REGULATING ABORTION INFORMATION IN IRELAND: CENSORSHIP, PROVISION AND RESISTANCE

by

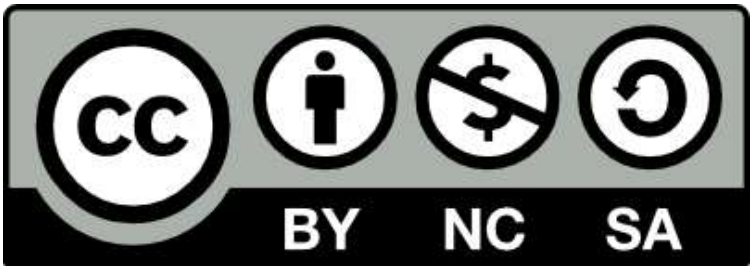
ALANA FARRELL

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DOCTOR OF PHILOSOPHY

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Abstract

This thesis is an analysis of how and why anti-abortion information controls were created and sustained through Irish law and later challenged and overturned. In the first part of the thesis, I address why information restrictions were created. Two dominant factors influenced the establishment and endurance of censorship and information controls. The first was a belief that abortion endangered vulnerable foetal life and pregnant people. As such information that challenged the hegemonic anti-abortion views or that facilitated abortion was constructed by the Irish state and anti-abortion proponents as similarly endangering these vulnerable subjects. To protect these subjects, such pro-choice or assistive information required legal suppression. The second reason involved the belief that the law should reflect the community's principles, beliefs or morals. Suppressing information that was counter to such views was necessary to affirm those views and to inoculate them from challenge. The methods chosen by the State to curtail the creation and dissemination of pro-choice or non-directive information involved prohibiting certain publications and advertisements through the Indecent Advertisements Act 1889 and Censorship of Publications Acts 1929 and 1946. The law also criminalised some referrals and abortion facilitation through the Offences Against the Persons Act 1861 and the Regulation of Information (Services Outside State for Termination of Pregnancies) Act 1995. The Eighth Amendment was also used by anti-abortion actors to curtail non-directive counselling provision through the *Open Door* and *Grogan* cases. The Health (Regulation of Termination of Pregnancy) Act 2018 repealed many anti-abortion restrictions. However, the legacies of paternalistic information controls remain through its failure to decriminalise abortion and the mandatory three-day waiting period. In the second part of the thesis, I address mechanisms involved in undermining anti-abortion information controls. The first was that censorship is difficult to enforce, so the infrastructure ends up undermining its own purposes. This occurs through censorship generating publicity for the information sources that it wishes to suppress. Furthermore, censorship is a resource-heavy initiative that can never remove all instances of contested or criminalised information. Therefore, opportunity remains for those opposed to controls, to undermine or subvert them. The second is that by justifying censorship as needed to protect vulnerable subjects, anti-information control advocates could attack the foundations of the system by demonstrating that it causes harm to those subjects instead. This undermines popular support for controls and increases pressure on legislators to disavow and dismantle censorship frameworks.

Dedication

This thesis is for all those who roared, whispered, graffitied, stickered, shared a book, handed out a leaflet, wore a t-shirt, sang a song, chanted a phone number, wielded a placard, knocked on a door, told their stories in the glare of a camera, under a microphone or over a cup of tea at a kitchen table. Also, for those who could not do so but had the courage to live their lives and make their own decisions. Ireland is now a better place thanks to you all.

Acknowledgements

My first thanks goes to Birmingham Law School for not only accepting my PhD proposal but also providing me with a College of Arts and Law Scholarship. The support enabled me to really immerse myself in this topic and to form a bedrock for my future research work. PhDs can be expensive so I would also like to thank the College, the Law School's Care, Relationships, and Health research cluster, the ESRC and the Sociology of Health and Illness Foundation for providing additional funding for me to present at conferences and conduct archival research in Ireland. This support was greatly appreciated.

I cannot express enough gratitude for my supervisors Professors Máiréad Enright and Fiona de Londras. I cannot believe how lucky I was to have them accept my project and to have shared their time, energy, knowledge, and wisdom with me. They demonstrated how being an academic can have real, important, tangible positive effects on the world and this is something that will stay with me for the rest of my career. My 7 years at Birmingham were life-changing and incredible. Much of that was down to their support and the opportunities they passed my way. Thank you, both.

PhD life can be lonely and I am so lucky to not have experienced this due to the amazing colleagues I had along the way. Thank you to Drs Céline Hocquet, Andrea Preziosi, Stefanos Xenofontos, Adam Metzger, Marcelo Carvalho Loureiro and Sarasvathi Arulampalam ("the Fiona group") for all their kind and insightful feedback on my early half-formed thoughts. To Drs Magdalena Furgalska, Chloe Waterman and Alice Manzini for all the cups of coffee and pep-talks. You are all fantastic and I am excited to see what is next for you all.

I must extend a big thank you to my proof-readers: Janet O'Neill, Ann Pendergrast, Conor Pendergrast, Emer Farrell, Ronan Farrell and Sarasvathi Arulampalam. You all made this a better, easier to read, thesis!

Thank you also to all the people and libraries who so generously shared images and copies of their publications with me: Paula Geraghty, National Library of Ireland, Alan Kinsella, Anon, Sandra McAvoy, Digital Repository of Ireland, Wellcome Collection, Linenhall Library and Martyn Turner. Having these examples helped me to illustrate the lived aspects of this history, an aspect that can sometimes be lost in analysis and scholarly writing.

Thank you so much to my two viva examiners Professor Sheelagh McGuinness and Dr Steven Cammiss. Your gracious and insightful feedback and questions helped me to see my work in new and different lights. I am excited to apply what I have learned to my next writing and research projects. Thank you also to Professor John Child for chairing my viva.

This thesis would not have been possible without the help, support and encouragement of my family. Thank you to my parents Janet O'Neill and Ronan Farrell for creating a house full of books and encouraging life-long education and learning. To my siblings Emer and Eoghan Farrell for putting-up with my grumpiness around exams. To my mothers-in-law, Ann Pendergrast and Bernadette Manning for their moral support, glasses of wine, and for regaling me with tales of their activism as part of the Irish Women's Abortion Support Group in London in the 1980/90s. To my children, Cathal and Siún for reminding me to make every minute count, be it work or playing at being a silly goose. Lastly, to my husband Conor Pendergrast. If honorary PhDs were awarded for being a supportive, awesome spouse you would be first in line. Thank you for the love, encouragement, idea sound-boarding, proof reading, middle-of the-night anxiety calming, IT support, barista services and financial help. I am incredibly lucky to have met someone who believed in me more than I ever believed in myself. Thank you.

Table of contents

Abstract ***2***

Dedication ***3***

Acknowledgements ***3***

List of abbreviations ***8***

List of Irish words ***8***

Introduction ***9***

Image Introduction.1: A Socialist Workers Movement anti-censorship badge from the 1980s/1980s. 9

Research questions **11**

Image Introduction.2: The illustration from the Irish Women's Right to Choose Group's 1981 calendar. 11

Image Introduction.3: Leaflet advocating for a 'no' vote on the Fourteenth Amendment from Youth Defence and the Pro-Life Movement. 12

Methods and Methodology **13**

Image Introduction.4: The transcript of a 1942 Seanad debate where excerpts from prohibited publications were censored. 14

Image Introduction.5: USI's 1989 response to SPUC attempting to stop them from publishing the number of the WIN. 15

Theoretical framework **23**

Image Introduction.6: A poster from Love Both urging people to vote 'no' to the Thirty-sixth Amendment. 23

Limiting the domain of the possible 32

How and why did people reject anti-abortion abortion information controls? 44

Contribution to the Literature **56**

Image Introduction.7: Women's Information Network Leaflet. 57

Connecting iterations of censorship **58**

Nation building and anti-abortion ideologies **62**

Protective justifications for anti-abortion law-making **67**

Resisting anti-abortion information controls **72**

Conclusion and outline of chapters ***79***

Image Introduction.8 Gordon Brewster's 'The Loathsome Invader'. 79

Chapter One: Establishing non-directive or pro-choice abortion information as a threat to vulnerable subjects ***85***

Introduction **85**

Dangerous information and the establishment of a new censorship infrastructure **87**

Image Chapter One.1: An advertisement for Dr Patterson's 'female pills' 87

Censorship refinement and prosecutions **104**

Excluding abortion from censorship reforms 112
Shifting the vulnerable subject, separating abortion from contraception 114
Shifting the vulnerable subject, enshrining a constitutional foetal right to life 118
The Eighth Amendment and restrictions on speech 126
The Eighth Amendment and restrictions on the printed word 140
Conclusion 150
Chapter Two: Continuing prohibitions and the introduction of mandatory provision of 'alternatives' information intended to reduce abortions ***153***
Introduction 153
Reducing abortions through information controls: maintaining criminalisation and introducing mandatory provision 156
Recognising and limiting freedoms to access information about legal abortion services abroad 166
State approved information-sharing: abortion minimisation and abortion displacement travel 181
State support for counselling provision to achieve abortion reduction aims 201
Reducing abortions during times of law reform 220
Conclusion 240
Chapter Three: Control of information and protecting anti-abortion beliefs ***242***
Introduction 242
Prohibiting the advocation of abortion 243
Separating abortion and contraception information 256
The Eighth Amendment and preventing the normalisation of abortion 265
The Fourteenth Amendment and reaffirming an anti-abortion *status quo* 278
Counselling and preserving an anti-abortion *status quo* 301
Conclusion 316
Chapter Four: Resistance, vulnerability and the paradox of censorship ***318***
Introduction 318
Table 4.1 Snapshot of significant legal interventions hampering legal information-sharing and the numbers of Irish residents who accessed abortions in Britain in those years. 319
A porous border 321
Image 4.2 Leaflet from Belfast Defend the Clinics Campaign 322
Censorship undermines itself 329
Image 4.3 Martyn Turner's A Truth About Abortion Information 329
Sites of contestation 356
Influencing law-making 381

Conclusion ... **394**

Conclusion ... ***397***

Image Conclusion.1 Original WIN phone number t-shirt worn on the day that the Eighth Amendment was repealed in 2018 ... 397

Summary of analysis ... **398**

Image Conclusion.2 Postcard depicting an anti-censorship protest 7 February 1987 ... 399

Information and post-2018 arguments ... **405**

Image Conclusion.3 Launch of the 'End the silence' campaign ... 405

Other areas for research ... **422**

Additional anti-abortion influences ... 423

Other forms of information control and provision ... 425

Freedom of expression ... 433

Conclusion ... **434**

Bibliography ... ***437***

Blog posts and presentations ... **437**

Books and chapters ... **440**

Campaign literature ... **450**

Cases ... **451**

Journal articles ... **452**

Legislation and Treaty instruments ... **462**

Media reports, opinion pieces, and letters to the editor ... **463**

Reports ... **483**

Theses and dissertations ... **488**

Appendix 1: List of main archives consulted ... ***490***

Appendix 2: List of main debates analysed ... ***492***

Appendix 3: Timeline of important legal developments ... ***501***

List of abbreviations

Full name	Abbreviation
European Court of Justice	ECJ
Irish Family Planning Association	IFPA
Irish Pregnancy Council Centre	IPCC
Irish Women's Right to Choose Group	IWASG
Pro-Life Amendment Campaign	PLAC
Pro-Life Campaign	PLC
Socialist Workers Movement	SWM
Society for the Protection of Unborn Children	SPUC
Teachta Dála (Member of the lower house of parliament)	TD
Trinity College Dublin	TCD
Union of Students in Ireland	USI
University College Dublin	UCD
Women's Information Network	WIN
Women's Right to Choose Group	WRTCG

List of Irish words

Irish	English equivalent
An Post	Postal service
An Roinn Sláinte	Department of Health
Dáil Éireann	Lower house of parliament
Gardaí	Police
Oireachtas	Parliament
Seanad Éireann	Upper house of the parliament
Tánaiste	Deputy head of the government
Taoiseach	Head of the government
Telecom Éireann	Telephone service

Introduction

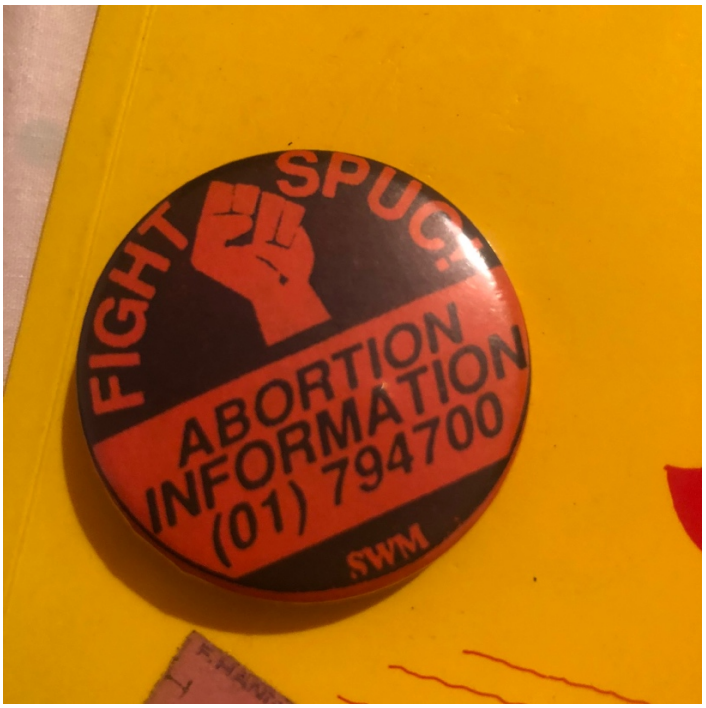


Image Introduction.1: A Socialist Workers Movement anti-censorship badge from the 1980s/1980s.[1]

The Socialist Workers Movement (SWM) created this badge to communicate to passers-by how they could contact the Women's Information Network (WIN).[2] The WIN volunteered to connect abortion seekers in Ireland with services abroad.[3] Abortion was illegal in Ireland, forcing those who wanted to end their pregnancies to travel for care.[4] These underground information-sharing networks were vital for those navigating

[1] © Paula Geraghty. Reproduced with permission from Paula Geraghty, 'Archives from the 1990s' (*Twitter* 27 December 2021) < https://twitter.com/paulageraghty/status/1475141536300081163?s=20 > accessed 20 February 2023.
[2] For information about the Socialist Workers Movement see The Irish Left Archive, 'Socialist Workers' Party' < https://www.leftarchive.ie/organisation/254/ > accessed 19 October 2023; For an example of an advertisement for the WIN telephone number see 'Pub quiz' *The Irish Times* (Dublin, 16 July 1990) 9
[3] See the discussion of the resistance work of information providers in Chapter Four.
[4] Before 2013, abortion was criminalised by Offences Against the Person Act 1861 (ss 58 and 59). It was replaced by the Protection of Life During Pregnancy Act 2013 (ss 22 and 23) which was later replaced by the Health (Regulation of Termination of Pregnancy) Act 2018 (ss 23 and 24). Between 1983 and 2018 abortion was also unconstitutional due to Article 40.3.3°.

abortion criminalisation, particularly between 1986 and 1992, after the Irish courts had declared that referring people abroad for an abortion was unconstitutional.[5] Anyone sharing information about how and where to access an abortion abroad – like the SWM or the WIN – risked being enjoined by the courts. This badge was more than an offer of help, however. It was an expression of solidarity with expelled abortion seekers, a condemnation of anti-abortion information restrictions, and an undertaking to resist censorship. In this thesis, I examine how and why restrictions were constructed, enforced and resisted. I take the view that prohibitions on sharing non-directive or pro-choice information did not begin in the 1980s. Rather, they were outcomes of censorship established in the 1920s.[6] This censorship not only hindered abortion access but also served the *status quo*, making it more likely that anti-abortion ideologies would be sustained through law in Ireland for the decades to come. I have considered this history and have concluded that abortion minimisation and elimination laws were justified and supported by pro-censorship proponents because they were needed to protect vulnerable subjects and the condemnatory categorisation of abortion. Those who opposed these laws used similar arguments but reversed them, stating that information provision was necessary to protect vulnerabilised abortion seekers. Tracking these ideas and their iterations over time is how my thesis contributes to existing scholarly work. This approach is insightful as these ideologies remain influential in terms of the demands of anti-abortion campaigners and current limitations and opportunities for change in contemporary legal frameworks.

[5] The cases that established this were *Attorney General (at the relation of The Society for the Protection of Unborn Children) v Open Door Counselling Limited and Dublin Wellwoman Centre Limited* 1986 WJSC-HC 1783 and *Attorney General (at the relation of The Society for the Protection of Unborn Children) v Open Door Counselling Limited and Dublin Wellwoman Centre Limited* [1988] IR 593.
[6] See section 'Dangerous information' from p. 87.

