treaty. Reservations are unilateral statements, made by a State, “whereby the State purports to exclude or modify the legal effect of certain provisions of the treaty in their application to that State”.¹⁰ In other words, if a state has entered a (valid) reservation to a Treaty provision, that provision does not bind the Member State.¹¹ The potential to enter reservations is, once again, an extension of the principle of consent in international law.

While reservations are entered on an indefinite basis (i.e. they are not expressed to be temporally restricted), a temporary declaration that a particular provision is not binding on a Member State may also be entered, known as a Derogation. The procedure for derogations from provisions is usually provided for within the text of an international agreement, though it is well established that in order for a derogation to be valid the dual test of necessity and proportionality must be fulfilled, i.e. it must be shown that there was a state of emergency necessitating the temporary suspension of particular treaty provisions, and the measures introduced on foot of this derogation must be proportionate to the emergency and within the strict exigencies of the situation. These principles have been developed by the Human Rights Committee in relation to the International Covenant on Civil and Political Rights,¹² and by the Commission and European Court of Human Rights in relation to the European Convention on Human Rights.¹³

Unfortunately custom, one of the most important sources of international law, is notoriously difficult to research. Dixon defines the somewhat evasive concept of customary international law as “that law which has evolved from the practice or customs of states. It is the foundation stone of the modern law of nations”.¹⁴ State practice is essentially the activities of states in their dealings with one another and includes, though is not limited to, statements made in relation to particular disputes or situations, abstract statements of legal principle, domestic legislation and the practice of international organisations. In order to ascertain whether or not a particular principle qualifies as state practice, the legal researcher is best advised to ‘surf’ the websites of national legislatures for press releases, parliamentary statements and debates, and ministerial declarations. In addition one should search the online publications libraries of international organisations, and especially the General Assembly¹⁵ and Security Council¹⁶ of the United Nations. Once the researcher has sourced declarations and statements in relation to a particular area they must be certain of three other matters before they can definitively state that that position is reflective of customary international law, namely generality, consistency, and *opinio juris*.

The requirement of generality insists that there should be some level of international agreement on the issue at hand, and one should bear in mind that, when assessing generality, special weighting may be given to the practices of states whose interests are specifically affected by the subject matter of the

alleged rule. The state practice must also be reasonably consistent – both within that particular state and between states – though a totality of consistency is unnecessary. The third of these additional requirements – *opinio juris* – is arguably the most important, and essentially means that “[i]n order that this practice is to constitute law, states must recognise it as binding upon them *as law*”.¹⁷ In other words, states must believe that their practice is obligatory, rather than convenient or habitual.

Researchers of international human rights law should also take cognisance of international judicial decisions emanating from the International Court of Justice,¹⁸ the International Criminal Tribunal for the Former Yugoslavia,¹⁹ International Criminal Tribunal for Rwanda,²⁰ Inter-America Court of Human Rights,²¹ and the European Court of Human Rights (of which, more later). An African Court of Human Rights has been established in the past few months, which should also contribute to the development of Human Rights Law in the coming years.²² In the future the decisions of the International Criminal Court will also take on particular significance and, though not strictly speaking – concerned with human rights law, the ICC and the *ad hoc* tribunals established in the light of relatively recent atrocities in the Former Yugoslavia and Rwanda make valuable contributions to the ever evolving body of international criminal law, which is perhaps most accurately defined as a conflation of International Humanitarian Law (i.e. the law of war) and International Human Rights Law, and the jurisprudence emanating from these courts therefore has the potential to contribute greatly to the development of human rights law.

The final source to take into account when researching international human rights law is *jus cogens*. In the modern theory of international law, *jus cogens* - in accordance with the definition in art. 53 of the Vienna Convention on the Law of Treaties of 23 May 1969 - refers to the peremptory norms of general international law. Art. 53 of the Convention states that “a peremptory norm of general international law is a norm accepted and recognized by the international community of states as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character”.²³ The fundamental human rights (for example the right to life, the right not to be subjected to torture or other inhuman or degrading treatment) are unanimously held to be part of this *jus cogens*, which has in addition “absolute validity ... so that it cannot be abrogated either by customary international law or by the agreements between individual parties”.²⁴

International human rights law: the United Nations system

One of the rationales for the foundation of the United Nations was “to reaffirm faith in fundamental human rights”,²⁵ and in furtherance of this aim the UN has established a complex system of human rights protection. The main human rights bodies within the UN are the Commission on Human Rights, the Human Rights Committee, the Committee on Economic, Social and Cultural Rights,²⁶ the Committee Against Torture,²⁷ the Committee on the Elimination of Racial Discrimination,²⁸ the Committee on the Elimination of All Forms of Discrimination Against Women,²⁹ and the Committee on the Rights of the Child.³⁰

Some of these organisations are charter based and some are treaty based, meaning that some have been established on the basis of the Charter of the United Nations, and some as enforcement and implementation bodies for the various human rights treaties of the organisation. While all of these

bodies serve valuable purposes and produce international law, we will only look at two of them: the Commission on Human Rights, and the Human Rights Committee.

The United Nations Commission on Human Rights, a charter based organisation, is arguable the world's most important human rights organisation. The Commission comprises of 53 States, and meets in regular annual sessions where both state and non-governmental delegations participate. These sessions lead to the production of resolutions, decisions and Chairperson's statements on human rights issues and themes. The Commission receives a large amount of assistance in this function from the Sub-Commission on the Promotion and Protection of Human Rights, a number of working groups and a network of individual experts, representatives and *rappoteurs* mandated to report to it on specific issues. The Commission's website (www.unhchr.ch/) is an invaluable resource on treaty law, resolutions, statements, and reports, and includes information that can be particularly relevant for advocates seeking country of origin information in relation to refugee procedures.

The Human Rights Committee is also worthy of particular note. It is a treaty-based body established to monitor the implementation of the International Covenant of Civil and Political Rights and the Protocols to the Covenant in the territory of States parties. From the point of view of someone trying to incorporate international law into proceedings of Irish courts, the most important aspect of the HRC's work is to hear individual petitions from residents of states parties who have accepted this jurisdiction. It was a decision of the HRC that formed the basis of one of the main arguments in the seminal case of *Kavanagh*³¹ in 2001. Decisions of, and more information on, the Committee can be found on its website, which once again serves as an invaluable source of materials on the Covenant.³²

The relationship between international human rights law and the domestic legal system

The Monist theory of law supposes that international law and municipal law are simply two parts of the one body of knowledge known as 'Law'. This means that both international and municipal (or domestic) laws exist at the same time and operate concurrently over the same issues. Where there is a conflict between municipal and international law in a concrete case, the international law is said to prevail.

Dualism, on the other hand, denies the monist 'unity' theory. Instead, dualists claim that international law deals with a subject on an international level and municipal law deals with the same subject matter on a domestic level. The domestic courts will not, therefore, apply the international law. This means that for international law to which the state is a party to be enforceable in the domestic courts, it must be incorporated into the domestic law of the nation.

Article 29.3 of *Bunreacht na hÉireann* provides that the State accepts the generally recognised principles of international law as its rule of conduct in its relations with other States. In *Government of Canada v Employment Appeals Tribunal*,³³ it was held that this provision incorporates customary international law in its present formulation, though the Supreme Court did accept that the generally recognised principals of international law are subject to change in accordance with the changing nature of states practice.

Whether or not this principle incorporates international human rights law as it refers to the relationship between the state and citizen is, however, a more complex question. Article 29.3 refers specifically to international law as it relates

to inter-state relationships only. In *Kavanagh v. The Governor of Mountjoy Prison and The Attorney General*³⁴ the accused had been tried in the Special Criminal Court for a non-scheduled offence. The applicant entered an individual petition to the UN Human Rights Committee, under the mechanism laid down in the International Covenant on Civil and Political Rights, arguing that his trial before the Special Criminal Court violated his rights under Art 26 of the Covenant, which provides for equality before the law. His complaint was upheld on the basis, *inter alia*, that the DPP is not required to give reasons for his decision in relation to those charged with non-scheduled offences.

Kavanagh brought this decision back to the Supreme Court and argued that, because Article 29(3) accepts the generally recognised principles of international law as part of our municipal law, the principle of equality before the law had been incorporated under this provision. He further argued that he was therefore entitled to invoke this principle before the courts to have his conviction overturned on the basis that he had a legitimate expectation that the state would adhere to the principles of international law to which it had voluntarily assigned itself, i.e. that the State would consider itself bound by the decisions of the HRC whose competency it had voluntarily accepted.

The court concluded that such principles and rights related only to the conduct of the state in its relations with other states and confers no rights on individuals. To allow the doctrine of legitimate expectations to defeat this settled principle would "incorporate the unincorporated convention into our municipal law by the back door". In other words, the court held that these general principles incorporated by virtue of Article 29 were to govern inter-state conduct, and could not be relied upon by an individual before the courts.

This decision not only appears to reject the earlier decisions of *Fakih v. Minister for Justice, Equality & Law Reform*³⁵ and *Gutrani v. Minister for Justice, Equality and Law Reform*,³⁶ the first of which at least can be interpreted as approving of the extended remit of the principle of legitimate expectation to allow individuals rely on the state's international obligations, but also exposes the apparent hostility of the Irish courts towards international rights decisions which threaten to disrupt established elements of the legal system. This position is regrettable – especially since one of the functions of international human rights law is to do precisely that: upend institutions and practices within states that violate human rights.

European human rights law – The European Convention on Human Rights and Fundamental Freedoms

The Council of Europe is an intergovernmental organisation, which now includes practically all European states, including all the accession states of European Union. In 1950 the Council adopted the European Convention on Human Rights and Fundamental Freedoms, and it came into force in 1953. As it stands, the ECHR provides rights protection to over 800 million Europeans.

The Convention has been further explained and expanded in its additional protocols, which are not to be overlooked when engaging in research. Protocol 11 (one of the relatively rare compulsory protocols) is particularly important from the perspective of the legal researcher, as it fundamentally changed the individual petition procedure under the Convention. Prior to Protocol 11 the European Commission of Human Rights decided on the admissibility of complaints, and the Committee of Ministers and/or the Court determined the merits of the

cases that came before them. As a result of the Protocol however there is now a single full-time Court, as opposed to the part-time Commission and Court, which has greatly decreased the back-log of complaints under the Convention.

The repercussion of this for researchers is that confusion sometimes ensues when someone is faced with a decision of the Commission from prior to Protocol 11, however those decisions are perfectly valid. They rank below a decision of the Court from either pre-Protocol 11 or post-Protocol 11, but they are still persuasive authority in terms of European law.

An understanding of the Convention and knowledge of decisions of the European Court of Human Rights is destined to become increasingly more important in a domestic legal context. In terms of understanding the Convention as a piece of international law, there are some excellent resources including especially Van Dijk and Van Hoof, *Theory and Practice of the European Convention on Human Rights*,³⁷ which is perhaps the most up-to-date comprehensive text on the issue, though Harris, O'Boyle and Warbrick, *Law of the European Convention on Human Rights*³⁸ is regulated to second place by virtue only of its out-datedness.

