The political and personal landscape of choice in Ireland

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It is all but impossible, both in theory and in practice, to legally obtain an abortion on the island of Ireland, both north and south of the imaginary border that divides this island. It is completely impossible to safely and legally obtain an abortion anywhere in Ireland; the legal framework in the south specifically requires that in order to obtain an abortion without being criminalised for so doing, the woman who needs it must be ill enough to die; thus it is rendered impossible for her to be safe in access to legal abortion.

In the north, the Offences Against the Person Act dating from 1861 — over a century and a half ago — is what renders women taking control of whether or not they give birth and remain pregnant illegal. It describes abortion as 'procuring miscarriage', a description which is very apt for what those who need abortions in the north of Ireland today are forced to do by this archaic bit piece of legislation; obtain the abortion pill illegally online via organisations like Women on Web, Women Help Women, or less reputable means.

It states that anyone who does this "shall be guilty of felony, and being convicted thereof shall be liable [..] to be kept in penal servitude for life".

However there was an exception made to this under the Criminal Justices Act of 1945. This Act, while it created the offence of "child destruction", defining it as "any wilful act [that] causes a child to die before it has an existence independent of its mother" allowed that such a "destruction" could be carried out without legal penalty if one is acting in good faith to preserve the life of the "mother".

Unlike in the south, this has been interpreted by subsequent judgements to mean not only that the woman must be on the brink of death, but also that the woman's health was important as well.

(In the south, the Supreme Court ruling on X in 1992 specifically excludes the woman's or girl's health from being in any way relevant to whether she is permitted to access an abortion.) In 1994 a court in the north found that this "does not relate only to some life-threatening situation.

Life in this context means that physical or mental health or well-being of the mother and the doctor's act is lawful where the continuance of the pregnancy would adversely affect the mental or physical health of the mother. The adverse effect must however be a real and serious one and there will always be a question of fact and degree whether the perceived effect of non-

termination is sufficiently grave to warrant terminating the unborn child." However it is very difficult to establish clearly the criteria under which this is deemed to be the case.; On the 26th of March of this year the Northern Ireland Executive finally agreed to publish guidelines for healthcare professionals on when it is legal for women to access abortion.

This was following enormous pressure on the Executive owing to a ruling from Belfast High Court in November 2015 which found that to deny abortions to women carrying pregnancies that will not survive to term, or beyond birth, or pregnant as a result of "sexual crime" was a breach of their human rights.

Again, as in the south, this legislative framework ensures that a woman cannot be safe if she is unwell and endangered enough to fit the criteria of being 'permitted' to access a legal abortion.

Despite the obvious outdatedness of the Offences Against the Person Act of 1861, there are nonetheless not one, but two pending prosecutions in Belfast at the moment under it. One is of a woman who procured the abortion pill for her teenage daughter; subsequent to its administration they both presented at a hospital in search of medical treatment, worried for the daughter's well-being.

Though details of the case are as yet unclear, it seems that a (presumably anti-choice) medical professional they encountered there felt the need to report them to the police for something twhat would render them open to life imprisonment. The second pending prosecution is of a woman in her twenties who obtained the abortion pill for herself and apparently for others.

Again, details of her situation are unclear, but given that there is no prosecution or pursuit of any of the over 200 women from the north who haves openly and deliberately incriminated themselves under their full names in repeated open letters and publications in various media as people who have needed access to the abortion pill, it seems likely that this prosecution too came about under pressure from another party.

The legal structure in the south of Ireland is the 8th amendment to the Irish constitution. It states that "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."

The obvious afterthought of the right to life of the carrier of the foetus granted was only included in the wording after a vigorous campaign from feminist groups of the time.

The referendum for its inclusion in the constitution of southern Ireland was passed in 1983 after a vitriolic debate in a referendum in which only 53% of the electorate voted. 67% of those who voted, voted for it. This means that a decision made by a mere 35% of the electorate of southern Ireland 32 years ago, none of whom are likely to be women of reproductive age today (the youngest a voter in that referendum would be now is 50), is deemed relevant and appropriate to force every person capable of becoming pregnant in the south of this island to remain that way regardless of that person's own opinion on the matter, underon threat of imprisonment.

The 8th amendment also strips, from any pregnant woman or other person, the right to consent or refuse any treatment a higher power than herself(!) may deem necessary for the foetus she carries in pregnancy. It also means that it is at the whim of a medical treating power to deny a pregnant woman potentially lifesaving medical treatment if they consider it may damage the foetus she carries, as was seen in the case of Michelle Harte.

