The Honourable Society of Lincoln's Inn

Sir Thomas More Lecture

Human Rights Protections: A View from Northern Ireland

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Introduction

It is both an honour and a pleasure to be invited to deliver this year's annual Sir Thomas More Lecture and to join the esteemed cohort of speakers who have spoken at this event in the past. Of course, Sir Thomas More is a celebrated past member of the Lincoln's Inn, having been admitted in February 1496.[1] After being called to the Bar, Sir Thomas More continued to dedicate his time and support in several roles as a lawyer and member of the Lincoln's Inn. However, Sir Thomas More's impact was not limited to his contributions within the Honourable Society of Lincoln's Inn. He has also left a historic footprint as a saint, critic of society, advocate for justice, and one of the very first humanists in England. And, fundamentally, I think he was a man who knew himself.

Erasmus, who was within More's inner circle, and a well-known theologian of this time described More as a "man for all seasons", and "a lawyer of great reputation, and moreover a man of culture and liberality of mind."[2] Beyond this, More had a well-developed career within London, excelling in both the legal and political professions.

Sir Thomas More also advocated for legal reform, free will, and justice, which he described to be "the strongest bond of any society." His reformist spirit is what led to his execution, when he opposed King Henry VIII's self-declaration as the

[1] "February 2016 - Thomas More" (*Lincolnsinn.org,* 23 February 2016).

[2] Gerard Wegemer, "Thomas More" (*Stanford Encyclopedia of Philosophy,* 15 November 2023).

"Supreme Head of the Church in England", a decision taken so that the king might divorce and re-marry. More's commitment to historic constitutional laws and his Catholic faith resulted in his being tried and found guilty of treason, and his execution shortly followed.

I do not wish to dwell much longer on the tragic parts of Sir Thomas More's life. Instead, in this introductory section of my talk, I will simply reference one of his works, which I think has stood the test of time. This is, of course, More's novel "Utopia", a fictional text published in 1516 which allowed More to manifest his beliefs and philosophical commentary of what an idealistic society should look like. In his book, More paints a picture of a society where there is no poverty, no private property, and there is education that is free to men and women alike. More's Utopian Island uses only laws that are written in a deliberately simple way so that there is no confusion between right and wrong. Unfortunately, this meant that lawyers were no longer needed! I think I speak for many of you here today when I say that I'm glad this part of More's utopian vision didn't gain a foothold with our modern-day society, lest we would all be out of a job!

So, what would Sir Thomas More think of today's world? Well, when we compare our contemporary society with the 16th century society Sir Thomas More lived in, one would imagine there to be many differences. There are also several different interpretations of what a utopia is, however, one particularly advanced by the contemporary literary critic Lukáš Perný is worth recounting. He says:

> "Most dictionaries associate utopia with ideal commonwealths, which they characterize as an empirical realization of an ideal life in an ideal society. Utopias, especially social utopias, are associated with the idea of social justice."[3]

[3] *Utopians, Visionaries of the World of the Future: The History of Utopias and Utopianism,* Lukáš Perný, Matica slovenská 2020 p. 16.

Drawing on the idea of utopia manifested as social justice, in this lecture, I will offer a view of human rights protection from a Northern Ireland perspective, looking in particular at how human rights cases feature in Northern Ireland's legal framework.

Human rights formed the foundations of Northern Ireland's legal system, playing a crucial role during the peace process and continuing to influence today as a key tool in advancing social justice across Northern Ireland. Given our history, it follows naturally that Northern Ireland has generated a considerable body of human rights-related jurisprudence on the national and international stages, addressing a diverse range of rights-related issues. Chapter 6 of the recent academic work by McCormick & Dickson of Queen's University, Belfast, on the Court of Appeal in Northern Ireland describes this as "conspicuous business."[4] And so it is that many appellate cases have been decided in Northern Ireland on human rights issues and have also proceeded to the Supreme Court.

Before examining the jurisprudence, however, I will begin by offering a brief overview of the legal milestones which continue to frame the rights perspective in Northern Ireland.

Some Constitutional History

The jurisdiction of Northern Ireland was formed in 1921 with the adoption of the Government of Ireland Act 1920 which established the Northern Ireland Parliament to enact legislation "for the peace, order and good government" of Northern Ireland.[5] With the advent in 1969 of the period of our history known colloquially as "the Troubles", there followed civil and political unrest. In 1972, the Northern Ireland Parliament was suspended and there began a period of some thirty years of "direct rule" from Westminster.

[4] The Court of Appeal in Northern Ireland, Conor McCormick & Brice Dickson, Bristol University Press 2024.
[5] Government of Ireland Act 1920, s 4(1).

The next pivotal date in Northern Ireland's constitutional history was the signing of the Belfast Agreement, also known as the Good Friday Agreement[6], a political agreement given legislative effect in the Northern Ireland Act 1998, which included provision for restoring devolved powers to a locally elected Northern Ireland Assembly.

The status of the Good Friday Agreement was considered in the 2005 House of Lords case of *Re Robinson*[7] in which Lord Bingham analysed the Agreement and the Northern Ireland Act in depth. The appellant challenged the appointment of the First Minister and deputy First Minister outside the six-week time limit provided by section 16(8) of the Northern Ireland Act.

Whilst the case was essentially concerned with statutory interpretation, Lord Bingham did consider the constitutional arrangements of Northern Ireland which he described as "nuanced, complex, delicate and shifting" and noted the significance of the Good Friday Agreement in Northern Ireland's history, describing it as "an attempt to end decades of bloodshed and centuries of antagonism."[8]

Significantly, whilst also referring to the Northern Ireland Act in constitutional terms, Lord Bingham acknowledged that, "the 1998 Act does not set out all the constitutional provisions applicable to Northern Ireland, but it is in effect a constitution."[9] He stated also, somewhat presciently, that the uneasy basis of Northern Ireland's government would likely persist, stating:

> "While those who drafted and enacted the 1998 Act no doubt hoped that the ambitions expressed in the Belfast Agreement would be fulfilled and achieved, it seems unlikely that the

[6] *The Belfast Agreement: An Agreement Reached at Multi-Party Talks on Northern Ireland* (Cm 3883, 1998).
[7] *Robinson v Secretary of State for Northern Ireland* [2005] UKHL 32.
[8] Ibid, paragraph 10.
[9] Ibid, paragraph 11.

