

BOOK REVIEW

Brian M Barry, How Judges Judge: Empirical Insights into Judicial Decision-Making (Routledge 2021), ISBN 978-0-367-08624-4, 295pp.

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Legal philosophy has propounded a dichotomous notion of judicial decision-making that has generated much debate in the literature with no natural endpoint in sight. On the one hand, legal formalists have argued that the role of the judge in judicial decision-making is confined to ‘mere marks on a printed page’¹ in order to enable justice to be administered in a fair and ‘detached manner’.² This is because the proponents of this historical and judicial theory viewed legal rules as ‘the Alpha and Omega, the beginning and the ending of judicial decision-making’.³ However, at the turn of the twentieth century, the legal realist school of thought argued that this is merely an ideal that can be reduced to a myth because ‘[d]eep below consciousness are other forces, the likes and dislikes, the predilections and the prejudices, the complex of instincts and emotions and habits and convictions, which make the ... judge.’⁴ The proponents of legal realism thus argued that various factors beyond the law influence judicial decision-making which, in turn, provoked a range of empirical studies in this respect.⁵ Nevertheless, the vast breadth of academic literature that has endeavoured to analyse judicial decision-making is generally limited to the confines of the law and how the judge interprets and applies the law.⁶

Brian Barry has, however, plugged this gap in legal scholarship with *How Judges Judge: Empirical Insights into Judicial Decision-Making*. This is a cutting-edge and eloquent work that appraises inter-disciplinary research from many different academic perspectives in the fields of law, court processes, psychology, economics, politics, and technology. Perhaps this is the beginning of the end of a perpetual debate that permeates the literature on the judge’s role as one of society’s key decision-makers, as the author demonstrates that there is some empirical evidence to support the fact that ‘the great tides and currents which engulf the rest of men do not turn aside in their course, and pass judges by’.⁷ This is a point that was also recently affirmed extra-judicially by Frank Clarke CJ when he contended that ‘judges are not immune from the human condition’.⁸ This utterance may be an indicator of Barry’s timeliness and that perhaps the Irish jurisdiction is ready to embrace his objective in undertaking this work which is twofold; to inform the reader’s knowledge of how judges decide cases and to improve justice and how it is done. The author executes this task with great skill as he brings the reader beyond the doctrinal aspect of the law with painstaking research. He provides a

¹ Stanford Levinson, ‘What do Lawyers Know (And What Do They Do with Their Knowledge?) Comments on Schauer and Moore’ (1985) 58 Southern California Law Review 441, 448.

² Laura Cahillane, ‘Judicial Diversity in Ireland’ (2016) 6(1) Irish Journal of Legal Studies 1, 13.

³ Vitalius Tumonis, ‘Legal Realism and Judicial Decision-Making’ (2012) 19(4) Jurisprudence 1361, 1362.

⁴ Benjamin N Cardozo, *The Nature of the Judicial Process* (Yale University Press 1921) 167.

⁵ Brian Barry, *How Judges Judge: Empirical Insights into Judicial Decision-Making* (Routledge 2021) 4.

⁶ From an Irish perspective, the body of academic literature centring on constitutional law adjudication is a prime example of this.

⁷ Margaret E Hall (ed), *Selected Writings of Benjamin Nathan Cardozo* (Fallon Publications 1947) 178.

⁸ Una Mullally, ‘Chief Justice Frank Clarke: “Judges are not immune from the human condition”’ *The Irish Times* (Dublin, 8 December 2020).

cogent and coherent empirical-led analysis of how factors beyond the law affect a judge when deciding a case.