The case law of the Commission and Court can be accessed online at www.echr.coe.int though the database is notoriously difficult to navigate making a simple Google search by far the easiest and quickest way to locate these decisions online.

The European Convention on Human Rights Act 2003

Article 29 of *Bunreacht na hÉireann* firmly establishes Ireland as a dualist nation, meaning that in order to incorporate international law into our domestic legal system the Government must sign and ratify the international treaty or convention, and then implement separate legislation to incorporate it. This was (eventually) done by the Irish government in 2003 with the promulgation of the European Convention on Human Rights Act 2003, which takes a rather analogous approach to incorporation to the one contained within the UK's Human Rights Act 1998. In essence, the Act provides that the provisions of the ECHR and decisions of enforcement and implementation bodies established by the Convention, will be taken into account by all organs of the State in performing their functions. It also empowers the

Superior Courts to make a declaration of incompatibility where a statutory provision is found to be incompatible with the State's obligations under the Convention, though this declaration would not affect the validity or continuance of the violatory provision.

The diluted nature of this incorporation is lamentable – it essentially acts as nothing more than a cosmetic incorporation of Ireland's voluntarily and consensually undertaken obligations under the Convention, and fails to effectively protect and uphold the Convention rights of people on the territory of Ireland in our domestic legal system. Despite that however, the incorporation of the Convention certainly has the *potential* to bring about an immense amount of change within the Irish legal system, in the same way as the Human Rights Act 1998 has radically effected legal process and proceedings in the UK. The veracity of the 2003 Act's impact on the Irish legal system will, however, ultimately depend on the willingness of parliamentarians to respond to declarations of incompatibility from the Courts in a responsible, positive and co-operative manner that is within the spirit of both the Convention and the act of incorporation.

Conclusion

It is therefore clear that while there exists a large body of law collectively known as 'human rights law', its impact on the domestic sphere in Ireland is relatively minimal, especially when doctrines and principles of human rights law conflict with accepted and established institutions and principles of municipal law. This essentially means that while Ireland is a party to the vast majority of international agreements, individuals are generally prevented from enforcing their rights under these instruments within the domestic courts, and are offered very little practical relief when the enforcement and implementation mechanisms of international instruments conclude that their rights are being violated.

International law is, by its very nature, notoriously difficult to implement and enforce, and relies to a large degree on states' willingness to take their voluntarily assumed international obligations seriously. That self-regulation is no regulation may well be an old adage, but in the context of human rights law it certainly has a ring of truth.

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4. Jennings and Watts, *Oppenheim's International Law*, 9th Ed., (1992, Harlow: Longman), Vol. 1, p. 4.
5. Charter of the United Nations, June 26, 1945, 59 Stat. 1031, T.S. 993, 3 Bevans 1153, entered into force Oct. 24, 1945.
6. The application of these sources of law is clearly stated as being subsidiary (Article 38(1)) as subject to Article 59 of the Statute.
7. Vienna Convention on the Law of Treaties, 1969, Article 2.
8. www1.umn.edu/humanrts/
9. Perhaps the most useful of these are www.un.org, www.coe.int (Council of Europe), www.un.org/popin/oaou/oaouhome.htm (Organisation of African Unity), www.cidh.oas.org/DefaultE.htm (Organisation of African Unity).
10. *Supra* No. 7, Article 2(1)(d).
11. The classic test of validity of a reservation was laid down by the International Court of Justice in the seminal case of *Genocide Convention (Reservations) Case* (1951 ICJ Rep. 15), where it was held that a Reservation would be valid if it were "compatible with the object and purpose of the Convention". The position in relation to validity was authoritatively provided for in Article 19 of the Vienna Convention on the Law of Treaties, 1969.
12. See in particular Human Rights Committee, General Comment 29, States of Emergency (article 4), U.N. Doc. CCPR/C/21/Rev.1/Add.11 (2001), available on www1.umn.edu/humanrts/gencomm/hrc29.html
13. For further information see Oraa, *Human Rights in States of Emergency in International Law*, (1992, Oxford: Clarendon Press).
14. Dixon, *Textbook on International Law*, 2nd Edition p. 24).
15. Resolutions of the General Assembly are available on www.un.org/documents/resga.htm
16. All Security Council documents can be accessed on www.un.org/Docs/sc/
17. *Supra* No. 14, p. 28.
18. Decisions available on www.worldlii.org
19. Decisions available on www.un.org/icty
20. Decisions available on www.ict.org
21. Decisions available on www1.umn.edu/humanrts/iachr/iachr.html
22. More information can be found on www.african-union.org
23. Cf. also Verdross and Simma, *Universelles Völkerrecht. Theorie und Praxis*, 3rd Edition, (1984, Berlin), p. 331.
24. *Ibid.*
25. Preamble of the United Nations Charter.
26. www.unhchr.ch/html/menu2/6/cescr.htm
27. www.unhchr.ch/html/menu2/6/cat/
28. www.unhchr.ch/html/menu2/6/cerd.htm
29. www.un.org/womenwatch/daw/cedaw/
30. www.unhchr.ch/html/menu2/6/crc/
31. *Kavanagh v. The Governor of Mountjoy Prison and The Attorney General* [2001] IEHC 77.
32. www.unhchr.ch/html/menu2/6/hrc.htm
33. [1992] IILRM 325.
34. *Supra* No. 31.
35. [1993] 2 IR 406.
36. [1993] 2 IR 427.
37. 3rd Edition, (1998: Kluwer International).
38. 1995, Butterwoths.

Book Reviews



This section is edited by

Michelle McDonnell,
Solicitor, Patrick Fahy & Co, Solicitors,
Omagh, Co. Tyrone, Northern Ireland.

This section is devoted to reviewing the latest books of interest to the legal profession.

Publishers or authors who would like to have their books reviewed in this section should contact Patricia McDonnell at ilr1@eircom.net

Media Law

Published by: Thomson Round Hall
Author: Marie McGonagle
ISBN: 1-85800-272-9
Price: €110

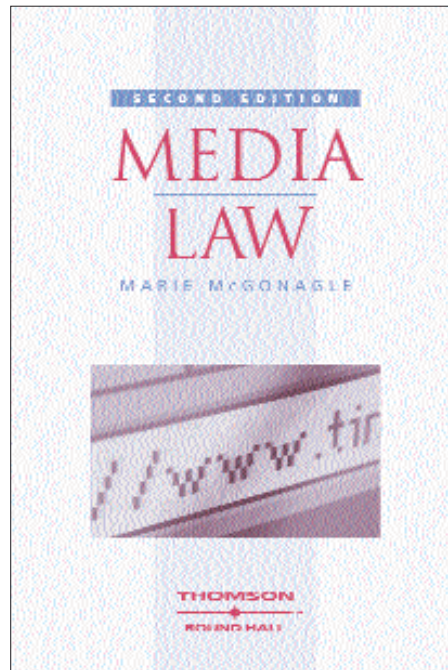
Since the publication of *A Textbook on Media Law* by Marie McGonagle in 1996, developments concerning the traditional media and the emergence of new technologies have combined to present new challenges for the role and regulation of the media in its various forms. In *Media Law*, the author explores the rapid developments occurring in the 'new media' whilst also re-examining the more traditional media topics of, *inter alia*, defamation, privacy and the principle of open justice. The scope of the book is therefore wide ranging, covering print, broadcast and audio-visual media.

The first three chapters of *Media Law* address general issues such as the role of the media, media rights as protected by the Irish Constitution and international human rights instruments, and the historical development of the media from the growth of newspapers through to discussion of the Internet and multi-media.

Defamation and privacy law are analysed in chapters four and five. The key elements of the tort of defamation are presented in a clear and engaging manner - not an easy task given the nuances of this area of law. Similarly, the "patchwork" of protection that is Irish privacy law is presented with precision. The author recognises the need for reform in both of these areas of Irish law, and advocates a move away from damages as the central remedy for injury to reputation, and towards correction or declaratory orders and calls for the extension of the common law defence of qualified privilege. In addressing the defects in Irish privacy law, McGonagle encourages a focus on the theoretical basis and justification of the right and if following this, that a right is to be developed, that it be carried out systematically meeting the requirements of the Irish Constitution and taking account of international human rights provisions.

The following three chapters chart the evolving relationship between the media and the courts, parliament and local government. Recent cases on contempt of court are commended for introducing greater clarity to this area of the law and for bringing Irish law more in line with the jurisprudence of the European Court of Human Rights.

Other media restrictions stemming from the Irish constitutional provision on freedom of expression, Article 40.6.1.i, such as public order, morality and the authority of the state, are covered in chapters eight to ten. The author questions the need to retain the concept of blasphemous matter or the common law offence of seditious libel, bringing the discussion alive by the introduction of current social and legal issues



such as hate speech in relation to refugees and asylum seekers, the increase in child pornography and the new relationship between the government and citizens since the introduction of Freedom of Information legislation.

The last chapter of the book turns to the regulation of the media, with a focus on the broadcast media rather than the print media in light of the "developing broadcasting landscape". Irish legislation has taken account of this in the form of the Broadcasting Act 2001, as have European law and policy, all of which are delineated and discussed. The author acknowledges that unlike public service and private commercial broadcasting, the print media is not regulated by "sector-specific laws". Rather than advocating a statutory framework for the print media, the author supports the trends towards self-regulation in the new media and self-regulation and co-regulation

in the broadcast media. It is worth noting that regulation of the print media has recently been examined by the *Legal Advisory Group on Defamation*, established by the Minister for Justice, Equality and Law Reform, in its Report of March 2003. The Group recommended that a statutory Press Council be established with functions including the preparation of a Press Code of Conduct, which would also investigate complaints.

A welcome feature throughout the book is the author's familiarity with the jurisprudence of the European Court of Human Rights and of other common law jurisdictions. Discussion of the case law of the ECtHR is very welcome in light of the heightened domestic relevance of the European Convention on Human Rights following its incorporation into Irish law (European Convention on Human Rights Act 2003).

Another commendable feature of the book is the author's presentation of material - despite analysing some complex areas of law, a readable style is achieved throughout.

The book is obviously aimed at a wide readership. It is presented in a clear and accessible format that will appeal to students, yet exposes wider issues that whet the appetite of those who want to read further. The book will serve as a useful tool for those who wish to explore particular topics in more depth by the inclusion of a Further Reading section at the end of each chapter directing the reader to more specialised books on a given topic. The author has also included an excellent bibliography and list of useful websites.

Media Law is a very welcome addition to the book market and I wish it the success it richly deserves.

Reviewed by: Sarah Fennell, Barrister, London, UK.