> transition to harmonious cross-community government was expected to be wholly free of difficulty."[10]

The *Robinson* case has been described as a highwater mark of how the Good Friday Agreement was utilised to interpret legislation, understandably so, given the freshness and frailty of devolution arrangements. The outcome reached was ultimately one of welcome pragmatism which allowed for a relaxation of the strict time limit.

Furthermore, the House of Lords in *Robinson* recognised that the Good Friday Agreement, which comprises a political agreement and a bilateral Treaty between governments, does not itself have the force of domestic law, but is an interpretive aid to the Northern Ireland Act 1998. This approach is now more strictly observed, for example, in 2020 by the Northern Ireland Court of Appeal in *Re McCord*[11] which was a case refusing relief to a campaigner who sought to force a border poll utilising the Agreement terms. That said, while it is a political agreement, the Good Friday Agreement has been consistently used to interpret our constitutional arrangements.

The evolution of human rights protections in Northern Ireland

The value of the Good Friday Agreement in contributing to human rights discourse in Northern Ireland cannot go unremarked. That is primarily because the Agreement is prefaced upon the European Convention on Human Rights, demonstrating the importance of international human rights law in framing rights perspectives in Northern Ireland. So, let me turn to the underpinnings of our human rights law.

First, some reminders from history. Established in 1953, the ECHR was, of course, developed to prevent the catastrophic human rights abuses which had occurred during World War II from happening again. The UK was instrumental

[10] Ibid, paragraph 5.
[11] *Re McCord* [2020] NICA 23.

in its post-war support for the ECHR, being one of the first countries to ratify the Convention in 1951, and then to recognise the right of individual petition to the European Court of Human Rights in 1966. Subsequently, as we know, the ECHR was incorporated into domestic law on 2 October 2000, when the UK implemented the Human Rights Act 1998.

During "the Troubles" in Northern Ireland, which took place pre-implementation of the Human Rights Act, litigants in this jurisdiction turned to the European Court to seek affirmation of their human rights, particularly with regards to the right to life and the effectiveness of investigations involving the state. It is against this backdrop of human rights development that the Good Friday Agreement was brought into being. One need only look to the preamble of the Agreement to understand how vital human rights were in this context, with parties dedicating themselves to:

> "The achievement of reconciliation, tolerance and mutual trust, and to the protection and vindication of the human rights of all."

Beyond human rights-related legal obligations, crucially, the Good Friday Agreement also established "dedicated mechanisms" to ensure state compliance with human rights standards. The Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland provide oversight mechanisms to ensure that decisions and legislation of the devolved institutions do not infringe human rights.[12] Therefore, human rights protections expressly form the cornerstone of Northern Ireland's modern legal history.

At this point, I pause to observe and recognise that human rights have been part of our legal system since long before the ECHR came into being. In the Northern Ireland courts, Magna Carta 1215, the Habeus Corpus Act of 1679 and the Bill of Rights 1689 are still mentioned by some litigants, illustrating, if nothing else, the awareness of our citizens to long-established rights in our law to a fair trial,

[12] *The Belfast Agreement*, Strand One, paragraphs 5(b) and 5(e).

among other things. Of course, domestic legislation has encompassed rights such as the employment rights protected in the Equal Pay Act 1970, the Sex Discrimination (Northern Ireland) Order 1976 and, in England and Wales, the Equality Act 2010. Finally, I observe that we also remain a common law jurisdiction within the wider European community which has allowed for developments in our law by way of precedent to meet changing societal conditions.

The fact that human rights form the cornerstone of our modern legal history is not only reflected in our constitutional law, but also in the jurisprudence which emanates from Northern Ireland. I will now discuss some impactful human rights cases, starting with those emerging from Northern Ireland's period of conflict. This is a sample, not a comprehensive review, given the time I have this evening.

Prior to the Human Rights Act, several notable cases from Northern Ireland contributed to the ECtHR jurisprudence on article 2 of the ECHR, the right to life. Decisions of the ECtHR that emanated from Northern Ireland include *McCann v UK*[13], in which the ECtHR signalled the birth of the procedural obligation to investigate deaths under article 2. In *Jordan v UK*[14], the ECtHR once again considered the procedural obligation set out by article 2 of the ECHR. The threshold for investigations into killings was raised once again, with the court ruling that investigations must be thorough, prompt, and impartial and designed to ensure the accountability and responsibility of state agents and armed forces for related deaths.[15]

Following the enactment of the Human Rights Act, domestic courts have interpreted the ECHR and, in particular for Northern Ireland, the scope of article

[13] *McCann v UK* (1996) 21 EHRR 97.
[14] *Jordan v UK* (2003) 37 EHRR 2.
[15] *Jordan v UK,* paragraph 142.

2, including its temporal scope, starting with *McKerr*[16] which decided against the retrospectivity of the Human Rights Act. When ruling on the Northern Ireland case of *McCaughey*[17] in 2011, Lord Brown in the Supreme Court, referring to the ECtHR case of *Šilih v Slovenia*[18], stated,

> "Now it appears that the article 2 procedural obligation is not correctly to be understood as merely ancillary to a particular death but is rather to be seen as "a separate and autonomous duty", "a detachable obligation arising out of article 2 . . . even when the death took place before the critical date" ... In short, the court held that in point of time (and it is time which is all important in the present domestic context just as it was in the international context in which the court in *Šilih* was determining its own temporal jurisdiction over subscribing states) the obligation may arise subsequent to the death requiring investigation and is not to be regarded as outwith the court's jurisdiction merely because the death itself preceded the court's assumption of jurisdiction."

The question of the temporal scope of article 2 and the interplay with the Human Rights Act has continued to come before the UK Supreme Court, most recently in the Northern Ireland case of *In re Dalton*[19], which concerned the death of Ms Dalton's father, Sean, in a bomb explosion in August 1988 in Derry/Londonderry. The Supreme Court convened a seven-judge panel and held that Ms Dalton could not challenge the Northern Ireland Attorney General's refusal to open a new inquest into her father's death because the death had occurred outside the temporal scope of the Human Rights Act.

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[16] *Re McKerr (AP) (Respondent) (Northern Ireland)* [2004] UKHL 12.
[17] *In re McCaughey & Another* [2011] UKSC 20, paragraph 98.
[18] *Šilih v Slovenia* (2009) 49 EHRR 996.
[19] *In re Dalton* [2023] UKSC 36.

