



***ABORTION ACCESS
& REPRODUCTIVE
RIGHTS***

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This article deals with the Republic of Ireland. There are significant problems in service provision in Northern Ireland also that are beyond the scope of this contribution.

The eighth amendment,¹ an archaic constitutional clause that equated the life of a foetus to the life of a woman, is gone. In May 2018, Ireland voted by a landslide majority to change our constitution, thereby lifting a ban on ending a pregnancy outside of the most extreme of circumstances. Abortion is now legal on demand up to twelve weeks, and available in 'exceptional circumstances' after that.

The eighth amendment wasn't repealed because of the actions of enlightened politicians 'going on a journey', as some mainstream parties now maintain. The true architect of change was a thirty-five-year-long grassroots effort that was mostly organised by women. The repeal movement involved different players at different times with left-wing political activists a consistent feature. Many socialists were central to the Anti-Amendment Campaign (AAC), who opposed inserting the eighth back in 1983. In its aftermath, the Workers Solidarity Movement, Socialist Workers Party (now Socialist Workers Network, part of People Before Profit), and the Socialist Party were always vocal on reproductive rights. They didn't work alone but rather combined with a range of pro-choice groups

such as the Women's Right to Choose Campaign and the Irish Women's Abortion Support group of the 1980s, the Well Woman Centre, the Women's Information Network, the Pro-Choice Campaign, Choice Ireland, Action on X, and professional groups such as Doctors for Choice and Lawyers for Choice. The human rights organisations Amnesty Ireland and the Irish Council for Civil Liberties (ICCL) were also active on the issue, as were the Union of Students in Ireland, the National Women's Council of Ireland (NWC), and the Irish Family Planning Association (IFPA). Because abortion was also prohibited in Northern Ireland, it too had grassroots activists, most notably the Alliance for Choice, formed in the 1990s by left-wing activists, civil society organisations, and trade unionists. There were allies in Britain too, including the Abortion Support Network (est. 2009), which provided financial support and accommodation to many people who were forced to travel overseas for abortions. In 2013, The Coalition to Repeal the Eighth (the Coalition) was convened by Ailbhe Smyth and Sinead Kennedy and united these groups on a shared platform that sought to put pressure on the government to call a referendum to repeal the eighth amendment.

Throughout the prohibition of abortion, repeated stories of tragedy broke through Ireland's at times deafening silence. In 1992, a fourteen-year-old rape victim was initially prevented from travelling despite being suicidal. The legal battle that ensued became known as the X-Case, one of many alphabetised calamities each one of which represented a preventable injustice for the affected woman. Outside of the glare of the public, as many as fifteen people travelled overseas each day. These were the lucky ones; those without the money or papers to leave Ireland were forced to carry unwanted and/or unviable pregnancies to term.

There has always been struggle for better reproductive rights, but 2012 was a particular turning point for the pro-repeal movement for a number of reasons. In February, over two hundred people turned up to a public meeting in the Gresham Hotel in Dublin organised by key activists from Action on X and Choice Ireland to mark twenty years since the X-Case.² Around the same time, the voluntary organisation Termination for Medical Reasons

(TFMR) emerged. TFMR broke the taboo of publicly talking about abortion when they told their stories of travel on the popular TV entertainment program *The Late Late Show*. Anti-abortion activists likely smelled a shift in the air and, with funding from overseas, Youth Defence launched their 'Abortion tears her life apart' poster campaign in June 2012. Their giant-sized, graphic billboards angered many people and led to the formation of a short-lived Irish Choice Network, which organised the first March for Choice in September 2012, attended by over 2,500 people. One month later, Savita Halappanavar, an Indian woman living in Galway, died of septicaemia soon after being refused an abortion. She was miscarrying but was denied the treatment she needed because doctors could not detect a foetal heartbeat. This avoidable tragedy roused an already growing pro-repeal movement. The Abortion Rights Campaign (ARC) emerged from the Irish Choice Network, and ROSA (for Reproductive Rights against Oppression, Sexism and Austerity) was formed from within the Socialist Party. Along with existing agitators within feminist groups, left-wing politics, and the arts, these groups organised high-impact acts of civil disobedience. To give just some among many examples, in 2014, during a glitzy charity event in London, the feminist performance group Speaking of IMELDA³ 'knicker-bombed' Enda Kenny, the then Taoiseach, placing a pair of knickers with the words 'Repeal the 8th' onto Kenny's plate. Their #knickersforchoice campaign then invited others to write pro-repeal slogans on their own undergarments and hang these pants in prominent places. The same year, ROSA recreated the 1971 'contraception train', taking 'the abortion train' to collect pills from Northern Ireland. Activists were greeted by the media when they arrived back in Dublin's Connolly Station, so they theatrically ingested pills, a stunt that caught the attention of the US senator Bernie Sanders who shared the images on his Facebook page. In 2015, ROSA partnered with Women on Web to organise a much-publicised Abortion Pill Bus which travelled to Galway, Limerick, and Cork, offering private consultations and breaking the law by distributing abortion pills.