Research questions

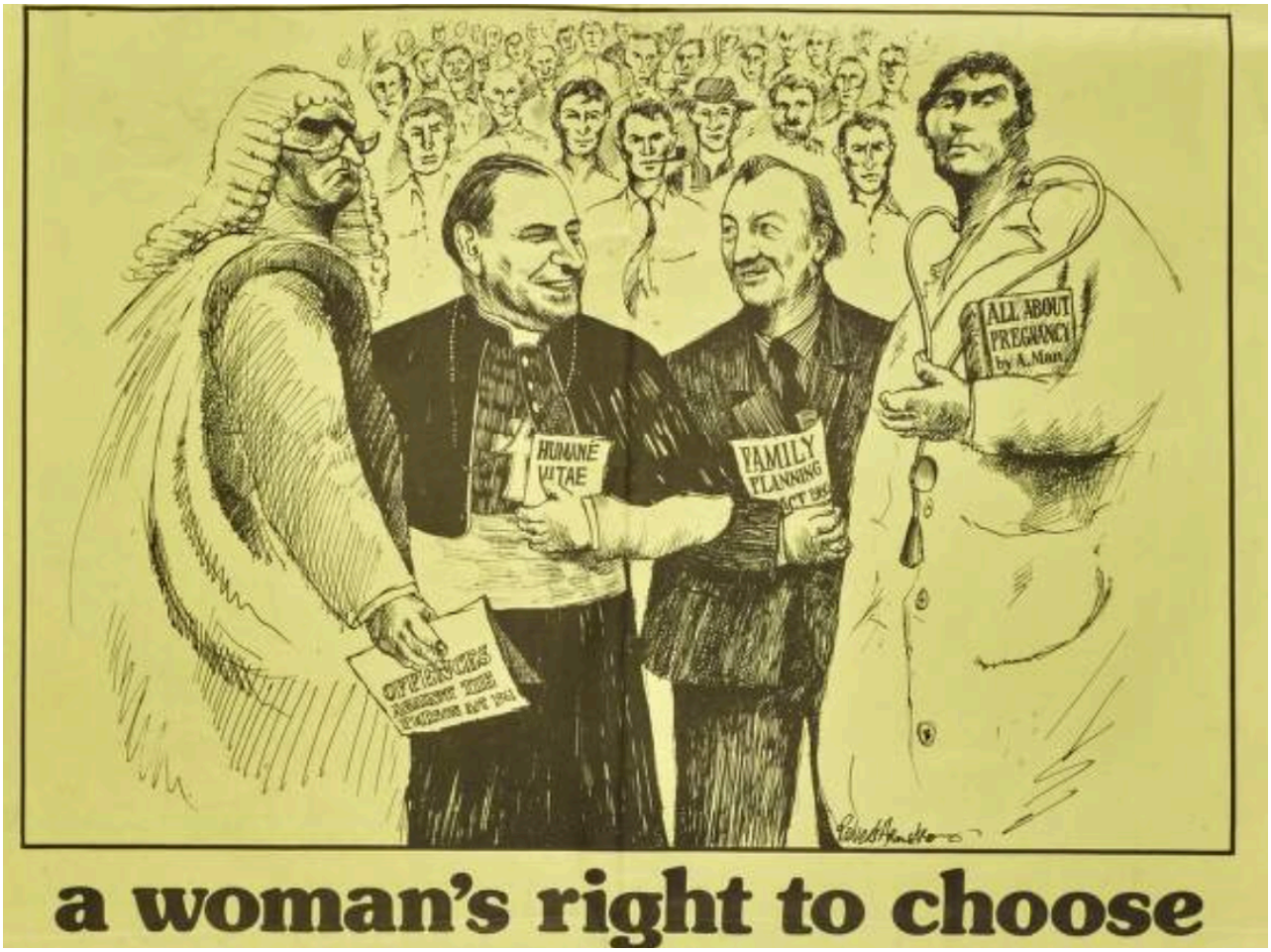


Image Introduction.2: The illustration from the Irish Women's Right to Choose Group's 1981 calendar.[7]

[7] Robert Armstrong for the Irish Women's Right to Choose Group, 'A woman's Right to Choose' (1981) < https://catalogue.nli.ie/Record/vtls000749875 > accessed 12 July 2023.



Vote No. No. No.

Referendum No. 2 INFORMATION

Advertising

If you vote for this . . .
English abortion clinics will advertise here in Ireland
You will be looking at huge advertisements

1. **On television.**
2. **In newspapers.**
3. **In magazines.**
4. **On hoardings, in the streets, bus stops, etc.**
5. **Agents for clinics touting here for customers.**

Dr. John O'Connell, Minister for Health, has stated that all such advertising will be allowed.

REAL INFORMATION

What they don't tell women:

1. Abortion is murder.
2. Abortion is a dangerous and unnatural surgical intervention which has caused the deaths of thousands of women.
3. Abortion causes:
   - **(a)Perforation of the uterus.**
   - **(b) Haemorrhage.**
   - **(c) Sepsis - severe infection.**
   - **(d) Ectopic Pregnancy.**
   - **(e) Sterility.**
   - **(f) Death.**

Image Introduction.3: Leaflet advocating for a 'no' vote on the Fourteenth Amendment from Youth Defence and the Pro-Life Movement.[8]

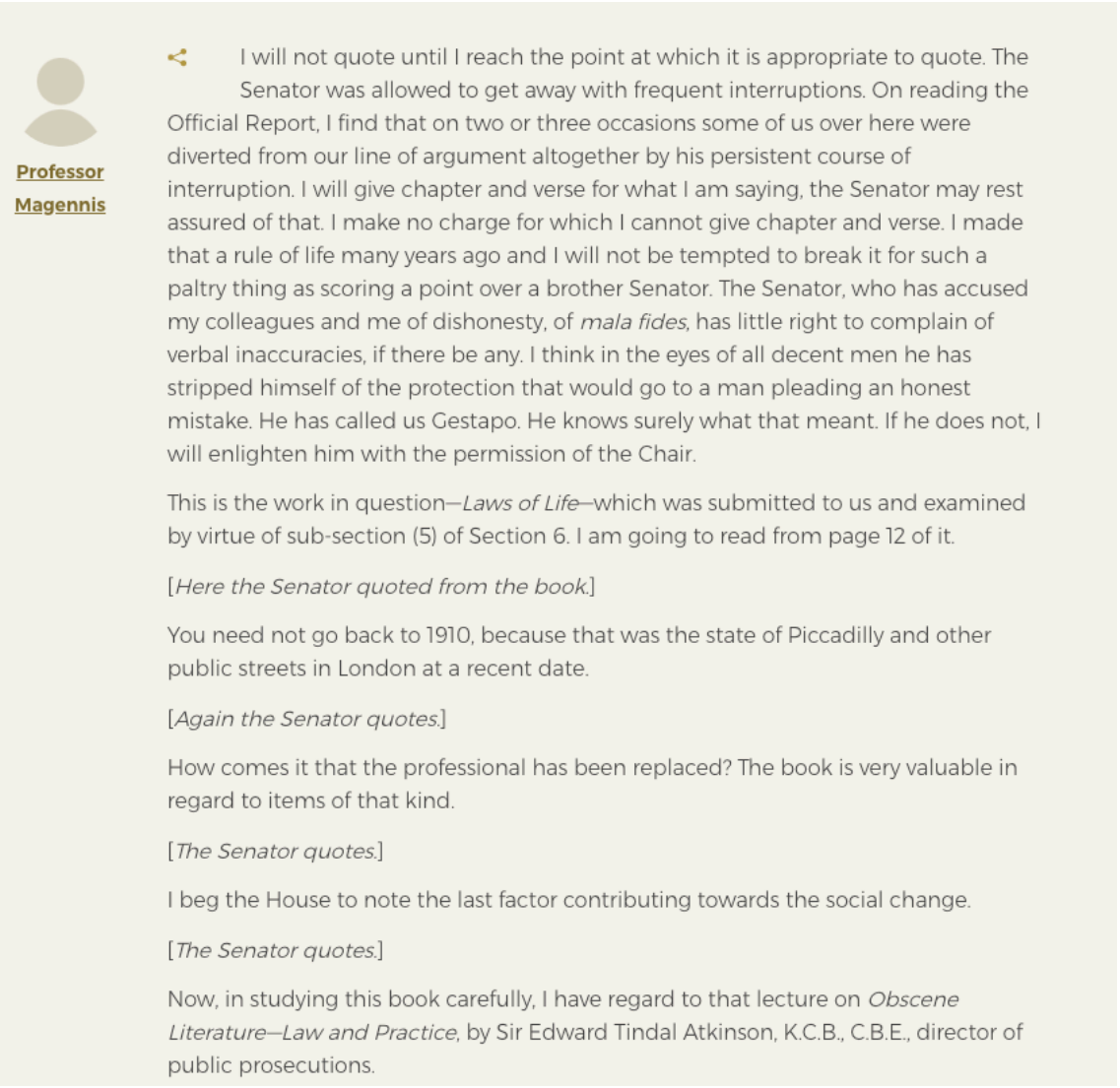
These two images depict some aspects of abortion information regulation that I analyse in this thesis. As Inglis recounted, information controls in Ireland were designed by the State in a deliberate way and had specific purposes.[9] Abortion elimination or reduction was, I believe, the primary driver of the restrictive legislative framework regulating abortion in Ireland. The images above reflect important ideological elements behind that control and its failure. They show that concepts of what information encompassed were contentious, as were decisions about who gets to decide the boundaries of

[8] Youth Defence/Pro-Life Movement, 'Abortion Kills Women and Children' (1992) < https://irishelectionliterature.com/2012/11/18/1992-referendum-leaflet-from-youth-defence-pro-life-movement-urging-a-no-vote-against-travel-information-and-abortion/ > accessed 19 October 2023.
[9] Tom Inglis, 'Origins and Legacies of Irish Prudery: Sexuality and Social Control in Modern Ireland' (2005) 40(3&4) Éire/Ireland 9, 10.

permissibility around information-sharing. I needed to incorporate both censorship support and resistance into my research questions to gain a deeper insight into the dynamics of abortion information suppression and mandates in Ireland. My final research questions were as follows:

1. What abortion information was targeted for restriction by key anti-abortion actors in Ireland, and why did they think this was necessary?
2. What information did anti-abortion proponents believe should be mandated, and why did they think this was necessary?
3. Why did key pro-choice or anti-censorship campaigners contest these framings, and what strategies did they use to oppose or subvert anti-abortion information controls?

Methods and Methodology



Professor Magennis

I will not quote until I reach the point at which it is appropriate to quote. The Senator was allowed to get away with frequent interruptions. On reading the Official Report, I find that on two or three occasions some of us over here were diverted from our line of argument altogether by his persistent course of interruption. I will give chapter and verse for what I am saying, the Senator may rest assured of that. I make no charge for which I cannot give chapter and verse. I made that a rule of life many years ago and I will not be tempted to break it for such a paltry thing as scoring a point over a brother Senator. The Senator, who has accused my colleagues and me of dishonesty, of *mala fides*, has little right to complain of verbal inaccuracies, if there be any. I think in the eyes of all decent men he has stripped himself of the protection that would go to a man pleading an honest mistake. He has called us Gestapo. He knows surely what that meant. If he does not, I will enlighten him with the permission of the Chair.

This is the work in question—*Laws of Life*—which was submitted to us and examined by virtue of sub-section (5) of Section 6. I am going to read from page 12 of it.

[*Here the Senator quoted from the book.*]

You need not go back to 1910, because that was the state of Piccadilly and other public streets in London at a recent date.

[*Again the Senator quotes.*]

How comes it that the professional has been replaced? The book is very valuable in regard to items of that kind.

[*The Senator quotes.*]

I beg the House to note the last factor contributing towards the social change.

[*The Senator quotes.*]

Now, in studying this book carefully, I have regard to that lecture on *Obscene Literature—Law and Practice*, by Sir Edward Tindal Atkinson, K.C.B., C.B.E., director of public prosecutions.

Image Introduction.4: The transcript of a 1942 Seanad debate where excerpts from prohibited publications were censored.[10]

[10] *The Laws of Life* by Halliday Sutherland was prohibited for being indecent or obscene by the Censorship of Publications Board in 1941 due to Sutherland's discussion of the 'the safe period' to prevent pregnancy. This section was taken from a debate in Seanad Éireann debate, Wednesday 2 December 1942, vol 27, no 2. The rest of the debate took place in Seanad Éireann debate, Wednesday 9 December 1942, vol 27, no 4 and Seanad Éireann debate, Wednesday 18 November 1942, vol 27, no 1.

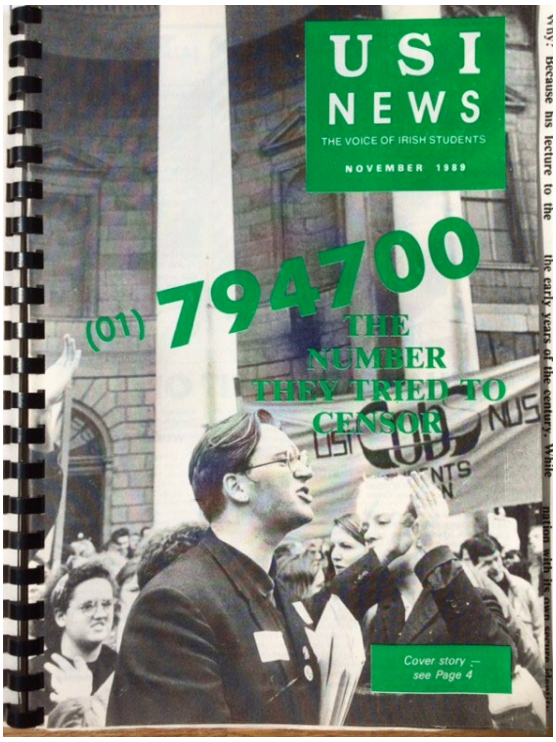


Image Introduction.5: USI's 1989 response to SPUC attempting to stop them from publishing the number of the WIN.[11]

These two images show the range of sources (time-period, actors, archives etc.) available to me when I decided how to address my research questions. I adopted what Reidy referred to as a 'longitudinal perspective' so that I could follow the iterations of various pro- and anti-censorship viewpoints when analysing how information regulations were constructed and enforced.[12] I chose to begin collecting data from the *Report of the Committee on Evil Literature* (1927) as it laid the foundations for a paternalistic approach to information control that opposed both abortion and contraception.[13] I ended with the Health (Regulation of Termination of Pregnancy) Act 2018 where I considered how decades of anti-abortion information regulations impacted the transformative

[11] USI, *USI News: the voice of Irish students* (USI November 1989). Reproduced with permission of the photographer/owner of the magazine.
[12] Theresa Reidy, 'Abortion referendums in Ireland' in Stanley D. Brunn and Roland Kehrein (Eds.) *Handbook of the changing world language map* (Springer International Publishing, 2020) 2311, 3.
[13] In Chapter One, I address the prosecution of referral agents under the Offences Against the Persons Act 1861 but I did not analyse the contemporary debates. See p. 88-89.

potential of this reform.[14] Taking such a long-term view allowed me to make connections between moments of law-making and enforcement so that I could understand the ideologies and strategies of the State and anti-abortion actors who were driven by a desire to reduce or eliminate abortions.

In the first three chapters, I outlined hanti-abortion efforts to control abortion information. Anti-abortion law-making was the dominant approach for most of the period of this thesis. As the law is, to borrow the framing of Robinson, 'a hidden infrastructure' that shapes society and how we live our lives, I needed to have a foundational understanding of what information anti-abortion actors regarded as necessitating legal interventions.[15] Exploring this legislative history allowed me to identify areas of connection and conflict around and within concepts of what abortion information was, and how the law should be instrumentalised by the State to achieve abortion minimisation goals. This history was important as Davies argued the law can influence what people regard as truth.[16] With proponents of non-directive or pro-choice information suppression claiming they were vital to protect vulnerable subjects and reflected objective moral standards, considering the role of law in establishing and maintaining these justifications was vital to addressing my research questions. The insights that I gained during this analysis facilitated me to consider post-2018 concepts of ideal information regulation briefly.[17]

[14] See the Conclusion chapter for a summary of post-2018 developments.
[15] Mary Robinson, 'Women and the Law in Ireland' (1988) 11(4) Women's Studies International Forum, 351.
[16] Margaret Davies, 'Law's truths and the truth about law: interdisciplinary refractions' in Margaret Davies and Vanessa E. Munro (Eds.) *The Ashgate research companion to feminist legal theory* (Routledge 2016) 70.
[17] For a discussion of the importance of considering historical cases in legal history research see Mary Jane Mossman, 'Feminism and legal method : the difference it makes' (1986) 3(3) Australian Journal of Law and Society, 30-52; See the Conclusion chapter for a summary of post-2018 developments.