Michelle Harte was a cancer sufferer who was receiving treatment denied to her by Cork University Hospital's "board of ethics" (what a misnomer) when she became accidentally pregnant.

The same ethics board denied her, a dying woman, access to an abortion and forced her to travel to the UK while incredibly ill with cancer to obtain the health-care she needed — an abortion. She subsequently died. A Catholic bishop sits on that 'ethics' board.

Since the context of choice and bodily autonomy in most public discussions, even most leftist public discussions, seems only to be understood as the choice to continue or to end a pregnancy, it is imperative to highlight that the 8th amendment is used also as a tool of coercion against women and others in continued pregnancy and during birth.

The 8th amendment is regularly cited to pregnant women wishing to go against what their doctor deems to be the best for them; the phrase, "I could bring you to court if I have to, you know" is one used against pregnant and birthing women in Ireland far too often. This is explicitly stated in the HSE's National Consent Policy, which cites the High Courts as the appropriate place to determine what can be perpetrated upon the body of a pregnant woman without her consent.

Doctors, midwives and social workers are more often those doing the coercing in this scenario; it rarely goes as far as the courts, as most women when told by the social workers who arrive on their doorstep (as has happened in more than one instance) that their existing children will be taken from them into care if they continue to refuse to comply with their doctor's vision of what is best for them, do not feel capable of struggling back when in all likelihood they will lose anyway. However there is one instance in which the High Court has been invoked, in Waterford in 2013 in the Mother A case.

The Mother A case involved Waterford Regional Hospital taking a woman, known as 'Mother A' by the court, to the High Court in an attempt to secure an order coercing her into a caesarean section.

They took this action despite the fact that Mother A was not utterly refusing to consent to a c section; she specifically said that despite her desire to have a vaginal birth, should an emergency arise, she would consent to a section.

It was not an emergency situation; the spur for the coerced c section was a foetal trace which was categorised by the person interpreting it as "non-reassuring" rather than emergency.

She also wanted to delay the birth by at least 24 hours, because her partner was out of the country until then and she wanted him to not only be present at the birth but also to be able to be there to care for their older child during the period she was in hospital. Further, while the hospital insisted she was 41 weeks and 6 days pregnant, she deeply disagreed with their assessment. (It is worth highlighting at this point a similar case in Our Lady of Lourdes Hospital in Drogheda in 2003 where a woman, Therese Darcy-Lampf, was coerced into a section at 34 weeks owing to the hospital having wrongly noted her gestation after a scan, despite the fact that she pointed this out to them repeatedly.

Her baby, Jessica, died shortly after being born far too early.) All very reasonable things to want; yet all things that were utterly denied her at the apparently capricious behest of an obstetrician and a hospital that stripped her of her voice and her autonomy. No judgement was handed down in this case as the woman "consented" to the caesarean section before one became necessary.

The nightmarish reality of forced caesarean sections has now been publicly enshrined not only in Irish practice by the Mother A case, but also in law and in practice by the passing of the Protection of Life During Pregnancy Act of 2013.

The first draft of this bill was called the Protection of Maternal Life During Pregnancy Bill; but clearly this concept, that women should not die because we are pregnant, was deemed far too

radical by the Labour-Fine Gael coalition government to pass into law and thus it was renamed to ensure that nobody reading it should become confused and think perhaps that women's lives matter.

Such confusion is however highly unlikely given the content of the Act, which requires that a suicidal woman must prove that she is suicidal to up to 6 doctors before eventually being granted a lifesaving abortion. This despite the fact that suicide is a leading cause of death during pregnancy in Ireland, and despite the fact that we are constantly being reassured through ad campaigns telling us to 'please talk' (talk to whom is never made clear) that mental health is in fact real health.

It is only real health until it comes to pregnant women, as was made obvious by the atrocities perpetruated on Ms. Y by the medical establishment and the state in the south in 2014.

Ms. Y arrived in the south of Ireland on March 28th, 2014 as a refugee. At what is described as a "health screening". Six days later she found out she was pregnant; she made known to those performing the screening on behalf of the state that she had been raped and that she could not possibly under any circumstances have a child. She was very distressed.

A nurse made an appointment for her two days later with the IFPA who informed Ms. Y that abortion is not accessible in Ireland and that travel for her "may" be difficult — as an asylum seeker travel documents and visas into and out of Ireland are time consuming, costly and difficult to obtain.