The court found that the obligation under article 2 of the ECHR to investigate a death is only capable of applying to deaths which occurred within an outer period of 12 years before the Human Rights Act came into force on 2 October 2000, unless the Convention values test is met. If the death occurred between 10 and 12 years before 2 October 2000 then a claim may only be brought in exceptional circumstances (even leaving to one side the Convention values test). If the death occurred less than 10 years before 2 October 2000, then it must still be shown that a major part of the investigation took place, or ought to have taken place, after 2 October 2000.

Although the decision in this case was unanimous, the court gave four judgments, each with different degrees of emphasis on the temporal scope of the ECHR post-*Janovic*[20], *Finucane*[21] and *McQuillan*.[22]

As an aside, the Irish Supreme Court reached the same view on temporal limits of Troubles-related investigations when applying constitutional law standards in the case of *Thomas Fox v The Minister for Justice and Equality and the Attorney General*.[23]

In Northern Ireland, some applications post-*Dalton* have raised the question of whether within the inquest system which has been running in Northern Ireland, in cases largely directed by the Attorney General or the Advocate General, article 2 obligations and domestic law obligations substantially diverge. On 1 March 2023, the Northern Ireland High Court delivered its decision in the judicial review case of *In re Bradley, Duffy & Ministry of Defence*[24] which concerned three "legacy" inquests into deaths which occurred during the Troubles where the core question, as defined by the court, was whether the article 2 investigative

[20] *Janowiec v Russia* 58 EHRR 30.
[21] *Re Finucane* [2019] UKSC 7.
[22] *In re McQuillan* [2021] UKSC 55.
[23] *Thomas Fox v The Minister for Justice and Equality and the Attorney General* [2021] IESC 61.
[24] *In the matter of an application by Rosemary Bradley, Margarita Duffy, the Northern Ireland Prison Service and Ministry of Defence for Judicial Review* [2024] NIKB 12.

obligation applied to each of the inquests as a matter of domestic law and whether in fact there is any substantial difference between common law and ECHR obligations as Lord Brown and others discussed in *McCaughey*. That case will be heard by the Court of Appeal next year and so I will say nothing more about it.

The few cases I have referenced illustrate how Northern Ireland cases arising from our troubled past have played a pivotal role in contributing to human rights law in the UK and in European Council states. In recent years, however, the human rights issues engaged in Northern Ireland cases have expanded even further, with several notable cases engaging issues of social justice having been brought to the UK Supreme Court.

Social justice

In two of these cases, *Re Siobhan McLaughlin*[25] and *Brewster v Northern Ireland Local Government Officers' Superannuation Committee*[26] the Supreme Court resolved tensions between the government's socio-economic policies and human rights of the individuals. In *McLaughlin*, the appellant was an unmarried individual who had survived her deceased partner. The issue was whether the requirement to either be married to or be the civil partner of the deceased to claim the widowed parent's allowance unjustifiably discriminated against the surviving partner and children based on their marital or birth status in violation of article 14 of the ECHR.[27] The Supreme Court allowed the appeal, and held that section 39A of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 was incompatible with article 14 read with article 8 of the ECHR. It held that the government's justification behind the statutory provision was not a proportionate means of achieving the legitimate aim.[28]

[25] *Re Siobhan McLaughlin* [2018] UKSC 48.
[26] *Brewster v Northern Ireland Local Government Officers' Superannuation Committee* [2017] UKSC 8.
[27] *Re Siobhan McLaughlin,* paragraph 1.
[28] Ibid, paragraphs 38-39, 45.

Similarly, the case of *Brewster* concerned article 14 of the ECHR. The appellant in that case contended the nomination requirement for unmarried couples under regulation 25 of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009 was in contravention of article 14. The Supreme Court allowed the appeal and reversed the decision of the Northern Ireland Court of Appeal. In the judgment, Lord Kerr acknowledged that the state has a margin of appreciation given that the socio-economic sphere is the legislature's area of expertise, however, he went on to state:

> "Where the question of the impact of a particular measure on social and economic matters has not been addressed by the government department responsible for a particular policy choice, the imperative for reticence on the part of a court tasked with the duty of reviewing the decision is diminished."[29]

Applying the test for proportionality, the Supreme Court held that the requirement in the 2009 Regulations should be disapplied, meaning that the appellant should be entitled to receive a survivor's pension under the scheme.[30]

Since these decisions, other cases such as *SC & Others*[31] and *Elan-Cane*[32] have reiterated the importance of the margin of appreciation. In the *SC* case, Lord Reed recaptured and acknowledged the principles set out in the previous judgments related to article 14 claims. He interpreted one of these principles, the "manifestly without reasonable foundation" to be another way of recounting the margin of appreciation principle articulated by the ECtHR.[33] The domestic courts' equivalent of this principle is the "discretionary area of judgment."

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[29] *Re Brewster*, paragraph 64.
[30] *Re Brewster*, paragraphs 50, 66-67.
[31] *R (on the application of SC, CB and 8 children) Appellants v Secretary of State for Work and Pensions and others (Respondents)* [2021] EWCA Civ 615.
[32] *R (on the application of Elan-Cane) v Secretary of State for the Home Department* [2021] UKSC 56.
[33] *Re SC*, paragraph 160.

Lord Reed held that when economic and social policies in the area of social benefits are concerned, a low intensity review is suitable while reiterating the fact that the intensity of the scrutiny depends on the circumstances of each case. Hence, that judgment reiterates the importance of flexibility adopted by the courts in interpreting certain policies, thereby striking a fair balance between the interests of the community with that of the legislative intent behind a particular policy decision. As stated at paragraph [160]:

> "It is therefore important to avoid a mechanical approach to these matters, based simply on the categorisation of the ground of the difference in treatment. A more flexible approach will give appropriate respect to the assessment of democratically accountable institutions but will also take appropriate account of such other factors as may be relevant."

Allied to this position, the same line of argument has been followed in the case of *Elan–Cane* where the court respected Parliament's role as the sole arbiter in determining what course of action should be followed in matters falling under the UK's margin of appreciation.

