Constitutions shape democracies and set parameters for solving social problems, both procedural and value-based. My research examines how they do this. In my current projects, I analyse the role of citizens in constitutional reform and the balance between the individual and the community in the protection of property rights.

**Involving citizens in constitutional amendment processes** — Given the rise of populist politics around the world, there is an urgent need to reconnect people with political processes. Deliberative democracy is proposed as one solution. It prioritises policy-making through inclusive and informed discussion, including the open confrontation of disagreement. Ireland is at the forefront of these developments, in particular leading the integration of deliberative democracy with constitutional amendment processes. As constitutional law adviser to the Citizens’ Assembly which recommended reform of Ireland’s abortion laws, I worked directly with citizens as they analysed and debated highly charged and complex constitutional questions and developed practical proposals for change.

In my scholarship, I am demonstrating the impact of such deliberative exercises and the lessons that can be learnt for future iterations, for example to inform the proposed Irish Citizens’ Assembly on gender equality and similar deliberative exercises elsewhere. Since Ireland’s Citizens’ Assembly, equivalent bodies have been proposed in the UK on Brexit, in Scotland on independence, and in Australia on the voice of indigenous people. The first permanent Citizens’ Assembly was established in Belgium in February 2019. The Irish experience shows how the democratic nature of constitutional amendment processes can be enhanced by involving citizens in formulating proposals for reform. I have presented the results of this research at international conferences. In September 2019, I led a practical workshop in Belgium for global political leaders on the problem-solving potential of deliberative democracy.

**Constitutional property rights and the rhetoric of political conservativism** — Property rights are perhaps unique amongst individual rights in their exclusionary nature: the essence of my right ‘to have’ is everybody else’s duty to ‘keep off’. Where constitutions protect property rights, judges are called upon to review policy decisions on the basis that such decisions ‘take away’ privately owned property. At the same time, legislatures must be able to act to secure the common good. The Irish constitutional protection for property rights does both these things: it protects individuals and recognises the collective interest in the distribution of resources.

This tension between the individual and the community has loomed large as an influence on the Irish legislative response to social problems such as housing, pensions reform, and environmental and planning regulation. Government ministers regularly state that solutions proposed by opposition politicians cannot be pursued because of the constitutional protection of property rights. In *Property and Social Justice: Progressive Property in Action* (Cambridge University Press, 2020), I challenge this claim and situate Irish constitutional property law in the global context. The Irish experience shows that constitutional protection of property rights does not, as a matter of law, prevent progressive legislative responses to social problems. However, such protection can be used rhetorically to justify political conservativism and may in fact be misunderstood as a barrier to reform.

My scholarship challenges this tendency by deconstructing judicial interpretations of the Constitution’s protection for property rights in light of prevailing cultural attitudes about property.

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Rachael Walsh has an LLB and PhD from Trinity and completed an LLM at Harvard Law School as a Fulbright Scholar. Appointed Lecturer at King’s College London in 2010, she joined Trinity as an Assistant Professor in 2012. She has published internationally on constitutional law and property theory and is co-author of the leading Irish book on constitutional law, *Kelly: The Irish Constitution*. She was constitutional law adviser to the Citizens’ Assembly. Her current research examines deliberative democracy in constitutional amendment processes and the impact of constitutional protection for property rights on legislative reform.

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