The IFPA made an appointment for Ms. Y to have a dating scan and referred her to the Immigrant Council of Ireland for advice and support on travelling as a migrant. Four days later, Ms. Y hads a dating scan performed and it wais discovered she wais 8 weeks pregnant.

At this point it would have been possible to hand her three pills and for her to have ended her own pregnancy as she wished, with minimal impact on her, minimal further violation of her bodily autonomy and integrity, and minimal pain and suffering. Three pills.

Instead, she was handed about from pillar to post, having contact with three separate NGOs as well as the HSE staff she initially encountered, and her situation appears to have slipped between the cracks of these, unnoticed by anyone except herself as with the continuation of her pregnancy her despair and hopelessness deepened.

A doctor from Spirasi, one of the NGOs she had contact with, wrote to the GP of the direct provision centre she was consigned to, describing her as "having a death wish". The GP of this centre says that the letter was not received. A co-ordinator at the ICI formed the opinion that Ms. Y might change her mind about needing an abortion based on apparently nothing whatsoever.

A counsellor at the IFPA suggested adoption to her. For a further 16 weeks she was handed around and around until she eventually, on the 23rd of July, (almost four months after her pregnancy was first discovered and she initially declared herself utterly unable to contemplate going through with it), she had an assessment with a consultant psychiatrist who told her it was too late to have an abortion and then coerced her into being detained in a maternity hospital under constant surveillance, where she refused all food and fluids for several days.

By that timenow she had met a consultant obstetrician who was of the opinion, despite the fact that Ms. Y was so despairing and suicidal that she was even refusing water, "that Ms Y could be maintained on the ward for as long as possible and hopefully to 30 weeks so that the baby could be delivered appropriately."

This would have meant another 6 weeks of detention against her will; another 6 weeks of sedation against her will in order to forcibly feed and hydrate her against her will in order that

her body and autonomy undergo repeated violations in order to host a pregnancy she loatheds so much she would rather have died than have it in her body any longer. Instead however, as Ms. Y continued in her determination to refuse fluids, a caesarean section was carried out on her several days later; enforced major abdominal surgery, also against her will.

This horrifying and traumatic ordeal inflicted upon Ms. Y was torture; state-sanctioned, state-inflicted torture, state-legalised torture. And were another Ms. Y to arrive in the south tomorrow, in the same harrowing circumstances, the state would more than likely torture her in precisely the same manner.

It is important to note here the degree toin which the maternity hospitals in the south are complicit in, and even the driving forces behind, the denial of basic bodily autonomy to pregnant women; both in abortion and in continued pregnancy.

It is for these reasons that those of us who are involved in the pro-choice movement should be deeply wary of embracing the "masters" (the word alone should be warning) of the Dublin maternity hospitals such as Rhona Mahoney and Peter Boylan when they declare themselves to be opposed to the 8th amendment. At least one of those 'masters' has been known to invoke going to the courts in order to coerce pregnant women into interventions during their pregnancies, labour and births, and both of them are opposed to women's choice of type of care (midwife-led or obstetrician-led) and the choice even of birth position in the case of Peter Boylan.

Furthermore Peter Boylan in 2015 testified in the High Court in defence of the barbaric practice of symphysiotomies. Tempting though it is to reach for a "higher authority" in defence of our stance, these are not our allies in the struggle for women's bodily autonomy.

However those who are our allies in this struggle are, in fact, the majority of the voting public in the south. An exit poll carried out at the general election in February of this year found that 64% of people support the repeal of the 8th amendment. This number is all the more invigorating for those of us in the trenches of this fight given the increasing vehemence of the well-funded anti-choicers over the last number of years.

It's also all the more inspiring because there's a general misunderstanding of what the pro-choice position is in the public discourse around abortion in the south; the case is constructed as "Would you agree with and support her decision in this case?" rather than "Would you personally stop her?", a much truer reflection of what the pro-choice stance is and means.

As the fight continues, it becomes more and more important to avoid the slippery slope of only publicly advocating and arguing for abortion access in terms of the "hard cases", such as where the pregnancy will not survive outside the womb or in the case of survivors of rape. The majority of those who seek abortions do not fall into these categories and would be left by the wayside.

Only allowing abortion access for pregnancies conceived by rape and incest would not only be impossible to legislate safely for but also makes clear that the enforcement of continuation of unwanted pregnancy because the woman chose to have sex is outright misogyny; either one believes that an embryo or foetus has rights overriding that of the person carrying it or one does not.

We own our own bodies. We are not property of any state. We can and will birth where, how, and if we choose.

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