

**The Workers' Party
Submission to
The Citizens' Assembly
on the
Eight Amendment to the Constitution**

December 2016



**THE
WORKERS'
PARTY**

*Free Safe
Legal*

REPEAL THE 8TH

The Workers' Party

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Foreword

The Workers' Party welcomes the opportunity to address an area of the law in which women are denied the fundamental right to choose how they control their own bodies.

On the 7th September 1983 Bunreacht na hÉireann was amended, thus allowing for the recognition of the equal right to life of the unborn with that of the mother. While the amendment was carried by a 2:1 majority of those who went out to vote on the day, this support represented just less than 36% of the total electorate.

It is now thirty three years since the holding of that referendum. Nobody under the age of fifty one has had an opportunity to vote on this sub-section in the constitution. This means that the vast majority of the cohort of women of child-bearing age have had no say on a matter which directly impinges on their lives.

In 1983 many groups, including the Workers' Party, the Irish Congress of Trade Unions and all the Protestant denominations, opposed the introduction of this new sub-section into Bunreacht na hÉireann. The Workers' Party argued that the amendment was legally unnecessary, anti-woman, sectarian and divisive. Unfortunately, the experience of the last thirty three years has proven us correct in our predictions.

The total constraint imposed on the legislature by Article 40.3.3 is patently manifested in the appalling shortcomings of the 'Protection of Life During Pregnancy Act 2013'. It is abundantly clear that no progress can be made for as long as the 8th amendment remains enshrined in the Constitution. The existence of this amendment has prevented women becoming equal citizens. Essentially Article 40.3.3 was a political and ideological attempt to halt the progress that had taken place over the previous two decades and re-establish the patriarchal structures and values of a previous era.

The Workers' Party believes in a woman's right to choose and supports the provision of free, safe and legal abortion in this country. **In pursuit of this objective, the Workers' Party demands the immediate removal of the 8th Amendment of Bunreacht na hÉireann.**

Mary Diskin
National Women's Committee

Michael Donnelly
President

THE WORKERS' PARTY



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9th December 2016

Introduction

The Workers' Party welcomes the opportunity to address an area of the law in which women are denied the fundamental right to choose how they control their own bodies.

The Workers' Party wholeheartedly supports the Campaign to Repeal the 8th Amendment to Búnreacht na hÉireann. We do so in the belief that barriers to reproductive rights for women are also barriers to full social, economic and political life including workplace equality. It is a woman's human right to have autonomy over her own body.

The 8th Amendment equates a woman's life with that of a foetus. It denies a woman the right to an abortion even when her health is in serious danger.

Article 40.3.3 was inserted into the constitution, by referendum, in September 1983. At that time many groups, including the Workers' Party, the ICTU and all the Protestant denominations, opposed the introduction of this new sub-section into Bunreacht na hÉireann. The Workers' Party campaigned under the slogan: "*For Democracy and Tolerance – Vote NO*"; and argued that the amendment was legally unnecessary, anti-woman, sectarian and divisive. Unfortunately, the experience of the last thirty three years has proven us correct in our predictions.

It is also important, in informing the debate as to the future of the 8th Amendment and Article 40.3.3, to examine the real motivation for its introduction at that time. Bunreacht na hÉireann was drawn up and scrutinised by some of the most conservative and Roman Catholic figures in Ireland, notably, Eamonn de Valera and Arch Bishop McQuaid. They did not perceive any need to include a prohibition on abortion in the Constitution. Even they recognised that it was a matter best dealt with by legislation. What had changed in forty six years? In our view the legal parameters had not changed but in many ways the status of women had changed – had improved for the better. This amendment, at its core, was a political and ideological attempt to turn back the tide of that progress and to return to a situation where women were subservient and chained to the kitchen sink.

The Workers' Party recognises that women have the right to control their own bodies, including their fertility, and to pursue all reproductive choices. This is fundamental to any reasonable concept of gender equality in order to achieve full political, social, and economic equality with men.



The Party rejects the paternalistic attitude that regards women as second class citizens incapable of making their own decisions. The Party supports a full programme of secular sex education for schools, free access to contraception, proper health and social care for pregnant women, the provision of appropriate free and quality child care facilities and adequate support for single and low income parents.

The Workers' Party believes in a woman's right to choose and supports the provision of free and safe abortion in her own country which will include practical facilities to support women seeking an abortion and quality post-abortion care.

To that end the Party believes that Article 40.3.3 should be removed and legislation should be introduced with immediate effect to enable women to avail of free, full and safe access to abortion

Stigmatisation and demonisation

The Workers Party opposes the vile attempts to stigmatise and demonise women who choose to have, or who have had, abortions and who support the right to choose. We further condemn those who engage in anti-choice harassment and abuse. The reality confronted by women seeking to access an abortion of having to raise funds which are not readily available, to face denunciation and abuse as they attempt to seek advice, to travel to Britain at a difficult time in their lives, and to be portrayed as “murderers” and “criminals” is an affront to concepts of compassion and civil liberty.

A woman's right

The starting point for the debate is the fact that the law still fails to recognise that it is every woman's right to control her own body. The Workers' Party believes that it is crucial to place women at the centre of the debate. Criminalising abortion harms individual women with unwanted pregnancies but it also deprives women collectively of control of their fertility, leaving them open to disempowerment, violation of their physical integrity, disruption and adverse transformation of their lives together with a profound loss of autonomy relative to men.

Current law criminalises women, infringes their human rights and discriminates against those women who cannot afford to travel to have an abortion.