Perhaps most significantly, the death of Savita Halappanavar triggered an explosive growth in local groups in just about every town and city in Ireland. To give just one example of how this typically began, Melisa Halpin, a Dún Laoghaire-Rathdown local councillor with People Before Profit, organised a public meeting in 2015 from which Repeal the Eighth Dún Laoghaire emerged. This group organised locally for the annual March for Choice, held public meetings and information stalls, and lobbied local politicians. Repeal the Eighth Dún Laoghaire was just one of many groups replicated across the country, some of which were affiliated with ARC. Groups organised coffee mornings, public meetings, weekend stalls, consciousness-raising workshops, and a range of high-impact stunts that created a constant flow of protest and highly visible street art that continually reminded the general public that every day women's lives were being put at risk and people were travelling overseas or breaking the law by buying abortion pills.

Rather than support the demands of a vibrant movement that was impossible to ignore, successive governments did their best to stymie change. All of the main political parties either voted against or abstained on two bills brought by independent TD Clare Daly (in 2012 and 2016) that sought to legislate for abortion for fatal foetal abnormality. The political establishment also voted against a 2014 private members bill brought by Ruth Coppinger of the Socialist Party calling for a referendum. Even the Labour Party, who have claimed to be pro-choice since 2003, opposed Coppinger's bill despite their leader Joan Burton being Tánaiste at the time. Government parties blocked change in other ways too. In 2014 the Irish government were forced to apologise and withdraw statements made to the United Nations (UN) Human Rights Committee when it defended the eighth amendment by arguing a person's rights could be legitimately curtailed so long as the majority of the public supported these limits. This antagonised the UN committee, who admonishingly linked the eighth to a shameful past record in the treatment of women including incarceration in Magdalene Laundries and the barbarity of symphysiotomy. With reference to our ban on abortion when a person has been raped, the committee's chair Nigel Rodley accused the Irish state of treating women 'as a vessel' and nothing more.⁴

There were other, more recent obstacles from those who now claim the repeal victory as their own. In 2016, then Taoiseach Leo Varadkar revised Dáil standards to prevent political slogans in parliament after six Solidarity-People Before Profit TDs donned black-and-white REPEAL jumpers designed by Anna Cosgrave. His government then gave in to the barrage of domestic and international pressure by outsourcing the decision on a referendum to a citizen's assembly. This gathering of one hundred randomly selected people sat from October 2016 until April 2017, and heard from speakers from both sides of the abortion debate as well as reviewing over 13,000 submissions. When they ruled, the assembly recommended a referendum to repeal the eighth outright and a law that would allow abortion on request up to twelve weeks, up to twenty-two weeks in the case of rape, foetal anomaly, socio-economic reasons, or risk to the health of the pregnant person, and with no gestational limit for fatal foetal anomaly, serious risk to health, or risk to life. Instead of putting these suggestions to the people, there were more delays. An Oireachtas (Irish Parliament) cross-party committee on the eighth amendment was formed to discuss the assembly recommendations. This committee sat from April to December 2017 and was chaired by Fine Gael's Catherine Noone. It was clear from the start that some politicians would resist the assembly's full recommendations. When the draft agenda of the first meeting was circulated, it focused on foetal fatality and a medical approach with much less time allocated to two of the assembly's most important recommendations, namely abortion on demand up to twelve weeks and for socio-economic reasons. Ruth Coppinger (who shared her time on the committee with Brid Smith) objected and asked for time to be set aside for women's voices and advocacy groups to share their expertise alongside the legal and medical experts who had already been lined up. Voluntary groups from outside the Dáil also contacted committee members asking them to give each recommendation equal consideration. Groups also continued to protest. By 2017 the ARC-organised Annual March for Choice had swelled to 45,000 people. Local activism also continued, such as the Tipp for Choice #uncomfortableaboutthe8th campaign organised in response to a 2017 statement by the then Tánaiste Simon Coveney that he was 'uncomfortable' about extending abortion rights.