I make final brief mention in this section of two cases. The first is *Lee v Ashers Bakery*[34], known as "the Gay Cake Case", which concerned the rights of service providers. The Supreme Court ultimately found in favour of the bakery which had refused to provide a cake iced with a message with which the bakery owners did not agree. A final illustration of the difficulties arising in cases involving article 10 freedom of expression rights and article 8 rights arose in the case of *Brown*[35] which concerned the interface between public order and ECHR provisions.

[34] *Lee v Ashers Baking Company [2018] UKSC.*
[35] *Lee Brown v Public Prosecution Service for Northern Ireland* [2022] NICA 5.

To conclude this section, I recognise that often cases of a moral and political nature will involve elements of human rights, which makes the role of judges even more challenging at times. These are often cases which also involve interfaces between different rights, including qualified rights, where a balance has to be struck between competing interests. What is hopefully clear, however, is that the courts do have mechanisms by which they can ensure human rights are protected and enforced in certain circumstances.

Parliamentary sovereignty

Reverting for a moment to the *Miller No.1*[36] case, the Supreme Court took the opportunity there to emphasise, and restate, the doctrine of Parliamentary sovereignty as a "fundamental principle" of the unwritten UK constitution, stating at paragraph [43] of the majority judgment:

> "It was famously summarised by Professor Dicey as meaning that Parliament has:
>
> > "the right to make or unmake any law whatever; and, further, that no person or body is recognised by the law of England as having a right to override or set aside the legislation of Parliament."

This issue came into sharp focus in Northern Ireland in the judicial review case of *Allister and Others*[37] which progressed through all judicial tiers in Northern Ireland and on to the Supreme Court. The issues in that case concerned the constitutional arrangements of the UK, the operation and interpretation of the Good Friday Agreement and the effect of the EU-UK Withdrawal Agreement and the Northern Ireland Protocol in domestic law. The grounds included the claimed incompatibility of the Protocol and related regulations with the Act of Union 1800 and the Northern Ireland Act 1998, the correct approach to statutory

[36] *Miller No.1* [2017] UKSC 5.
[37] *In the matter of an application by James Hugh Allister and others for Judicial Review* [2023] UKSC 5.

interpretation to resolve a conflict or clash between the constitutional provisions of constitutional Acts, and the lawfulness of the Protocol.

Article VI of the Act of Union (Ireland) Act 1800 was enacted by the Irish legislature. The identical Article VI in the Union with Ireland Act 1800 was enacted by the Westminster legislature. Article VI in the two Acts of Union effectively articulates an "equal footing guarantee for all citizens of Great Britain and Ireland, generally in respect of trade … and treaties."

Each court held that "the language of section 7A of the Withdrawal Act is clear and unambiguous and provides a complete answer." It "takes precedence" over Article VI of the Acts of Union and "aligns with the core tenets of parliamentary sovereignty, … including the principle that Parliament cannot bind its successors." The Acts of Union and Article VI remained in place but were modified to the extent and for the period during which the Protocol applies.[38]

In *Allister,* the Court of Appeal also discussed the relationship between the devolved Assembly's power and Westminster sovereignty by reference to the case of *AXA General Insurance v HM Advocate*[39] which referred to the fact that devolved parliaments have delegated powers which are not untrammelled. Devolved settlements do not enjoy the parliamentary sovereignty of Westminster."[40] Thus, whilst the Northern Ireland Act permits the Assembly to modify provisions made by Westminster if they relate to Northern Ireland, the UK Parliament retains the power to make laws in relation to all matters, whether devolved or reserved.

The court went on to observe that in addition to the principle of parliamentary sovereignty and its application to devolved legislatures, the courts are independent of the executive and Parliament and must operate according to the rule of law which includes adherence to human rights principles.

[38] Ibid, paragraph 66.
[39] *AXA General Insurance v HM Advocate* [2011] UKSC 46.
[40] Ibid, paragraph 126.

Of course, Parliament will be cognisant of established human rights and principles and apply them when making laws. In addition, the principle of legality operates as an aid to statutory interpretation in that any interference with these human rights principles must be expressed in clear terms.[41]

The principle of legality may arise in situations concerning the potential use of executive power to restrict fundamental rights such as access to the courts, judicial review of administrative decisions and liberty. However, there is also a qualification to the application of this principle made explicit in *Belhaj v Director of Public Prosecutions*[42] in that it does not come into play where it is clear from a legislative scheme that the legislature intended to curtail fundamental common law rights and has made an assessment of where the appropriate balance lies.

Domestic jurisprudence is also clear that "courts should, in the absence of some special circumstances, follow any clear and constant jurisprudence of the Strasbourg court."[43] The corollary of this position is that domestic courts are required "to keep pace with the Strasbourg jurisprudence as it evolves over time: no more, but certainly no less." This, the *Ullah* or "mirror principle", has received sustained judicial attention, and may further be understood as a requirement to follow Strasbourg jurisprudence "no less and certainly no more."[44]

The facility to make a declaration of incompatibility arises by virtue of section 4 of the Human Rights Act and is only utilised if any domestic legislation cannot be read down to be Convention-compliant pursuant to section 3. From 2000 to 2023, the number of declarations made is reported as 58, which is a modest

[41] Bennion, Bailey and Norbury on Statutory Interpretation, Diggory Bailey and Luke Norbury, 8th Edition, Lexis Nexis 2020, paragraph 27.1 & *R v Secretary of State ex parte Simms* [1999] UKHL 33; [2000] AC 115, paragraph 131.

[42] *Belhaj v Director of Public Prosecutions* [2018] UKSC 33.

[43] *R (Ullah) v Special Adjudicator* [2004] UKHL 26, paragraph 20.

[44] *R (Al-Skeini) v Secretary of State for Defence* [2007] UKHL 26, paragraph 106.

number and, of course, given that the impugned legislation remains in force, the legislature can then take the necessary action by way of remedial order.[45]

Self-evidently, courts exercise this power with caution so as to ensure there is a balance maintained between the executive and the judiciary. To borrow from Lord Bingham:

> "[…] the function of independent judges charged to interpret and apply the law is universally recognised as a cardinal feature of the modern democratic state, a cornerstone of the rule of law itself."[46]

Illustrative of the courts' position within our democracy and the separation of powers are decisions such as those on abortion and same sex marriage in Northern Ireland. In relation to abortion, having lost cases in Northern Ireland,[47] the Human Rights Commission appealed to the Supreme Court, which upheld the Court of Appeal's decision, finding it had no jurisdiction to make a declaration of incompatibility on jurisdictional grounds but found that the current law was disproportionate and incompatible with article 8, insofar as it prohibited abortion in cases of fatal foetal abnormality and where pregnancy resulted from rape or incest.