This book is made up of eight chapters including a short but informative introduction in which the author greets the reader with background information on the development of judicial decision-making research by drawing on legal theory. This approach enabled the author to demonstrate the factors that have paved the way for this line of work and to inform the reader of its aim. Barry has made this work accessible from the outset, especially for the reader who instinctively relies on the letter of the law to engage in legal research and has not yet been immersed in the ever-expanding inter-disciplinary and empirical-led approach to legal analysis. He addresses matters of terminology and methodology in researching and analysing judicial decision-making to provide context and to ensure that the subsequent material will be understood by the reader. Barry defines judicial decision-making as ‘the term [that] refers to all decisions made by judges in their professional capacity that affect the parties before them. For the most part, this will be the judges’ end product, so to speak – a judicial outcome’.⁹ This definition is instructive and focuses the reader’s attention on what will be examined in the remainder of the text. Barry’s explanation of archival, experimental, and role analysis studies is invaluable to the reader’s understanding of how empirical investigations have been conducted on judicial decision-making and prepares the reader for possible limitations associated with each of these methodologies. This is particularly important for the reader who may be unfamiliar with such methodologies. The introductory chapter also presents the reader with a gripping preview of what lies ahead. The remainder of the chapters are mainly informed by substantial material from the various worldwide studies that the author has collated to provide an enriching empirical perspective on judicial decision-making. The vast breadth of footnotes in each chapter demonstrates that this is an authoritative piece of work. These footnotes should not be overlooked by the reader as they contain informative nuggets of information. However, the real merit of this work is in Barry’s innovative and stimulating analysis that spans from cover to cover and generally culminates at the end of each chapter.

Chapter 2, *The Psychology of Judicial Decision-Making* is concerned with research that has ‘... taken key concepts from the general psychology literature and applied them to judicial decision-making’.¹⁰ This chapter examines the role that psychology plays in a judge’s decision-making by mainly focusing on experimental-based research studies from the areas of: heuristics and cognitive biases, errors in numerical decision-making, motivated reasoning, the judge’s emotions, and group psychological effects. Barry’s analysis of research on heuristics and biases in judicial decision-making offers interesting reasoning that would be most appealing to those with a keen interest in legal philosophy, as it speaks to ‘the assertions of legal realists nearly a century ago that judges sometimes decide cases on a “hunch.”’¹¹ Barry accordingly posits that ‘this burgeoning line of research often demonstrates that judges, like the rest of us, sometimes think and decide intuitively’.¹²

In Chapter 3, Barry looks at *Judges’ Professional Motivations and Judicial Decision-Making* by considering matters of work-life balance, career ambition and aspirations, concerns for reputation and prestige, pay, retirement and promotion. The focus of this chapter is therefore centred around ‘matters of judges’ self-interest and self-preservation when they go to work, and

⁹ Brian Barry, *How Judges Judge: Empirical Insights into Judicial Decision-Making* (Routledge 2021) 5.

¹⁰ *ibid* 12.

¹¹ *ibid* 27.

¹² *ibid*.

how these intrinsic personal and professional motivations may affect judicial decisions'.¹³ Barry draws on some illuminating points including the idea of 'fame-seeking',¹⁴ which is typically confined to the 'upper echelons of court systems',¹⁵ and originates from the idea that 'without boldness in interpreting the law, a judge has little chance of becoming famous'.¹⁶ He also leaves the reader with much to think about when he opines that 'the controversy that follows, of course, is how much or how little leeway is afforded to judges when these motivations start to affect judicial outcomes'.¹⁷ However, it may be difficult to discern when motivations such as fame-seeking start to influence judicial outcomes. Barry brings this point to the reader's attention when he contends that studies 'do not explain *how and when* judges decide cases differently because they are motivated by concerns of prestige, reputation or influence'.¹⁸ He notes that '[e]mpirically demonstrating the impact of reputation, prestige and influence is a different matter ... testing whether these are in fact "inglorious determinants of judicial behaviour" as Schauer once put it, is not easy'.¹⁹ Nevertheless, Barry does consider factors that are empirically sound and contribute to his overall thesis including performance-based pay raises.²⁰ His analysis of research on such factors led him to aver that a judges' professional motivations 'can nudge judges' decisions in particular directions'.²¹

Chapters 4 and 5 are interlinked. Chapter 4 considers *Judges' Characteristics and Effects on Judicial Decision-Making*. Barry explores how factors including judges' gender, race and ethnicity, age and experience, religion, and politics influence the judicial decision-making process. Characteristic factors are also the main concern in Chapter 5. However, this chapter provides an additional perspective as it considers the *Litigants' Characteristics and Effects on Judicial Decision-Making*. This chapter thus 'concentrates on the swathes of research investigating how *litigants'* rather than judges' personal characteristics seem to be an influence on judges' decisions'.²² Similar to Chapter 4, it branches into the main personal characteristics that have been considered in empirical studies. Barry focuses on litigants' gender, race and ethnicity, age, and sexual orientation. His close examination of this research is a gambit and is most informative. He does not merely highlight the consequences that can arise when such factors affect the decision-making process and steer judges away from objectivity and impartiality. Rather, Barry goes a step further and suggests methods to counteract these consequences. For example, he demonstrates that there is a 'considerable body of empirical evidence to suggest that judges' decision-making can be affected by insidious biases based on litigants' personal characteristics'.²³ However, he recognises that 'researchers have only gone so far as to propose methods to minimise and counteract their harmful effects'.²⁴ This appears to have motivated Barry to probe further as he uncovers some possible interventions. Barry does note that '[t]he interventions suggested here may not work at all, and even if they did to some

¹³ *ibid* 91.