They asked people to 'love bomb' Coveney with hand-embroidered cushions with messages calling on his government to stop stalling. Giant 'repeal' banners were also unfurled, including at Fairview Bridge in Dublin, Spanish Arch in Galway, and the Rock of Cashel in Tipperary. Significantly, groups didn't just protest against the abortion ban but against other related issues such as the 2017 state decision to build a new National Maternity Hospital on land owned by the religious order the Sisters of Charity, the ongoing oppression of trans-people, and against gender-based violence and street harassment.

In the end, the Dáil Committee on the Eighth Amendment voted against abortion for 'socio-economic reasons'⁵ and for foetal anomaly. Even this watered-down version of what a law might look like then endured further political interference when, on 26 March 2018, the then Tánaiste Simon Coveney wrote an impassioned article in the *Irish Independent* newspaper stating he could only support the introduction of abortion laws if a mandatory three-day wait was inserted.⁶ The next day, the *General Scheme of a Bill to Regulate Termination of a Pregnancy* (general scheme of a bill) was published endorsing Coveney's wishes. A three-day wait had been debated at committee stage and a number of experts had given their opinion on it, but it was never voted on.⁷

In January 2018, a referendum was eventually called, and in March the 'Together for Yes' (TfY) referendum campaign was launched. This was formed from within the aforementioned coalition and became the temporary face of a thirty-five-year-long movement. Many political parties also ran parallel campaigns, with the exception of Fine Gael and Fianna Fáil who never managed to unite. Three weeks before the vote, thirty-one Fianna Fáil Oireachtas (parliament) members proudly posed for a photo calling for 'No', whilst in Fine Gael, former Taoiseach John Bruton was the face of the #toofarforme hashtag, a last-minute attempt to steer the electorate away from what was an inevitable win for repeal.

In some respects, the 'Together for Yes' phase of the movement was its most conservative. Many activists struggled with what they believed was a toned-down, medicalised message that over-relied on stories of tragedy and that ignored feminist concerns

about patriarchal and paternalistic attitudes within obstetrics.⁸ There were legitimate complaints about an obliteration of working-class, disabled, LGBTQI+, and migrant voices, and some believed that a tight hierarchical structure shut the door on more radical campaigners to forge new alliances with liberal feminist organisations and conservative politicians that did not represent, or indeed understand, the grassroots nature of the movement. In its defence, having a united voice was crucial. Separate campaigns would have played into the hands of anti-abortion activists and could have easily resulted in defeat. The message also shifted the national conversation away from the morals of Catholicism in a way that had never happened before. For the first time ever, abortion became healthcare. ‘Together for Yes’ also created unprecedented levels of grassroots activism. Up to 19,000 people actively campaigned for a yes vote, and many people described this as life changing and highly politicising.⁹ Two years post-repeal, two thirds of canvassers were still active. Some people joined left-wing political parties, anti-racism groups, local campaigns for services, and environmental activism and feminist networks.¹⁰

Many pro-repeal groups stayed together. For example, Repeal the Eighth Dún Laoghaire (temporarily rebranded as Dún Laoghaire Together for Yes) have evolved into Dún Laoghaire Together for Choice and Equality. Some ARC groups who also rebranded in the spring of 2018 reverted to their original identity.