Subsquently, the issue returned in *Ewart's Application for Judicial Review*.[48] The appellant was a woman who had a heightened risk of pregnancy with a fatal fetal abnormality. The court was clear that following the Supreme Court decision a declaration of incompatibility should be made. However, the Northern Ireland (Executive Formation etc) Act 2019 had passed into law on 24 July 2019, and it stated that unless the Northern Ireland Assembly was restored by 21 October

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[45] *Responding to Human Rights Judgments, Report to the Joint Committee on Human Rights on the Government's response to human rights judgments 2023-2024*, Ministry of Justice, November 2024, Annex A, page 44.
[46] *A v Secretary of State for the Home Department* [2004] UKHL 56; [2005] 2 AC 68, paragraph 42.
[47] *Re Northern Ireland Human Rights Commission's Application for Judicial Review* [2017] NICA 42, paragraph 76.
[48] *Ewart's Application for Judicial Review* [2019] NIQB 88.

2019, the relevant abortion laws would be repealed under the law of Northern Ireland. Ultimately, a legislative course was taken by the Westminster Parliament and so a declaration was unnecessary.[49]

Another case which concerned an issue within the competence of the Northern Ireland Assembly is the 2020 Northern Ireland Court of Appeal case of *Re Close's Application for Judicial Review.*[50] The appellants in this case appealed against a dismissal of their claims that prohibition on same-sex marriage in the Marriage (Northern Ireland) Order 2003 unlawfully discriminated against them. They sought a declaration that this provision was incompatible with article 14 when taken with articles 8 and 12 of the ECHR. The Court of Appeal found that Convention incompatibility was established whilst reiterating that marriage was a matter which fell under the competence of the Northern Ireland Assembly. This was at a time when several significant legislative developments had taken place, including the Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 which came into effect in January 2020, meaning that a legislative solution ensued.

Devolution mechanisms

In this section I briefly refer to the facility for our Attorney General to refer any proposed legislation where an issue of ECHR compatibility arises thereby providing a further protection for human rights. This facility was examined in a reference to the Supreme Court, regarding the Abortion (Safe Access Zones) (Northern Ireland) Bill. Under the Northern Ireland Act 1998[51], the power of the Assembly to make legislation (or its "legislative competence") is limited. A provision of a Bill is outside the Assembly's legislative competence, and therefore not law, if it is incompatible with any of the rights protected by the ECHR.

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[49] Ibid, paragraph 4.

[50] *Re Close's Application for Judicial Review* [2020] NICA 20.

[51] Northern Ireland Act 1998, sections 6(1) and 6(2)(c).

This Bill was passed by the Northern Ireland Assembly on 24 March 2022 and was designed to protect the right of women to access abortion and associated sexual and reproductive health services and prohibiting anti-abortion protests and other specified behaviour within "safe access zones" around abortion clinics and related premises.

The reference to the Supreme Court concerned clause 5(2)(a) of the Bill, which made it a criminal offence "to do an act in a safe access zone with the intent of, or reckless as to whether it has the effect of … influencing a protected person, whether directly or indirectly." The persons protected by clause 5(2)(a) included patients, persons accompanying them, and staff who work at the premises where abortion services are provided.

The Attorney General for Northern Ireland was concerned that, because clause 5(2)(a) of the Bill did not provide any defence of reasonable excuse, it disproportionately interfered with anti-abortion protesters' rights to freedom of thought, conscience and religion, freedom of expression, and freedom of assembly. These rights are protected by articles 9, 10 and 11 of the ECHR. The Attorney therefore asked the Supreme Court to decide whether the penal sanction with no provision for reasonable excuse created by clause 5(2)(a) of the Bill was outside the legislative competence of the Assembly because it involved a disproportionate interference with the articles 9, 10 and 11 rights of those who seek to express opposition to the provision of abortion treatment services in Northern Ireland.

The Supreme Court unanimously held that clause 5(2)(a) of the Bill was compatible with the ECHR rights of those who seek to express their opposition to the provision of abortion treatment services in Northern Ireland. Accordingly, clause 5(2)(a) was within the legislative competence of the Assembly.

One other interesting case in this area of legislative competence was decided by the Northern Ireland High Court in 2024 as regards sections 12 to 16 of the Justice

(Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 which create a statutory prohibition pre-charge on the publication of any matter likely to lead to members of the public to identify a suspect in a sexual offence when the allegation has been made to the police or the police have taken any step to investigate whether the suspect has committed such an offence.[52]

The High Court made a declaration that these sections are not law holding that they were outside the legislative competence of the Northern Ireland Assembly on the basis that they are incompatible with the article 10 rights of the media organisations who brought the challenge. The court held there were clear shortcomings in the consideration of the article 10 rights of media organisations throughout the legislative process. There was no debate around the issue of the public interest, relevant to the anonymity of suspects, nor any consideration of the need for a fair balance of rights. The court found public interest journalism serves a vital role in any democratic society. The role of the press as watchdog, and the role of journalists in facilitating and prompting police investigations is fully evidenced.

The legal impact of the Protocol/ Windsor Framework on human rights

Currently, in Northern Ireland, the dial has shifted a little from cases concerning article 2 and article 14 of the ECHR to issues arising from the Protocol on Ireland/Northern Ireland, often referred to as the "Northern Ireland Protocol", and the revised arrangements for its operation contained in the Windsor Framework document. The impact of the Protocol and the Windsor Framework thus far has been the subject of quite a bit of complicated litigation in the courts in Northern Ireland.

By way of very brief background, the Northern Ireland Protocol sets out detailed and intricate arrangements for Northern Ireland following Brexit. The Protocol was part of the Withdrawal Agreement. By virtue of the European Union

[52] *In the matter of an application by Mediahuis Ireland & Others for Judicial Review* [2024] NIKB 45.

(Withdrawal Agreement) Act 2020, the rights and obligations arising under the Withdrawal Agreement, including those contained with the Protocol, are recognised and available in domestic law. The Windsor Framework was adopted subsequently to resolve disagreement between political parties in Northern Ireland about certain aspects of the Protocol.

