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The Silencing of Women: The Irish Abortion Laws and Religion

By Rachael Wright¹

Abstract

This essay attempts to look at the unfortunate circumstances that surround women in Ireland in regards to abortion. Rather than looking at the pro- and anti-life arguments which are commonly discussed when approaching abortion issues, I have chosen to concentrate on the legal and ethical matters in Ireland that seem to have control over Irish women's bodies and consequently their personhood. Through the investigation of the changing Irish laws brought about by the Grogan and X cases, it is possible to understand how religious and patriarchal sentiment has continued to suppress women's personal choice in regards to abortion. By looking at the support for Roman Catholic morals in Ireland, I suggest that Irish women remain in a weak position with regards to equal life choices due to the fear of public shame that is associated with abortion and aim to show how as a result their voices have been silenced.

Keywords: abortion, Ireland, religion

If the self is an individual's awareness of a unique identity, the 'person' is society's confirmation of that identity as of social significance. (La Fontaine, qtd. in Carrithers et al.124)

Since society considers a person to require an identity and in turn a self in order to attain citizenship and personhood, the argument of anti- and pro-abortion campaigns concern when actual personhood is truly developed and therefore certifiable: at moment of conception, quickening or after birth? This is the argument commonly made regarding abortion. However, in this essay I want to highlight the issue of a woman's own right to personhood; this subject is often lost in the battle over who controls women's reproduction in regards to abortion. I shall argue that despite the broadcasted equality women are said to receive within the political sphere of society, for example in employment rights, it would seem that women are not recognised as responsible, rational adults regarding their reproductive lives, which is the single most private concern of many women. The appropriate question to ask is: if women do not control their choices about abortion, who does, and through which methods?

I shall investigate how in the case of Ireland, anti-abortion activists have manipulated the religious foundations of the Roman Catholic Church in order to influence public opinion on abortion law processes, which have in turn oppressed women's rights to express independent choice about reproduction. In order to do this I must first describe the past and present abortion laws within Ireland with regard to the restrictions they place on women; I shall introduce the X and Grogan cases as key moments highlighting the difficulty of such laws. By understanding the legal situation it is then possible to discuss how the position of Ireland as an extremely religious state has applied moral principles to explain the rights and wrongs of abortion, and how this has reinforced an anti-abortion societal attitude. I shall underline in brief the hidden

controls religious institutions have in society and how pro-life groups such as the Society for the Protection of the Unborn Child (SPUC) have used such influences as their line of attack against liberating abortion laws. In conclusion I shall show through consideration of the above factors how women have been forced into keeping their views about abortion hidden.

How does the Irish legal system constrain the women's rights regarding reproductive choice? The answer lies in the provision of the abortion law. Since there are people who regard abortion as murder, abortion cannot be recognized as a private matter between consenting adults, so the law is enlisted to provide set protocol on the issue (Oppenheimer 47). However it must be understood that any legal practice regarding abortion can have a repressive effect on women's individual and bodily rights. This is because the law operates by constructing its own image of the legal subject it seeks to regulate, one that is based upon the reasonable man (Sheldon 20). Since men cannot physically experience abortion they can only afford to make assumptions, which denies the reality of the situation for women. Within the UK, under the 1967 Abortion Act, abortion is legal up to the twenty-fourth week of pregnancy and there is no time limit when there is substantial risk to the woman's life or foetal abnormalities. Additionally the foetus enjoys no legal protection until it has developed to the stage where it is capable of being born alive (Barnett 232). However this act does not extend to Northern Ireland, where abortion is still illegal and the foetus boasts continual legal protection throughout the whole pregnancy period. When it comes to abortion rights and law, Ireland continues to be a law unto itself (Smyth, "The 'X' Case" 165). Until recently the law regarding abortion in Ireland was officially governed by 1861 Offences Against the Person Act, which criminalized abortion by making it illegal in all circumstances (Randall 67). This ruling was reinforced in 1869 when Pius IX forbade even therapeutic abortion to Roman Catholics by shifting the start of human life back to the animation of conception (Oppenheimer 49). These laws regarding abortion rights were imposed during an era of great patriarchal control where women were confined to the private sphere of the home and motherhood and men to the public sphere of institutions and politics. Furthermore this was a time when the development of the medical profession was a male-dominated domain which authorized men to assume control over women's reproduction (Barnett 231).

Irish women continued to live under the subordination of these abortion rules until 1983 when there was a modification, the Eighth Amendment, Article 40,3,3 of the Constitution of Ireland. The amendment stipulates:

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 practical, by its laws to defend and vindicate that right. (Smyth, "And nobody" 110).