The International Survey of Family Law

Published by: Jordan Publishing
Editors: Dr Andrew Bainham
ISBN: 0-85308-866-7
Price: £60.00

The International Survey of Family Law is eagerly awaited annually for its broad and diverse insight into recent developments in a range of areas of family law across multiple jurisdictions. One of the most interesting features of this publication is the diverse nature of the topics addressed, each in the context of a particular jurisdiction, thereby providing the reader with an insight into a cross-section of topical legal issues in the family law context. Unsurprisingly, the 2003 edition continues this valuable tradition. Contributions to this collection are received from twenty-seven jurisdictions, which detail changes and developments in a multitude of areas, including, but far from exhaustively, marriage laws, matrimonial property, adoption, welfare services, domestic violence, human rights, abortion, artificial insemination and child law. Whilst the survey is "necessarily selective" it is admirably broad in its scope.

The breadth of the jurisdictions covered presents a colourful illustration of the various stages of development of particular elements of the family law regimes in the jurisdictions covered. For example, the issue of non-traditional relationships features under several guises with the Spanish contribution considering de facto unions, the US contribution setting out the developments in respect of unconventional relations, the Canadian submission including an analysis of same-sex marriages and the Brazilian paper considering the current law regarding same-sex couples. The most common nature of the contributions is the presentation of an overview of the family law in a jurisdiction, which is very helpful to those who might

have very little knowledge of the specifics of the family law system abroad. This generic and broad approach is particularly useful, in respect of jurisdictions such as Angola, Croatia, Ghana and Nigeria whose family law systems may not be universally known. Overviews of a range of issues are also provided in respect of the Scottish, Dutch and Hungarian jurisdictions, each of which provides a considered and relevant insight into various elements of family law. Specific, individual topical issues are also considered. Adoption laws in the Czech Republic, violence and maintenance laws in Germany, artificial insemination laws in Italy and abortion laws in Switzerland are considered in their own right, giving rise to a detailed and fascinating insight into recent developments in these specialised areas of family law.

The developments in family law in these twenty-seven jurisdictions indicate at times a similarity of issues, notwithstanding an evident disparity in the stage of development amongst the varying jurisdictions. For example, the contrast between the recent legislative and judicial attempts in Zambia to safeguard the family against homelessness on the death of the head of the family and the equal rights of the spouses to possess, use and dispose of joint property under Hungarian law are evidence of the contrasting approaches and more fundamentally, the vastly distinct stages of development of the law relating to matrimonial property in these two jurisdictions.

The benefit for the reader of the 2003 edition of the *International Survey of Family Law* is the range and scope of the material included and the insight given into the evolving and ever-developing nature of family law in the international context.

Reviewed by: Louise Crowley, BCL LL.M Solicitor,
College Lecturer, University College Cork,
Cork, Ireland.

The Irish Family Legislation Handbook

Published by: Jordan Publishing
Editors: Muriel Walls, David Bergin
ISBN: 0-85308-500-5
Price: £34.23

The Irish Family Legislation Handbook provides an invaluable collation of much of the legislation relevant to the study and/or practice of Irish Family law. As a collection of legislation, the handbook is very useful, particularly in light of the significant legislative developments in all areas of family law in the last 30 years. These legislative developments have represented a welcome recognition of the needs of all parties concerned in the family law context. In addition they represent a departure from the traditional reluctance on the part of the state to intervene in the private family sphere. This willingness to intervene in private familial relationships is motivated by a desire to protect the rights and safety of all members of the family, but most particularly those in vulnerable positions. Such intervention marks the recognition on the part of the legislature of the role of the state in the protection of the family and its members.

Another interesting approach of the Irish legislature which arises in a number of the included family law statutes, is the tendency to accord a broad discretion to the decision makers in respect of the decision making process in the context of family law. Repeatedly the Irish legislature has elected to present guidelines or a prioritisation of relevant factors to the court, but ultimately has placed the decision making process in the hands of the courts. The importance of the welfare of children underlines any legislation that might impact upon the rights or care of children, and represents an example of a guiding principle for the courts in respect of their ultimate decision. Interestingly in the context of judicial separation and divorce, whilst relevant

factors are set out by the legislature, the judiciary may ultimately make whatever orders are regarded necessary in the interests of justice.

Whilst titled "Irish Family Legislation" the first source of law cited is Articles 41 and 42 of the Constitution. This highlights the importance and priority that is accorded to these constitutional provisions in the enactment and interpretation of Irish family law legislation. Although it is interesting to recognise the affect that the limited interpretation of the Constitutional provision has on the application of the legislation, perhaps there was scope within this book for a brief commentary on their interdependence, which would have highlighted the connection between the two sources of law. The limited interpretation of the family under Article 41, as the family based on marriage, has in turn resulted in an equally limited interpretation by the courts of the legislation included in the handbook. It is perhaps unfortunate that the Acts are not annotated or that there is not commentary provided on the statutes included in the handbook. However the preface does note that the handbook is intended in part as a companion volume to *The Law of Divorce in Ireland*, and perhaps in time, accompanying books in other areas of law governed by the legislation contained in the handbook, might be published. There is potential, based on the Divorce text and this legislation handbook, for a comprehensive examination of various areas of Irish family law.

The legislation contained in the handbook is extensive but only includes legislation enacted up to 1997. This is probably the only other shortfall of the handbook, an updated edition would be welcome, particularly to include statutes such as the Protection of Children (Hague Convention) Act 2000, the Children Act 2001, the Domestic Violence (Amendment) Act 2002 and the Ombudsman for Children Act 2002.

Reviewed by: Louise Crowley, BCL LL.M Solicitor,
College Lecturer, University College Cork, Cork, Ireland.

Modern Irish Company Law

Published by: Jordan Publishing, Editors: Henry Ellis, ISBN: 5308-705-9, Price: £45.00

The introductory chapters of a legal tome are often the last port of call of the student and more often than not such chapters are glossed over in a frenzied search for the lecture room buzzwords, which are believed to herald likely examinable topics. However, I would suggest that a worthwhile exercise for anyone with an interest (or exam!) in company law would be to take the time to read Ellis's first chapter in *Modern Irish Company Law*. The first thirteen pages contain a succinct overview of the law from its nineteenth century origins to contemporary legislative reforms. It operates as an invaluable roadmap to the use of the text-book itself.

Ellis examines the revival of company law within a new era of corporate governance and this is evidenced by the fact that each chapter is informed by an awareness of the way in which the particular law under discussion fits the modern corporate jigsaw.

The author's style of writing is clear and easily understood without compromising on the inclusion of all relevant information. The book traces the nature of company law through its fundamental principles in Part II and later analyses each separate aspect of company law as it impacts on a company. Topics such as company registration and early corporate transactions are dealt with in Part III. Here, as throughout the book, the author enlivens the narrative with novel descriptions of the effect of the steps being taken; such as where he notes that once the registrar of companies issues a certificate of incorporation, the company is legally 'born'.

When a company is being formed, the human agents most directly connected with it will be its investors or shareholders. However, shareholders cannot negotiate contracts and act as agents for the company. Their input is limited to electing the board of directors. It is this body of human agents which has the authority to manage the company. To quote another 'Ellis-ism' they constitute the 'mind' of the company. In Part IV of the book, the respective roles of directors and investors in operating the company are thoroughly dealt with, as are the shareholders' individual rights and responsibilities.

Part V A deals with director's common law and statutory duties. I would like to have seen much more case law in those chapters dealing with directors' specific fiduciary duties and the directors' duty of skill and care. Given the increasing recognition of the fact that directors constitute the controlling 'mind and will' of a company and that it is they, rather than its owners, who should be accountable for any corporate wrongdoings, I feel the author has missed an opportunity in not examining and illustrating more examples of where such breaches of the aforementioned duties have been found to have occurred by the

courts. The varying judicial opinions on this area and the current pre-occupation with corporate governance, as it manifests itself in the role of a company director, might have warranted a more detailed analysis. That said, the remaining chapters in this section of the book, most particularly in Part V B on the legal liabilities of company directors and officers, are exemplary in their detailed consideration of the company legislation as it affects the modern company director. An example can be found in Chapter 31 where the author has scheduled the more serious of the statutory criminal offences which may be committed by directors under the Companies Acts. Such a table is invaluable for the manner in which it cuts through the wordy legislation to simply highlight the offence and its source.

Part VI of the book examines the monitoring of the directors' stewardship of the company. Those chapters dealing with financial records, accounts and reports, the registered office, statutory registers, books and the annual returns are interweaved with practical lists of requirements for various obligations under the Companies Acts and helpful examples which greatly aids the deconstruction of the legislation itself and educates the reader on the practical implications thereof.

Company auditors have the task of examining the books of account, annual accounts, group accounts and the directors' report, and making a report on his findings to the members: the investors who own the company. Ellis has a solid chapter on this area which is informed by his inclusion of an analysis of Part 8 of the Company Law Enforcement Act 2001 which provides for the amendment of the 1990 Act as it relates to accounts and audit.

The final chapters of the book examine the topical issues of improving company law compliance and enforcement. Such a heading allows Ellis more leeway and the reader is guided through the recent history of corporate governance as it originated in American law journals during the 1970s, through the last decade where public disquiet over directors' use of their powers in the UK led to four reports on aspects of corporate governance, to a brief discussion of the Eircom plc AGM in September 2000. This type of debate allows the reader to reflect on how the nature of the law at study has metamorphosed from the 1897 case of *Salomon v Salomon & Co. Ltd.* in the House of Lords to the Company Law Review Group set up under the 2001 Act, and the way in which each change has been in response to the demands of the commercial world it sets out to control.

If a trawl through Irish company legislation is described as a hazardous journey for the uninitiated then, in *Modern Irish Company Law*, Ellis has written excellent directions. The book is an engaging and informative read, formatted in such a manner as to make its subject matter both accessible and easily understood.

Reviewed by: Caitriona McCarthy, BCL (NUI), Trainee Solicitor, Arthur Cox, Dublin, Ireland.

The Law of Evidence In Ireland – 2nd edition

Published by: Lexis-Nexis (Butterworths), Author: Professor Caroline Fennell, Price: €110

The long-awaited second edition of Professor Caroline Fennell's *The Law of Evidence in Ireland* is here at last. Many of us were increasingly inclined to think that the updated version was the stuff of urban myth, but here it is and at least now the undergrad-plagued law librarians of Ireland can breathe a communal sigh of relief. *The Law of Evidence* is generally acknowledged as one of the foremost works on this branch of criminal law and procedure and is written by one of the most

respected Irish academics in this field. Aside from its (I think) disappointing shedding of the original purple hardback cover in favour of a soft, white minimalist thing, the format of the book is largely unaltered. The new text is divided into two sections: new chapters devoted to a general analysis of themes within the Irish law of evidence precede a thoroughly updated version of the original textbook. In the first section, Professor Fennell sets out her stall and outlines themes that are later highlighted and explored in context in discussions of the constituent parts of the law of evidence.