I began my analysis with a doctrinal, black-letter consideration of legal instruments: the Constitution, legislation, statutory instruments, treaties, and case law. Doctrinal analysis involves, as detailed by van Boom, Desmet and Mascini, using 'logical deduction, inference and normative claims' to explore the philosophical foundations of law, internal logics, and ways of knowing and thinking.[18] This approach assists researchers in describing and unpacking the meanings of words and concepts from a 'top-down' perspective.[19] The benefit of doctrinal research is that it can show normative understandings of how the role of law and justice operate and how people see the role of law in society.[20] For example, Hunter argued that judges write their decisions to be persuasive, so often appeal to legal and societal norms.[21] When addressing my first four research questions such an exploration was critical as censorship was often framed by those discussing it as a system created and enforced by State actors.[22] I also chose to consider the use of law in the information suppression strategies of anti-abortion campaigners and how State actors supported this. I centred my analysis on legal controls on the areas primarily targeted by these legal actors: prohibitions on the advocation of abortion in publications and advertising, restrictions on referrals, and mandatory information-sharing in crisis pregnancy counselling. Engaging with the law in this way allowed me to consider how legal reasoning is never, as described by Bartlett,

[18] Willem H. van Boom, Pieter Desmet and Peter Mascini, 'Empirical legal research: charting the terrain' in Willem H. van Boom, Pieter Desmet, and Peter Mascini (Eds.) *Empirical Legal Research in Action* (Elgar online 2018) 1.
[19] Quote from Reza Banakar who described the differences between top-down legal studies and bottom-up sociological studies in 'On Socio-Legal Design' (2019) < https://ssrn.com/abstract=3463028 > accessed 1 July 2023; See Naomi Mezey on meanings in law in 'Law as Culture' in Austin Sarat and Jonathan Simon (Eds.) in *Cultural analysis, cultural studies, and the law: moving beyond legal realism* (HeinOnline Legal Classics 2003) 58.
[20] Douglas W. Wick, 'Interdisciplinary and the discipline of law' (2004) 31(2) Journal of Law and Society, 163-193.
[21] Rosemary Hunter, Feminist approaches to socio-legal studies' in Naomi Cruetzfeldt, Marc Mason, Kirsten McConnachie (Eds.) *Routledge Handbook of Socio-Legal Theory and Methods* (Routledge 2020) 260, 265, 267.
[22] Matthew Fellion and Katherine Inglis, *Censored: a literary history of subversion and control* (British Library 2017) 16.

completely detached from past law-making.[23] As I argue in this thesis, the legacies of past regulations are present in modern-day abortion regulations and adopting a doctrinal approach in the first instance allowed me to establish this.[24]

Webley described doctrinal analysis as assisting law and society researchers to get 'part way along the journey' of understanding the creation and operation of law.[25] This was applicable to my research as I would not have gained a sufficient understanding of my research questions through a doctrinal analysis alone. I wanted to understand the motivations, ideologies and strategies behind the creation and practice of law. I was also interested in the dynamics between law, culture and social practices and how these facilitated or hindered resistance. I chose to consult a broader range of sources rather than confining myself to the text of legal instruments. These sources allowed me to consider my research questions from a feminist, socio-legal standpoint.[26] The most pertinent aspect of sociolegal studies for my research questions was, as described by Nielson, the standpoint that 'meanings, ideologies, rights, conceptions of rights, law, and social relationships' are moving, evolving, contested categories.[27] Adopting this approach meant that I could critically engage with my area of research to gain a deeper understanding of law-making, law-enforcement, how law was used by various actors as

[23] Katharine T. Bartlett, 'Feminist legal methods' (1990) 103(4) Harvard Law Review, 855.
[24] See the Conclusion chapter for a summary of post-2018 developments.
[25] Lisa Webley, 'The *why* and *how to* of conducting a socio-legal empirical research project' in Naomi Cruetzfeldt, Marc Mason, Kirsten McConnachie (Eds.) *Routledge Handbook of Socio-Legal Theory and Methods* (Routledge 2020) 59.
[26] See Alan Bradshaw on debates around the benefits of using a range of sources in addition to legal analysis in 'Sense and sensibility: debates and developments in socio-legal research methods' in Philip A. Thomas (Ed.) *Socio-Legal Studies* (Dartmouth 1997) 99-100.
[27] Laura Beth Nielsen, 'The work of rights and the work rights do: a critical empirical approach' in Austin Sarat (Ed.) *The Blackwell companion to law and society* (Blackwell publishing 2004) 68.

a tool of inclusion/exclusion for certain classes of legal subject, and the law's impact on social change.[28]

My next analysis stage involved incorporating a wider diversity of documents as sources. I did so firstly, for pragmatic reasons, as when I was collecting data, the law surrounding abortion information in Ireland was in flux.[29] Documents can be a stable source of information for analysis. Secondly, to quote Riles, documents can be 'paradigmatic artifacts of modern knowledge practices'.[30] They can give insights into various iterations of law and how and why was law developed as it was. To gain as much benefit from this approach as I could, where possible, I opted for primary sources like verbatim debates and archival documents.[31] The use of incorporating official records is that they can expose how the State framed power,[32] they can be indicative of broader societal perspectives,[33] and can demystify law-making processes.[34] Documents can, as described by Nic Shuibhne, allow the researcher to be in 'in the room' or to 'time travel' to when these decisions were made.[35] As I chose to engage with a range of legal

[28] See Harriet Samuels on the relationship between law and social change in 'Feminist legal theory' in Reza Banakar and Max Travers (Eds.) in *Law and Social Theory* (Bloomsbury 2013) 129.
[29] The Thirty-Sixth Amendment and Health (Regulation of Termination of Pregnancy) Act -both passed in 2018 – expanded the grounds upon which people could access abortion in Ireland. See Appendix 3 for a full timeline.
[30] Annelise Riles, 'Introduction: In Response' in Annelise Riles (Ed.) *Documents: artifacts of modern knowledge* (University of Michigan Press 2006) 2.
[31] For example, I used Oireachtas debates and the Department of Justice archives. See Appendices 1 and 2.
[32] Lizzie Seal and Alexa Neale, 'Encountering the archive: researching race, racialisation and the death penalty in England and Wales, 1900-65' in Naomi Cruetzfeldt, Marc Mason, Kirsten McConnachie (Eds.) *Routledge Handbook of Socio-Legal Theory and Methods* (Routledge 2020) 290.
[33] Sally Sheldon, *Beyond Control: Medical Power and Abortion Law* (Pluto 1997) 34; See also Rosemary Hunter on how feminist methods use 'contextual or 'social framework'' materials. In *Hunter* (n 21).
[34] Kitty Calavita, *Invitation to Law and Society: An Introduction to the Study of Real Law* (University of Chicago Press 2010) 7.
[35] Niamh Nic Shuibhne, 'The Benefits of Time Travel: Harnessing the Potential of the Historical Archives of the Court of Justice for Legal Research' (2021) 6(2) European Papers, 935.

events that took place over decades, adopting this approach was a necessity for me to explore my research questions fully.

Scholars have warned against relying solely upon official sources for data. To do so risks a shallow or incomplete analysis. Records are often incomplete,[36] and they can reflect particular framings of State power.[37] In legal research this can be problematic as, to quote Smart, law sometimes 'resists and disqualifies alternative accounts of social reality'.[38] To resist what Seal and Neale described as the 'seductive allure' of the official archive as 'real' history, I incorporated sources from non-State actors into my analysis.[39] As Banakar remarked, law is 'de facto generated through social practices and how it operates as a social system' so it was vital for me to consider the framings, opinions and strategies of these legal subjects when considering the creation and operation of abortion information restrictions.[40] The sources that I drew from included published interviews, published writings, and ephemera.[41] The benefit of this research strategy was that I could consider the reasons that people used for their support for, or objections to, information restrictions, and how the law was purposed as a result.[42] They

[36] James Kelly, 'The Operation of the Censorship of Publications Board: The Notebooks of C. J. O'Reilly, 1951-55' (2004) 38 Analecta Hibernica, 223-369; Peter Martin, 'Censorship in the Two Irelands 1922-1939' (PhD thesis, Trinity College Dublin 2002) 273.
[37] *Seal and Neale* (n 32) 289-300.
[38] Carol Smart, *Feminism and the power of law* (Taylor and Frances Group 1989) 4.
[39] *Seal and Neale* (n 32) 291.
[40] Quote from *Banakar* (n 19) 2; See also Roger Cotterrell and Austin D. Sarat, *Law, Culture and Society : Legal Ideas in the Mirror of Social Theory* (Taylor and Frances 2006) 1; Katherine O'Donovan, 'Fem-legal and socio-legal: an incompatible relationship?' in Philip A. Thomas (Ed.) *Socio-Legal Studies* (Dartmouth 1997) 135; *Calavita* (n 34) 12; *Mezey* (n 19) 37.
[41] For interviews I relied primarily upon *The Irish Times* as it was identified by Irish censorship researchers as the publication most likely to discuss censorship from a range of diverse perspectives. See Michael Adams, *Censorship: the Irish Experience* (University of Alabama 1968) 40-42; Lisa Smyth, *Abortion and Nation: The Politics of Reproduction in Contemporary Ireland* (Routledge 2005); *Martin* (n 36); I have not included a full list of sources due to the volume of materials analysed.
[42] *Bradshaw* (n 26) 99-100; *Fellion and Inglis* (n 22) 17; *Nielsen* (n 27).

also allowed me to question official claims around knowledge, culture and memory.[43] This was important as I wanted to consider how anti-abortion ideologies were created and sustained through information regulations.

There is no specific analytic approach mandated by critical, feminist or socio-legal philosophies.[44] I knew that due to my interest in the ideologies and iterations of censorship and resistance, a statistical or quantitative approach alone would not be sufficient.[45] I chose qualitative methods as, to quote Davies, researchers can engage in qualitative explorations to 'counteract myths and stereotypes and to illustrate the falsity or partiality of certain social narratives uncritically imported into law'.[46] It can dispel the idea that legal instruments or actors are 'neutral and objective'.[47] Due to its focus on 'meaning-making' and storytelling, I chose to analyse my data using reflexive thematic analysis (RTC).[48] RTC is suited for exploratory socio-legal analysis as it does not make specific claims about the existence of an objective 'truth'.[49] It is a flexible method and this was necessary as I was researching during a time of change for abortion and information regulations.[50] I could begin my analysis without a pre-selected theoretical framework so that I could remain open to the various critical interpretive possibilities for

[43] The benefits of including non-State accounts in research has been discussed by Patti Lather, 'Postbook: Working the Ruins of Feminist Ethnography' (2001) 27(1) Signs 199; *Mezey* (n 19) 58; *Seal and Neal* (n 37).
[44] Brooke Ackerly and Jacqui True, 'Reflexivity in Practice: Power and Ethics in Feminist Research on International Relations' (2008) 10, International Studies Review 693; Robert Lee, 'Socio-legal research – what's the use?' in Philip A. Thomas (Ed.) *Socio-Legal Studies* (Dartmouth 1997) 76.
[45] Adrian Howe, 'Feminist Methods and Sources in Criminology and Criminal Justice' (2016) 16(2) Legal Information Management 102.
[46] *Davies* (n 16) 71.
[47] Quote from *Samuels* (n 28) 144; See also *O'Donovan* (n 40) 131.
[48] Virginia Braun and Victoria Clarke, 'Reflecting on reflexive thematic analysis' (2019) 11(4) Qualitative research in sport, exercise and health, 591; Virginia Braun and Victoria Clarke, *Thematic analysis: a practical guide* (SAGE 2022) 6, 55.
[49] *Braun and Clarke* Ibid; For discussions on research, including socio-legal and feminist research, and rejections of the concept of a universal truth see *Davies* (n 16); *O'Donovan* (n 40); *Seal and Neal* (n 37).
[50] For a discussion of the responsiveness and adaptability RTC see *Thematic analysis: a practical guide* (n 48) 13-14; For a timeline see Appendix 3.

data analysis.[51] I did find, as van Boom, Desmet and Mascini described, that my question development, data collection, analysis, and theoretical work were 'entangled'.[52] Having an adaptable method with RTC ensured that I could work systematically, but also responsively based on my data and how I chose to interpret it.

I began my data analysis with a 'bottom-up' or intuitive/inductive approach to see what arguments I could see justifying or objecting to information controls.[53] This reflected my interest in seeing ideas and motivations behind law-making and enforcement rather than if the law was applied correctly or not. In terms of positionality, I approached my readings from the perspective that it was/is never legitimate to use information regulations to create barriers to abortion or to stigmatise, awfulise or exceptionalise abortion. By combining my three types of data sources - legal texts, archives and secondary sources– I could gain insight into the dynamics surrounding information regulation. Once I identified consistent, persistent arguments, I developed thematic groupings. From these I selected my final theoretical framework.[54] Once I had decided on the scholars and insights that reflected the dynamics that I was seeing around the creation and enforcement of the abortion information framework in Ireland, I revisited my data with a top-down analysis. This approach meant that I could examine the data from a more 'implicit' or 'conceptual' standpoint.[55] RTC is a 'recursive' method, so I could move between phases as needed when refining my framework and sources,

[51] My approach was critical as, following Braun and Clarke, I took an 'interrogative stance' towards the data by questioning the factors and meanings behind events. In *Successful qualitative research: a practical guide for beginners* (SAGE 2013) 21-26.
[52] *van Boom, Desmet and Mascini* (n 18) 9.
[53] 'Reflecting on reflexive thematic analysis' (n 48) 593; *Thematic analysis: a practical guide* (n 48) 77-78. 236.
[54] Quote from *Braun and Clarke* (n 51) 54.
[55] *Braun and Clarke* (n 51) 10, 77-78. 206-207, 270.

based on my growing understanding and knowledge of the various stages of information control.[56] Braun and Clarke who pioneered the approach described the 'analytic task' of a researcher using RTC not as describing everything in the data, but as telling a particular story.[57] Reflecting this, I had five final overarching themes. I have shaped my four substantive chapters around them: information restrictions protect vulnerable subjects, information restrictions protect the *status quo*, mandated information can protect vulnerable subjects, mandated information can preserve the anti-abortion *status quo*, and censorship ultimately undoes itself.

Theoretical framework



Image Introduction.6: A poster from Love Both urging people to vote 'no' to the Thirty-sixth Amendment.[58]

[56] There are six phases in RTC. For the full descriptions see University of Auckland, 'Doing Reflexive TA' < https://www.thematicanalysis.net/doing-reflexive-ta/ > accessed 7 August 2023.
[57] *Thematic analysis: a practical guide* (n 48) 88-90.
[58] Louis Strange, 'Photograph of 'no' poster taken in Boyle, Co. Roscommon' (*Digital Repository of Ireland* 23 May 2018) DOI: 10.7486/DRI.0287dm38n. Licence: Attribution-ShareAlike 4.0 International (CC BY-SA 4.0).

This poster from the referendum on the Thirty-sixth Amendment expressed the conviction that once people came to know what anti-abortion campaigners regarded as the truth of abortion, they would vote no to liberalisation. This message seemed jarring in the Irish context, where pro-choice or non-directive abortion information was limited by decades of criminalisation, injunctions, and stigmatisation. To consider the legacies of those information controls and why anti-abortion advocates considered them to have fallen short, I chose a dual approach to my theoretical framework. Firstly, I incorporated theoretical perspectives to illuminate why counterhegemonic and facilitative abortion information was controlled through law. I examine this in Chapters One to Three. Secondly, I added insights that accounted for why these restrictions ultimately failed to maintain an anti-abortion and pro-censorship *status quo*. I address this question in Chapter Four, and my Conclusion chapter.

Before finalising my theoretical framework, I collated a summary of the material impacts of anti-abortion information controls to identify any commonalities between censored and controlled information sources. These insights guided my choices for theoretical approaches. Information that legitimised or facilitated abortions was the primary target within legal information suppression techniques. Fellion and Inglis accounted for such interventions operating on two levels: State-enforced (formal) censorship and self- or community-based (informal) censorship.[59] In relation to formal censorship, as I discussed in Chapters One and Four, people were prosecuted and enjoined for unlawful information-sharing. I found records for 471 publications that were prohibited under the

[59] *Fellion and Inglis* (n 22).

Censorship of Publications Act 1929 and 1946 after the Minister for Justice or the Board judged them to have advocated abortion or contraception.[60] This included mainstream medical and scientific publications.[61] Eight publications remain prohibited for abortion advocation, by time of writing.[62] There were also instances of political or ideological censorship, i.e., information removal or redactions in the absence of a legal mandate. An example was the suppression of the *Carrigan* report for the committee's description of sexual crime in Ireland and their more favourable view of contraception use.[63] Anticipatory censorship was also practiced in Ireland, whereby people or organisations self-censored or limited their behaviours so that information did not come into being.[64] This practice contributed to the failure of the Mother and Child Scheme as anti-abortion advocated lobbied the government to abolish their plans to provide education to mothers in case it leads to increased information accessibility about abortion and

[60] The details of prohibited publications are published in the official State gazette *Iris Oifigiúil* and on the *Register of Prohibited Publications*. See Censorship of Publications Act 1929, ss 9 and 11 and Censorship of Publications Act 1946, ss 13 and 16.

[61] For examples see *The Nursing Mirror and Midwives Journal* for having advocated contraception or abortion (published in *Iris Oifigiúil* 13 June 1933); The prohibition of the *Royal Commission on Population Report* for having advocated contraception or abortion (published in *Iris Oifigiúil* 21 October 1949, revoked on 10 January 1950); One censor, James Desmond Smyth, even resigned from the Censorship of Publications Board as he believed they were 'depriving the public' of access to many important works, including scientific publications. In 'Censorship Board Member resigns' *The Irish Times* (Dublin, 7 July 1949) Folder no 90-102-26, 2 of 2, National Archives of Ireland.

[62] There are some discrepancies with some of the entries on the list. The *Register* lists *Make it Happy* as being prohibited for having advocated abortion. In *Iris Oifigiúil* however, none of the dates provided to me by the Secretary of the Censorship of Publications Board lead to a notice of a prohibition order based on this ground. Instead, there is a notice for *Make it Happy* on the 21 July 1983, but on the grounds of it being indecent or obscene. It remains on the *Register* at time of writing. The *Register* also lists Graham Masterton's *How to drive your man wild in bed* as being prohibited (published in *Iris Oifigiúil* 24 December 1985). When I checked *Iris Oifigiúil* however, this book was listed as having been prohibited for being indecent or obscene. Another book David Reuben's *How to get more out of sex* was listed as having been prohibited for being indecent or obscene and for advocating abortion. This seems to be more accurate as *How to drive your man wild in bed* has only one mention of abortion that is not advocative. The result of the content would probably meet the threshold for indecent or obscenity. *How to get more out of sex than you ever thought you could* has an entire chapter on abortion. Unfortunately, the Secretary of the Board was unable to clarify these discrepancies and I will follow it up post thesis submission.