On the surface this amendment suggests an increased recognition of women's rights by increasing the scope for Irish women to obtain an abortion: for instance when continuing the pregnancy due to ill health would put their life in danger. However, despite the amendment signifying a compromise between two competing sets of

rights, it is merely about the right to life, not the right of choice for women (Sheldon 14). Consequently the amendment still has the power to diminish women's status as citizens as it restricts their constitutional rights of privacy, association, freedom of expression and movement (Smyth, "And nobody" 110). Particularly in regards to their reproductive freedom, the law as a means of addressing women's needs is always about who has the power to control women's sexuality, not about a woman's right to individual choice or autonomy; by the law possessing such jurisdiction it is the law that actually has the ultimate control (Smyth, "And nobody" 129). The law's stance is justified by arguing that a person's right to life outweighs the mother's right to decide what happens in and to her body (Thompson 48). To further highlight the repressive implications of the Irish Abortion Law the Grogan Case and the X case shall now be introduced.

In the Grogan case, the Irish Society for the Protection of Unborn Children (SPUC), a company that incorporates the Irish law in its provision of preventing the decriminalisation of abortion, argued that the immorality of abortion should prevent the availability of abortion-related information services within Ireland. The defendants opposing this were the Union of Students of Ireland (USI), the University College Dublin Students Union (UCDSU) and Trinity College Dublin Students Union (TCDSU), who had been periodically publishing information for students concerning the availability of abortion in the UK and details of how to contact clinics (European Court Reports 4867). SPUC brought proceedings in the hope of receiving a restraining injunction on the supply of such information, insisting that it was a matter concerning only Irish Law as it went against Article 40,3,3 (European Court Reports 4688). Grogan and the other defendants contested the ban by arguing that their abortion information fell within the scope of services under the Article 60 of the EEC Treaty (European Court Reports 4691). Under this heading abortion was not seen as a question about the autonomous right of women or a medical matter, rather it was accepted as an object of trade and consumption. A ruling by the European Court of Justice (ECJ) warranted that the medical termination of pregnancy was a service within the meaning of Article 60, allowing for abortion information to be justifiably distributed. However this was only applicable to valid abortion service providers, therefore the Irish student unions as independent unions could no longer provide abortion information (Fletcher 37). The Grogan decision gave women the right to receive information within Ireland about abortion; however, it provoked anti-abortionists to campaign against the ECJ decision. Their fight, in which they succeeded, became about isolating Article 40,3,3 from the application of EC law (Fletcher 38). This has produced further ramifications for Irish women, as they can no longer challenge individual abortion laws based upon Article 40,3,3 by applying to the EC courts.

The Eighth Amendment came into action again in 1992 when a 14-year old rape victim, known as X, was prevented from seeking an abortion in the UK when the Irish Attorney General obtained an interim injunction on the basis of the unborn's 'right to life'. Despite the threat to X's own life – the pregnancy led her to consider suicide – the Attorney General argued that the potential risk to X's life was not equal to the real and imminent danger to the life of the unborn (Smyth, "The 'X' case" 165). In this situation the use of the law was actively distressing an already troubled girl by

stopping her from travelling abroad, while disregarding its own accountability in providing fair reproductive and citizen rights (Fletcher 3). The X case proved to be a key moment in Ireland's abortion history due to the public outrage that was provoked by the confusing moral issues of the case: those of abortion, rape and the age of the girl, indicating a need for the Eighth Amendment to be re-established. The effect of mass media coverage on the case led to the government encouraging and supporting X's family to fight for the right to travel to the UK Supreme Court, who eventually lifted the injunction (Smyth, "The 'X' case" 166). The moral crisis produced by the X case led the way for another amendment to be passed specifying that the 1983 Constitutional amendment could not be interpreted as limiting the right to travel or information. Furthermore an Act was passed in 1995, The Regulation of Information (Termination of Pregnancies Outside of State) Act, that permits professional counsellors to provide abortion information only following full non-directive pregnancy counselling. This meant that the Irish society could not be seen to promote terminations.² The X case and the Grogan case produced interesting conclusions regarding abortion law. However, they did not affect women's ability to attain an abortion within the state of Ireland, a state that continues to obstruct women's rights to full personhood. What is distinguishable about the cases is that pro-life activists presented Article 40,3,3 as a morality issue in order to control Irish society's perceptions of abortion, stressing their religious responsibilities.

I shall now argue that the right to control women's reproductive bodies is assumed without question by the hegemonically male religious hierarchies, which helps impose abortion laws that regulate women's bodies (Smyth, "The 'X' case" 175). This is particularly noticeable in the case of Ireland, where the religious influence of the Roman Catholic Church's moral and ethical codes are fundamental as a way of life. Although the state of Ireland is not a theocracy and Ireland has increasingly committed itself to capitalist structures, it would seem that the unintended consequence of secularisation that is produced by capitalism has yet to take hold. Despite the current apathy many western countries feel towards religion, more than 90% of Ireland's population continue to describe themselves as Roman Catholic and 86% of these attend Sunday Mass regularly. Strictly how true these statistics are is open to discussion. However, one factor remains significant: the public's self-opinion as being religiously ethical and moral (Randall 67). It would seem that the public moral attitude is indirectly influenced by powerful systems of socialisation that reinforce particular religious values. Although there has been a reduction in religious authority within political schemes, the church continues to maintain ideological bases within every corner of Irish society, through the means of the education system, the pulpit, the Medical Council and a myriad of lay organisations (Smyth, "And nobody" 114). With the vast majority of Irish citizens asserting a religious status, many attend the primary and secondary schools that are owned by the Catholic Church, directed by Clerics and staffed by graduates of Catholic training colleges. This has an incredible influence on public attitudes and can affect the way issues such as abortion are perceived (Randall 81). The justifications produced by theological argument can therefore have the ability to withdraw women's citizenship rights to abortion.