¹⁴ *ibid* 100.

¹⁵ *ibid*.

¹⁶ Lawrence Baum, *Judges and Their Audiences: A Perspective on Judicial Behavior* (Princeton University Press 2009) 109.

¹⁷ Brian Barry, *How Judges Judge: Empirical Insights into Judicial Decision-Making* (Routledge 2021) 110.

¹⁸ *ibid* 101.

¹⁹ *ibid* 100.

²⁰ See Brian Barry, *How Judges Judge: Empirical Insights into Judicial Decision-Making* (Routledge 2021) 106 where he considers studies on performance-based pay raises for judges in Slovenia and Spain which found a 'correlation between how hard judges worked and their salaries.'

²¹ *ibid* 9.

²² *ibid* 164.

²³ *ibid* 185.

²⁴ *ibid* 183.

extent, they might not be sufficient.²⁵ Nevertheless, he encourages the reader to ponder on their potential when he asserts that ‘where there is a low cost associated with their implementation, they are surely worth a try’.²⁶

Again, Chapter 6 and 7 share a common theme. Chapter 6, *Judicial Decision-Making in an Institutional Context: In-Court Influences* examines how a judge’s court environment can impact their decision-making. The in-court influences that are examined in this chapter include actors in the courtroom, how the court operates, and the courtroom layout and design. On a similar note, Chapter 7, *Judicial Decision-Making in an Institutional Context: Beyond-Court Influences* examines how external institutions beyond the courtroom can influence judicial decision-making. These institutions include other courts, branches of government, judges from other jurisdictions, the public and the media. Barry makes a salient point at the beginning of Chapter 6 when he highlights the importance of taking a step back from the judge ‘to appreciate how the institutional settings and contexts in which they operate affect their work’.²⁷ This encourages the reader to reflect on the impact of the wider context in which a judge engages in decision-making. Perhaps this point may be significant for the reader who is concerned with the decision-making practices of individual judges. These two chapters allow Barry to provide a truly revelatory and complete insight into how judges judge. He is also unafraid of identifying the limitations of this research which avoids creating holes in his overall argument. For example, he looks at ‘high profile instances when panel composition is a source of internal wrangling within a court, sometimes spilling over into the public consciousness’.²⁸ However, he then proceeds to note that ‘[h]igh profile instances aside, empirical research on this particular issue is relatively scarce’.²⁹ This chapter may also be attractive to constitutional law scholars as it addresses issues arising from the doctrine of the separation of powers and the intricacies of judicial power.³⁰

The final chapter of this book, entitled *The Future of Judging*, can only be described as forward-looking and thought-provoking. It provokes a sense of intrigue and closely maintains the reader’s attention as no one is ever truly aware of what will unfold in the future. It is thus exciting to hear Barry’s perspective on how technology, coupled with the passage of time, might impact the role of the judge. Also, the relevance of this chapter cannot be overstated as the ongoing global pandemic caused by COVID-19 ‘has served as a remarkable catalyst for change in how courts operate’.³¹ The author opens this chapter by recognising that technology does in fact already bear an influential role on the court process in some jurisdictions. He illustrates this point when he notes that:

In Hanzghou, the capital of Zhejiang Province in East China, a litigant with a product liability claim pleads their case before a judge wearing a black robe sitting under China’s national emblem. The judge, however, is an on-screen avatar composed of pixels rather than flesh and blood.³²

²⁵ *ibid* 185.

²⁶ *ibid*.

²⁷ *ibid* 186.

²⁸ Brian Barry, *How Judges Judge: Empirical Insights into Judicial Decision-Making* (Routledge 2021) 217. Here Barry highlights how tension between Walsh J and O’Higgins CJ of the Supreme Court of Ireland spilled ‘over into the public consciousness’ when Walsh J informed the media that he had been purposely excluded from a politically sensitive extradition hearing.