The opening chapters could be read as a rich stand-alone pamphlet on the relationship between the law of evidence and the political machine. The preface quotes the feminist legal theorist Lacey who says: "[the law's] hidden face is its power to silence and exclude those

... who live on the wrong side of the tracks ...". Any lawyer, whatever his or her specialisation, will find something of value in Professor Fennell's exploration of this statement. Fennell contends that much of that "power" lies in the 'extraordinary' or 'temporary' provisions of our law of evidence. These, she contends, are useful studies in the development of this part of the law as a whole. Fennell points out that "exceptional provisions" are usually reactive measures, rooted in the "politics of the last atrocity". While they are usually understood as mere stopgaps, the themes at play in their formation are the same at work throughout this entire area of law, though greatly heightened by the moral panic that inspired them. Fennell explores a core contradiction present in all such measures: Extraordinary provisions are often seen as temporary fences erected to keep the barbarians at bay, dividing the communal 'victims' from a commonly demonised group. We are egged on of course in our division mentality by the eager media. What we forget however, is the tendency of such measures to grease slippery slopes both legislative and judicial with the effect that the criminal law, the forum for a "crucial communication between trial and culture", is altered to the detriment of the whole community. This study is particularly interesting in a political climate where temporary anti-terrorism legislation is increasingly touted as a guarantee of safety.

The opening chapters point out how one set of exceptional legislative provisions has naturally paved the way for the next. We also see how the judiciary have reacted to such changes of standpoint by "effecting a recalibration of the scales of justice", particularly in their analysis of the rights-based provisions of the Irish law of evidence. Thus, Fennell says, "extraordinary changes become over time sanitised and acceptable within the ordinary regime". Fennell reminds us that the social role of the criminal law is much broader than certain elements within the media would have us believe. The "law story" as told is one of a social relationship more fundamental than the weak constructs of victimhood and criminality suggest.

These introductory chapters add greatly to the text as a tool for students. While the first edition was also strong on policy analysis, discussion of such matters was scattered in chunks across its various chapters and it was left to students to piece together an understanding of Evidence's broad themes for themselves. The new format is less awkward. It enables the author to signpost the major issues at play and clearly define their place in the structure of evidentiary rules as a

whole. As a result, students should come away with a much more solid understanding of the relationship between policy, politics and the living law than the original edition allowed.

And so to the science bit. The second section largely retains the approach and much of the material of the original edition, while incorporating discussion of significant developments that have occurred since that volume's publication in 1992. Students will find Professor Fennell's explanations of the structure of the rules of evidence excellent. They are clear and accessible and her style remains mercifully readable throughout. There are other texts on the market that will take you soundly through the black letter of evidence law with something approaching the same efficiency. However, Fennell's strong point remains her knack of (or even her recognition of the necessity of) analysing the law in the context of something other than the Inns' Entrance Exam. Fennell recognises that there is more to learning Law than learning law. Where other texts presume that the job at hand is to equip students with rules and treat the "real world" merely as a forum for their application, Fennell is willing to explore with her reader the symbiotic relationship between the formation of law and real-world pressures. Most of the chapters contain an in-depth analysis of a controversial issue within a given topic. For example the chapter on opinion evidence explores in some detail the courts' naïve trust in science and the expert witness. The Irish approach to the pre-trial process and to arrest, which has come under much scrutiny in recent months, is also closely analysed. What might be asides or detours in other texts are, in this book, very valuable aids to understanding.

This book will primarily be of use to students of the law of evidence who wish to gain a greater depth of understanding of the area, although the material presented is relevant to anyone with an interest in Irish criminal law and procedure. Practitioners can once more confidently rely on *The Law of Evidence in Ireland* as a sound and authoritative commentary on a stock subject. The book should prove a worthwhile investment, and at €110, students in particular will find that "investment" is certainly the right word.

Reviewed by: Mairead Enright BCL - MA student,
Centre for Medical Law and Ethics,
King's College,
London, UK.

Product Update

The latest technological developments available from the industry. To promote your product or company news please contact Patricia McDonnell on Tel: + 353 (0)44 33341 or Email: ilr1@eircom.net

New SpeechPro from Bluechip

Bluechip has announced the addition of SpeechPro to their portfolio. SpeechPro is a new concept in efficient document control, developed specifically for use within professional service organisations such as legal firms. Incorporating world leading speech recognition technology developed by Philips Speech Processing, a business unit of Royal Philips Electronics, SpeechPro is compliant with Microsoft Word Software.

Bluechip's Business Development Director, Geoff Hayter said: "The SpeechPro has many key features, it is highly accurate, natural to use, has continuous speech recognition and a Professional Legal Vocabulary (Con Text) allied to a 300,000-

word background lexicon developed with Oxford University Press. It can facilitate up to 64,000 words per Con Text, and the multiple Language Recogniser, for general dictation, includes: English, German, French, Spanish and many others." He added "It also includes a professional trackball microphone, SpeechMike Pro, but can also support mobile input devices. SpeechPro is for stand-alone professional installations and is currently in active use by many legal professionals in Ireland."

For further information contact:
Regis Calard, blueChip, Tel: 048/028 904 66460,
Email: regis.calard@bluechiptechnologies.com



Diary of Events

If you would like to have an event listed in the *Independent Law Review Diary* please send the relevant information to Patricia McDonnell at irl1@eircom.net or fax to +353 (0)44 33341 by August 6th 2004.

2004

May

New

Terms of Employment

May 20, 2004; Dublin, Ireland.
Info: CPD Unit, Law School,
Law Society, Blackhall Place,
Dublin 7, Ireland.
Tel: 01 672 4802,
Fax: 01 672 4803,
Email: lawschool@lawsociety.ie

New

The Citizenship Referendum: Implications for the Constitution and Human Rights

May 22, 2004; Dublin, Ireland.
Info: Catherine Finnegan,
School of Law, House 39,
Trinity College, Dublin 2, Ireland.
Tel: (01) 608 2367,
Fax (01) 677 0449,
Email: finnegnc@tcd.ie

New

5th COPINE Conference: Psychological and Legal issues of Internet Abuse Images

May 24-26, 2004; Cork, Ireland.
Info: COPINE Conference 2004,
Department of Applied
Psychology, University College
Cork, Ireland.
Fax: +21 4270439.

New

Planning Law Issues in Conveyancing Transactions

May 26, 2004; Dublin, Ireland.
Info: CPD Unit, Law School,
Law Society, Blackhall Place,
Dublin 7, Ireland.
Tel: 01 672 4802,
Fax: 01 672 4803,
Email: lawschool@lawsociety.ie

eLaw: Commercial Transactions, Data Protection and the Internet

May 7, 2004; Cork, Ireland.
Info: University College Cork
Law Faculty.
Email: d.whelan@ucc.ie

NIYSA 2004 Conference

May 13-16, 2004;
Newcastle-upon-Tyne, UK.
Info: Catherine Calvert, Secretary
NIYSA, c/o Samuel D Crawford &
Co, 105-109 Victoria Street, Belfast,
BT1 4PD, Northern Ireland.
Tel: 028 9059 5300.

Law and Society Association Annual Meeting

May 27-30, 2004; Chicago, USA.
Info: Law and Society Association
Annual Meeting, 205 Hampshire
House, University of
Massachusetts, 131 County Circle,
Amherst, MA 01003-9257, USA.
Tel: +1 413 545 4617,
Fax: +1 413 577 3194,
Website: www.lawandsociety.org

June

Fédération Internationale pour le Droit Européen (FIDE) Congress 2004

June 2-5, 2004; Dublin, Ireland.
Info: Irish Society for European
Law, Honorary Secretary,
Patricia O'Sullivan Lacy.
Email: osullivan@lacy.com

New

Data Protection in the Field of European Criminal Justice Co-operation 2004

June 3-4, 2004; Trier, Germany.
Info: ERA Trier, Metzger Allee 4,
D 54295, Trier, Germany.
Tel: +49 (0)651 937370,
Fax: +49 (0)651 9373790,
Email: info@era.int

Solicitors' Continuous Professional Development Seminar

June 4, 2004; Crumlin,
Northern Ireland.
Info: Glenny Whitley, McKelvey
Training & Consulting,
140 Malone Road, Belfast,
BT9 5LH, Northern Ireland.
Tel: 028 9066 3263,
Email: glenny.whitley@mckelveytraining.com
Website: www.mckelveytraining.com

New

Companies (Auditing & Accounting) Act 2003

June 10, 2004; Dublin, Ireland.
Info: CPD Unit, Law School,
Law Society, Blackhall Place,
Dublin 7, Ireland.
Tel: 01 672 4802, Fax: 01 672 4803,
Email: lawschool@lawsociety.ie

New

7th Transnational Crime Conference

June 10-13, 2004; Dublin, Ireland.
Info: Ms Amanda Evison, IBA Office.
Tel: +44 (0)207 629 1206,
Fax: +44 (0)207 491 4460,
Email: Amanda.evison@int-bar.org

Solicitors' Continuous Professional Development Seminar

June 11, 2004; Crumlin,
Northern Ireland.
Info: Glenny Whitley, McKelvey
Training & Consulting,
140 Malone Road, Belfast,
BT9 5LH, Northern Ireland.
Tel: 028 9066 3263,
Email: glenny.whitley@mckelveytraining.com
Website: www.mckelveytraining.com

35th Annual Study Conference British and Irish Association of Law Librarians Conference

June 11-13, 2004; Edinburgh,
Scotland.
Info: Sovereign Conference,
Secure Holdings Business Centre,
Studley Road, Redditch,
Worcestershire, B98 7LG, England.
Tel: +44 (0)1527 518777,
Fax: +44 (0)1527 518718,
Email: association@sovereignconference.co.uk

New

Recent Developments in European Civil Procedure

June 17-18, 2004; Trier, Germany.
Info: ERA Trier, Metzger Allee 4,
D 54295, Trier, Germany.
Tel: +49 (0)651 937370,
Fax: +49 (0)651 9373790,
Email: info@era.int

New

The Children Act 2001

June 19, 2004; Cork, Ireland.
Info: Mary Donnelly,
Lecturer in Law, Law Department,
University College Cork, Ireland.
Tel: +353 (0)21 490 2857,
Fax: +353 (0)21 427 0690,
Email: m.Donnelly@ucc.ie

New

Summer Course on EC Competition

June 28 – July 2, 2004;
Trier, Germany.
Info: ERA Trier, Metzger Allee 4,
D 54295, Trier, Germany.
Tel: +49 (0)651 937370,
Fax: +49 (0)651 9373790,
Email: info@era.int

July

New

12th Summer Course on community Law

July 5-9, 2004; Trier, Germany.
Info: ERA Trier, Metzger Allee 4,
D 54295, Trier, Germany.
Tel: +49 (0)651 937370,
Fax: +49 (0)651 9373790,
Email: info@era.int

New

Conference On International Accountability And Justice

July 15-16, 2004; Galway, Ireland.
Info: Irish Centre for Human
Rights, National University of
Ireland Galway, Galway, Ireland.
Tel: +353 91 750464,
Fax: +353 91 750575,
Email: humanrights@nuigalway.ie

New

Lessig's Code: Lessons for Legal Education from Frontiers of IT Law

July 24-25, 2004; Belfast,
Northern Ireland.
Info: Ms Katie Quinn,
School of Law,
Queens University Belfast,
28 University Square, Belfast,
BT7 1NN, Northern Ireland.
Tel: 028 9027 3370,
Email: c.m.quinn@qub.ac.uk

NIYSA AGM

July 31, 2004; Belfast,
Northern Ireland.
Info: Barbara Johnston, Secretary,
NIYSA, c/o Hewitt & Gilpin
Solicitors, 14-16 James Street
South, Belfast, Northern Ireland.