The resulting constitutional arrangement is undoubtedly complex and significant, and it is certainly a difficult task to address its numerous nuances in the limited time I have this evening. For that reason, I will limit myself to discussion of the prohibition of diminution of rights, which finds voice in the Protocol and the Windsor Framework, and the interplay with EU law.

The Protocol was aimed at ensuring that the principles and constitutional structure established by the Good Friday Agreement remained steadfast post-Brexit, within the context of human rights and beyond, in terms of customs and importing or exporting goods. On this point, the Protocol expressly sets out to:

> "Maintain the necessary conditions for North-South cooperation, to avoid a hard border [in Ireland] and to protect the 1998 Belfast/ Good Friday Agreement in all its dimensions."[53]

Article 2(1) is the operative provision as it sets out the human rights obligation upon the UK government in the wake of Brexit to:

> "Ensure that no diminution of rights, safeguards, or equality of opportunity, as set out in that part of the 1998 Agreement entitled Rights, Safeguards and Equality of Opportunity results from its withdrawal of the European Union."

In 2023, the Court of Appeal dealt with Article 2(1) of the Protocol and the Windsor Framework in *Re SPUC*.[54] This case was brought by the Society for the Protection of the Unborn Child (SPUC) which challenged the regulations

[53] Article 1(2) of the Protocol.
[54] *Re SPUC* [2023] NICA 35.

provided for abortion in Northern Ireland and associated ministerial directions having had the case dismissed at first instance. One of the grounds of challenge concerned whether the regulations, which sought to permit abortion on the ground of disability, were *ultra vires* by reason of Article 2(1) of the Protocol, which, as I have stated, preserves the human rights protections that existed at the time of the EU-UK Withdrawal Agreement. Another ground of challenge was whether this part of the 2021 Regulations was *ultra vires* and incompatible with general principles of EU law, namely, the prohibition of discrimination, and was thereby contrary to Article 2(1) of the Protocol.[55]

While the case was raised initially on mainly constitutional law grounds, because the applicants sought to invoke Article 2 of the Protocol and the Windsor Framework, the challenge became rights-based in nature. In its judgment, the Court of Appeal provided clarity concerning the application of Article 2(1) of the Protocol and the application of the Windsor Framework. This manifested in the development of the following test which builds on a Government Explainer document:

(i) A right (or equality of opportunity protection) included in the relevant part of the Belfast/Good Friday 1998 Agreement is engaged.

(ii) That right was given effect (in whole or in part) in Northern Ireland, on or before 31 December 2020.

(iii) That Northern Ireland law was underpinned by EU law.

(iv) That underpinning has been removed, in whole or in part, following withdrawal from the EU.

(v) This has resulted in a diminution in enjoyment of this right; and

(vi) This diminution would not have occurred had the UK remained in the EU.[56]

[55] Ibid, paragraphs 5(5) and (6).
[56] Ibid, paragraph 54.

Applying the above test, this ground of challenge was dismissed in the Court of Appeal on the basis that there was no clear diminution of rights which resulted from withdrawal from the EU, since the purported diminution concerned 2020 Regulations, which came into force in 2020 when EU law still applied in the UK. Moreover, the appellants had not sufficiently established what right included in the Good Friday Agreement had been engaged, abortion not being an EU competence.

In the *SPUC* case, the Court of Appeal highlighted that the UN Convention on Rights of Persons with Disabilities is an unincorporated international treaty which binds the UK government on the international plain and is not part of domestic law.[57] Thus the only way it can be applied is if domestic legislation is passed to that effect. This is an important principle when having regard to international treaties and conventions, as UK courts must ensure they interpret the law that Parliament has directed with reasonable legal certainty, in line with our domestic legal system.[58]

The *SPUC* case also illustrated that Article 2 of the Protocol and the Windsor Framework undoubtedly demands greater analysis of the rights provided by the Good Friday Agreement, as well as an understanding of core EU laws and fundamental rights-based principles.

Within the current legal landscape in Northern Ireland Article 2 of the Northern Ireland Protocol is being raised to support human rights claims. I mention two of these cases to illustrate the point. First, in 2024, in *Re Dillon*[59] an argument was made that the conditional immunity provisions of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023, primary legislation which was introduced in the UK to deal with the legacy of the

[57] Ibid, paragraph 59.
[58] Lord Sales, *Retained EU Law: Purposive Interpretation when the Constitutional Architecture Changes,* Annual Lecture of the UK Association for European Law, 20 November 2023.
[59] *Re Dillon* [2024] NICA 59 & [2024] NIKB 11.

Troubles, should be disapplied was successful by virtue of Article 2 of the Northern Ireland Protocol with the Windsor Framework. This was following an argument that the specific provisions under scrutiny within the Legacy Act conflicted with relevant EU law which had effect in domestic law before 2020.

The relevant underpinning EU law was Articles 11 and 16 of the Victims Directive 2012/29[60], which provided for victims' rights in the event of a decision not to prosecute and the right to receive a decision on compensation from the offender in the course of criminal proceedings. Additionally, the Victim Charter, as given effect in domestic law by the Victim Charter (Justice Act (Northern Ireland) 2015) Order (Northern Ireland) 2015, was issued pursuant to sections 28 and 31(3) of the Justice Act (Northern Ireland) 2015. The Victim Charter was expressly said to "implement a range of obligations arising out of the EU Directive establishing minimum standards on the rights, support and protection of victims of crime."

In *Re Dillon,* the applicants also sought to rely on rights-based arguments, including those provided for in the EU Charter of Fundamental Rights and those contained in the ECHR, such as the right to life, freedom from torture, the right to court access and the right to human dignity. The Court of Appeal held that the EU Charter acts as an aid to interpretation of relevant EU law provisions and therefore that EU Charter rights apply only when a state is implementing EU law. On that basis, therefore, certain rights provided in the EU Charter are not directly justiciable. A finding stating otherwise would have, in the court's view, gone too far and so the court held:

> "[148] […] Where a declaration of incompatibility has been made under section 4 HRA, a concomitant breach of the [Charter] only arises where EU law was being implemented, not automatically.

[60] Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing council Framework Decision 2021/220/JHA. See also Victim Charter.