²⁹ *ibid*.

³⁰ *ibid* 233-240.

³¹ *ibid* 274.

³² *ibid* 273.

Barry proceeds by contending that the role of technology in judging does not stop here, as ‘... recent technological advances have not only changed the court environment like in these examples from China but they have also begun to infiltrate the judicial decision-making process itself.’³³ While many readers might appreciate that ‘... judges increasingly rely on artificial intelligence (AI) technologies to assist them in their decision-making in many jurisdictions’,³⁴ it might, however, be somewhat disconcerting that ‘[i]n a handful of courts, AI judges have supplanted human judges altogether’.³⁵ This sets the tone for Barry’s analysis of the consequences that might flow from the fact that ‘[a]s artificial intelligence becomes increasingly more sophisticated and capable, this undoubtedly gives rise to the prospect that some, maybe many, judges will be replaced altogether’.³⁶ In this chapter, Barry raises many points that are worth further consideration. For example, he states that ‘...an AI judging platform is only as good as the programming and data that goes into it’,³⁷ and that ‘it remains to be seen how glitches’,³⁸ such as ‘AI judges’ decisions [that] may recreate or even exacerbate pre-existing biases’,³⁹ might ‘infiltrate AI judges’ decisions’.⁴⁰ It is thus safe to say that by the end of this chapter, Barry has provided the reader with immense knowledge and food for thought.

It is notable that the author examines this research at a global level. However, much of this work appears to be dominated by empirical studies investigating the decision-making of the United States judiciary. This may be viewed as a limitation of the author’s work because research conducted from an American perspective may not reflect judicial decision-making practices across other jurisdictions. The reader therefore bears the burden of remaining conscious of the jurisdiction under consideration while sifting through Barry’s analysis. The author demonstrates that there have been studies carried out to investigate whether a judge’s political affiliations influence that judge’s decision-making. This was investigated in an archival study into the judiciary of the Supreme Court of Ireland which found no evidence to support political partisanship.⁴¹ Whereas it can be discerned from similar archival led studies on the United States Supreme Court that ‘[d]ifferences in decision-making along political lines are more apparent’,⁴² because:

‘[t]he partisan divide on the US Supreme Court between judicial appointees of the two political parties appears to be widening in recent years, according to Keck, who emphasises the increasingly polarised political environment and its consequences for judicial politics on that court.’⁴³

This is a prime example of the fact that studies conducted on judicial decision-making in the United States are not always representative of judicial decision-making practices in other jurisdictions, even when they share the commonality of being a common law jurisdiction. This complaint is, however, minor as the author explicitly notes that ‘a great deal of this research

³³ *ibid.*

³⁴ *ibid.*

³⁵ *ibid.*

³⁶ *ibid.* 10.

³⁷ *ibid.* 282.

³⁸ *ibid.* 283.

³⁹ *ibid.* 282.

⁴⁰ *ibid.* 283.

⁴¹ Robert Elgie, Adam McAuley, and Eoin O’Malley, ‘The (Not-so-Surprising) Non-Partisanship of the Irish Supreme Court’ (2018) 33 *Irish Political Studies* 88.

⁴² Brian Barry, *How Judges Judge: Empirical Insights into Judicial Decision-Making* (Routledge 2021) 162.

⁴³ *ibid.*

is on the US judiciary’,⁴⁴ and, in any case, the author skilfully executed his aim of compiling ‘a rounded picture of current research’.⁴⁵ He also emphasises that the reader ‘should be mindful of the jurisdiction and context in which the findings of research play out’.⁴⁶ Thus, the value of *How Judges Judge: Empirical Insights into Judicial Decision-Making* cannot be gainsaid. Barry effectively collated and closely examined worldwide research on how judges judge, and it just so happens that the United States is ahead of its counterparts in conducting such research studies.