September

Annual Conference of Society of Legal Scholars

September 13-16, 2004;
Sheffield, England.
Info: Mrs Sally Thomson,
Administrative Secretary,
The Society of Legal Scholars,
School of Law, University of
Southampton, Highfield,
Southampton, SO17 1BJ, England.
Tel: 023 8059 4039,
Fax: 023 8059 3024,
Email: s.j.thomson@soton.ac.uk

Corporate Criminal Liability

September 18-19, 2004;
Santa Fe, New Mexico.
Info: James MacGuill.
Email: james.macguill@macguill.ie

New

Governing the Corporation: Mapping the Loci of Power in Corporate Governance Design

September 20-21, 2004; Belfast,
Northern Ireland.
Info: Ms Katie Quinn, School of
Law, Queens University Belfast,
28 University Square, Belfast,
BT7 1NN, Northern Ireland.
Tel: 028 9027 3370,
Email: c.m.quinn@qub.ac.uk

October

New

Annual Conference of the International Bar Association

October 24-29, 2004; Auckland,
New Zealand.
Info: Ms Caroline Renton
International Bar Association,
217 Regent Street, London,
W1B 2AQ, UK.
Tel: +44 (0)207 629 1206,
Fax: +44 (0)207 491 4460,
Email: caroline.renton@int-bar.org

2005

February

New

Four Jurisdictions Family Law Conference 2005

February 4-6, 2005; Nice, France.
Info: The Law Society of Northern
Ireland, Law Society House,
98 Victoria Street, Belfast,
BT1 3JZ, Northern Ireland.
Tel: +44 (0)28 90 231 614 or visit
www.lawsoc-ni.org

March

New

4th world Congress on Family Law and Children's Rights

March 20-23, 2005; Cape Town,
South Africa.
Info: Gail Fowler, Project Manager,
Capital Conferences, PO Box 253,
Church Point, NSW Australia 2105.
Tel: +61 2 9999 6577,
Fax: +61 2 9999 5733,
Email: gail.fowler@capcon.com.au

Web Review



Cian C Murphy

is a BCL II student in University College Cork. He has served as both Recording Secretary and Webmaster of the U.C.C. Law Society.

Web Review is compiled by Cian Murphy, who is completing his BCL in University College Cork. The section is devoted to reviewing law related websites and will carry sometimes serious, sometimes light-hearted but always honest reviews of legal web pages. Cian aims to analyse, inform, share good humour and encourage enhanced online activity and creativity within the legal community. Submit your comments, suggestions or website for review by email to cianmurf@eircom.net

Since the last issue I've been cramming for end of year exams, and searching for a law office that will employ me for my barista skills over the summer. It seems only fitting then that in this, our third foray into the online legal world, I go all out and take the kamikaze approach to employment by reviewing the websites of some of Ireland's best-known solicitors. Over the next two issues we'll take a look at five sites, and see exactly how good the best are. The gloves are off, the modem is clicking, and I'm hurtling towards unemployability.

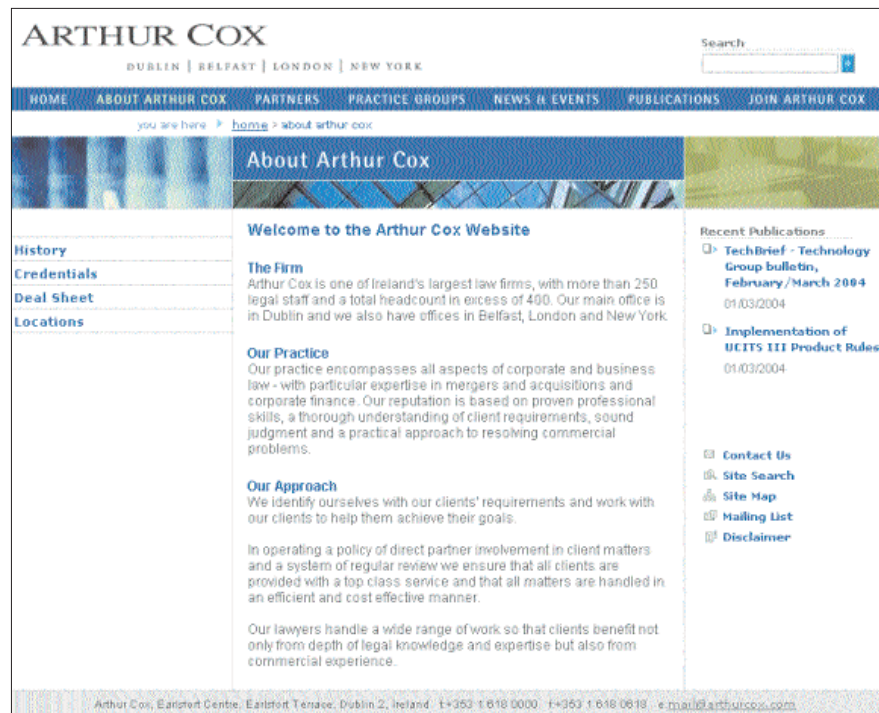
The three sites under the spotlight in this issue are Arthur Cox, McCann Fitzgerald, and Matheson Ormsby Prentice. Next issue I'll be putting A&L Goodbody and William Fry under the microscope. One would expect these sites to be professionally designed, and not lacking in fancy images, pretty menus, and lots of words of wisdom. While they don't disappoint, they don't always receive full marks either!

Arthur Cox – www.arthurcox.ie

The first stop on our travels has an image of the glass façade of the firm's offices on its homepage: a simple but effective way of ensuring association between the site and the firm's real world locale. Navigation of the site is child's play, with both a navigation bar and a useful site hierarchy at the top of each page. It's no surprise that a firm with overseas offices as widespread as London and New York would have an eye for location.

This site tops the poll in terms of visitor interaction, having both a search facility and an email list sign-up featured prominently on the homepage. The website contains all the information you'd expect about the firm itself, its partners, and the areas in which it practices. The welcome screen also has quick links to the extensive publications and news section, as well as an email address that you can contact with feedback on the site.

Also to the forefront of the site is the "Careers" section, which is worth a look for the would-be solicitor as the site has all the information needed to get started with your career. Its



coherency shows rival firms the value of the internet in terms of enhancing recruitment! Though the different template used for the recruitment section does little for the coherency of the site as a whole, it remains an effective self-

contained guide to getting a job with the firm.

All in all, there's little wrong with the Arthur Cox site: it balances information and style well, and comes through the 'ease of use' test with flying colours.

Matheson Ormsby Prentice – www.mop.ie

MOP probably boasts the most aesthetically pleasing of the three websites. A red-wine based colour scheme is easy on the eye, and images are used well, though not excessively. The menu system

is suitably professional, and site sections are accessible at the drop of a hat. Another techno-perk is a "printer friendly version" of all pages – a necessity due to the graphic design of the site itself.

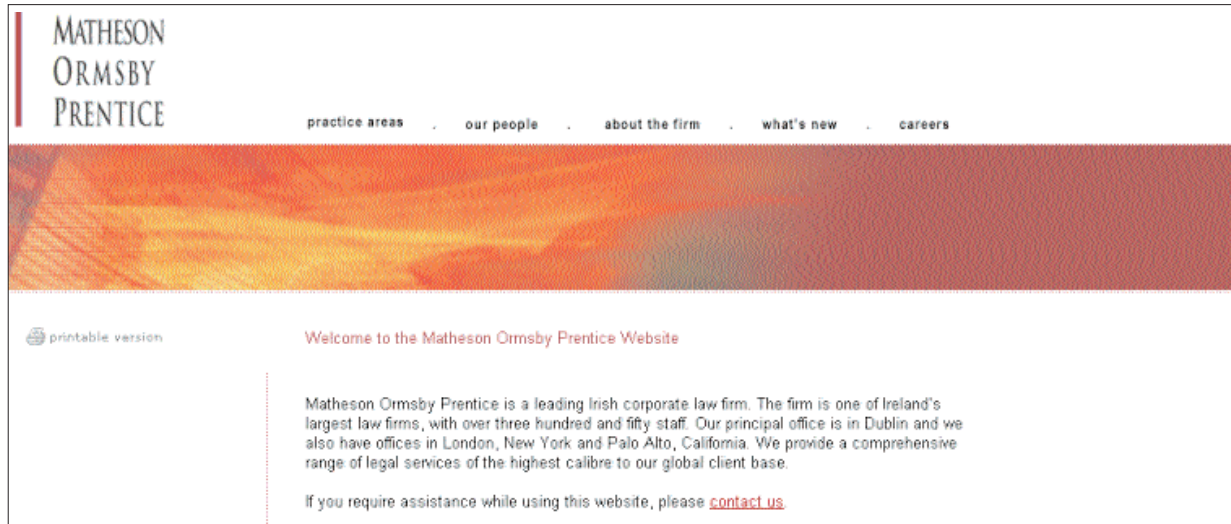
The information on the site is equally impressive and, more importantly, up to date. Visiting the site on the first of April, there were already four items of legal news attributed to that month, and

there's a new firm update every week. Recruitment information, as well as all of the necessary forms, is also available.

In addition to news snippets and firm factoids, the site includes a "Publications" section. This is home to an impressive library of documents, arranged by date of publication. While

a search option is provided, it could perhaps do with refining- the plethora of information (and keywords) on each page means that finding specific data by search can amount to needle in haystack stuff. Just try searching for their article on "alcohol promotion regulations" and you'll see what I mean.

This is a small blemish on an otherwise superb site, and the provision of a site map ensures that, by and large, not even Hansel and Gretel could get lost. The minimalist design, which might otherwise belie an empty site, can be used with confidence by MOP – a firm that has the substance to match its style.



McCann Fitzgerald – www.mccannfitzgerald.ie

The word that most readily springs to mind when you first visit the online abode of McCann Fitzgerald is "busy": with more buttons on the main page than a nuclear submarine, the site is a little clunkier than is strictly necessary. The sidebar provides quick access to different site sections, but it's a bit too much to take in all at once. The morphic nature of the menu detracts a little from site usability, as it changes in different sections of the site, making it harder to stay on the yellow brick road to the information you're looking for.