> [149] Whilst we agree with the trial judge that a diminution prohibited by article 2 [Windsor Framework] might occur either by reducing the substance of a right (as here) or by reducing the efficacy of available remedies, it would be incorrect to proceed on the basis that any breach of the ECHR within an EU competence without more equates to a breach of the [Charter] and therefore a breach of article 2 [Windsor Framework], giving rise to the disapplication remedy."

This case may be appealed and so I will say no more on it.

In May 2024, the Northern Ireland High Court also delivered a judgment concerning the legality of several provisions of the UK's Illegal Migration Act 2023, legislation created to address ongoing political concern about the effects of immigration in the UK.[61] The applicants in this case were a 16-year-old asylum seeker from Iran and the Northern Ireland Human Rights Commission. The provisions under challenge related to the admissibility of protection of human rights claims, effective remedy, removal, non-refoulement, review of detention, removal of victims of slavery and/or trafficking, removal of children, unaccompanied children, and age assessments. In essence, the applicant claimed that these provisions were incompatible with the ECHR and with Article 2 of the Protocol/Windsor Framework.

The High Court held that each of the statutory provisions under consideration infringed the protection afforded by the Good Friday Agreement. In doing so, the High Court found that the Agreement protected the civil rights of "everyone in the community" which it determined should apply broadly and beyond citizens of Northern Ireland to immigrants or asylum seekers who had come to Northern Ireland. Moreover, the High Court found that the UK's 2023 Illegal Migration Act would result in a diminution in certain rights afforded by EU law,

[61] *In the Matter of an Application by JR295 for Judicial Review* [2024] NIKB 35.

including the Procedures Directive[62], the Qualification Directive[63], and Directive 2011/36 on trafficking in human beings.[64] Accordingly, the court concluded that the impugned statutory provisions could not be applied in Northern Ireland, on the basis that they infringed protections afforded by the Agreement.[65] This case is under appeal and so there will be further discussion of it in due course in our Court of Appeal.

Intermezzo, A Particular Case in Point

I turn my attention briefly to incompatibility challenges concerning the Children (Northern Ireland) Order 1995 and its English equivalent, the Children Act 1989, in which area I practised for many years at the Bar. These pieces of legislation, which largely mirror each other, have withstood challenges based upon the ECHR and are examples of a balance struck by Parliament in legislating for private law matters within its scope of margin of appreciation. Furthermore, this legislation has been interpreted compatibility with the ECHR, particularly article 8, the right to family life[66] and so has stood the test of time.

In Northern Ireland, our appreciation of rights within family law cases was well and truly adumbrated by one of my predecessors Lord Kerr in *AR v Homefirst Trust*[67], where he criticised the inadequate attention paid to the ECHR in a case where a mother had lost several children to adoption but wanted a chance with a new baby. Obviously, that had to happen however difficult the past history.

These cases invariably involve consideration of the family life aspects of article 8 which is procedural and substantive and places positive obligations upon the state as regards family life. One recent case, *SV*[68] concerned an incompatibility

[62] Ibid, paragraphs 121-122, 127.
[63] Ibid, paragraphs 161-164.
[64] Ibid, paragraphs 157-158.
[65] Ibid, paragraph 181.
[66] See *KA v Finland* [2003] ECHR 27; *Strand Lobben & Others v Norway* [2019] ECHR 615; & *Kutzner v Germany* [2002] ECHR 160.
[67] *AR v Homefirst Trust* [2005] NICA 8.
[68] *SV (Minor) v PV & PV v a Health and Social Care Trust* [2023] NICA 41.

challenge to the Children Order pursuant to articles 6, 8 and 14 of the ECHR, on the basis that it did not include express provision for a child to apply for a revocation of their father's (who was married to the mother) parental responsibility.

The second case, *Re A (Parental Responsibility)*[69], is an English case where distinction made within the Children Act 1989 between married and unmarried parents with respect to the court's power to revoke parental responsibility was challenged on the basis of article 14 read with article 8 of the ECHR. In both these cases, the Courts of Appeal in the respective jurisdictions considered in detail the rationale behind Parliament's choice in this particular area of family law.

At the very outset, it seemed that the difference in treatment provided by the statutes is not underpinned by a proper justification, but a careful consideration of Parliament's intention in *SV* depicts that the deliberate difference made by the legislature between married and unmarried fathers was "to protect children and mothers from unmeritorious fathers."[70] In the latter case, it was contended that the difference in treatment was backed by the legitimate aim of prioritising civil partnerships over less formalised relationships, and upholding the deep-rooted principle that married fathers should have irrevocable parental responsibility. Both cases were refused leave to appeal to the Supreme Court.

Also in the family law arena, I mention *R and H v UK*[71] which is a ECtHR decision following *RH v Down Lisburn Trust*[72], a House of Lords case where the court examined the balance to be struck between a freeing order under the Adoption (Northern Ireland) Order 1987 and the interference with the article 8 ECHR rights of parents specifically as regards post-adoption contact when a placement was

[69] *Re A (Parental Responsibility)* [2023] EWCA Civ 689.
[70] *SV,* paragraph 106.
[71] *R and H v UK* [2011] ECHR 844.
[72] *RH v Down Lisburn Trust* [2006] UKHL 36.

not identified but foreseeable. The ECtHR affirmed the decision of the domestic court stating that the order was in the best interests of the child and found that the decision of the domestic court was "well within the margin of appreciation that domestic courts enjoy in such cases."[73]

Now, good practice is well defined in cases such as *Re B*[74] and *H-W*[75] decided by the Supreme Court which reiterate the need to properly consider all options in order to make a proportionate decision in any family case which invariably involves an interference with family life.

New Challenges

It goes without saying that wider societal issues in Northern Ireland, as elsewhere, have a human rights impact.

Recent statistics have deemed Northern Ireland as the most dangerous place for women in Europe, with an average of five killings per year. This year, seven such killings have been recorded so far.[76] That being said, over the past few decades there has been an increasing awareness of the effects of domestic abuse, which has been reflected in the law, including in the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 which, among other things, created the specific offence of domestic abuse.

It has been argued that this Act was timely and extremely necessary in Northern Ireland, since coercive control had already been criminalised in other jurisdictions within the UK and Ireland.[77] Before the 2021 Act, the criminalisation of domestic abuse in Northern Ireland was limited to prosecution under general criminal law in situations where physical violence had taken place.