[63] Lindsay Earner-Byrne, 'Reinforcing the family: The role of gender, morality and sexuality in Irish welfare policy, 1922–1944' (2008) 13 History of the Family 361; Mark Finnane, 'The Carrigan Committee of 1930-31 and the 'moral condition of the Saorstát' (2001) 32(128) Irish Historical Studies 519; James M. Smith, 'The Politics of Sexual Knowledge: The Origins of Ireland's Containment Culture and the Carrigan Report (1931)' (2004) 13(2) Journal of the History of Sexuality 208.

[64] Kieran Woodman, *Media control in Ireland 1923-1983* (Southern Illinois University Press 1985) 200, 202-203; Basil Chubb, *The government and politics of Ireland* (Sandford University Press 1982) 79.

contraception.[65] They succeeded, and the Scheme was abandoned by the government. There was a strong incentive for information sharers to avoid being linked with contested content due to, to quote Kenny J., 'the very serious implication' that being censored meant that the communicators 'had committed a criminal offence'.[66] That is why State actors like Censorship of Publications Board could apply pressure to publishers to remove potentially unlawful content before their publications reached the Irish market.[67] Building the risk for information sharers was that the Department of Justice was reticent to approve publications or advertisements in advance.[68] As I discuss in Chapter Three, this legislative approach resulted in confusion and caution among information producers and readers/listeners.[69] Some people could not access counterhegemonic information including, at points, the State's Censorship of Publications Appeal Board who had to borrow some publications from Trinity College Dublin's library.[70]

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[65] R.S. Rose 'An outline of fertility control, focusing on the element of abortion in the Republic of Ireland to 1976' (PhD Thesis University of Stockholm 1976) 24-25; Eamonn McKee, 'Church-state relations and the development of Irish health policy: the mother-and-child scheme, 1944–53' (1986) 25(98) Irish Historical Studies 171; Dermot Keogh, *Twentieth Century Ireland* (New Gill History of Ireland 2005) 216-217; Mary E. Daly, 'Marriage, Fertility and Women's Lives in Twentieth-Century Ireland (*c.* 1900- *c.* 1970)' (2006) 15(4) Women's History Review 571; Orla McDonnell and Jill Allison, 'From biopolitics to bioethics: church, state, medicine and assisted reproductive technology in Ireland' (2006) 28(6) Sociology of Health and Illness 820; Lindsey Earner-Byrne, 'Moral Prescription: The Irish Medical Profession, the Roman Catholic Church and the Prohibition of Birth Control in Twentieth-century Ireland' in Catherine Cox and Maria Luddy (Eds.) *Cultures of Care in Irish Medical History, 1750-1970* (Palgrave Macmillan 2010) 219, 221; Diarmaid Ferriter, *Occasions of Sin* (Profile 2012) 144-146; Lindsey Earner-Byrne, *Mother and child: maternity and child welfare in Dublin, 1922–60* (Manchester University Press 2013) 136; Patrick Heavey, 'The Irish Healthcare System: A Morality Tale' (2019) 28 Cambridge Quarterly of Healthcare Ethics 285.

[66] *The Irish Family Planning Association and Joan Wilson v Patrick Noel Ryan and Others* [1979] IR 295, 320. See also Higgins CJ. on the implications of censorship at 313.

[67] Catholic Truth Society of Ireland, 'Memorandum regarding suggestions for the Amendment of the Censorship of Publications Act, 1929', 1, Folder 90-102-135, National Archives of Ireland; P[eter] Boylan, W([illiam] Thrift, P.J. Keawell, W[illiam] B. Joyce, William O'Reilly [Censorship of Publications Board] 'Number recommended for prohibition on the charges of being usually and frequently indecent and of advocating the unnatural prevention of conception' [Undated] Folder no 90-102-231, 1 of 3, National Archives of Ireland; John Horgan, *Irish media: a critical history since 1922* (Routledge 2001) 173; *Martin* (n 36) 281; *Daly* (65) 575.

[68] *Adams* (n 41) 177.

[69] See correspondence in Folder no 50,132-2-6, Folder no 50,132-5, Folder no 90-102-139, Folder no 90-102-12 Folder 1 of 2, National Library of Ireland.

[70] They had to borrow some publications from the library in Trinity College Dublin. The library had these copies as they had been granted a permit to import and keep certain prohibited publications by the Minister for Justice. See

The enshrining of the Eighth Amendment to the Constitution in 1983 led to a stringent era of censorship.[71] The 1861, 1929 and 1946 Acts were all active, but as I discuss in Chapter Four complaints and prosecutions were infrequent.[72] Conversely, as I detailed in Chapter One, the foetal right to life provision of the Eighth Amendment was interpreted by the Irish courts in way that curtailed lawful non-directive crisis-pregnancy counselling and referrals to abortion services abroad.[73] This had a ripple-effect with the Censorship of Publications Board – who had undergone a quiet period since the Irish courts had overturned one of their decisions – threatening to prohibit publications if they did not remove information about British abortion services.[74] In this hostile information environment public organisations like Dublin Public Libraries and FÁS, ceased to disseminate information about British abortion services.[75] Even the national

Correspondence about the lending of publications from Trinity College Dublin to the Censorship of Publications Appeal Board in Folder no 90-102-10, National Archives of Ireland.

[71] The Eighth Amendment became Article 40.3.3° and it 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.'

[72] I found no records of publications that were prohibited on the grounds of advocation of abortion in *Iris Oifigiúil* or in the *Register of Prohibited Publications* from 1974-1982, in 1984, from 1986-1989, and from 1991. For discussions of issues around prosecutions see p. 344-347.

[73] Well Woman ceased providing non-directive counselling and Open Door Counselling shut down after being enjoined in *Attorney General (at the relation of The Society for the Protection of Unborn Children) v Open Door Counselling Limited and Dublin Wellwoman Centre Limited* [1988] IR 593; See Lorna Siggins 'Closed Line' *The Irish Times* (Dublin, 9 January 1987) 11; Ruth Riddick, *Making Choices: The Abortion Experience of Irish Women* (O.D.C. Ltd 1988); Michael Goldhaber, *A People's History of the European Court of Human Rights : A People's History of the European Court of Human Rights* (Rutgers University Press 2007) 27.

[74] For *Cosmopolitan* magazine see 'Injunction may affect British magazines' *The Irish Times* (Dublin, 21 December 1989) 8; Editor, 'Editor's reply' in *Cosmopolitan* (London June 1990) 236; Mary Cummins, 'Abortion adverts blanked out in magazine' *The Irish Times* (Dublin, 3 September 1992) 6; June McPherson (Marie Stopes press officer) in Colin Francome, *If you ever go across the sea to England: a study of 200 Irish women travelling for their abortions* (Middlesex Polytechnic Health Research Centre 1991); Elizabeth Porter, 'Culture, community and responsibilities: abortion in Ireland' (1996) 30(2) Sociology 283; For *Company Magazine* see Mike Burns, 'Abortion articles removed' *RTÉ Archives* (Dublin, 5 February 1990) < https://www.rte.ie/archives/collections/news/21391002-abortion-articles-removed/ > accessed 23 October 2023.

[75] For Dublin Public Libraries removing of *Our Bodies, Ourselves* and Miriam Stoppard's *Everywoman's Lifeguide* from their libraries see Lorna Siggins, 'Libraries withdraw guide for women' *The Irish Times* (Dublin, 1 October 1991) 2; Victoria White, 'Will the British Phone Books be next?' *The Irish Times* (Dublin, 17 February 1992) 11; 'Book ban remains' *The Irish Times* (Dublin, 12 November 1991) 2; Mary Freehill, 'Women's health books back in Dublin public libraries' *The Irish Times* (Dublin, 18 February 1993) 13; Emily O'Reilly, *Masterminds of the Right* (Attic Press, 1997) 119; Ann Rossiter, *Ireland's Hidden Diaspora: The Abortion Trail and the Making of a London-Irish Underground* (IASC Publishing 2009) Location 1578; For FÁS (Ireland's national employment and training agency) see 'Guide altered on abortion' *The Irish Times* (Dublin, 11 April 1989) 8.

broadcaster, RTÉ, had a complaint upheld against them by the Broadcast Complaints commission due to an interview with pro-choice advocates.[76] The Gardaí investigated pro-choice and anti-censorship organisations and sometimes they confiscated their campaign materials.[77] The Cork Abortion Information Campaign described this period of censorship as casting the 'spectre of illegality' over a vast swathe of counterhegemonic information-sharing.[78]

The benefit for the State of encouraging or acquiescing to informal or self-censorship is that it does not have to be enforced by State actors.[79] People self-police, or non-state actors police others. The State could then claim that information suppression reflected the values of the community or was a pragmatic commercial decision.[80] Pressure for potential information sharers to conform to claimed norms around sexuality and

[76] Gene Kerrigan, 'The Moral civil war' Magill (Dublin, 31 August 1983); Hilary Dully, 'Balance, binary debate and missing women: a discourse analysis and creative response to 30 years of the abortion debate on RTÉ current affairs television, 1983-2013' (PhD thesis, National University of Ireland, Galway 2016) 54; *Riddick* (n 73) 2.
[77] For examples see the students' unions in 'Leader prepared to go to jail' *The Irish Times* (Dublin, 8 August 1992) 4; For feminist and pro-choice campaigners see Padraig Yates, ''Abortion' leaflets seized in raid' *The Irish Times* (Dublin, 5 March 1992) 5; Geraldine Kennedy and Maol Muire Tynan, ''Guardian' held on legal advice – Easons' *The Irish Times* (Dublin, 22 May 1992) 1; Ailbhe Smyth, 'Living in a police state' in *Trouble & Strife: The Radical Feminist Magazine* (Trouble and Strife 1992) 5, 7; For the Irish Crisis Pregnancy Counselling Centre see Mary Gordon, 'Fighting for Control - the ongoing struggle for reproductive rights' (1984) The Irish Feminist Review 7; For the WIN see 'DPP gets file on Women's Network' *The Irish Times* (Dublin, 28 April 1994) 19; For Radio Pirate Woman see Margaretta D'Arcy, *Galway's Pirate Women: a global trawl* (Women's Pirate Press 1996); For 98FM see Geraldine Kennedy and Colm Boland, 'De Rossa pledges to repeat phone numbers of clinics' *The Irish Times* (Dublin, 23 May 1992) 1.
[78] Cork Abortion Information Campaign, *Censored: Ireland's Abortion Reality* [Cork Abortion Information Campaign, 1991] 7.
[79] Helen Freshwater, 'Towards a redefinition of censorship' in Beate Muller (Ed.) *Censorship and cultural regulation in the modern age* (Brill 2004) 217; Donal Ó'Drisceoil, ''The best banned in the land': Censorship and Irish Writing since 1950' (2005) 35 The Yearbook of English Studies 139, 151; *Fellion and Inglis* (n 22) 207.
[80] For examples of State wanting commercial operators to self-censor or to regulate themselves see Thomas J. Coyne (Department of Justice) 'Letter to Mr Berry regarding resource issues' (19 November 1953) Folder no 90-102-233, National Archives of Ireland; Thomas J. Coyne (Department of Justice) 'Memo for the Minister regarding *The Observer* incident' (6 April 1956) Folder no 90-102-139, 2 of 3, National Archives of Ireland; Brian MacMahon, 'Letter to Secretary of the Department of Justice from the Censorship of Publications Board' (6 April 1956) (1) Folder no 90-102-139, 2 of 3, National Archives of Ireland; See also the comments of Taoiseach Albert Reynolds (Fianna Fáil) about the decision of Easons not to distribute *The Guardian* in Mark Little, 'Newspaper pulled over Abortion Services Ad 1992' *RTÉ Archives* (Dublin, 20 May 1992) < https://www.rte.ie/archives/2017/0518/876228-guardian-newspaper-withheld-from-sale/ > accessed 11 February 2023.

reproduction came from the Catholic clergy,[81] lay organisations,[82] vigilance groups,[83] campaign groups,[84] professional organisations and publications,[85] advertisers,[86] and politicians.[87] Insurance companies,[88] advertisers,[89] distributors,[90] and printers,[91] adhered to the law closely to avoid legal penalties. An apt description of such dynamics came from the Irish Retail Newsagents' Booksellers' and Stationers' Association who defended a distributor's decision not to circulate an edition of *The Observer* newspaper containing an article advocating contraception. The Association's members were doing 'the best they could to protect themselves' in an environment that criminalised the

[81] Tom Inglis, *The moral monopoly: the rise and fall of the Catholic Church in modern Ireland* (University College Dublin Press 1998) 74-75; Anthony Keating, 'Setting the agenda for the press: the 1929 case against the *Waterford Standard*' (2012) 16 New Hibernia Review 2, 24; Anthony Keating, 'The Uses and Abuses of Censorship: God, Ireland and the Battle to Extend Censorship Post 1929' (2014) 9 Estudios Irlandeses 67, 69.
[82] Donal Ó'Drisceoil, 'A Dark Chapter: Censorship and the Irish Writer' in Clare Hutton *The Oxford History of the Irish Book, Volume V: The Irish Book in English, 1891-2000* (Oxford University Press 2011) 285, 287; *The Uses and Abuses* Ibid; *Adams* (n 41) 67.
[83] For early pro-censorship vigilance group activities see R.S. Devane 'Indecent Literature: Some Legal Remedies' (1925) XXV Irish Ecclesiastical Record 182, 185-187; WB Yeats, 'The Irish Censorship' *The Spectator* (London, 29 September 1928) 391; D[aniel] C[ostigan] (Department of Justice) 'Letter to assistant secretary regarding the enforcement of the Censorship of Publications Acts' (14 May 1948) Folder no 90-102-233, National Archives of Ireland; John Horgan, 'Saving us from Ourselves: Contraception, Censorship and the 'Evil Literature' Controversy of 1926' (1995) 5 Irish Communications Review 61, 62; *Adams* (n 41) 15, 37, 173; *Kerrigan* (n 76); *Martin* (n 36) 107, 124, 314-315.
[84] For SPUC see John Connolly, 'Student body to seek advice on providing information' *The Irish Times* (Dublin, 11 March 1997) 4.
[85] See for example the Pharmaceutical Society of Ireland and journals who advertised contraceptives discussed in Sandra Larmour, *Aspects of the State and Female Sexuality in the Irish Free State* (PhD thesis University College Cork 1998) 225-226; Ann Daly, ''Veiled obscenity': contraception and the Dublin Medical Press, 1850–1900' in Elaine Farrell (Ed.) *She was in the family way: pregnancy* (School of Advanced Study, University of London 2012) 15, 30-31.
[86] Catherine Cleary, ''Tribune' advertiser protests at Marie Stopes ad' *The Irish Times* (Dublin, 9 March 1995) 8; Ailbhe Smyth, 'The Politics of Abortion in a Police State' in Ailbhe Smyth, *The Abortion Papers: Ireland* (Attic 1992) 138 and *Smyth* (n 77) 141.
[87] Maurice Walsh, 'Ryan wants ban on medical magazine' *The Irish Times* (Dublin, 10 January 1981) 6.
[88] See Senator Mary Henry (Independent) on the advice of the Medical Defence Union in Seanad Éireann debate, Tuesday 14 March 1995 vol 142, no 8.
[89] Reproductive Choices (family planning advice service) was refused space to advertise in phone books due concerns of the legality of their links to Marie Stopes. See Kitty Holland, 'Golden pages refuses family planning ad' *The Irish Times* (Dublin, 2 May 2003) 3.
[90] For *Company* magazine's distributor refusing to carry if it had abortion content see Carol Coulter, 'Students set up fund to help pay cost of SPUC case' *The Irish Times* (Dublin, 6 March 1990) 9; For Easons and *The Guardian* see p. 346.
[91] See the experience of the Cork Abortion Information Campaign see Mary Muldowney, 'Breaking the silence: pro-choice activism in Ireland since 1983' in Jennifer Redmond, Sonja Tiernan, Sandra McAvoy, Mary McAuliffe (Eds.) *Sexual politics in modern Ireland* (Irish Academic Press 2015) 127, 133; Radio Pirate Woman in *D'Arcy* (n 77); For the printers of the students unions see p. 146-149 and 324.

creation and circulation of contested content.[92] The passing of the Eighth Amendment and 1995 Act created even more opportunities for non-State actors to apply pressure to information sharers through the threat of 'sting' operations. This potential resulted in information sharers being guarded and cautious.[93] Compounding this, as I discuss in Chapter Four, was that it was not always clear where the boundaries of lawful information-sharing lay.[94] In this atmosphere I found records of libraries refusing to stock certain publications or to loan books without a permit from the Department of Justice,[95] distributors and retailers refusing to handle publications or only providing them for approved audiences,[96] the press creating specific Irish editions with content removed,[97]

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[92] See 'No further moves' The Irish Times, (Dublin 7th April 1956); For more information about *The Observer Incident* see the correspondence in Folder no 90-102-139 (2 of 3) National Archives of Ireland; 'Ronald Mortished Papers' MS 50,132/5, National Library of Ireland; Articles in Folder no 90-102-139, 2 of 3 and Folder no 90-102-233, National Archives of Ireland; *Adams* (n 41) 119, 140-145.

[93] See the *Mellet* and *Whelan* cases discussed at p. 364.