While there's no place like a homepage, a smidgen too much of it is dedicated to espousing the virtues of both the firm and the website. This information could perhaps be more effectively displayed elsewhere, allowing the more dynamic "What's New" section of the page to appear above the fold. As it stands, the frequent visitor has to go out of his or her way to determine if there's any new information available on the site.

When it comes to content, McCann Fitzgerald really come into their own. They make a wealth of legal information available to the public, and also include useful business information for those of a corporate persuasion. One could spend hours mining the details of the law practice itself, and the many awards listed are bound to be a pull factor for clients. Though the blocky imagery and labyrinth-like navigation are definite no-no's, there's much to be said for this encyclopaedic site.



All in all, these websites have everything to offer the prospective client, and even the discerning reader of legal news. While they represent some of the best online, none of them are perfect, and due to the nature of the internet should

be subject to continuing revision.

In the next issue we'll see how some of Ireland's other legal eagles fare, but for now, does anyone want anything from the coffee machine?

Conference News

Are you organising an annual meeting or conference which you would like to tell our readers about? Or would you like to write a report on a meeting or conference of particular interest to members of the legal community?

If so, contact Patricia McDonnell at Independent Law Review on tel/fax: +353 (0)44 333 41 or at ilr1@eircom.net

Four Jurisdictions Conference 2004

Venue: Belfast, Ireland. Date: February 20-22, 2004. Report by: Sinead O'Flaherty, BL.

Where were you on the 20th, 21st and 22nd February 2004? If you are a Family Practitioner practicing in Northern Ireland, the Republic of Ireland, Scotland or England then you should have been in Belfast.

The Four Jurisdictions Conference 2004 was hosted in Belfast and what a success it was!

The Conference is an important occasion for all those engaged in the practice of family law. Its purpose is to provide a forum for Family Lawyers to exchange information about changing developments in family law within their respective jurisdictions.

This concept has been embraced by practitioners over the years and has been developed to include not only an invaluable opportunity for family practitioners to exchange their views on relevant topical issues but also to meet and socialize with fellow colleagues.

The Conference was both stimulating and enjoyable. I have to concede that I am not totally impartial (I practice in Northern Ireland!) but all reports to date from Solicitors, barristers and the judiciary who attended would suggest that the ninth Family Law Conference was the best yet!

One can clearly see from the pictures that the social programme was thoroughly enjoyed by all and surpassed only by the informative series of talks given by the very learned and impressive speakers.

The Conference opened on Friday 20th February. Lord Chief Justice Kerr's opening speech was followed by a surprise presentation and show of gratitude to Michael Long QC and Gemma Loughran BL the authors of 'The Law of Children in Northern Ireland: The Annotated

Legislation' a long awaited publication which is receiving much critical acclaim.

The Official Welcome to the Conference set the tone for the whole event. The drinks, canapes and buffet supper was held in the impressive grand hall of the Royal Courts of Justice.

The Conference Programme got under way at 9.15am in the Hilton Hotel. The Committee should be commended for the topics selected. The programme was structured in a way that provided interest to lawyers practising in all the various aspects of family law.

The first speaker Nigel Williams (the Commissioner for Children and Young People in Northern Ireland) gave an insightful speech on the role of The Children's Commissioner and how this role can make a difference to children's lives. It was evident from the question and answer session that followed that the delegates were impressed with the Commissioner and his innovative role.

Dr Ursula Kilkenny delivered an impressive talk centred on contemporary issues in Family Law and Human Rights. Issues such as the challenge posed to the duty of confidentiality by recent money laundering legislation in the UK and Ireland, the use of expert evidence in family proceedings and a child's right to identity with regard to assisted human reproduction and adoption. Dr Ursula Kilkenny is a lecturer in law at University College Cork who is also actively involved in the training of lawyers and judges in Central and Eastern Europe.

Professor Nigel Lowe, Professor of Law at Cardiff Law School, provided the delegates with an impressive and informative discussion on the

law surrounding 'The Relocation of Children'. The information derived from Professor Lowe's speech was invaluable, however I for one was extremely grateful for the comprehensive lecture outline that was provided.

The afternoon session was centred around topical financial issues and pre-nuptial agreements. Ciaran Hunter and Peter Duckworth provided a detailed and much appreciated overview in relation to this area of law.

The Conference Session was thoroughly enjoyable and extremely informative and the topics raised by the speakers provided ample material for discussion on Saturday night.

The Black Tie Gala Dinner Dance held in Belfast City Hall was a huge success. The food was excellent, the venue superb and the after dinner speeches hilarious (thanks to Mr Justice Gillen!).

The organisers promised delegates a "stimulating informative conference with just the right mix of topical and educational issues along with an entertaining social programme". The 2004 Conference certainly lived up to those high expectations.

It is safe to say that the only people likely to be disappointed with the success of the 2004 conference are those organising next year's event. They have a difficult task, however they have an immediate advantage... the climate!

Having so thoroughly enjoyed the Belfast Conference I, for one, am already looking forward to the tenth anniversary conference which will be held in Nice.

À la prochaine!



From left to right: Henry Toner QC, Meg Nixon, Ken Nixon RM, Susan Nixon.



Mr Justice McLaughlin, Lady Brenda McLaughlin.



Sinead O'Flaherty and John Meehan RM, former President of the Law Society of Northern Ireland.



From left to right: District Judge Hilary Keegan, Dolores Keegan, Eilish O'Brien, Peter O'Brien.

Solicitors' Advanced Advocacy Course

Venue: Newcastle, Co Down. Date: March 11-14, 2004.

Northern Ireland has just hosted the first multi-jurisdictional Solicitors' Advanced Advocacy Course organised by the Law Societies of Northern Ireland, the Republic of Ireland and Scotland, in Newcastle, Co Down. The course was devised and delivered by a group of distinguished trial lawyers from the National Institute for Trial Advocacy (NITA), which is the foremost advocacy training organisation in the USA.

The American visitors identified this event as one of the most prestigious foreign programmes, and according to NITA Executive Director Professor Lonny Rose, it attracts the cream of faculty at NITA who have developed close links with the solicitors' profession in these islands.

"It is often commented that the legal profession lacks modernity. However recently solicitors have embraced fundamental changes in response to the needs of the public. We believe that this programme, bringing together three distinctive jurisdictions for the purposes of continuing legal education, is far



Professor Lonny Rose, Executive Director of the National Institute for Trial Advocacy and NI Course Coordinator Ms Fiona Donnelly, Solicitor Advocate.

sighted. The main focus is the concentration on the essential elements of advocacy that participants require in the everyday practice of litigation", said Professor Rose.

As solicitors' rights of audience have increased, the course seeks to give all participants the necessary

skills to take advantages of those rights. The advanced training courses in each of the three jurisdictions attract a substantial number of applicants each year and the professional bodies are considering ways of pooling their resources to ensure Solicitor Advocates are sufficiently qualified to deliver those services for which there is a growing demand.

"The US lawyers put the participating solicitors through their paces in simulated court settings, mock trials and advocacy drills turning out solicitor advocates ready to display their forensic skills in courtrooms throughout the region. It is their skill and expertise of working in a legal system where one person or firm sees a case through from beginning to end that has added so much to this course and indeed to the future profile of solicitors in Ireland and Scotland," said Northern Ireland course coordinator, Fiona Donnelly, Solicitor Advocate.

For further information contact:

Claire Aiken Tel: 048/028 90 663 000

The Irish Association of Law Teachers' Annual Conference 2004

Venue: Derry, Ireland. Date: April 2-4, 2004.

The picturesque northwest offered the perfect backdrop for this year's Irish Association of Law Teachers' Annual Conference, held in the City Hotel, Derry from April 2nd to 4th, 2004. This event attracted just over 70 delegates from all over Ireland and several from abroad, with close to 40 papers on a diversity of legal topics being delivered over the weekend.

The theme of this year's conference was "Law in the Modern World: New Problems, New Solutions", an apt subject considering that 2004 marks the twenty-fifth anniversary of the founding of the IALT. The conference sought to examine, under a variety of headings, the role of law and laws in our modern, complex and heterogeneous society, both at home and abroad.

The Honourable Chief Justice, Mr. Ronan Keane, opened the Conference on Friday evening, with a thoughtful and erudite presentation on the place of socio-economic rights in modern legal discourses. The Chief Justice engaged and intrigued his audience with a learned and wide-ranging discussion of human rights, with particular reference to developments in the civil law tradition and in post-apartheid South Africa.

Over the weekend, delegates enjoyed a wide range of presentations on legal topics, including international law, private law, criminal law, family law, employment law and human rights. Of particular note were papers on affirmative action (Professors Carol Rasnic and Charles Russo), freedom of the press and libel reform (Professor Carl Monk and Eoin O'Dell respectively) as well as a novel proposal for reform of the criteria for permanent membership of the U.N. Security Council from Professor Michael Kelly. Human Rights fea-

tured prominently throughout the conference with presentations on asylum policy (Catherine Kenny) and minority rights (David Keane) as well as a topical discussion of the recent restrictions on smoking in the Republic by Marc McDonald.

Lynne Roach and Cecilia Ní Choileáin ably addressed biotechnology and new reproductive technologies respectively, while Jim Tunney considered the impact of new ICT solutions in the field of competition law. Dr. Heather Conway considered the legality of religious adherence clauses in wills, and Dr. John Stannard and Dr. Lorna Fox addressed the intricate relationship between law and the emotions. In the field of Family Law there were presentations on ancillary orders (Lucy-Ann Buckley) and the recognition of Foreign Divorces (Máire Ní Shúilleabháin) while the Criminal Law panel featured updates on the Children's Court (Dr. Ursula Kilkelly), corporate killing (Deirdre Ahern) and internet 'grooming' (Alisdair Gillespie).

Delegates ventured from as far afield as California and Australia, with visiting academics from England, Scotland, Wales and Germany also well represented. International contributions included Professor Michael Malloy's paper on e-banking as well as Professor William Murphy's presentation on self-organising monopolies. Dr. Stephen Swann and Dr. Sara Drake delivered papers on developments in E.U. law while Professor Steve Hedley pondered recent trends in private law. Meanwhile, Professor David Gregory and David Nagle filled in delegates on recent trends in US labor law, with Estelle Feldman addressing the rights of whistleblowers and Professor Robert Clark considering proposed new Irish data retention laws.

Delegates also had an opportunity to browse a wide array of legal titles from several visiting publishers exhibiting at the conference, including the Independent Law Review, Cavendish Publishing, Round Hall, Lexis Nexis and Oxford University Press.

It wasn't all hard work though. Delegates enjoyed a historic walking tour of Derry featuring the famous walls of the city, the Apprentice Boys' Hall and St. Columb's Cathedral as well as a visit to the Bogside and 'Free Derry Corner'. The City Hotel offered stunning views of the River Foyle, not to mention Derry's striking Guildhall.