Although the referendum campaign was imperfect, it was not to blame for the quality of the law that was eventually passed in December 2018. The Republic of Ireland has one of the most conservative abortion regimes in Europe. It is still criminalised outside of strictly defined parameters, is only allowed for foetal fatality which must be certifiably guaranteed by two doctors, and has an extremely tight, arbitrarily defined gestational limit that is compounded by a patronising three-day wait that rarely results in a person changing their mind. Our law is also trans-exclusionary, thereby airbrushing out the needs of anyone other than cis women. This compounds our long history of mistreating trans and non-binary people and ignores the additional risk of the transphobic and homophobic reactions they face from a medical establishment that can be cruel and judgemental. Irish law also supports

conscientious objection, which not only preferences a falsely personified foetus, but then honours the values of the conscious objector over the rights of the pregnant person. The government has also broken a 2018 promise to legislate for safe exclusion zones around healthcare providers that would prevent vigil-type anti-abortion demonstrations that are happening across Ireland every day.

Our terrible law is made even worse by the fact that only 10 per cent of GPs have signed up to the government’s MyOptions.ie scheme, and only ten out of nineteen maternity services are offering full abortion services.¹¹ These barriers, both legalistic and accessibility related, mostly affect people with very little money, including low-income migrants. Restrictions also disproportionately affect people with disabilities, those living with violence and coercion, those with heavy care loads, people who can’t take time off work, and also those with irregular periods which can sometimes be a symptom of addiction or other health concerns.

There are consequences to these limits. In 2019, the first year that abortion was legal, UK statistics for England and Wales reported an average of one person each day still giving an Irish address. A similar picture emerged in 2020 when, although 6,577 legal abortions were carried out in Ireland, 194 people gave Irish addresses in clinics across England and Wales.¹² The Abortion Support Network (ASN) still supports around five people each week. They have helped international students and refugees who were falsely told they didn’t qualify, people with a catastrophic but not fatal foetal anomaly, people who simply couldn’t make two appointments far from home within such a tight timeframe, and people who were given false information by so-called ‘rogue’ agencies or anti-choice GPs.¹³ This message, published by the ASN, is reflective of a fairly typical scenario:

Hi, I need to travel to London next week for an abortion, but I have problem with money. I took abortion pills in Ireland which didn’t work and then I was 13 weeks. So, my GP said I have to go to England. The costs will be way more than I can afford so I was hoping you can help me. My passport expired so I have been waiting for the new one and I am now 16 weeks. Please help me.¹⁴

All of this could have been avoided. Professional associations, campaign groups, and civil society organisations all made submissions to the Dáil's cross-party Health Committee in advance of the law being finalised. There were also 180 amendments proposed, the majority of which were from pro-repeal TDs. These too were repeatedly rejected by then minister for health Simon Harris in favour of 'what the people voted for', by which he meant the general scheme of a bill despite the probability that most people were unlikely to have studied its contents in depth. Harris also cited legal advice he had received that prevented certain changes which People Before Profit TD Brid Smith asked him to make available to all committee members.

The wider demands of Repeal

If these failures alone don't illuminate the falsity of the political establishment's commitment to reproductive rights, it's worth highlighting their abject failure to deliver on the wider demands of repeal, such as free contraception and secular relationships and sexuality education (RSE). These were part of ancillary proposals by the citizen's assembly and were endorsed by the Dáil Committee on the Eighth Amendment along with better access to obstetric care for all women irrespective of where they live or their socio-economic status. In 2019, Simon Harris announced that the first phase rollout of free contraception for those aged eighteen to twenty-five would begin in 2021, blaming budget restraints for the time lag. Covid-19 brought further delays, and to date there is no clear pathway to advance this policy. The government's current timeline for a revised RSE program is 2022-23. In the meantime, by spring 2021, just half of Irish schools were meeting the current minimum state requirement.¹⁵

As if this wasn't enough, the state continues to actively collude with the Catholic Church in the provision of maternity care. The Sisters of Charity have reneged on their 2017 promise to gift the land that the National Maternity Hospital (NHM) is scheduled to be built on to the people of Ireland. Instead, €800 million of public money will build a maternity hospital on land owned by this religious order to be managed by a private subsidiary company called St Vincent's Holdings. This company, and not the government, will appoint the board of directors.