[94] Catherine Cleary, 'Number seeking abortions in UK was highest so far' *The Irish Times* (Dublin, 17 January 1995) 2; Council for the Status of Women in Maol Muire Tynan and Carol Coulter, 'Abortion critics, supporters assail information Bill' *The Irish Times* (Dublin, 24 February 1995) 7; Paul Cullen, 'Civil rights, women's groups warn on abortion Bill impact' *The Irish Times* (Dublin, 28 February 1995) 3; Greg Kelly (GP and Western Health Board member) in 'Health Board Members condemn Bill but no formal vote taken' *The Irish Times* (Dublin, 14 March 1995) 6; Ruth Fletcher, Richie Keane, Mark Murphy, Veronica O'Keane, *Doctors for Choice Ireland: Submission to the United Nations Human Rights Committee for Ireland's review under the International Covenant on Civil and Political Rights* (12 June 2014) 22-24; Sean Daly (Coombe Maternity Hospital Master) in All-Party Oireachtas Committee on the Constitution, *Fifth Progress Report: Abortion* (Stationary Office 2000) A113; Saoirse Nic Gabhainn and Vivienne Batt prepared by Maureen Gilbert, *Crisis Pregnancy Counselling in Ireland*, (Crisis Pregnancy Agency, July 2004) Report no 4, 8; Amnesty International, *She is Not a Criminal* (Amnesty International 2005), 69.

[95] Thomas A. Murphy, *The Literature Crusade in Ireland* (Munster Printing Works, 1912); 186-187; 'Civil Liberty Association Challenges Ex-Chairman' (7 December 1957) Folder no 90-102-142, 2 of 2, National Archives of Ireland; Department of Justice, 'Memo for the Government' (June 1939) Folder 30-102-135, National Archives of Ireland; 'Michael Joe in Judgment' *Western People* (14 January 1967) Folder no 90-102-142, 1 of 2; National Archives of Ireland; Julia Carlson, *Banned in Ireland: censorship and the Irish writer* (University of Georgia Press 1990) 11-12; For examples of the British Medical Association asking their members in Ireland to have import permits before they would send them books see Reverend Henry Gaffney, 'Letter requesting a permit for importation to the Department of Justice' (25 February 1957) Folder no 90-102-8, National Archives of Ireland; Department of Justice, 'Memo for the Government' (June 1939) Folder 30-102-135, National Archives of Ireland; For an example of a book (*Before the Baby and Afte*r) with an Irish co-author not sold in Ireland due to its content about contraception see Michael Solomons, *Pro Life? The Irish Question* (Lilliput Press 1992) (7); For general discussion see Irish Times Reporter, 'Long list of banned books predicted' *The Irish Times* (Dublin, 12 December 1956) Folder no 90-102-140, 1 of 4, National Archives of Ireland; *Ó'Drisceoil* (n 79); 151; *Adams* (n 41) 173; *Devane* (n 83); *Martin* (n 36).

[96] For Easons (who had a near monopoly in Ireland) refusing to handle or display certain contentious publications see *Ó'Drisceoil* (n 82) 287-288; *Martin* (n 36) 281.

[97] Kathleen Corrigan, 'The facts of life for Irish women' *Cosmopolitan* (London, June 1990) 8-10; Ed O'Loughlin, 'Pragmatic view on abortion ads' *The Irish Times* (Dublin, 22 May 1992) 7; Sandra McAvoy, 'Its effect on public morality is vicious in the extreme': defining birth control as obscene and unethical, 1926–32' in Elaine Farrell (Ed.) *She was in the Family Way* (School of Advanced Study, University of London 2012) 35, 50; *Adams* (n 41) 185; *Burns* (n 74); *O'Reilly* (n 75) 119; *Waterford Standard* (n 81).

the media refusing or delaying the broadcast of shows that did not support the anti-abortion consensus,[98] the news not naming or covering pro-choice activism or information-sharing,[99] and people refusing to name abortion medications in public.[100] People were even afraid to argue against censorship or anti-abortion positions due to the risk of backlash from those who supported it.[101] For example by 1980, the only Irish publication advocating for a pro-choice position was the Irish Women's Right to Choose Group's *Abortion: a choice for Irish women*.[102] These acts of information removal and foreclosed creation were due to creators or distributors either agreeing with a pro-

[98] The documentary was *50,000 Secret Journeys*. It was eventually shown alongside a panel discussion that included anti-abortion proponents to 'balance' the interviews with those who had accessed abortions abroad and did not regret doing so. See Hilary Dully, 'Balance, binary debate and missing women: a discourse analysis and creative response to 30 years of the abortion debate on RTÉ current affairs television, 1983-2013' (PhD thesis, National University of Ireland, Galway 2016) 52-55; Lorna Siggins, ''RTÉ told us our abortion film lacked balance'' *The Irish Times* (Dublin, 11 April 2016).

[99] Riddick specifically names Mary Maher's 1987 series as being impacted in this way. See *Riddick* (n 73) 3; These were Mary Maher, 'Clinics ruling hasn't stopped abortions' *The Irish Times* (Dublin, 5 May 1987) 13 and Mary Maher, 'Training Ireland's Secret Pregnancy Counsellors' *The Irish Times* (Dublin, 8 September 1987) 11; For some examples that follow the same approach to reporting see Willy Clingan, 'Telephone help-lines service on abortion opened' *The Irish Times* (Dublin, 25 November 1987) 22; Mary Maher, 'Abortion hearing faces incoming government' *The Irish Times* (Dublin, 13 June 1989) 11; For examples of this claim see Ursula Barry, 'Abortion in the Republic of Ireland' (1988) 29 Feminist Review 57, 62; Mary Flanagan (Defend the Clinics Campaign) in London Irish Women's Centre, *The 5th London Irish Women's Conference Report* (London Irish Women's Conference 1990) 19; Ailbhe Smyth, 'A Sadistic Farce Women and abortion in the Republic of Ireland, 1992' in Ailbhe Smyth (Ed,) *The Abortion Papers Ireland* (Attic Press 1992) 7, 14; Anna Eggert and Bill Rolston, 'Ireland' in Rolston B and Eggert A (Eds.) *Abortion in the new Europe: A comparative handbook* (Greenwood Press 1994) 157, 163-164; *Rossiter* (n 75) 1625.

[100] See Senator Mary Henry (Independent) in *All-Party Oireachtas Committee on the Constitution* (n 94) A196.

[101] *Eggert and Rolston* (n 99) 164; Ruth Riddick (Open Door and Line, IPCC, Well Woman, IFPA) in *Francome* (n 74) 25; *Smyth* (n 86) 142.

[102] Pauline Conroy Jackson, 'Outside the jurisdiction: Irish women seeking abortion' in Ailbhe Smyth (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 126; For discussions of anti-abortion protests shutting down anti-Eighth Amendment meetings see Nancy Moore, 'The Amendment: a report' in National Women's Committee of The Workers' Party, *Women's View: Ireland's current affairs quarterly* (No. 10 Winter 1983) 20; Mary Holland (Journalist), 'Political censorship' in Patrick Smyth and Ellen Hazelkorn (Eds.) *Let in the light : censorship, secrecy and democracy* (Brandon Books 1993) 147; *Carlson* (n 95) 10, 75.

censorship or anti-abortion stance,[103] or to quote Barry, potential information sharers protecting themselves in this climate of 'fear, repression and censorship'.[104]

Limiting the domain of the possible

Reflecting on this history, I wanted to examine the purpose behind these controls. Anti-abortion campaigner William Binchy said of abortion regulations in Ireland, 'there is nothing inevitable about our present legal structure'.[105] Going further, anti-censorship journalist Nuala O'Faolain described censorship proponents as not only believing that they could 'control the flow of information' but that they '*should* control it'.[106] Law was designed and implemented according to particular strategies to achieve specific anti-abortion goals. A poster displayed at a Defend the Clinics Campaign protest in 1987 provided a brief example of the rationale behind this prohibitory framework. It read 'access, information, choice'.[107] Information had the power to change minds and to facilitate agency, two aspects that posed a threat to an anti-abortion consensus.

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[103] See for example this article from *The Irish Times* reporting on abortions and not mentioning the term. 'Moral standards' *The Irish Times* (Dublin, 2 August 1944) 3; *The Irish Times* was however the only newspaper to report on Mamie Cadden's murder trial for her illegal abortion work. See Hubert Butler quoted in *Ferriter* (n 65) 128; See those in the book trade supporting censorship in *Adams* (n 41) 25-27, 30, 32, 168; See also UCD's anti-abortion student union president removing information about abortion medication from their *Winging it* publication. In Aoife Hardesty, 'Cutting Abortion Page Wasn't a Moral Decision, Says Ascough' *University Observer* (Dublin, 19 September 2017) < https://universitytimes.ie/2017/09/ascough-defends-cutting-page/ > accessed 22 May 2023; Carl O'Brien, 'Decision to drop information on abortion defended' *The Irish Times* (Dublin, 21 September 2017) 3' Ivana Bacik, '"Legal Advice" Can't Justify UCDSU's Decision to Remove Abortion Information from its Handbook' *University Times* (Dublin, 21 September 2017) < https://universitytimes.ie/2017/09/legal-advice-seems-an-unlikely-explanation-for-removing-abortion-information-from-ucdsu-handbook/ > accessed 14 May 2023.

[104] Quote from Ursula Barry in Deaglán de Bréadún, 'A power struggle 'on women's right to equality'' *The Irish Times* (Dublin, 22 October 1992) 7; For other examples of people describing the atmosphere around abortion information-sharing in similar terms see Fiona Bradley (Doctors for Freedom of Information) 'Doctors are handed wrong prescription' *The Irish Times* (Dublin, 24 October 1992) 7; Human Rights Watch, *A State of isolation: access to abortion for women in Ireland* (Human Rights Watch 2010) 16; Pam Moloney and Jim Loughran (Campaign to Separate Church and State) 'Information on abortion' *The Irish Times* (Dublin, 11 October 1991) 11; *Barry* (n 99); Defend the Clinics Campaigners in *London Irish Women's Conference* (n 99) 18-20; *Smyth* (n 41).

[105] William Binchy (Pro-Life Amendment Campaign and Pro-Life Campaign), 'Pluralism, Liberty and the Right to Life' in Anthony Whelan (Ed.) *Law and liberty in Ireland* (Oak Tree Press 1993) 132, 137.

[106] Nuala O'Faolain, 'Information, empowerment: crucial words in a republic' *The Irish Times* (Dublin, 19 October 1992) 12.

[107] *Training Ireland's Secret Pregnancy Counsellors* (n 99).

Censorship can hold power and influence over the formation of knowledge, language, and culture.[108] People make sense of their world and their experiences through what Boyer described as 'knowledge-making' so States often seek to control this process by limiting information access.[109] Knowledge is, as Quilty argued, embedded in the ideologies of its creators for these very reasons.[110] Scholars like Brown have identified this dynamic in Ireland, as people regarded the written word 'very seriously'.[111] With abortion, this extended to the spoken word. O'Carroll described 'specific and narrow' meaning making in Irish society, including in the context of abortion, as being grounded in the traditionalist orientation of State, religion and culture.[112] It was a fear of counterhegemonic communications and language having, to quote Smyth, a 'literal and literally frightening power' to 'constitute social reality'.[113] The free circulation of information threatened anti-abortion positions. However, once ideas of acceptability and legitimacy take root in the national consciousness, they become naturalised as 'common sense', truth or a consensus viewpoint.[114] This propagates and preserves norms that designate abortion as unacceptable and the continuation of pregnancy

[108] Dominic Boyer, 'Censorship as a Vocation: The Institutions, Practices, and Cultural Logic of Media Control in the German Democratic Republic' (2003) 45(3) Comparative Studies in Society and History 511; Robert Darnton, 'Censorship, a Comparative View: France, 1789-East Germany, 1989' (1995) 49 Representations, Special Issue: Identifying Histories: Eastern Europe Before and After 1989 40, 59.
[109] Quote from *Boyer* ibid 539; See also Elena Loizidou on how people are linguistic beings in 'Dreams and the Political Subject' in Judith Butler, Zeynep Gambetti, Leticia Sabsay (Eds.) *Vulnerability in Resistance* (2016 Duke University Press) 122, 132.
[110] Aideen Quilty, 'Water, Water Everywhere … exploring education geographies of abortion' in Aideen Quilty, Sinéad Kennedy and Catherine Conlon (Eds.) *The Abortion Papers: Volume 2* (Cork University Press 2015) 189, 202-204.
[111] Terence Brown, *Ireland: a social and cultural history 1922-1979* (Fontana 1981) 150.
[112] See J.P. O'Carroll, 'Bishops, knights — and Pawns? Traditional thought and the Irish abortion referendum debate of 1983' (1991) 6(1) Irish Political Studies 53, 59-60.
[113] *Smyth* (n 99) 8.
[114] See Paul Michael Garrett on 'common sense' in 'Mother and Baby Homes: Notes on the Irish State and its 'shameful classes'' (2 November 2018) Presentation at the Transitional Justice, Truth telling, and the legacy of Irish Institutional Abuse at Boston College, 5, 9; Judith Butler on the construction of 'natural essences or internal truths' in 'Rethinking Vulnerability and Resistance' (2014) 6 accessed < http://bibacc.org/wp-content/uploads/2016/07/Rethinking-Vulnerability-and-Resistance-Judith-Butler.pdf > accessed 25 June 2023; Mary Kelly on 'truth' in 'Censorship and the Media' in Alpha Connelly (Ed.) *Gender and the law in Ireland* (Oak Tress Press 1993) 185, 209; Patricia Ewick on ideas of legitimacy and 'universalization' in 'Consciousness and ideology' in Austin Sarat (Ed.) *The Blackwell companion to law and society* (Blackwell publishing 2004) 80, 87.

inevitable.[115] Especially when anti-abortion information sharers were not restricted in law to the same extent that non-directive or pro-choice sharers were and were afforded space in the public domain to promote and disseminate their beliefs.[116]

To gain a theoretical understanding of how this effect is perceived, I chose Butler's insights in *Excitable Speech* as my primary framework for analysis.[117] I then supplemented their work with those who considered the impact of censorship on concepts of the possible. As Butler detailed, the key to understanding why the law is used by those who want to control speech is because people 'produce effects with language'.[118] The State can respond through laws designating protected and suppressed forms of speech.[119] By using legal strategies to prevent infiltration from alien ideas and to expel challenges from within, the State can preserve its chosen social norms.[120] Protected speech then becomes, Butler, argued, the speech of the State itself.[121] The benefit of this for a State, according to Kahn, is that law can be constitutive to the self-understanding of individuals or communities.[122] An important additional aspect that Butler identified was that these efforts are not confined to 'official'

[115] For the link between speech and the creation of explicit and implicit norms see Judith Butler, *Excitable Speech* (Routledge Classics 2021) 133.
[116] Anti-abortion doctors were often the ones consulted about abortion by the media. See for example Mary Favier (Doctors for Choice) 'Repressing Abortion in Ireland - a doctor speaks out' (1 June 2003) < http://www.wsm.ie/c/pro-choice-doctor-ireland-abortion > accessed 9 June 2023; Sylwia Kuźma-Markowska and Laura Kelly, 'Anti-abortion Activism in Poland and the Republic of Ireland c.1970s–1990s' (2022) 46(3) Journal of Religious History 1; *Dully* (n 98).
[117] For a full reference for *Excitable Speech* see *Butler* (n 115).
[118] *Butler* (n 115) 8, 54; See also Jennifer Hornsby on how people 'do things with words'. In 'Disempowered speech' (1995) 23(2) Philosophical Topics: Feminist perspectives on language and reality 127, 129.
[119] *Butler* (n 115) 76.
[120] *Butler* (n 115) 129.
[121] *Butler* (n 115) 71-72, 78-79, 101.
[122] Paul W. Kahn, 'Freedom, autonomy, and the cultural study of law' in Austin Sarat and Jonathan Simon (Eds.) in *Cultural analysis, cultural studies, and the law: moving beyond legal realism* (HeinOnline Legal Classics 2003) 141, 154.

interventions.[123] They are supported by the citational norms and of common understandings created and affirmed by 'medical, legal, and psychiatric institutions'.[124] This is because censorship involved not just law, but social dynamics and expectations. These latter influences shape how people regard what is possible or acceptable in terms of their agency through the internalisation of the 'legacies of usage' around language.[125] They reflect what Ailbhe Smyth saw in Ireland whereby censorship worked to confine women to certain 'politico-legal linguistic formulae' that excluded and condemned abortions.[126] Or to quote Patrick Smyth speaking about censorship generally, when people are deprived 'of the information required to make a free choice…they will make the one that censor regards as the '"right" choice'.[127] From Chapters One to Three I demonstrate the aptness of these observations as information was instrumentalised as a method by the State and anti-abortion proponents through which abortions could be reduced or averted.