Saturday evening featured the Gala Dinner of the Association, the festivities proceeding long into the night. At the Annual Dinner, outgoing President Dr. Fergus Ryan, of the Dublin Institute of Technology, thanked the delegates for their high quality contributions and declared the weekend a resounding success. Dr. Ryan also thanked sponsors Round Hall, Lexis Nexis and the Independent Law Review for their kind assistance in running and advertising the conference.

Sunday afternoon's Annual General Meeting marked the end of proceedings, with outgoing President Dr. Fergus Ryan passing on the baton to Seán Quinn, author, Barrister-at-Law and Senior Lecturer at Letterkenny Institute of Technology.

Plans for next year's conference are already in the pipeline and those interested in attending or presenting papers should contact Seán at sean.quinn@lyit.ie. Further updates on this and other IALT events are posted on the Association's website www.ialt.org

British Council European Young Lawyers' Annual Dinner

Venue: Belfast, Ireland. Date: February 15-20, 2004.

The British Council European Young Lawyers' annual visit to Northern Ireland took place from 15 to 20 February 2004 when thirty five lawyers from all over Europe experienced a packed schedule of lectures, workshops, trips and dinners organised by the British Council.

The lawyers are currently working in law firms in London and Edinburgh but escaped to Northern Ireland for the week long visit. The week kicked off with a welcome dinner organised by the British Council in the Holiday Inn, Belfast on Monday evening. NIYSA committee members attended the dinner and afterwards invited the guests to one of Belfast's hotspots where they partied the night away.

Local firms hosted the lawyers on Wednesday afternoon by taking them to lunch and then inviting

them back to the office to let them see a typical afternoon of a solicitor in Northern Ireland.

NIYSA hosted its annual British Council dinner at Belfast Castle on the Wednesday evening where the Europeans wined and dined with approximately one hundred distinguished guests from the Judiciary, the Law Society, the British Council, Belfast Solicitors' Association, the Young Bar Association, NIYSA's sponsor, First Trust Bank, and solicitors from Northern Ireland who supported the evening. The Honorary President of NIYSA, the Honorable Mr Justice Weir, welcomed the European guests after dinner before all guests were forced to their feet by the unforgettable Thomas Berg from Finland who directed everyone in a choreographed rendition of 'I'm Singin' in the Rain'. Hopefully no photographs

were taken! Some guests then took to their feet to take part in some Irish dancing with the Cladagh School of Irish Dancing before discoing late into the evening.

NIYSA is delighted to have the opportunity to host this dinner every year and to be a part of this exciting week in the Northern Ireland legal calendar. It is a privilege for NIYSA to bring together a mix of local solicitors and other distinguished guests to meet the European lawyers. We have made many friends with the European lawyers who have visited over the years and look forward to next February already.

For further information contact: Nuala Sheeran Email: nuala.sheeran@nilaw.com



7th Transnational Crime Conference

PREVIEW Venue: Dublin, Ireland. Date: June 10-13, 2004.

Judge Maureen Harding Clarke of the International Criminal Court (ICC), Michael McDowell, Minister for Justice, Equality and Law Reform and James Hamilton, Director of Public Prosecutions for Ireland are just some of the distinguished experts who will be speaking at the 7th Transnational Crime Conference, to be held at Jurys Ballsbridge Hotel, Dublin from 10 -13 June 2004.

The Conference is presented jointly by the International Bar Association's Criminal Law and Business Crime Committees and is aimed specifically at criminal lawyers, investigators, professionals dealing with criminal justice and government officials. Around 100 delegates are expected to attend.

The working programme will begin with a review of investigation and the effect of terrorism on the balance between the effective detection and prosecution of crime on the one hand, and the protection of the personal human rights of citizens on the other. Speakers will debate the extent to which such public interests should be weighted in favour of the investigator and the extent to which individual rights should give way to those of society.

Global policing will also be addressed in a session which will review policies both within Europe and internationally to reinforce the international fight against terrorism.

A further topic to be covered is due process.

Drawing on first hand experience of the Diplock Courts in Northern Ireland through to the anticipated Supreme Court decisions in relation to Guantanamo Bay and its military tribunals, panellists will discuss the extent to which the perceived threat posed by anti-terrorism has on due process and the right to a fair trial. The conference will end with an examination of the successes and failures of the measures taken by various jurisdictions affected by terrorism.

For further information on the conference and to register, please visit the IBA website at www.ibanet.org

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With the exception of the Diploma in International Arbitration, which commences in January 2005, all the Diploma courses will commence in mid September 2004.

Further details and application forms are available on the Internet at www.ucd.ie/law or from:

Liesanne Dean,
Diploma Administrator,
Faculty of Law, Rosbuck Castle,
University College Dublin,
Bellfield, Dublin 4.
Tel: (01) 7168754
Email: liesanne.dean@ucd.ie

Closing date for applications is: **Thursday, 1 July 2004.**

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Amanda Evison at the IBA office on tel. +44 (0)20 7629 1206,
fax: +44 (0)20 7491 4461 or by email at amanda.evison@int-bar.org
or visit the IBA website at www.ibanet.org

Law Society of Ireland

The Law Society of Ireland offers a variety of Diploma and Certificate Courses. These courses are open to solicitors, barristers, trainee solicitors and members of the business community with the requisite knowledge and experience. Diplomas / Certificates take place in the Law Society's Headquarters at Blackhall Place.

For further information, please access our website www.lawsociety.ie click on Diploma & Certificate Course on the home page and simply follow the drop-down menus or write to us giving details of your name, address and area of interest:

Michelle Nolan,
Information & Professional
Development Executive
Law School, Law Society of Ireland
Blackhall Place, Dublin 7

Tel: 01 672 4802
Fax: 01 672 4803
Email: m.nolan@lawsociety.ie
Website: www.lawsociety.ie

The lecturing team are either solicitors, barristers, accountants or members of the business community and are all approved by the Law Society. Candidates will be provided with the materials necessary to study for the diploma and in certain cases legislation will be provided. All of the courses culminate in an examination(s) and successful candidates will be awarded a Law Society Diploma and you can fulfil your CPD requirement by attending a Law Society diploma course.

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Diploma in Property Tax
02 October 2004 – 09 April 2005

Diploma in Applied Finance Law
09 November 2004 – 11 June 2005

Diploma in E-Commerce
05 February 2005 – 11 June 2005

Diploma in Legal French
September 2004 – June 2005

Certificate in Legal Spanish
02 November 2004 – 05 March 2005



The School of Law at Queen's University, Belfast offers a variety of taught postgraduate degrees. The LLM and MSc programmes accept domestic and international applicants from both academic and professional backgrounds which creates a student body with very diverse and rich experiences.

LLM in Computers and Law

This is the oldest such course in Europe and still the only course with a substantial hands-on programming element designed to offer students a broad range of skills. Many students have subsequently gone to work in specialist practices in IT or intellectual property law, while others have used the course as a means of developing their IT understanding for a career in administration or management.

LLM in Human Rights

This course offers students the opportunity to develop knowledge of Human Rights Law at both the national and international levels. It is particularly suited to people with an academic and professional interest in human rights, discrimination, and the control of civil unrest and terrorism.

LLM in Human Rights and Criminal Justice

This course offers students the opportunity to develop knowledge of Human Rights and Criminal Justice at both national and international levels. It is particularly suited to people with an academic and professional interest in human rights, policing, restorative justice and the control of civil unrest and terrorism.

LLM in Human Rights (Cross Border)

This course is run jointly by Queen's University and National University of Ireland, Galway. Students spend one semester at each University, and have the opportunity to develop knowledge relating to Human Rights, Conflict Regulation, International Criminal Law, and other important Human Rights and Criminal Justice issues.

LLM in Human Rights and Criminal Justice (Cross Border)

This course is run jointly by Queen's University and National University of Ireland, Galway. Students spend one semester at each University, and have the opportunity to develop knowledge relating to Human Rights, Criminology, International Criminal Law, and other pressing Human Rights topics.

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The closing date for applications is normally 1st April. However, late applications may be accepted for some courses.

Please contact the Postgraduate Secretary, Mrs Wenli Zhang - w.zhang@qub.ac.uk.

Recruitment

This section will be read by more than 4000 people in the legal profession throughout Ireland.

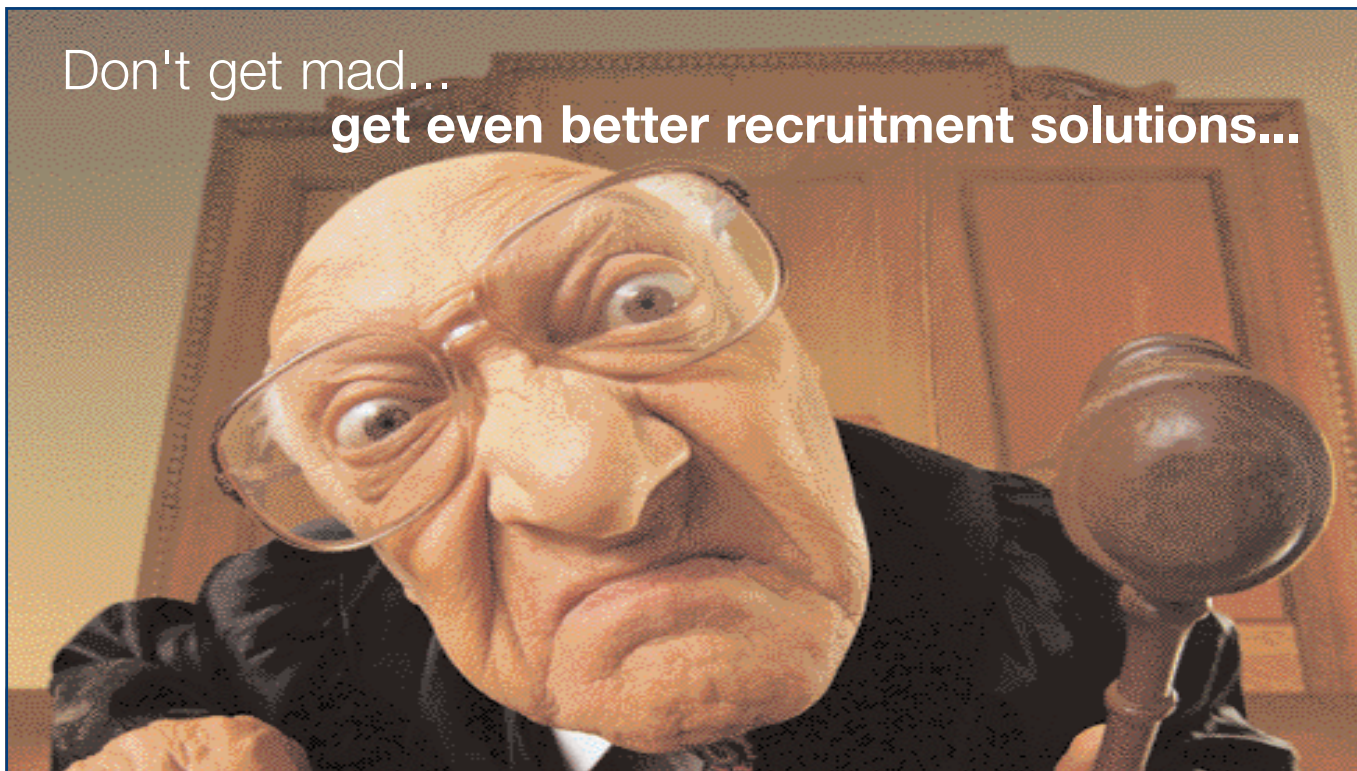
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Deadlines:

September/October	10 August
November/December	10 October
January/February	10 December
March/April	10 February
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For additional information please contact Eileen McNeill at 405 Lisburn Road, Belfast BT9 7EW
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In-house Counsel, Banking & Funds
 Ref: SLR010665 to €95k

Working for a well recognized financial services company your role will be to advise on fund matters, review corporate contracts, legal compliance, project work and loan & security documentation. This is an excellent opportunity for a high calibre candidate to combine both their banking and funds experience. You will have at least five years' ppe and preferably also have a strong corporate background.