It is unequivocal that the author has not only dispelled the myth that justice is an impartial, objective, rational, and mechanical endeavour, as personified by the statute of Lady Justice ‘that [m]any judges walk past ... on their way to their courtroom’,⁴⁷ but he has also provided the reader with immense intellectual nourishment that has paved the way in search of perfect justice. The impact of this work is accordingly far-reaching, and it may thus benefit a wide audience and inform a comprehensive range of imminent legal reforms in Ireland. As such, this work may influence the role of the judge by creating an awareness of the many unconscious extra-legal forces that can impact their role. This may allow the judge to align their adjudication with what is expected of them. To echo a point made by Barry himself,⁴⁸ Lee Epstein has cogently stated that ‘[j]udges would better advance their own career objectives by understanding the behaviour of judges.’⁴⁹ Practising lawyers may also reap the merits of this work as it has the potential to enable them, especially those that are newly qualified and entering the profession, to understand the complexities of judicial decision-making and therefore to better ‘predict judicial outcomes and to persuade judges’.⁵⁰ Those who are studying and researching the law might also gain from this work, as it provides a comprehensive understanding and practical view of judicial decision-making which may subsequently provoke a deeper probing into the past, present, and future practices of judicial decision-making.

The reach of this work is not however limited to scholars of the legal field as it engages various other academic disciplines that are closely connected to the administration of justice including politics and sociology.⁵¹ On that note, ‘[t]he audience for this book does not stop there’,⁵² because this is a functional work that has many practical applications. Barry thus speaks to those who are responsible for improving the administration of justice by making and implementing policy. In this regard, *How Judges Judge: Empirical Insights into Judicial Decision-Making* bears particular significance for Ireland’s policymakers in light of recent reverberations which involved Séamus Woulfe, a recently appointed Supreme Court judge, attending the Oireachtas Golf Society dinner on 19 August 2020 which breached Coronavirus restrictions.⁵³ This shook public confidence in the judiciary and created a flurry of debate that gripped the island and focused the spotlight on the legitimacy of the judicial appointments process that appointed Woulfe to his role as a Supreme Court judge. As a result, the judicial

⁴⁴ *ibid.* 2.

⁴⁵ *ibid.*

⁴⁶ *ibid.* 8.

⁴⁷ *ibid.* 1.

⁴⁸ *ibid.* 2-3.

⁴⁹ Lee Epstein, ‘Some Thoughts on the Study of Judicial Behavior’ (2016) 57(6) *William and Mary Law Review* 2017, 2039.

⁵⁰ Brian Barry, *How Judges Judge: Empirical Insights into Judicial Decision-Making* (Routledge 2021) 3.

⁵¹ *ibid.*

⁵² *ibid.*

⁵³ Brian Barry, ‘How Judges Judge Using Behaviour Science to Understand Judicial Decision-Making’ (UCD Geary Institute for Public Policy Seminar Series) <https://www.youtube.com/watch?v=CyB3_RjfePE> Accessed 16 February 2021.

appointments process was again brought to the forefront of the legislature's agenda with great alarm. So too was judicial training, an issue which sparked further controversy in the media and amongst academics and commentators due to the consequences precipitated by the delays in implementing the Judicial Council Act, 2019 in its entirety.⁵⁴ Chapter 7 of this book considers how judges are selected and the concomitant consequences for judicial decision-making. Therefore, Barry's work has been conducted at a useful time as there is an obvious opening for this research to inform how judges are appointed and trained to ensure that what is expected of them is satisfied to the highest degree attainable while maintaining public confidence in the Irish judiciary.

It has also been asserted that this work may be used to aid the development of Ireland's sentencing and personal injuries guidelines, two areas which are under consideration by committees formed by the Judicial Council.⁵⁵ As previously mentioned, Barry draws on various studies that focus on the psychology of judicial decision-making and one of the areas that he hones in on under this broad heading is the anchoring effect in numerical decision-making and its associated cognitive errors. This research has the propensity to inform sentencing policy because '... numerical values that flow from different rules or guidelines permitted within the court system – prosecutors' sentencing demands or damages caps, for instance – have also been shown to act as anchors that can adversely affect judicial decision making'.⁵⁶ The impact of the anchoring effect in numerical decision-making was emphasised by Barry when he considered a study that demonstrated a group of judges who had been informed of an award on a television show 'which was both unfathomably high and an entirely irrelevant consideration – nevertheless treated it as an anchor'.⁵⁷ Thus, sentencing guidelines could be appraised to discern whether they act as an anchor in judicial decision-making.⁵⁸ If so, the possible implications of this could then be explored and curbed, if necessary, in order to improve judging and the administration of justice.⁵⁹ In like manner, Barry also investigates empirical research that addressed whether damages caps would counter disproportionate awards or act as anchors. He highlights that research has found that 'anchoring often improves the quality of a decision'.⁶⁰ However, the damages guidelines produced by the Judicial Council's Personal Injuries Guidelines Committee at the end of last year⁶¹ might benefit from a United States-based study considered by Barry which found that '[t]elling judges not to award more than the cap led them to award more than when no reference was made to that