Although women can travel abroad to obtain an abortion this is not an option for many women, including migrant women and women on low incomes. As Irish women are non-UK residents they have to have their abortions in a private clinic. The procedure itself can cost between €600 and €1700 and then there is the added travel and accommodation costs for an accompanying partner, parent or friend. Considering that 50% of women in Ireland earn €20,000 or less per year the cost of an abortion is prohibitive for many women living in this country.



Furthermore, when one takes into account that almost one quarter of people on direct incomes earned less than €10,000 in 2013, while one third of this group earned less than €15,000, and that women represent 60% of all those who are low paid (NERI Institute 2015) it is clear that for many women and families whose young daughters do not wish to continue with their pregnancies abortion is not an option on financial grounds. The fact that 87% of lone parents are women and that there is a well-recognised high correlation between one parent families and consistent poverty leaves no doubt as to the discriminatory nature of Ireland's abortion legislation.

The 1967 Abortion Act in Britain saved women's lives and brought an end to the tragedies of backstreet abortion there. The Act also provided a safety net for women living in the Irish Republic who could now travel to Britain to avail of a legal and safe abortion service. Thousands of women from this country have availed of this service since 1967. Between 1980 and 2014 at least 163,514 women with Irish addresses registered for terminations abroad. Why, asks the Workers' Party, should women have to travel to another country to avail of a service which should clearly be available in their own country? It is clear that substantive equality demands an examination of the ways in which gender roles and positions in society impact upon the ability of women to enjoy their full human rights. It is also clear that the principle of non-discrimination on the basis of sex is an immediate and not a progressive obligation.

The Workers' Party believes resolutely in choice. The provision of responsible, secular, medically accurate sex education and confidential access to comprehensive contraceptive services, including the provision of school and education based services, must be readily available to reduce unwanted pregnancies.

Appropriate options

We recognise that women who are pregnant should have all appropriate options available to them. Women who opt to continue with a pregnancy in the event of the tragic circumstances of lethal foetal abnormality should be afforded all the appropriate treatment and care to enable them to so do.

There should be sufficient care, secular counselling and support for women who wish to continue to full term. Women should neither be compelled to terminate a pregnancy in circumstances where the woman has no wish to do so, nor should a pregnant woman be compelled to continue with a pregnancy where it is her choice to terminate the pregnancy.

As long ago as 1884, Friedrich Engels in *The Origin of the Family, Private Property and the State* wrote:

“The overthrow of mother-right was the world historical defeat of the female sex. The man took command in the home also; the woman was degraded and reduced to servitude, she became the slave of his lust and a mere instrument for the production of children.”



The obscenity and inhumanity of a woman pronounced clinically dead and being kept alive solely for the purpose of continuing the pregnancy against the wishes of her family, necessitating an application to the High Court, serves to produce a vision of women reduced to mere vessels.

To suggest that someone else has the right to make use of a woman's body in such an all-encompassing fashion, without her consent, is a gross violation of her rights. This case coupled with the case of Ms Y earlier in 2014, the tragic case of Savita Halappanavar and others, together with the unworkable nature of the 8th Amendment to the Irish Constitution should be a salutary lesson to those who seek refuge in piecemeal tinkering with anti-abortion law.

The lack of access to terminations for those women who are pregnant as a result of rape, incest or foetal impairment is contrary to the jurisprudence of Article 6 of the International Covenant on Civil and Political Rights. Restrictive access to termination also engages Articles 3 and 8 of the European Convention on Human Rights.

UN Human Rights Committee

In June 2016 the committee in its decision about a complaint made by Amanda Mellett found that Irish abortion laws violated her right to freedom from cruel, inhuman or degrading treatment as well as her right to privacy. The ruling also found that Ireland's abortion laws constitute discrimination against women on grounds of sex and denies them equal protection of the law.

In its fourth periodic review in 2014 of Ireland's implementation of the International Covenant on Civil and Political Rights the committee criticised Ireland's abortion laws and urged legislative and constitutional change to bring these laws in line with human rights standards. It reiterated its previous concerns regarding the highly restrictive circumstances under which women can lawfully have an abortion in the State as a result of article 40.3.3. It was particularly concerned, inter alia, by the manner in which Section 22 of the Protection of Life during Pregnancy Act criminalises abortion, including in cases of rape, incest, fatal foetal abnormality and serious risks to the health of the mother, and the discriminatory impact of the Act on women who are unable to travel abroad to seek abortions.

UN Committee on the Rights of the Child

In January 2016 this committee expressed concern about the impact of Ireland's abortion laws on the human rights of girls and called for a decriminalisation of abortion in all circumstances and a review of legislation with a view to ensuring children's access to safe abortion and post-abortion care services.



The UN Committee on Economic, Social and Cultural Rights

In June 2015 this UN committee recommended, inter alia, that the State party take all the necessary steps, including a referendum on abortion, to revise its legislation on abortion, including the Constitution and the Protection of Life During Pregnancy Act 2013, in line with international human rights standards.

Since the UN Committee on the Elimination of Discrimination Against Women criticised Ireland's abortion laws in 1999 various international bodies have called for revision of Ireland's abortion legislation to bring it in line with human rights standards. As a first step Article 40.3.3 of Bunreacht na hÉireann, which equates the life of a foetus with that of a mother, must be removed. Over the thirty three years since it was first inserted into the Constitution the 8th amendment has caused women to die and it has been clearly demonstrated just how dangerous, cruel, inhumane and discriminatory this instrument is.

The Workers' Party believes in a woman's right to choose and supports the provision of free, safe and legal abortion in this country. In pursuit of this objective, the Workers' Party demands the immediate removal of the 8th Amendment of Bunreacht na hÉireann.



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