Although St Vincent's Holdings has repeatedly promised all legal procedures will be performed in this hospital, can we really trust their word when we know that abortions are never carried out on land owned by the Catholic Church, the world's largest and most organised anti-choice lobbyists.

The Irish reproductive rights movement has mobilised to demand that our new NMH be public and secular. We must remain vigilant to other attacks on what repeal won also. There has already been an attempt by government to renege on an assurance given by Simon Harris in 2018 that the 2021 review would be 'external and independent' and that 'it will not be an in-house job' but rather led by an independent chair.¹⁶ At the time of writing, the terms of reference for this review remain unclear. Meanwhile anti-abortion politicians continue to organise and link with their international allies. In May 2021, eleven TDs from the cross-party Life and Dignity Group launched the Foetal Pain Relief Bill. This and other actions by self-proclaimed 'pro-life' politicians directly mirror patterns in the US, where the anti-abortion movement has successfully carved away at many reproductive rights. In May 2021, the Texas 'Heartbeat law' banned abortion as early as six weeks with no exceptions, just one of a range of restrictions Americans increasingly face. Although some controls have been struck down in lower courts, any one of these local laws could end up in the US Supreme Court as an attempt to overturn the 1973 *Roe v Wade* ruling that constitutionally protects the right to abortion. A similar tactic worked in Poland when, in 2020, a constitutional tribunal ruling banned abortion for foetal anomaly. Abortion is now only allowed when a woman's life is at risk or when a pregnancy is a result of rape.¹⁷

From rights to justice

One of the successes of the anti-abortion movement has been its capacity to contain discussions in the legal domain, meaning activists must fight tirelessly to maintain already inadequate reproductive healthcare laws. This siphoning off of abortion from wider reproductive oppressions suits a liberal feminist narrative that eulogises the achievements of privileged women as proof that the glass ceiling can be broken but which simultaneously turns a blind eye to the disproportionate impact of capitalism on

millions of women and children around the world. Certainly, abortion is at one level deeply personal and is about each person's right to bodily autonomy, but the reproductive decisions a person can make are fundamentally shaped by political, social, and economic contexts.

A reproductive justice (RJ) approach¹⁸ centres our actions around three expansive reproductive rights: The right *not* to have children through contraception, abortion, or abstention; the right *to* have children under conditions of our choosing; and the right to parent in a safe environment.¹⁹ Everyone has the right to be healthy enough to become pregnant and to have full control over when and with whom this happens. But this can only be guaranteed if someone has a decent standard of living with access to food and medicines and where they live without sexual coercion and assault. If pregnant, there should be free, non-judgemental pre-natal care or access to abortion without shame or stigma. There should be options about where and how a person gives birth, including at home and with a support person of their choice. People also have the right to give birth without medical coercion and obstetric violence and to adopt their own style of parenting. Children should be able to live in an environment where they have a roof over their head, access to public services, freedom from pollutants, and a life free from violence and harassment including by the state. Importantly, reproductive justice also protects the right *not* to have children in the first place, challenging the patriarchal belief that this is the social obligation of women. When someone decides not to have a child, they shouldn't be looked at with either suspicion or misplaced sympathy; rather, this right should be respected, and their reasons should not be undermined.

An RJ approach is thus anti-capitalist. It is committed to the fight for abortion access but understands that it must also fight for a financial equality, public supports for childcare and other care burdens, decent work, good housing, and for an end to the brutality of borders, and against the violence and coercion that many people endure. These basic rights will never be delivered within a system that depends on racism and the oppression of the working class for its own survival. Capitalism equally needs patriarchy to

continue, a system that strictly defines masculinity and femininity and falsely convinces us that, as Sarah Jaffe puts it, 'the work of cleaning, cooking, of nursing wounds, of teaching children to walk and talk and read and reason, of soothing hurt feelings and smoothing over little cries comes naturally to women'.²⁰ This assumption allows for high levels of exploitation in largely feminised industries, perpetuates the gender pay gap, and justifies not paying women at all for the work that they do in the home. This division of labour, across public and private realms, sends out a strong message that a woman's main role is to give birth to and raise children, ultimately reproducing the workforce. Controlling her fertility is essential to maintaining this assumption about the role of women in society.