Based on the formative and constitutive power of language, one of the advantages of foreclosing possible encounters with alternative perspectives is that it limits the possibility that people will consider or affect different ideas of what is possible or desirable.[128] Butler outlined how locking language in place and rendering certain ideas or terms 'unsaid and unsayable' prevents their circulation or recontextualization,

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[123] *Butler* (n 115) 159.
[124] Quote from Judith Butler, 'Rethinking Vulnerability and Resistance' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 12, 18; *Butler* (n 114) 8; *Butler* (n 115) xx, 29, 33.
[125] *Butler* (n 115) 28, 89, 121, 130-134.
[126] *Smyth* (n 99) 8.
[127] Patrick Smyth, 'Mistrust of ordinary people keeps secrecy culture alive' *The Irish Times* (Dublin, 13 January 1993) 14; See also Chrystel Hug, *The politics of sexual morality in Ireland* (Macmillan 1998) 160; Irish Family Planning Association, *The Irish Journey: Women's Stories of Abortion* (IFPA 2000) 6; *Kelly* (n 114) 208.
[128] See *Hornsby* (n 118) 138; Daniel Bar-Tal, 'Self-Censorship as a Socio-Political-Psychological Phenomenon: Conception and Research: Self-Censorship in a Society' (2017) 38(1) Advances in Political Psychology 37.

inoculating normative claims from challenges.[129] Such strategies dispel the 'disruptive power' of speech.[130] Prosecutions are one such tool of governance. According to Butler, prosecutions can 'fix' meanings in place using law.[131] Self-censorship is another impactful practice that can be utilised to preserve dominant ideologies. The importance of combining State, community and individual approaches is that speech, once in the open, can be challenging to control in terms of reach and attractiveness.[132] This results in unforeseen or unintended developments.[133] For those who were supportive of the *status quo*, preventing such effects were significant. O'Faolain described censorship generally in Ireland as keeping the 'national mind' in a state of 'perpetual adolescence'.[134] This was due to ideas not reaching Ireland,[135] and through the foreclosure of informed debate on contested issues.[136] People could not challenge systems if they did not know of alternatives. These dynamics aligned with Nielson's statement that legal knowledge does not 'spring into the minds of individuals', it needs to be built up over time.[137] This applies to abortion also as Kimport and Coty found that people tended to draw upon their pre-existing knowledge when judging new or challenging information.[138] Having a system of censorship whereby people adjudicated counterhegemonic or facilitative information beginning from an anti-abortion perspective meant that they were more likely to do so through an anti-abortion lens. This could help

[129] *Butler* (n 115) 38, 42, 136, 138-139, 141.
[130] *Butler* (n 115) 112.
[131] *Butler* (n 115) 92, 95-97.
[132] *Butler* (n 115) 110, 113, 124.
[133] *Butler* (n 115) 39, 81-82.
[134] Sean O'Faolain, 'The dangers of censorship' in Brad Kent (Ed.) *Selected essays of Sean O'Faolain* (McGill-Queen's University Press 2016) 90-96.
[135] Deputy Ernest H. Alton (Independent) Dáil Éireann debate, Thursday 18 October 1928, vol 26, no 5.
[136] For a comment about the negative impact that censorship had on contraception debates see Senator Michael D. Higgins (Labour Party) Seanad Éireann debate, Thursday 21 February 1974, vol 77, no 3.
[137] *Nielsen* (n 27) 68.
[138] Katrina Kimport and Colin Doty, 'Interpreting the Truth: How People Make Sense of New Information about Abortion' (2019) 29(2) Women's Health Issues 182.

preserve those anti-abortion ideologies. Scholars have noted that self-enforced silences did prevent people from publicly acknowledging the harms of restrictive frameworks.[139] Dooley, for example, described anti-abortion information regulations as part of the 'complex process of cultural reeducation' to reaffirm and revitalise anti-abortion ideological dominance.[140] These aspects of censorship served, as I discuss in Chapter Three to prevent demands for the liberalisation of the law by denying people the knowledge or language needed to undo decades of anti-abortion information prominence.[141] This was one of the benefits provided by information controls to the sustained privileging of the anti-abortion worldviews.

Proponents of information restrictions framed counterhegemonic or facilitative abortion information sources as threats to common norms. For this argument to be accepted, however, those norms needed to have been internalised and supported by the community to justify legal interventions.[142] Anti-abortion dominance in Ireland was achieved through the framing of abortion as a dangerous procedure that necessitated criminalisation. Information suppression's role in averting such claimed harms reflected Darnton's description of censorship analysis. He argued that the 'trouble with the history of censorship is that it looks so simple: it pits the children of the light against the children of darkness'.[143] As I discuss in Chapters One and Two, information control proponents

[139] *O'Carroll* (n 112) 63; *Waterford Standard* (n 81) 2, 17.
[140] Dolores Dooley, 'Medical Ethics in Ireland: A Decade of Change' (1991) 21(1) The Hastings Center 18.
[141] For strategies of foreclosing legalisation see Sandra McAvoy, 'From anti-amendment campaigns to demanding reproductive justice: the changing landscape of abortion rights activism in Ireland 1983-2008' in Jennifer Schweppe (Ed.) *The Unborn Child, Article 40.3.3° and Abortion in Ireland: Twenty-Five Years of Protection?* (Liffey Press 2008) 15, 18; For a discussion of people being denied the ability to act as political actors and to challenge the boundaries of the social see *Butler* (n 115) 81, 121, 162-163.
[142] Quote from *Butler* (n 124) 21.
[143] *Darnton* (n 108) 40.

did believe, or at least shaped their arguments around, censorship being a benevolent act that protected vulnerable foetuses and pregnant people. Information that assisted people to obtain abortions or that legitimised abortion endangered these subjects. Those with this perspective could claim that they were not advocating censorship but rather were seeking protective legal interventions for those unable to do so for themselves. To consider why these claims were so influential in shaping the domains of the permissible and possible in law, I incorporated Butler's work on injurious speech into my theoretical framework. Butler detailed how words can 'wound' can be seen as being performative and causative.[144] Those words impact listeners in ways that are 'psychic, social, and somatic'.[145] Speech can be a bodily act in the moment, or it can indicate a possible injurious act to come.[146] It can possess a 'magical efficacy' as language can be persuasive, manipulative or seductive.[147] This influence can be so impactful that people construe speech as a form of conduct in that it is an infliction of injury or an act of violence.[148] Butler used the example of opponents of abortion regarding even the word 'abortion' as a form of violence inflicted upon the 'defenceless "unborn"'.[149] In Ireland, information about how and where to access an abortion abroad was treated, to quote some family planning providers, as if it were 'odious…hazardous',[150] and toxic.[151] This is important, as Butler outlined, categorisations of speech as a form of harmful conduct legitimises legal interventions against it.[152] The argument goes that rendering contested

[144] *Butler* (n 115) xvi, 23, 124.
[145] *Butler* (n 115) xvi, 4-5, 106.
[146] *Butler* (n 115) 11, 28.
[147] *Butler* (n 115) 33, 71, 74, 106-107, 112-113, 122, 124.
[148] *Butler* (n 115) xvi, 5, 24, 108, 110, 113, 115, 128.
[149] Butler (n 115) 22.
[150] Maeve Taylor (IFPA), 'Abortion Stigma: a health service provider's perspective' in Aideen Quilty, Sinéad Kennedy, and Catherine Conlon (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 223.
[151] Niall Behan (IFPA) in *Amnesty International* (n 94) 72.
[152] *Butler* (n 115) xvi, 20, 65, 77, 86.

speech unspeakable, preventing it from coming into being, forecloses any claimed dangerous or influential effects from materialising.[153] If prevention fails, speakers can be held accountable for any claimed adverse outcomes through prosecutions.[154] Alternatively, the State could neutralise those results by mandating that any dangerous information provision be accompanied by speech intended to reinforce norms or hegemonic ideologies.[155] I discuss how these dynamics were present in Irish law from Chapters One to Three, as the State and anti-abortion actors sought to prevent the circulation of counterhegemonic or facilitative anti-abortion information on the basis that this information was harmful to vulnerable subjects.

These claims that information posed a threat to vulnerable subjects required me to incorporate ideas around law and responses to vulnerability into my theoretical framework. People experience harm, exploitation and wounding- physically and psychologically - at different points in their lives.[156] The degrees of this vulnerability and how impactful it is varies depending on the circumstances of the person.[157] When States or communities acknowledge vulnerabilities, this recognition can give rise to pragmatic, moral or political obligations to act to alleviate them.[158] The form that these interventions take depends on the target vulnerability. Mackenzie, Rogers and Dodds divided vulnerabilities into categories to reflect the sense of urgency that they generate

[153] *Butler* (n 115) 135-136.
[154] *Butler* (n 115) 47, 65, 79-80.
[155] *Butler* (n 115) 116.
[156] Catriona MacKenzie, Wendy Rogers, and Susan Dodds, 'What is Vulnerability, and Why Does It Matter for Moral Theory?' in Catriona Mackenzie, Wendy Rogers, and Susan Dodds (Eds.) *Vulnerability: New Essays in Ethics and Feminist Philosophy* (Oxford University Press 2014) 1.
[157] Kate Brown, ''Vulnerability': Handle with Care' (2011) 5(3) Ethics and Social Welfare 313, 314; Sharron A. FitzGerald and Vanessa E. Munro, 'Sex Work and the Regulation of Vulnerability(ies): Introduction' (2012) 20 Feminist Legal Studies 183.
[158] *MacKenzie, Rogers, and Dodds* (n 156) 2.

for societal responses. The first group was inherent vulnerabilities. These vulnerabilities are 'intrinsic to the human condition' e.g., the need for sustenance, shelter and social connection, and they fluctuate based on age, gender, sex, or health status etc.[159] The second group was situational vulnerabilities. These are created or exacerbated by 'personal, social, political, economic or environmental' factors.[160] Inherent and situational vulnerabilities overlap and influence each other. Mackenzie, Rogers and Dodds recognise a temporal or actualised aspect to these vulnerabilities; they can be dispositional (potential) or occurrent (realised).[161] The example they provide to explain these differences is that all pregnant people are dispositionally vulnerable to health complications, but whether or not these materialise, i.e., become occurrent, will depend on their inherent and situational vulnerabilities. How people respond to these different categories of vulnerability makes this analysis relevant to my thesis. Mackenzie, Rogers and Dodds highlighted that occurrent vulnerabilities create a greater sense of urgency for State and community interventions. These can be negative (non-interference) or positive (actions intended to change social conditions) but should, Mackenzie, Rogers and Dodds argued, focus on building and supporting the agency and capabilities of vulnerable subjects.[162] Though this does not always happen and this is linked to how people regard their obligations to vulnerable subjects.

Understanding how people see vulnerable subjects is important as ideas around appropriate and necessary responses to vulnerability are powerful politically in how they

[159] *MacKenzie, Rogers, and Dodds* (n 156) 7.
[160] Catriona Mackenzie, 'The Importance of Relational Autonomy and Capabilities for an Ethics of Vulnerability' in Catriona Mackenzie, Wendy Rogers, and Susan Dodds (Eds.) *Vulnerability: New Essays in Ethics and Feminist Philosophy* (Oxford University Press 2014) 33, 36, 38; *Butler* (n 124) 12; *Mackenzie, Rogers and Dodds* (n 156) 7.
[161] *Mackenzie, Rogers and Dodds* (n 156) 8.
[162] *Mackenzie, Rogers and Dodds* (n 156) 9.

influence law-making.[163] Reflecting Butler's work on norm formation and maintenance, Pantazis aptly described how vulnerabilities could feel 'uncomplicated', in that they are and aligned with societal or community 'common sense'.[164] They can be based on people's fears,[165] or their logics to the extent that they feel normalised or naturalised.[166] Especially when, I argue in Chapters One to Three, particular concepts of vulnerability were suppressed and promoted in law. Interventions are shaped according to dominant perceptions of what vulnerable subjects are believed to need. This can be problematic as some common traits ascribed to vulnerable subjects are that they are susceptible to wounding,[167] unable to perform speech acts,[168] unable to protect or advocate for themselves,[169] lacking in agency,[170] are 'untrustworthy' or pathological,[171] or they are passive, weak and victimised.[172] The risks of such framings is that they idealise vulnerable people.[173] They are stripped of their individuality,[174] and are stereotyped.[175]

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[163] Vanessa E. Munro and Jane Scoular, 'Abusing Vulnerability? Contemporary Law and Policy Responses to Sex Work in the UK' (2012) 20 Feminist Legal Studies 189, 191; *Brown* (n 157) 313.
[164] Christina Pantazis, ''Fear of crime', vulnerability and poverty: evidence from the British Crime Survey' (2000) 40(3) The British Journal of Criminology 414, 415; See also Barbara Fawcett, 'Vulnerability: Questioning the certainties in social work and health' (2009) 52(4) International Social Work 473; Ewa Plonowska Ziarek, 'Feminist Reflections on Vulnerability: Disrespect, Obligation, Action' (2013) 42(3) SubStance 67, 75; *Brown* (n 157).
[165] *FitzGerald and Munro* (n 157) 185.
[166] Meltem Ahiska, 'Violence Against Women in Turkey: Vulnerability, Sexuality and Eros' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 211, 213.
[167] Leticia Sabsay, 'Permeable bodies: vulnerability, affective powers, hegemony' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 287, 285.
[168] *Butler* (n 115) 79, 85.
[169] *Mackenzie* (n 160) 34.
[170] Judith Butler, Zeynep Gambetti and Leticia Sabsay, 'Introduction' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 1, 5; *Munro and Scoular* (n 163) 194.
[171] Quote from Alice M Miller, 'Sexuality, Violence against Women, and Human Rights: Women Make Demands and Ladies Get Protection' (2004) 7(2) Sexuality, Human Rights, and Health 16, 29; For a discussion of pathologisation see Martha Fineman, 'The vulnerable subject and the responsive state' (2010) Research Paper No. 10-130, Public Law & Legal Theory Research Paper Series; Martha Albertson Fineman, 'The Vulnerable Subject: Anchoring Equality in the Human Condition' (2008) 20(1) Yale Journal of Law and Feminism 1.
[172] Barbara Fawcett, 'Vulnerability: Questioning the certainties in social work and health' (2009) 52(4) International Social Work 473; 474 *Albertson Fineman* ibid; *Butler, Gambetti and Sabsay* (n 170) 1, 3; *Fineman* Ibid 27; *Mackenzie* (n 160) 34; *Miller* ibid 29.
[173] *Ahiska* (n 166) 214.
[174] Sturla J. Ståsett, 'The Ethics of Vulnerability, Social Inclusion and Social Capital' (2007) 34(1) Forum for Development Studies 45.
[175] Sharron A. FitzGerald, 'Biopolitics and the regulation of vulnerability: the case of the female trafficked migrant' (2010) 6(3) International Journal of Law in Context 277, 279; Wendy Rogers, 'Vulnerability and bioethics' in Catriona Mackenzie, Wendy Rogers, and Susan Dodds (Eds.) *Vulnerability: New Essays in Ethics and Feminist Philosophy*

Especially when these categorisations reflect gendered, sexualised, ethnicised or racialised essentialist beliefs.[176] These vulnerable subjects are to be provided with protection and advocation.[177] Those not considered to be vulnerable are the ones afforded the space and resources, to quote Ahiska, 'describe, analyze, and solve' problems on behalf of vulnerable subjects.[178] This was particularly important for non-State actors who could legitimise taking action against other citizens on the grounds that they were protecting those who could not do so for themselves.[179] Hence, they retained and exercised power over vulnerabilised subjects to ascribe solutions based on their own worldviews.[180] This included non-State actors who espouse the same ideologies as the State. The result is that unequal power relations remain unchallenged, as do sources of injustice, as the agency of vulnerable people is undermined or goes unsupported based on these naturalised logics.[181]

The interventions that I focus on in this thesis are those grounded in anti-abortion paternalism. This approach originates from the idea that people opt for abortions because they are under/misinformed about what anti-abortion proponents regard as the truth of abortion. Pregnant people and foetal life are, as the argument goes, vulnerabilised by the availability of non-directive or pro-choice information and

(Oxford University Press 2014) 60, 73; *Butler, Gambetti and Sabsay* (n 170) 1-3; *Fawcett* (n 172) 473; *Mackenzie, Rogers and Dodds* (n 156) 2, 15-16; *Ståsett* ibid 45.

[176] Athena Athanasiou, 'Nonsovereign Agonism (or, Beyond Affirmation versus Vulnerability)' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in Resistance* (Duke Press 2016) 256, 264; Elena Tzelepis, 'Vulnerable Corporealities and Precarious Belongings in Mona Hatoum's Art' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in Resistance* (Duke Press 2016) 146, 148; *FitzGerald* ibid 278-279; *Miller* (n 171) 21, 29; *Plonowska Ziarek* (n 164) 67.

[177] *Fineman* and *Albertson Fineman* (n 171); *Mackenzie* (n 160) 34.

[178] *Ahiska* (n 166) 215; See also *Butler* (n 124) 13; *Miller* (n 171) 28, 36.

[179] *Butler* (n 115) 47-48, 74, 81.

[180] *Ahiska* (n 166) 215; *Butler* (n 124) 13, 25; *Fawcett* (n 172) 475; *Mackenzie, Rogers and Dodds* (n 156) 2, 15-16; *Miller* (n 171) 28, 36; *Munro and Scoular* (n 163) 190, 195, 204; *Plonowska Ziarek* (n 164) 75; *Sabsay* (n 167) 281.