What are the moral ethics concerning women's reproductive behaviour and abortion? The Roman Catholic religion is often described as being preoccupied with

sex, and in Ireland, it has been suggested that sex ‘is the only real sin’ (Smyth, “The ‘X’ case” 170). The Roman Catholic Church has a history of being a forceful patriarchal organisation, permitted by a manipulated interpretation of the scriptures concerning original sin. Eve’s realisation of her body during the fall from Eden has authorised centuries of sexual discrimination, with women’s bodies seen as a site of temptation and sin and liberal women perceived as the devil itself (Smyth, “The ‘X’ case” 175). Consequently women who are sexually active are considered immoral as these women are going against religious convention by rejecting the natural outcome of sexual intercourse, maternity (Sheldon 7). The Church ordains that those who go the way of ‘all flesh’ and ‘choose’ divorce, contraception, or abortion are traitors to their religion (Smyth, “And nobody” 119). If this is the attitude towards women when they are merely trying to control their sexual bodies, the ethical position on abortion is even harsher. This patriarchal religion’s values dictate that women’s natural role is as mothers and homemakers. This holds women accountable for procreation while preventing their reproductive choice through moral boundaries. This hypocritical stance allows for the anti-abortion groups to defend and promote human life from the moment of conception (European Court Reports 4687).

Abortion is a central moral issue that calls into question the authority of traditional Catholic values in Ireland. Ireland has often been regarded as the ‘last bastion of moral and sexual purity and of the traditional family’ within western society and it is alleged that by permitting liberating abortion legislation Ireland’s distinctive national identity would be lost as a result (Smyth, “And nobody” 119-20). This national pride could be considered one reason why religion figures greatly in the implementation of social norms, with anti-abortion activists such SPUC manipulating the moral codes of religion to ensure there is no popular support for the legislation of abortion (Randall 71).

The Church dictates that:

God, the Lord of Life, has entrusted to *men* the noble mission of safeguarding life, and *men* must carry it out in a manner worthy of themselves. Life must be protected with the utmost care from the moment of conception: abortion and infanticide are abominable crimes.³ (my emphasis)

This perception of life has provided pro-life groups with ammunition against pro-choice legislation. By supporting that the unborn child’s right to life as ‘a primary, natural, inalienable right that springs from the very dignity of every human being’, the pro-life movements are able to find genuine doctrinal support on which to base their arguments. Through invoking the language of human rights they attribute personhood to the foetus, thereby depicting abortion as murder, an action that within such a religious society could not be legitimised (Fletcher 21). They can then contend that women feel a moral guilt and remorse after abortion because they are responsible for the death of an innocent child (Fletcher 57). Pro-life organisations use tactics such as portraying women as using abortion as a form of late contraception in order to portray to the public that women seeking abortion are immoral and self-interested (Smart 149). Additionally by describing the conception of the foetus as a sacred moment, the pro-life groups borrow from religious terminology in order to raise the Irish public’s

awareness of the right of foetal life. Their ideology works within the Irish society since the essence of their fight is presented in such a way that the public can relate the issue to their lived relationships (Fletcher 21). By using the means of the moral principle of the church to fight pro-abortion laws, society is merely influencing women into accepting a patriarchally controlled position. The Irish legislators and religious policing have insisted that women lives are only acceptable under their terms and conditions, in turn denying women any right to autonomous choice or full personhood. The effect of this has been the invisibility and silencing of women who do have abortions (Smyth, "The 'X' case" 174).

In conclusion a silence has overcome Irish women who have experiences with abortion due to the public stigma of the issue. Because pro-life activists describe abortion as 'murder', 'assassination' and 'atrocities' – this viewpoint is sanctioned by the moral supremacy of the Church – the act of abortion as a physical and social reality for women is overlooked (Smyth, "And nobody" 116). Women bear additional anxiety by taking responsibility for the possible negative repercussions of exposing themselves as having had abortions (Fletcher 45). Even admitting that they favour the provision of abortion can have the same effect as declaring themselves as murderers, criminals or social pariahs (Smyth "And nobody" 116). The fact that these women may be family, friends or lovers is unaccounted for; their silence is required to protect them from harsh judgement. This society fails to recognise how the social context of the religious ethics about abortion can influence the pregnant woman's decision to act, and how criticisms of the abortion cannot be isolated from criticism of the woman herself (Fletcher 46). The production of this silence through Irish law and moral codes has forced women to follow a path in life they might not choose for themselves, never to receive the significance of full citizenship or personhood.

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² <http://www.rodicovstvo.sk/a-legis.htm>

³ <http://www.theflanagan.com/abortionreferendum2002/frames/roryohanlan.htm>