Some repeal activists think more could have been done to harness the energy of the repeal movement towards wider oppressions. One canvasser told me, 'Imagine if the Together for Yes group, or even five per cent of it had been mobilised to fight seriously on housing or health care'. But it's not too late. The speed at which activists have mobilised and united under the hashtags #MakeNHMOurs in response to the National Maternity Hospital debacle and #ReactivateRepeal in response to the 2021 review of legislation are evidence of this. We must take strength from a hugely positive repeal movement and continue to fight against all forms of reproductive oppression.

Camilla Fitzsimons' new book *Repealed: Ireland's Ongoing Fight for Reproductive Rights* will be published by Pluto Press in November 2021.

NOTES

1 This amendment read, ‘The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right’. It was inserted into the Irish constitution in 1983. It equated the life of the foetus to the life of women, giving them equal rights in the eyes of the law.

2 The meeting was chaired by Ailbhe Smyth and the speakers were independent TDs Joan Collins and Mick Wallace, journalists Vincent Browne and Anthea McTierney, Fiona DeLondras, who would become a key activist in Lawyers for Choice, and Goretta Horgan from the Northern Ireland Alliance for Choice.

3 Their website explains IMELDA was a code for abortion by women who travelled to England in the 1980s and ’90s.

4 Cahill, ‘UN: Irish abortion law treats women as “vessels”’, *The Irish Examiner*, July 16 2014, available online from: <https://www.irishexaminer.com/news/arid-20275578.htm>

5 Seventy-two per cent of assembly members had supported this. Just five members voted in favour: Clare Daly (Independent), Catherine Murphy (Social Democrats), Kate O’Connell (Fine Gael), Brid Smith (People Before Profit), and senator Lyn Ruane (Independent). Eleven were against (including Sinn Fein and Labour Party members) and there were five abstentions

6 He also preferred a shorter gestational limit, namely twelve weeks post a person’s last period, which in real terms equates to about ten weeks pregnant. For more see: <https://www.independent.ie/irish-news/simon-coveney-heres-how-my-thinking-shifted-on-the-eighth-amendment-36743798.html>

7 The full bill is available at <https://www.gov.ie/en/publication/f501db-general-scheme-of-a-bill-to-regulate-termination-of-pregnancy/>

8 Fitzsimons, *Repealed: Ireland’s Ongoing fight for Reproductive Rights*, 2021 [forthcoming], Pluto Press.

9 Ibid.

10 Ibid.

11 Kennedy, ‘Meeting the Needs of Every

Woman’, 2021, The National Women’s Council of Ireland.

12 <https://www.gov.uk/government/statistics/abortion-statistics-for-england-and-wales-2020>

13 ARC, 28 September 2019, ARC, available online from” <https://www.abortionrightscampaign.ie/2019/09/28/mara-clarke-the-law-and-resulting-provision-are-leaving-too-many-people-behind/>

14 www.abortionrightscampaign.ie/2020/09/25/care-at-home-after-failed-abortion/

15 <https://evoke.ie/2020/12/20/news/half-of-irish-schools-fail-to-provide-mandatory-sex-education-classes>

16 https://www.oireachtas.ie/en/debates/debate/select_committee_on_health/2018-11-06/2/

17 This ruling originated from a year-long legal challenge against a 1993 law by the right-wing Nationalist Law and Justice Party. The majority of judges that voted on the issue were from the same party.

18 This framework was first formulated in 1994 by Women of African Descent for Reproductive Justice.

19 Ross, L. ‘Conceptualizing Reproductive Justice Theory’, in L. Ross, L. Roberts, E. Derkas, W. Peoples, and P. Bridgewater Toure, *Radical Reproductive Justice* (pp 170-232), 2017, Feminist Press.

20 Jaffe, . *Work Won’t Love You Back*, 2021, Hurst and Company, p23.