[181] *Brown* (n 157) 316; *Mackenzie* (n 160) 34, 47.

communications. Therefore, it needs to be controlled by the State. To understand how these dynamics are conceptualised and operated, I incorporated the work of vulnerability scholars who examined paternalism into my theoretical framework. It was important when engaging with such law-making to consider when the State or the community failed or refused to investigate vulnerabilisation critically as this can lead to paternalistic 'management' responses becoming the default.[182] These politics and practices are often medicalised or rescue based, where the vulnerable subject is seen as a patient or as 'objects of care'.[183] This is opposed to them being an informed, capable agentic decision maker. Even when the root causes of hardships are injustice or inequality. The benefit of framing interventions as offering a form of benevolent protection and advocation for vulnerable subjects is that they can mask paternalistic, oppressive, and political interventions.[184] Butler gave the example of the judiciary who are often seen as 'tacitly…neutral' and free of ideologies when making subjective decisions about which words wound.[185] Such paternalism and adherence to claimed societal norms can result in the repression and dismissal of minority voices - including the vulnerabilised subjects targeted by these laws – when the State or communities are devising policies and practices to address vulnerabilities.[186] In the context of information restrictions, anti-abortion proponents used these protective arguments to justify the legal curtailment of people's freedom of speech and to access information.[187] This was

[182] Jaime Lindsey, 'Developing Vulnerability: A Situational Response to the Abuse of Women with Mental Disabilities' (2016) 24 Feminist Legal Studies 295, 312; *Brown* (n 157) 313, 319; *Butler, Gambetti and Sabsay* (n 170) 1, 5; *Fawcett* (n 172) 476, 478; *FitzGerald* (n 175) 278-279; *Miller* (n 171) 28, 32; *Sabsay* (n 167) 280; *Ståsett* (n 174) 45.
[183] Quote from *Rogers* (n 175) 73-75; See also *Miller* (n 171) 38, 40.
[184] *Butler* (n 115) 50, 97, 101, 113, 133.
[185] *Butler* (n 115) 18, 48, 76, 79, 81.
[186] *Ahiska* (n 166) 218; *Butler* (n 115) xvi; *Fawcett* (n 172) 480; *Plonowska Ziarek* (n 164) 77.
[187] *Butler* (n 115) 127.

politically powerful as they could cast their interventions as being caring and beneficial, rather than as the actions of stigmatised, repressive censors.[188] O'Connor said of Irish censorship, it was not enough for a government to supress a publication for being 'unmannerly', it needed to pose a threat.[189] As I discuss from Chapters One to Three, in the case of counterhegemonic or facilitative abortion information, the State and anti-abortion actors did establish it as a threat to vulnerable subjects and by extension, to the nation itself to justify information controls.

How and why did people reject anti-abortion abortion information controls?

Siobhan Donohue, speaking in 2018, described Ireland as a 'nation of storytellers' who had failed to tell the stories of those who were harmed by abortion prohibitions.[190] The hostile framing of abortion in Ireland, both culturally and legally, meant that many people were afraid to speak openly about their own abortions.[191] Others were afraid to endorse

[188] See *Brown* (n 157) 314, 316, 318; *FitzGerald* (n 175) 278; *Munro and Scoular* (n 163) 192.
[189] Frank O'Connor, 'Frank O'Connor on censorship' in Julia Carlson (Ed.) *Banned in Ireland: censorship and the Irish writer* (University of Georgia Press 1990) 151, 153.
[190] Siobhan Donohue (Terminations for Medical Reasons) in Maeve Shearlaw and Shay Notelovitz, 'My budget flight to get an abortion: the story no one in Ireland wants to tell' *The Guardian* (London, 23 May 2018) < https://www.theguardian.com/world/video/2018/may/23/my-budget-flight-to-get-an-abortion-the-story-no-one-in-ireland-wants-to-tell-video > accessed 4 May 2023.
[191] People often did not speak about their abortions. See Therese Caherty, 'Choosing to tell : women's accounts of the experience of abortion' (Mphil Trinity College Dublin 1994); Mary Carolan, 'Banning or limiting access to abortion is about 'judging and controlling women', says US lawyer' *The Irish Times* (Dublin, 29 Saturday 2023); Dolores Dooley, 'Abortion and moral disagreement' in Ailbhe Smyth (Ed.) *The Abortion Papers: Ireland* (Attic 1992) 166, 167; Goretti Horgan, 'Red flags' (2015) 44(4) Index on censorship, 32-33; Irish Family Planning Association, 'Submission to the Citizens' Assembly: A health and rights approach to abortion in Ireland' (16 December 2016) 32 <https://www.ifpa.ie/sites/default/files/ifpa_submission_to_the_citizens_assembly.pdf> accessed 6 January 2023; Jo Murphy-Lawless, Laurie Oaks, Clare Brady, *Understanding how sexually active women think about fertility, sex and motherhood*, (Crisis Pregnancy Agency September 2004) Report no 6, 55; Vicky Randall, 'The politics of abortion' in Joni Lovenduski and Joyce Outshoorn (Eds.) *The new politics of abortion* (Sage publications 1986) 71; Ruth Riddick, *The Right to choose : questions of feminist morality* (Attic Press 1990); Ruth Riddick, 'Women on abortion' *The Irish Times* (Dublin, 17 January 1995) 13; Andrew Rynne, *Abortion: the Irish question* (Ward River Press 1982) 24, 184; *London Irish Women's Conference* (n 99) 20.

a pro-reform or pro-choice perspective publicly.[192] There was a risk of backlash from anti-abortion proponents for those who did so.[193] Increasing such anxieties was that many people were under- or misinformed about abortion prohibitions, so they feared prosecutions or injunctions should it become known that they had direct experience of abortion or had campaigned in favour of abortion legalisation.[194] Anti-abortion information regulations helped to create and maintain the conditions in which such silences flourished.[195] As I discussed in Chapter One, regressive abortion and information regulations were not challengeable due to the Eighth Amendment establishing the primacy of foetal rights to life over information and expression based freedoms. Access to contested publications was also controlled by the State. Such suppressive strategies, as scholars like Conroy-Jackson argued, delayed the development of a shared 'public language or vocabulary' around abortion and denied people access to alternative viewpoints.[196] Censorship could, as O'Carroll observed, protect the State from criticism as well as protecting the *status quo*.[197] In Chapter Four, I showed that undefined terms in legislation also served to limit access to counterhegemonic or facilitative information as they gave rise to a chilling effect due to

[192] Anthony Clare (St. Patrick's Hospital Medical Director) in *All-Party Oireachtas Committee on the Constitution* (n 94) A132; *Cork Abortion Information Campaign* (n 78) 6, 8; Deputy Patrick Harte (Fine Gael) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Patrick MacEntee (Senior Counsel and former chairman of Bar Council of Ireland) 'Punish and Be Banned' in Patrick Smyth and Ellen Hazelkorn (Eds.) *Let in the light : censorship, secrecy and democracy* (Brandon Books 1993) 109, 117; *Goldhaber* (n 73) 28; *Rynne* ibid 37; *Smyth* (n 86) 142.
[193] Caroline Walsh, 'Thousands face abortion without advice' *The Irish Times* (Dublin, 25 September 1985) 19; Goretti Horgan, *Abortion: Why Irish Women must have the right to choose*, (Bookmarks Ireland, 1990) 11; Carl O'Brien and Eitne Donnellan, 'Counselling services bullying clients' *The Irish Times* (Dublin, 15 July 2006) 3.
[194] Ellen Coyne, 'Crisis pregnancy counsellor told Irish student abortion would lead to years in jail; Pregnancy advice has still not changed, says a woman talked into giving birth 16 years ago', *The Times* (London, 21 August 2017); *Dooley* (n 140) 19; Women's Information Network, *Choosing abortion: a practical guide to abortion and other options for Irish women with problem pregnancies* [Women's Information Network 1993].
[195] See Andrew Rynne on how there was a lack of general knowledge about abortion in Ireland. In *Rynne* (n 191) 15.
[196] Pauline Conroy Jackson (n 102) 130; See also Suzanna Chan on how a lack of shared language can be a sign that the silences around taboo topic like abortion are effective. In 'Speaking of silence, speaking of art, abortion and Ireland' (2019) 27(1) Irish Studies Review 73, 78.
[197] *O'Carroll* (n 112) 59-60.

the possibility of criminalisation for those creating or disseminating it. Returning to Butler, they outlined how designations of which words are considered dangerous can involve complex interactions of power relationships, judgements, social histories, content type and context.[198] It is not always clear what kinds of speech will be deemed offensive or requiring restraint. This dynamic was present and influential in Irish abortion information regulations. When people are faced with such adversity they often acquiesce to paternalistic interventions or seek to adapt their behaviours to avoid experiencing the negative consequences of failing to adhere to social norms.[199] These factors limited the transformative potential of many moments of law reform that I analysed across Chapters One to Three. However, as I outlined in Chapters Two to Four, the electorate did vote in favour of the more liberal Thirteenth, Fourteenth, and Thirty-Sixth Amendments and rejected the anti-abortion Twelfth and Twenty-Fifth Amendments. I recounted how there was always resistance to censorship, and eventually, most forms of anti-abortion information control lost their legitimacy. To understand how and why the majority of the electorate came to reject abortion and information prohibitions, I identified two dynamics in my analysis. I incorporated the observations of scholars examining similar dynamics into my theoretical framework: that censorship undermines itself and that vulnerability is a powerful tool of resistance.

[198] *Butler* (n 115) 2, 18, 55.
[199] Daniel Groll, 'Paternalism, Respect, and the Will' (2012) 122(4) Ethics 692; Sarah Bracke, 'Bouncing Back: Vulnerability and Resistance in Times of Resilience' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in Resistance* (Duke Press 2016) 52, 62; Marianne Hirsch, 'Vulnerable Times' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 76, 82; *Athanasiou* (n 176) 271; *Butler* (n 115) 110; *Fawcett* (n 172) 476-477; *FitzGerald* (n 175) 280; *Mackenzie* (n 160) 47; *Munro and Scoular* (n 163); *Plonowska Ziarek* (n 164) 67.

Censorship itself provides strategies for resistance as it is, to quote Freshwater, 'vulnerable to a measure of destabilisation'.[200] For censorship to achieve its intended aims, it requires, as Butler argued, a 'complete or total subjectification [of speech] through legal means'.[201] This is difficult to achieve as censorship is expensive and laborious. As a result, the channels of prohibited communications become hidden but never truly removed. Censorship also has a 'paradox' or a 'self-defeating element'.[202] Through enforcement, censorship can bring more attention to the speech or information it is attempting to supress. Holquist described this as the 'don't think of the white bear' effect: now all a reader can think of is a white bear.[203] The speech of the censor is never truly separable from that which they condemn.[204] Codification and enforcement requirements ensure that censors 'restage in spectacles' the targeted information or speech.[205] Their work is productive, as censors administrate and keep records to document and communicate their work processes and outcomes.[206] Otherwise people would not know what to do to abide by the law.[207] For those who want to support censorship, their calls to regulate speech compel them to cite the very speech they want controlled.[208] All of these factors increase the discoverability of prohibited sources through the publicity that censorship can generate.[209] Especially when censorship efforts generate debate and controversy.[210] Butler outlined how there can be 'significant

[200] *Freshwater* (n 79) 227.
[201] *Butler* (n 115) 132
[202] For the 'paradox' quote see Michael Holquist, 'Introduction: Corrupt Originals: The Paradox of Censorship' (1994) 109(1) PMLA 14; For 'self-defeating element' see *Darnton* (n 108) 58.
[203] Holquist ibid 14; See also *Butler* (n 115) 117, 128.
[204] *Butler* (n 115) 100, 130.
[205] *Butler* (n 115) 104, 129.
[206] *Butler* (n 115) 133; *Darnton* (n 108).
[207] *Butler* (n 115) 38.
[208] *Butler* (n 115) 37, 54, 133.
[209] *Butler* (n 115) 130.
[210] *Butler* (n 115) 104; *Darnton* (n 108) 49; *Freshwater* (n 79) 227.

disagreement' about where the boundaries between lawful and unlawful speech should be.[211] Once information is out in the open it is difficult to remove. Frequent exposure and re-contextualisation can normalise counterhegemonic ideas.[212] People can engage with contested speech by denying the meaning assigned to it by censors or by re-signifying or reclaiming speech for more liberatory purposes.[213] Even in areas where the State or censorship proponents may claim that there is universal, or at least majority, support or consensus, such re-framings can be achieved.[214] In Chapter Four, I expanded upon how this paradox provided opportunities for censorship resistance in Ireland, thwarting the dominance of anti-abortion information controls and ideologies.

The paradox of censorship provides an account of how censorship could be resisted, but not why. The literature examining responses to vulnerability in law provided an insightful understanding of what I believed to be the most potent anti-censorship argument present in my analysis: the protection of the vulnerable. State and anti-abortion actors did justify censorship and paternalistic mandatory information provision based on protective arguments. In doing so, however, they laid the foundation for compelling challenges to that system. These anti-abortion information regulations failed to reduce the number of people who chose abortion. Instead, they demonstrably increased the hardships experienced by vulnerabilised abortion seekers. In Chapters One and Two, I discuss how the law forced a break in continuity of care for abortion seekers by prohibiting pregnancy services from providing referrals and appointment-

[211] *Butler* (n 115) 20, 77; Holquist (n 202) 17.
[212] *Butler* (n 115) 39, 92, 102, 147-148, 159, 161.
[213] *Butler* (n 115) 14-16, 42, 86-87, 89, 92, 105, 139, 145, 159.
[214] *Butler* (n 115) 89, 90-93.

making. In any other field of medicine or counselling, this would be regarded by professionals as bad practice.[215] Information restrictions compounded the additional difficulties created by abortion criminalisation for those already living with disadvantages. They included those with lower educational attainments,[216] disabled people,[217] people living in rural areas,[218] people living on low incomes,[219] those in State care,[220] those who did not have internet access,[221] members of the travelling community,[222] migrants,[223] and people living with domestic violence.[224] Bacik referred to the dearth of information about how and where to access abortion assistance as

[215] For a discussion of the importance of the continuity of care see Caitriona Henichon (IFPA) in Citizens' Assembly, *Papers and presentations from Citizens' Assembly speakers: from meetings November 2016 to April 2017* (Citizens' Assembly, 2017) Appendix E, volume 2, E710; Catherine Conlon, *Mixed Methods Research of Crisis Pregnancy Counselling and Support Services* (Crisis Pregnancy Agency, January 2005) Report no 12, 100; Deirdre Niamh Duffy, Claire Pierson, Caroline Myerscough, Diane Urquhart D, Lindsey Earner-Byrne, 'Abortion, emotions, and health provision: Explaining health care professionals' willingness to provide abortion care using affect theory' (2018) 71 Women's Studies International Forum 12, 15-16; *Bradley* (n 104); *Doctors are handed wrong prescription* (n 104); *Taylor* (n 150) 230-231.

[216] Marella Buckley, 'Sitting on your politics: the Irish among the British and the Women among the Irish' in Jim Mac Laughlin (Ed.) *Location and dislocation in contemporary Irish society: emigration and Irish identities* (Notre Dame 1997) 94; Richard Layte, Hannah McGee, Amanda Quail, Kay Rundle, Gráinne Cousins, Claire Donnelly, Fiona Mulcahy and Ronán Conroy, *The Irish study of sexual health and relationships* (Crisis Pregnancy Agency 2006) 13, 56; Harry Ferguson and Fergus Hogan, *Men, sexuality and crisis pregnancy: A study of men's experiences*, (Crisis Pregnancy Agency, June 2007) Report no 18, 71; 'Ciara' in Ruth Fletcher, 'Civic feminism and voluntary abortion care: A story of ESCORT's contribution to reproductive justice' in Aideen Quilty, Sinéad Kennedy and Catherine Conlon (Eds.) *The Abortion Papers: Volume 2* (Cork University Press 2015) 137, 154-155.

[217] Emma Burns, '#10thdss: Intersectionality and the Irish abortion rights campaign of 2018' (19 September 2018) < https://emmaqburns.com/2018/09/19/10thdss-intersectionality-and-the-irish-abortion-rights-campaign-of-2018/ > accessed 19 April 2023.

[218] Sandra Burke, *Profile of first 202 women to attend Open Door Counselling (July - September 1983)* (Open Door Counselling 1983); Geoffrey Dean, *Termination of pregnancy: England 1983: Women from the Republic of Ireland* (Medico-Social Research Board 1984); G Dean, D Walsh, A O'Hare, and H McLoughlin, *Termination of pregnancy, England, 1984, women from the Republic of Ireland* (Medico-Social Research Board 1985); Anthea McTiernan, 'Centre declines to distribute abortion booklet' *The Irish Times* (Dublin, 31 May 1993) 16; Caherty (n 191); *Francome* (n 74) 13-14' *Human Rights Watch* (n 104) 16, 22; *Riddick* (n 73); *Siggins* (n 73).

[219] John Horgan described the 1929 Act as class-specific' legislation. *Horgan* (n 67) 14; For abortion information specific discussions see Máiréad Hayes (Labour Party) 'Administrative Council Minutes' (28 October 1992) Folder no 49,494-330, National Library of Ireland; *Burke* ibid; *Riddick* (n 73); *Siggins* n (73).

[220] Irish Council for Civil Liberties, 'The Need for Abortion Law Reform in Ireland: The Case Against the Twenty-Fifth Amendment of the Constitution Bill, 2001' (2001) 42 < https://www.iccl.ie/archive/the-need-for-abortion-law-reform-in-ireland-the-case-against-the-twenty-fifth-amendment-of-the-constitution-bill-2001/ > accessed 15 June 2023; Irish Family Planning Association, 'IFPA submission to the Crisis Pregnancy Agency' (2002) 9-10 < https://www.ifpa.ie/sites/default/files/documents/submissions/ifpa_cpa_submission_june_2002.pdf > accessed 15 May 2023; *Caherty* (n 191) 50.

[221] *Human Rights Watch* (n 104) 23-24, 34.

[222] *Human Rights Watch* (n 104) 37.

[223] Irish Family Planning Association, *Submission to the Working Group on the Protection Process* (Irish Family Planning Association March 2015); *Taylor* (n 150) 227-228.

