An Irish Problem

Sally Rooney writes about the abortion referendum

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In 1983, a referendum was held in Ireland to establish a constitutional right to life for embryos and foetuses. Abortion was not legal in Ireland at the time; it never has been. The referendum was the result of a campaign by conservative religious groups aimed at preventing any future legislation permitting abortion in any but the most extreme, life-threatening circumstances. The Eighth Amendment passed, gaining 67 per cent of the vote. On 25 May, another referendum will be held on whether to repeal that amendment. This one won't pass so easily – if it passes at all.

So far the campaign has been distinguished by acrimony, falsehoods and a media obsession with 'balance' – an insistence that both sides must be given equal respect and consideration. Though campaign funding is strictly regulated by Irish law, there are questions about how effectively these regulations are being enforced, and in particular about the 'No' campaign's links to anti-abortion organisations in the US. A group calling itself the Irish Centre for Bio-Ethical Reform, made up largely of American volunteers, has attracted media attention by protesting outside maternity hospitals in Dublin with banners showing dismembered foetuses. The group is connected to a US organisation called the Centre for Bio-Ethical Reform, whose leader, Gregg Cunningham, visited Ireland in January.

Across the country, 'Save the Eighth' posters depict gigantic, robust babies, as if the referendum concerned the health of six-month-old infants. But the subtext is clear: no matter what's going on in a woman's life, it's always a good time to have a baby. One poster produced by the 'No' campaign shows an ultrasound image of a foetus below the caption: 'I am nine weeks old. I can yawn & kick. Don't repeal me.' The Together for Yes campaign, which crowdfunded its largely text-based posters, has opted for slogans like: 'Sometimes a private matter needs public support'.

By providing the foetus and the pregnant woman with an equal right to life, the Eighth Amendment prohibits abortion in all circumstances unless the life of the woman is at substantial risk. The threat of serious, permanent injury or illness is insufficient grounds for a termination. In 1992, a 14-year-old child who had been raped by a neighbour became suicidal as a consequence of the resulting pregnancy. After the attorney general issued an injunction to prevent her from travelling abroad for an abortion, the Supreme Court overturned the ruling, holding that suicidal feelings constitute a risk to life. Much of Ireland's abortion debate since then – including a referendum in 1992 and another in 2002 – has hinged on whether the possibility of suicide does in fact constitute a sufficiently immediate risk. In 1992, 35 per cent of the population believed it did not.

The criteria by which doctors gauge a risk to life, as distinct from a risk to health, are still unclear. In 2012, a woman called Savita Halappanavar developed sepsis during a miscarriage. Aware that her pregnancy was no longer medically viable, and increasingly unwell as the infection spread, she asked for a termination. The request was refused, because the risk to her life was not deemed substantial. By the time she was ill enough to be allowed a termination it was too late. Halappanavar died of a cardiac arrest caused by the sepsis. The decision to hold the upcoming referendum was sparked by the public outcry that followed her death. Months after the story broke, the Protection of Life During Pregnancy Act was passed, setting out the processes by which pregnant women whose lives were endangered could access terminations – before then, no legal guidelines had existed for doctors or patients. In 2016, as demand for constitutional change continued to grow, the government set up a Citizens' Assembly to look into the issue. The Eighth Amendment was no longer just about abortion; it was now about public health. Discussion focused on the most egregious consequences of the law: the fact that pregnant women with cancer had limited rights to access treatment that might endanger the foetus; that women had to continue with pregnancies that had been deemed non-viable; that children (and adult women) who had been sexually abused were forced to bear their rapists' offspring.

Support for abortion in cases of rape or fatal foetal abnormality has been solid in Ireland since 2013. All the major political parties now advocate repeal of the amendment. And yet the outcome of the upcoming referendum looks uncertain, with a substantial cohort remaining undecided. This indecision is probably connected to worries about the government's plans for reform. If the Eighth Amendment is repealed, Fine Gael has pledged to introduce legal terminations up until twelve weeks' gestation. In other words, abortion would be available not only in the so-called 'hard cases', but also when a healthy woman in her first trimester decides she doesn't want to be pregnant. Do women who are not victims of abuse, or in mortal danger, have the right to end a pregnancy just because they feel like it?

Yes. Pregnancy, entered into willingly, is an act of generosity, a commitment to share the resources of life with another incipient being. Such generosity is in no other circumstances required by law. No matter how much you need a kidney donation, the law will not force another person to give you one. Consent, in the form of a donor card, is required even to remove organs from a dead body. If the foetus is a person, it is a person with a vastly expanded set of legal rights, rights available to no other class of citizen: the foetus may make free, non-consensual use of another living person's uterus and blood supply, and cause permanent, unwanted changes to another person's body. In the relationship between foetus and woman, the woman is granted fewer rights than a corpse. But it's possible that the ban on abortion has less to do with the rights of the unborn child than with the threat to social order represented by women in control of their reproductive lives.

Irish women's freedom to decide what happens to their bodies has been restricted by many and varied means: the prohibition on contraception until the 1980s, the legality of marital

rape until 1990, the threat of incarceration in institutions like the Magdalen Laundries and Mother and Baby Homes. These legal and social practices were not arranged around the protection of unborn life, but around control of reproduction. Even now, it is the idea of female agency that separates permissible forms of abortion from those deemed unacceptable in Irish law. Traumatised or fatally ill women may be granted the right to terminate a pregnancy precisely because they are not seen to be exercising free and independent agency. Those who object to abortion, but make an exception in the case of rape, cannot be primarily concerned with the sanctity of the unborn: a foetus conceived by rape is no different from a foetus conceived by consensual sex. To make an exception for women who can be classed as victims is to display fear and anxiety of the woman who is not one, but who would simply exercise her right no longer to be pregnant.

Whatever happens on 25 May, thousands of Irish women will continue to have abortions every year. A 1992 referendum affirmed the right of pregnant women to travel abroad to access abortion. I cannot recall a major political figure ever questioning the wisdom of that amendment. If anti-abortion campaigners truly believe the foetus is a person like any other, a constitutional right to take that person abroad in order to kill them should be unacceptable; yet the 'No' campaign is united in its approval of the right to travel. The existence of accessible British abortion services has taken pressure off the issue in Ireland; most women who need to can scrape together the money for a trip to the UK. It's only those in extreme circumstances – women in severe poverty, migrant women without visas, those who are too ill to travel – who feel the full injustice of the Eighth.

In 1979, introducing a law to make contraceptives available for the first time in Ireland, the then minister for health Charles Haughey described it as 'an Irish solution to an Irish problem'. Permitting women to travel abroad for abortion is another such solution: keep the issue out of sight and out of mind. The abortion rate in Ireland will not fall if the referendum fails; it may not increase substantially if the referendum passes. But the relationship of pregnant women in Ireland to their own bodies will change, and change significantly, if the 'Yes' campaign is successful. I was born in 1991, the same year a Virgin Megastore in Dublin was raided for selling condoms without a pharmacist present. Two years before the decriminalisation of homosexuality. Four years before the legalisation of divorce. Twenty-seven years, I can only hope, before the repeal of the Eighth Amendment.

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Sally Rooney’s Conversations with Friends, a novel, is out in paperback. Another novel, Normal People, is due in September.