Company Lawyer, Banking
 Ref: SG10413 to €70k

Working for a major financial institution your role will be to draft and negotiate legal documentation including ISDA, treasury and service level agreements. You will also review marketing literature for new products and implement new guidelines for compliance. The ideal candidate will have at least 2-4 years' ppe and ideally a background in banking or corporate law. Candidates can be from both an in-house and a private practice background.

Assistant to General Counsel, Financial Services
 Ref: SG10525 to €95k

Working for a leading financial services company and reporting to the General Counsel for Europe your role will be to negotiate ISDA agreements, provide advice on securitizations and cross border transactions and liaise with external counsel. The ideal candidate will have 5 years' ppe and come from either an in house or practice background and will have experience in one or more of the following areas; structural finance, real estate, banking and acquisitions.

Company Lawyer, Funds
 Ref: SLR010660 to €85k

Working for a leading Alternative Investment company, your main responsibilities will be to advise an Irish and international domiciled hedge funds, review and negotiate counterparty documentation and deal with external counsel and compliance issues. The ideal candidate will be a qualified Solicitor or Barrister with ideally 1-3 years' ppe, (but more senior candidates will also be considered) with knowledge of investment funds and ideally an understanding of Irish financial services regulation.

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 Ref: SG10514 €700k

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Senior Solicitor, Corporate & Commercial
 Ref: SLR010660 to €90k

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Funds Solicitor, Top tier firm Ref: SG10517 €70k

Our client is a top five firm with a strong reputation for advising on the complete set up and operation of all types of funds both nationally and internationally. Their clients include a wide variety of financial services companies from international banks and fund administration organisations to global custodians, prime brokers and investment managers. You will have 1-2 years' ppe or of the more senior level 3-5 years' ppe and will come from either an in-house or practice background.

Senior Commercial Property Solicitor
 Ref: SG10467 to €90k

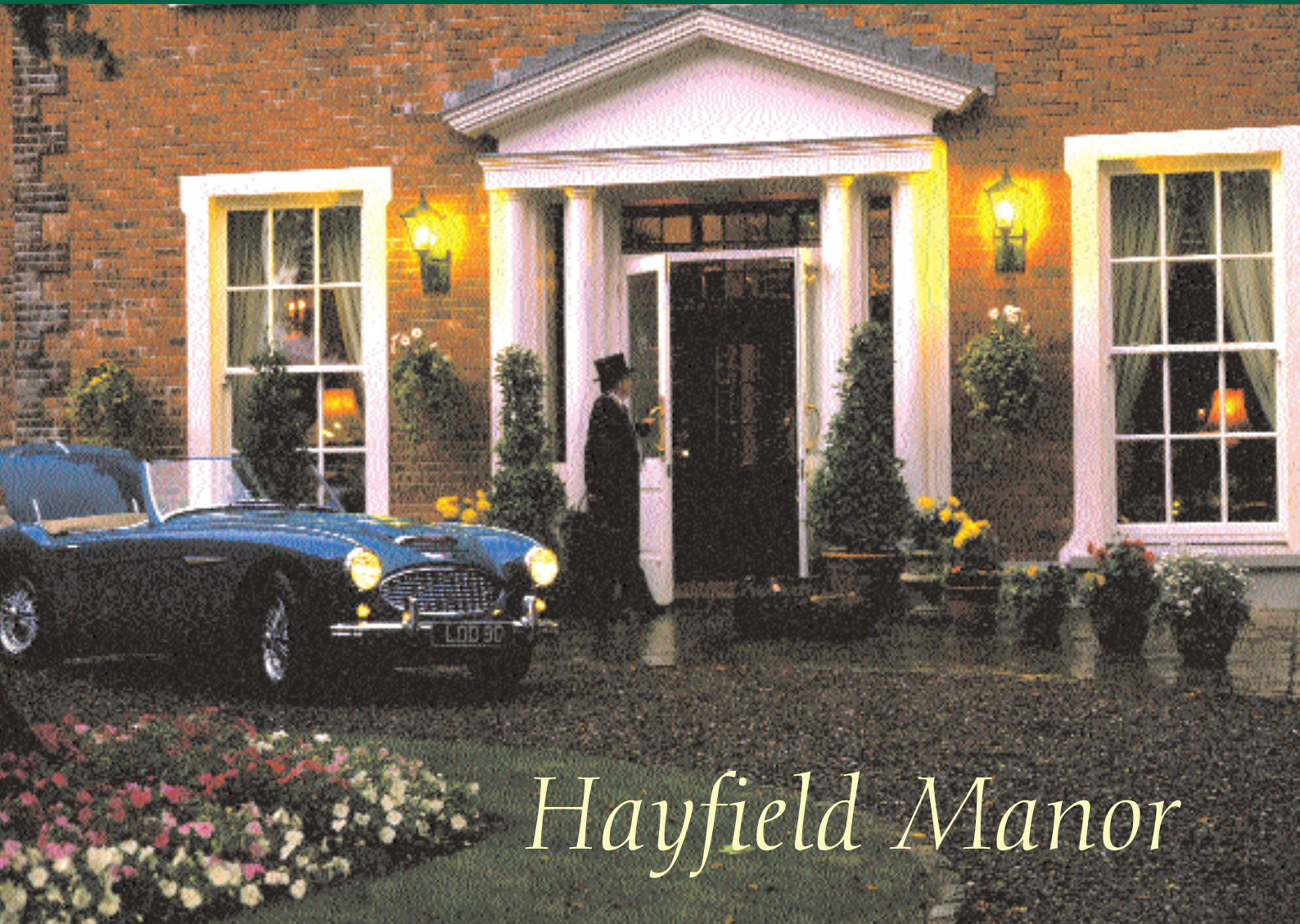
Working for a leading Dublin practice your role will cover all areas of commercial conveyancing. The successful applicant will have at least 3-5 years' relevant experience and have a strong background in residential and commercial conveyancing. There are strong opportunities for progression for the right candidate.

Senior Solicitor, Employment
 Ref: SG10513 to €70k

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For more information on these roles or to arrange a confidential discussion, please call Sarah Randall on (01) 6377092 or email sarah@thepanel.com





Hayfield Manor

Hayfield Manor was the Automobile Association's Irish Hotel of the Year for 2003/2004, and is a Member of Small Luxury Hotels of the World. In the short time since its opening it has won high praise, been home to the rich and famous, and on May 11th 2004 was the venue for the European Union Health Summit. The Independent Law Review decided to investigate what everyone in Cork was getting so excited about...



Five-star personal service is experienced the second one enters Hayfield Manor. Staff make a concerted effort to cater for guests' comfort and relaxation at every turn.

Having completed check-in, it was time for the grand tour. The bar, dining room, (and private dining room), leisure centre and treatment facilities all impressed, but it was the sofas and armchairs in front of blazing fires in the library and drawing room that really seduced us. The temptation to take a seat, order a brandy and lounge the evening away was almost too much for us.

Our guide then escorted us to our room. In previous vocations, my wife and I have travelled extensively, and consider ourselves au fait with the finer things prestige hotels have to offer, but the gasps of admiration that our bedroom elicited betrayed our delight. Not only was the bedroom a model of understated opulence, but our bags had preceded us and soft music already seeped from the stereo.

After sampling the 'welcome' hand-made chocolates and strawberries, my wife made a beeline for the large roll top bath to have a relaxing soak before dinner. The cares of the world were rapidly obscured behind a steamy cloak of serenity. Amongst the many features of the hotel, including 24-hour room service and extensive in-room menus, is wireless Internet access. As this was a working break, I was able to quickly check my e-mails whilst my wife relaxed.

Quiet laughter escaped from the bar as we descended the stairs into the foyer, luring us in its direction on our search for an aperitif. The bar is also open to non-residents, making the crowd a nice mixture of hotel guests and locals. Our palates were sharpened as numerous dishes from the bar menu went past us. To describe this as bar food would be doing it a great injustice. The dishes were worthy of any restaurant.

If fine dining is an art, then Hayfield Manor has an Old Master as its chef. The menu combines the best of local produce in new and classic styles. Open Ravioli of pigeon and puy lentils followed by corn fed pot roast chicken were my wife's choices, and both rated as mouth wateringly exquisite. I opted for pan-fried fresh local prawns with green asparagus and herb salad, followed by a rack of Irish lamb: again both were succulent and faultless. The soup course punctuating the starter and main, at first glance appeared to be a bizarre combination of gammon and cocoa bean. Once tasted however, it proved marvellous. This was all washed down with a bottle of the perfect wine [New Zealand, Cloudy Bay Chardonnay €54] recommended by the Hayfield Manor's excellent wine



waiter.

If the starters and mains were exquisite, then the desserts were sublime. I had a light chocolate sponge hiding a viscous, luscious, Valrhona dark chocolate sauce, all accompanied by a home made cappuccino ice cream. The combination of flavours and textures were divine. My wife's strawberry and champagne terrine was a very close second. A four-course dinner is €65 per person, and worth every cent.

We retired to the library to sit by the fire, sip a whisky and contemplate a wonderful evening.

The morning sunshine reminded us of the work to be done and we sauntered the two minutes to University College Cork. With its close proximity to both city centre and UCC, Hayfield Manor could hardly be in a more central location. That said, it's hard not to imagine you're in the countryside, while walking through the gardens

with two-hundred year-old trees keeping the world at bay.

There are few hotels that manage to combine excellent venue and superb food with the level of personal service that such things deserve. Hayfield Manor has achieved this, and it's not hard to understand why it was voted AA Irish Hotel of the Year 2003/2004. Business or pleasure, Hayfield Manor makes an excellent base from which to head off into the city, explore the surrounding country, or just get away from it all and enjoy some of the finer things in life. This was our first visit to Cork, and I don't think it could have been better. We know we'll be back.

Grant Mackie, Mullingar, Ireland.

Want to tell our readers about a great restaurant, hotel, society or club?

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