⁵⁴ See generally David Kenny and Laura Cahillane, 'As a judge, should Séamus Woulfe have been anywhere near the golf dinner?' *The Irish Times* (1 September 2020); Laura Cahillane and David Kenny, 'Opinion: "Golf-gate" shows that we need an independent body to investigate complaints against judges' *The Journal.ie* (25 August 2020); Laura Cahillane, 'Denham report will increase attention on judicial conduct committee' *Irish Legal News* (2 October 2020); and Mary Carolan, 'Delays in fully implementing 2019 Judicial Council Act brought into focus by Woulfe' *The Irish Times* (1 October 2020).

⁵⁵ Brian Barry, 'How Judges Judge Using Behaviour Science to Understand Judicial Decision-Making' (UCD Geary Institute for Public Policy Seminar Series) <https://www.youtube.com/watch?v=CyB3_RjfePE> accessed 16 February 2021.

⁵⁶ Brian Barry, *How Judges Judge: Empirical Insights into Judicial Decision-Making* (Routledge 2021) 38.

⁵⁷ *ibid* 38.

⁵⁸ *ibid* 56.

⁵⁹ *ibid*.

⁶⁰ Chris Guthrie, Jeffrey J Rachlinski and Andrew J Wistrich, 'Inside the Judicial Mind' (2000) 86 *Cornell Law Review* 777, 823.

⁶¹ Personal Injuries Guidelines Committee <<https://judicialcouncil.ie/personal-injuries-guidelines-committee/>> accessed 16 February 2021. Law Reform Commission Report, *Capping Damages in Personal Injuries Actions* (Dublin: Law Reform Commission 2020) recently recommended that placing a cap on general damages in personal injuries cases would appear to be 'constitutionally permissible'.

cap'.⁶² It can accordingly be anticipated that Barry's work inheres the potential to make an impactful contribution to the administration of justice within the Irish legal system.

Enough emphasis cannot be placed on the importance of this timely and ground-breaking work which should not be taken for granted, especially in Ireland, as it is a jurisdiction that has the freedom to engage in research on the Irish judiciary. Barry notes that Article 33 of the Justice Reform Act 2019, which was enacted by the French parliament, prohibited this 'insofar as individual judges and their decisions must not be identified or analysed'.⁶³ It is fair to surmise that Barry is likely to generate a discussion that is long overdue, as he has essentially challenged the general narrative of the role of the judge, particularly in Ireland, that is, that once a judge is robed, they are wholly divested of their individual mindedness and transformed into mere oracles of law.⁶⁴ The possible implications of this work are profound. It bears the potential to shape the future of justice in Ireland due to its wide-ranging reach and variety of practical applications. This research should therefore be closely considered by those who can ensure that its benefits are fully realised. It may also encourage jurisdictions that are lagging behind their counterparts to keep apace and undertake an increased level of inter-disciplinary and empirical-based research on the realities of judicial decision-making.⁶⁵ This research might then generate unique findings that could further deconstruct the barriers that have hindered the understanding of how judges really judge and consequently shape the future of justice.

⁶² Jeffrey J Rachlinski, Andrew J Wistrich and Chris Guthrie, 'Can Judges Make Reliable Numeric Judgments: Distorted Damages and Skewed Sentences' (2015) 90 *Indiana Law Journal* 695, 723.

⁶³ Brian Barry, *How Judges Judge: Empirical Insights into Judicial Decision-Making* (Routledge 2021) 287.

⁶⁴ William Blackstone, *Commentaries on the Laws of England* (11th ed, Thomas Cadell 1791) 69-70.

⁶⁵ For example, the Irish jurisdiction has conducted a limited number of empirical motivated studies on judicial decision-making. Ireland's main research in this respect is that of Elgie and his colleagues which investigated the relationship between judicial decision-making and the political party that appointed the relevant judge to the bench. Jennifer Carroll MacNeill has provided an insightful analysis of this in *The Politics of Judicial Selection in Ireland* (Four Courts Press 2016).