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[73] Ibid, paragraph 88.

[74] *In Re B (A Child) (Care Proceedings: Threshold Criteria)* [2013] UKSC 33.

[75] *In re H-W (Children)* [2022] UKSC 17.

[76] Allison Morris, "The 43 females who have been killed in NI in the last eight years" (Belfast Telegraph, 21 October 2024).

[77] Ronagh McQuigg, "Domestic abuse: the shadow pandemic" (2022) 73 NIQL 2 341-364.

The outdated nature of domestic abuse law in Northern Ireland was recognised by the Committee on the Elimination of Discrimination against Women, or "CEDAW", in their 2019 Concluding Observations on the UK's eighth period report. The Committee stated that laws and policies to protect women in Northern Ireland were inadequate, and made recommendations for the UK to "adopt legislative and comprehensive policy measures to protect women from all forms of gender-based violence throughout the State party's jurisdiction, including Northern Ireland".[78] The Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 was a necessary statutory development to protect everyone affected by physical and psychological domestic abuse.

There have been other critical developments in the area of criminal law in Northern Ireland. Firstly, a new, standalone offence of non-fatal strangulation has been created in light of research which showed that strangulation is an indicator for future escalation of violence in intimate partner relationships. Secondly, there have been developments to address the issue of stalking, with the creation of a specific offence, and the introduction of stalking prevention orders.

Another area with potentially complex implications for human rights law in Northern Ireland, in common with many other jurisdictions, is climate change litigation. Putting climate litigation into context requires some numbers. According to the Sabin Centre's climate litigation database, there are currently 2,666 climate litigation cases across the world. In 2023, 24 cases were filed in the UK, ranking it among the countries outside the US with the highest number of recorded cases for that year.[79]

[78] Concluding observations on the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland CEDAW/C/GBR/CO/8 (14 March 2019).

[79] Joana Setzer and Catherine Higham, 'Global trends in climate change litigation: 2024 snapshot' (2024) Grantham Research Institute on Climate Change and the Environment, London School of Economics and Political Science, 10-12.

The ECtHR has extended states' human rights obligations to implementing effective climate change policies.[80] In the UK, the recent Supreme Court judgment in *Finch v Surrey County Council and others*[81] illustrates the importance of thorough environmental impact assessments for oil and gas developers in the United Kingdom and different views in this area.

Northern Ireland has seen its share of climate jurisprudence in recent years, with innovative cases being brought to the High Court to challenge environmental policy and decision-making. However, environmental cases thus far have been brought on constitutional principles, rather than rights-based arguments although the implementation of the Climate Change Act (Northern Ireland) 2022 has provided a legal basis to challenge environmental decision-making which fails to meet domestic and/or international standards.[82]

Lastly, I cannot discuss new challenges without mentioning cyber security and artificial intelligence. In navigating this new challenge, courts will have to ensure they are steadfast in upholding fundamental human rights. You may have read recently that a study published in a scientific journal illustrated that even the renowned poet William Shakespeare cannot escape the perils of AI. AI chatbots can now imitate famous poets like Shakespeare well enough to fool many human readers with many of the study participants actually preferring the chatbots' poetry![83]

These challenges are, of course, being faced in the legal sector also, with the need for robust regulation becoming increasingly clear. Síofra O'Leary, previous President of the ECtHR, accurately summarised this issue in her 2022 MacDermott Lecture in Belfast, when she spoke about the difficulties with

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[80] *Verein KlimaSeniorinnen Schweiz and Others v Switzerland* [2024] ECHR 304.
[81] *Finch v Surry County Council and Others* [2024] UKSC 20.
[82] *No Gas Caverns and Friends of the Earth's Application* [2024] NICA 50.
[83] Tor Constantino, "People Can't Tell AI From Shakespeare — They Prefer AI's Verse, Study" (Forbes, 15 November 2024).

internet and social media regulation. The same words seem relevant to the debate concerning AI:

> "The [European] court has sought to grapple with the 'conflicting realities' (a term used in *Delfi v Estonia*) to which the internet and new technologies give rise. It has recognised, on the one hand, that user-generated expressive activity on the internet provides an unprecedented platform for the exercise of freedom of expression. On the other hand, the internet can act as a forum for the speedy dissemination of unlawful forms of speech which may remain persistently online."[84]

The competing interests at play have been noted, for instance in the European Artificial Intelligence Act 2024, which is the first attempt to enact a horizontal regulation for AI. While the European Parliament has recognised that, "AI technologies are expected to bring a wide array of economic and societal benefits to a wide range of sectors", it equally notes that there is a real concern about "freedom of expression, human dignity, personal data protection and privacy."[85]

In common with others, I am alert to the potential problems that AI might cause within the justice system, particularly in the realm of human rights and I am of the view that we cannot underestimate the importance of a nuanced human approach to some of the most difficult societal problems we all face.

Conclusion

To end this evening's lecture, I return to Sir Thomas More and quote again from Utopia where he says:

[84] Síofra O'Leary, "Democracy, expression and the law in our digital age", 50th Annual MacDermott Lecture at Queen's University Belfast 2022, (2022) 73 NILQ 162-183, 165.
[85] European Parliament, Briefing on Artificial Intelligence Act (June 2023), PE698.792.

> "You must not abandon the ship in a storm because you cannot control the winds … What you cannot turn to good, you must at least make as little bad as you can."

As judges, the task we have is to apply and interpret the law. We cannot control the winds; we can only do our best to weather the storm. There will always be new challenges that the law must navigate, whether it be protecting the rights of individuals during and post conflicts or adjudicating on complex human rights issues such as domestic abuse, climate change or AI. I am confident that Northern Ireland will continue to make a considerable contribution to the human rights jurisprudence in all of these areas in the years to come.

In that regard, I return to a final piece of local history related in *McCormick and Dickson's* text where they recount that, in 1925, the newly established Court of Appeal's work was remarkably slender in that it heard just 14 cases between 1 October 1921 and 31 July 1992. The authors refer to a letter from A.N. Anderson to the Prime Minister of Northern Ireland which stated that "the Court of Appeal, it is true, does not get enough work …"[86]

Not so today! We are a busy court dealing with many issues, including the human rights cases I have discussed, and we expect to be kept busy in the years to come.

[86] McCormick & Dickson, page 16