[224] *Caherty* (n 191) 48.

creating ‘a double crisis’ for abortion seekers.[225] It was the urban middle and upper classes who were most able to navigate information restrictions.[226] Others were exposed to the risk of not locating an information provider,[227] being refused information,[228] or having to rely upon volunteers for help.[229] All abortion seekers had to organise their own appointments with clinics abroad, even in medically complex cases.[230] The result was that some abortion seekers travelled without appointments or appropriate scans,[231] did not find subsidised services,[232] or attended exploitative or

[225] Ivana Bacik, ‘The Irish Constitution and Gender Politics: Developments in the Law on Abortion’ (2013) 28(3) Irish Political Studies 380, 383.
[226] Siofra O’Leary, ‘Freedom of establishment and freedom to provide services: the Court of Justice as a reluctant constitutional adjudicator: an examination of the abortion information case’ (1992) European Law Review 1; Justin Keating, *Why the abortion referendum solves nothing : a Humanist View* (Association of Irish Humanists 2002) 13; *D'Arcy* (n 77) 24, 170; *Eggert and Rolston* (n 99) 164; *Hayes* (n 219) *Irish Council for Civil Liberties* (n 220) 42.
[227] See clinic closures cited on p. 27.
[228] Eileen Battersby, ‘How Irish women cope’ *The Irish Times* (Dublin, 20 February 1992) 6; Anthony Clare, ‘Democracy and Freedom of Information in Patrick Smyth and Ellen Hazelkorn (Eds.) *Let in the light : censorship, secrecy and democracy* (Brandon Books 1993) 173; Evelyn Mahon, Catherine Conlon, and Lucy Dillon, *Women and Crisis Pregnancy: A Report Presented to the Department of Health and Children* (Stationary Office 1998) 188-189, 217-219, 246; Ailís ní Riain, Rita Galimberti, Sinead Burke, Claire Collins, Mary Dillon, *Women’s Health Services in General Practice: 2004* (ICGP and the Crisis Pregnancy Agency 2006) 60; *D v Ireland* Application no. 26499/02 (European Court of Human Rights, 27 June 2006); Kathy Sheridan, ‘Stories of abortion’ *The Irish Times* (Dublin, 24 March 2012) 39-40; Human Rights Committee, ‘Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2324/2013’ (31 March 2016) CCPR/C/116/D/2324/2013 (*Mellet v Ireland*); Abortion Rights Campaign, *Submission to the Citizens Assembly* (23 December 2016) 81; Human Rights Committee, ‘Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2425/2014’ (17 March 2017) CCPR/C/119/D/2425/2014. (*Whelan v Ireland)*; Terminations for Medical Reasons, *TFMR Ireland Submission to the Citizens’ Assembly* (Terminations for Medical Reasons, 14 December 2016) 6-8; Terminations for Medical Reasons, *Special Oireachtas Committee TFMR Ireland Oral Presentation on the 8th Amendment* (TMFR Ireland 25 October 2017) 3-4; *Amnesty International* (n 94) 66-67, 69-71; *Conlon* (n 215) 43, 59; *Francome* (n 74) 14, 24; *Riddick* (n 73); See the discussion of Cura and Life/Anew at p. 212-216.
[229] *Fletcher* (n 216) 150-152; *Whelan v Ireland* ibid.
[230] Kathy Sheridan, ‘‘Although we have a pro-life identity, we do not have the healthcare that supports parents and newborn babies who have complex needs’ *The Irish Times* (Dublin, 21 April 2012) 39; ‘Jennifer’’s experience in Marge Berer, ‘Termination of pregnancy as emergency obstetric care: the interpretation of Catholic health policy and the consequences for pregnant women: An analysis of the death of Savita Halappanavar in Ireland and similar cases’ (2013) 21(41) Reproductive Health Matters 9, 12; Sandra McAvoy, ‘Vindicating women’s rights in a foetocentric state: the longest Irish journey’ in Noreen Giffney and Margrit Shildrick (Eds.) *Theory on the edge: Irish studies and the politics of sexual difference* (Palgrave Macmillan 2013) 39, 45; Ellen Coyne, ‘‘No plans’ to scrap abortion information law’ *The Times* (London, 29 October 2015); Barry Roche, ‘Mother might still be alive but for Eighth Amendment – gynaecologist’ *The Irish Times* (Dublin, 13 May 2018); See Mark Murphy’s (GP) comments in *Amnesty International* (n 94) 69, 73; *Whelan v Ireland* (n 228) Para 2.3, p. 6-7.
[231] Committee on the Working of the Abortion Act, *Report of the Committee on the Working of the Abortion Act* (H.M.S.O. 1974) Volume 1; Senator Mary Robinson (Independent, formerly Labour Party) Seanad Éireann debate, Wednesday 4 May 1983, vol 100, no 5; Helen Shaw, ‘Women look North for abortion advice’ *The Irish Times* (Dublin, 8 October 1987) 5; Joe Humphreys, ‘Abortion conference told image of adoption must change’ *The Irish Times* (Dublin, 22 September 1998) 5; *Cleary* (n 94); *Mahon et al* (n 228) 228; *Rossiter* (n 75) 1640.
[232] Padraig Yeates, ‘UCD Students to fight SPUC summons on abortion’ *The Irish Times* (Dublin, 25 August 1988) 10; Liam Fay, ‘Abortion: the plain truth’ *Hot Press* (Dublin, 7 October 1992) 6; Padraig O'Morain, ‘IFPA says it will continue to make abortion appointments’ *The Irish Times* (Dublin, 22 May 1995) 1; Irish Family Planning Association,

unsafe providers.[233] It was sometimes unclear for abortion seekers what information was legally available.[234] This encouraged people to travel for abortions directly and as a result some people attended services without knowing about the abortion or the recovery process,[235] or how to access genetic counselling or post-mortems.[236] Some abortion seekers travelled too early, [237] or arrived for later, more expensive, riskier care,[238] or were not even pregnant at all.[239] For those who could not find the

Annual report 1994 (Irish Family Planning Association 1995) 21; Janet Ní Shuilleabháin, 'My Story' in Aideen Quilty, Sinéad Kennedy, and Catherine Conlon (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 44; Giulia Zanini, Joanna Mishtal, Silvia De Zordo, Ann-Kathrin Ziegler, Caitlin Gerdts, 'Abortion information governance and women's travels across European borders' (2021) 87 Women's Studies International Forum 102496, 4; *Duffy et al* (n 215) 16.

[233] Dermot Walsh, 'Medical and social characteristics of Irish residents whose pregnancies were terminated under the 1967 Abortion Act in 1971 and 1972' (1975) 68(6) Journal of the Irish Medical Association 143, 148; Pauline Jackson, *The Deadly Solution to An Irish Problem* (Women's Right to Choose Campaign 1983) 1; Michael Boland, Mary Favier, Michael Coughlan, *Training programme and information for General Practitioners: in response to the Termination of Pregnancy Information Act 1995* (ICGP, 1995) 19; *Committee on the Working of the Abortion Act* (n 231); *Rossiter* (n 75) 1640; *Solomons* (n 95) 29.

[234] Tony O'Brien, Sherie de Burgh, Karen Kiernan, *Assessing the impact of the 1995 abortion information legislation for women who seek pregnancy counselling in Ireland* (Irish Family Planning Association 30 October 1998) (4); Catherine Conlon, Joan O'Connor, Siobhan Ní Chatháin, *Attitudes to fertility, sexual health and motherhood amongst a sample of Non-Irish national minority ethnic women living in Ireland* (Crisis Pregnancy Programme 2012) 115, 119; Mazars, *Review of Funding and Service Delivery Models of Crisis Pregnancy Counselling Services* (HSE Sexual Health and Crisis Pregnancy Programme 2017) 31, 36; Paul Cullen, 'Woman 'felt like a criminal' leaving Ireland for termination' *The Irish Times* (Dublin, 13 June 2017); *Abortion Rights Campaign* (n 228) 38; *Conlon* (n 215) 10, 39, 42, 61-63, 66, 98, 101; *Francome* (n 74) 13-14, 17, 30, 24; *Mahon et al* (n 228) 188, 205-206, 233; *Mellet v Ireland* (n 228) Para. 3.14, p. 6; *Riddick* (n 73); *Sheridan* (n 228); *Terminations for Medical Reasons* (n 228) 7, 32; *Whelan v Ireland* (n 228) Para. 2.2, p. 2.

[235] Sandra Coliver, 'Ireland' in Sandra Coliver (Ed.), *The right to know: human rights and access to reproductive health information* (Article 19 and university of Pennsylvania Press 1995) 159; Sally Sheldon, 'Empowerment and Privacy? Home Use of Abortion Pills in the Republic of Ireland' (2018) 43(4) Signs 823; *Abortion Rights Campaign* (n 228) 67; *Horgan* (n 193) 17-18; *O'Leary* (n 226); *Smyth* (n 99).

[236] M. John Kennedy, 'Genetics – a missing link?' *The Irish Times* (Dublin, 3 September 1992) 11; Stephen Donoghue and Claire-Michelle Smyth, 'Abortion for Foetal Abnormalities in Ireland; The Limited Scope of the Irish Government's Response to the A, B and C Judgment' (2013) 20 European Journal of Health Law 117, 123; *D v Ireland* (n 228); *Eggert and Rolston* (n 99) 164; Peter McKenna (Rotunda Hospital Master) in *All-Party Oireachtas Committee on the Constitution* (n 94) A104.

[237] *Coliver* (n 235).

[238] Kathryn Holmquist, 'Irish abortions increase despite abortion ban' *The Irish Times* (Dublin, 21 September 1990) 5; Sean O'Neill, 'London agencies speak of women's despair' *The Irish Times* (Dublin, 19 February 1992) 5; Medb Ruane, 'Blocking the way to early abortions' *The Irish Times* (Dublin, 21 July 2000) 14; Steve Clements and Roger Ingham, *Improving knowledge regarding abortion performed on Irish women in the UK*, (Crisis Pregnancy Agency, August 2007) Report no 19, 32; Joanna Mishtal, Giulia Zanini, Silvia de Zordo, Derek Clougher, Caitilin Gerdts, ''To be vigilant to leave no trace': secrecy, invisibility and abortion travel from the Republic of Ireland' (2022) Culture, Health and Sexuality, 7; *Coliver* (n 235) 159, 171-172; *Dooley* (n 140) 19; *Human Rights Watch* (n 104) 22; *O'Leary* (n 226).

[239] Catherine Cleary, 'Covering up about the London experience' *The Irish Times* (Dublin, 11 March 1995) 7; *Cleary* (n 94).

information that they needed, or were waylaid by unregulated anti-abortion services,[240] they either had to remain pregnant or have an illegal abortion in Ireland.[241] Pregnant people have died in Ireland after being refused or unable to access an abortion and people with disabilities, migrants and people of colour in Ireland are disproportionately represented in maternal deaths in Ireland.[242]

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[240] For rogue agencies examples see Carol Coulter, 'Crisis pregnancy group at centre of network' *The Irish Times* (Dublin, 2 September 1999) 7; Kitty Holland 'Grim anti-abortion session with the agency that "only wants what's best"' *The Irish Times* (Dublin, 4 September 1999) 10; Crisis Pregnancy Agency, *Annual Report 2006* (Crisis Pregnancy Agency 2007) 5; Daniel Finn, 'The Lying Game' *Hot Press* (Dublin, 26 March 2007) < https://www.hotpress.com/opinion/the-lying-game-2916940 > accessed 15 March 2023; Kitty Holland, 'Warning on biased crisis pregnancy 'counselling'' *The Irish Times* (Dublin, 21 July 2009); Crisis Pregnancy Agency, *Annual Report 2009* (Crisis Pregnancy Agency, 2010) 18; Carol Ryan, 'Alarm over pregnancy advise by "rogue" agencies' *The Irish Times* (Dublin, 29 June 2010) 37; HLI Ireland, 'Ask Majella on Today with Pat Kenny Radio Show' (25 October 2012) < https://www.youtube.com/watch?v=2t6ubfP2zw8 > accessed 22 June 2023; Eadaoin R, 'Saving Babies at the Clinic Door: Carolyn tells the National Convention for Life how it's done' *The Life Institute* (Dublin, 3 May 2014) < https://thelifeinstitute.net/blog/2014/saving-babies-at-the-clinic-door-carolyn-tells-the-national-convention-for-life-how-its-done# > accessed 17 May 2023; Ellen Coyne, 'Agencies free to target scared and vulnerable women' *The Times* (London, 5 September 2016); Sally Sheldon, 'How can a state control swallowing? The home use of abortion pills in Ireland' (2016) 24(48) Reproductive Health Matters 90, 96; Irish Family Planning Association, *Rogue Crisis Pregnancy Agencies in Ireland – Anti Choice and Anti Women* (IFPA, Undated) < https://www.ifpa.ie/sites/default/files/documents/media/publications/rogue_agency_factsheet.pdf > accessed 2 April 2023; Ellen Coyne, 'Rogue pregnancy agencies bill is rejected' *The Times* (London, 10 April 2017); Janice Donlon (Project manager HSE Sexual health and Crisis Pregnancy Service) Joint Committee on the Eighth Amendment of the Constitution debate, Wednesday 15 November 2017; Ellen Coyne, 'Rogue anti-abortion agencies face crackdown after exposé' *The Times* (London, 22 March 2018); Deirdre Niamh Duffy, Claire Pearson, Paul Best, 'A formative evaluation of online information to support abortion access in England, Northern Ireland and the Republic of Ireland' (2019) 45 BMJ Sexual and Reproductive Health 32; Kathleen Broussard, 'The changing landscape of abortion care: Embodied experiences of structural stigma in the Republic of Ireland and Northern Ireland' (2020) 245 Social Science & Medicine 112686; Commission of Investigation into Mother and Baby Homes, *Final Report of the Commission of Investigation into Mother and Baby Homes* (Department of Children, Equality, Disability, Integration and Youth, 22 November 2021) para 18.185, 63; *Conlon* (n 215) 12, 38, 82-86, 103-104; *Duffy et al* (n 215) 16; *Human Rights Watch* (n 104) 25; *Nic Gabhainn and Batt* (n 94) 10, 22; O'Brien and Donnellan (n 193).

[241] For Ms Y's story see Ruth Fletcher, 'Contesting the cruel treatment of abortion-seeking women' (2014) 22(44) Reproductive Health Matters 10; For examples and discussions of a lack of information about services and remaining pregnant see Gretchen E. Ely, Travis W. Hales, and D. Lynn Jackson, 'A cross-cultural exploration of abortion fund patients in the USA and the Republic of Ireland, Northern Ireland and the Isle of Man' (2018) 20(5) Culture, Health & Sexuality 560; Abigail RA Aiken, Dana M Johnson, Kathleen Broussard, Elisa Padron, 'Experiences of women in Ireland who accessed abortion by travelling abroad or by using abortion medication at home: a qualitative study' (2018) 44 BMJ Sexual and Reproductive Health 181, 183; See the discussion of *Mellet* and *Whelan* see p. 364-366.

[242] For Michelle Harte's story see ICCL, 'Case in Focus: Michelle Harte' < https://www.iccl.ie/her-rights/health/michelle-harte/ > accessed 20 April 2023; For Savita Halappanavar's story see Ronit Lentin, 'a woman died: abortion and the politics of birth in Ireland' (2013) 105 Feminist Review 130; Máiréad Enright and Fiona de Londras, '"Empty without and empty within": the Unworkability of the Eighth Amendment after Savita Halappanavar and Miss Y' (2014) 20 Medico-Legal Journal of Ireland 85; Jimmy Billings and Vedanth Govi, 'Savita's Law: The Racial Politics of Repeal' (*The New Pretender* 28 June 2018) < http://new-pretender.com/2018/06/28/ireland-savitas-law-the-racial-politics-of-repeal/ > Accessed 2 May 2023; Joan McCarthy, 'Reproductive justice in Ireland: A feminist analysis of the Neary and Halappanavar cases' in Mary Donnelly and Claire Murray (Eds.) *Ethical and Legal Debates in Irish Healthcare: Confronting Complexities* (Manchester University Press 2016) 9; *Berer* (n 230) 9; For Aisha Chithira's story see Luke Butterly, 'Racism and reproductive health: migrant rights and the Irish abortion referendum' *Verso Books* (23 May 2018) < https://www.versobooks.com/en-gb/blogs/news/3840-racism-and-reproductive-health-migrant-rights-and-the-irish-abortion-referendum > accessed 4 May 2023; For general discussions see Maria Ní Fhlatharta (Disabled Women Ireland) in Joyce Fegan, 'Imperfect system and cruel barriers still stopping women

For effective resistance, these harms needed to be realised and recognised by people. Anti-abortion information regulations were partially justified as them providing claimed protections for vulnerable subjects i.e., foetuses and abortion seekers. The reality was they did not prevent abortions, they just further vulnerabilised abortion seekers. Having these adverse outcomes in the open undermined the core foundational principles and ideologies of those claimed benevolent protective information regulations.

Acknowledging the harms created by oppressive laws can be powerful as people can become convinced to push for and support law and policy reforms. Especially when, as Butler, Gambetti, and Sabsay identified, vulnerabilities are 'unequally distributed' and 'politically produced'.[243] This occurs through vulnerabilities being socially contingent, embedded in detrimental gendered norms, and when interventions do not reflect the pluralities of ways people actually live their lives.[244] MacKenzie, Rogers, and Dodds described such vulnerabilities as pathogenic vulnerabilities; a specific class of vulnerability that are created by dysfunction, abuse, oppression and injustice.[245] Lindsey, who used the term derivative vulnerabilities, noted that they arise when legal interventions ignore the wishes of vulnerable subjects.[246] Even when implemented in

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access abortion' *The Irish Examiner* (Cork, 3 June 2019) < https://www.irishexaminer.com/lifestyle/arid-30928382.html > accessed 3 June 2023; Ronit Lentin, 'After Savita: migrant m/others and the politics of birth in Ireland' in Aideen Quilty, Sinéad Kennedy and Catherine Conlon (Eds.) *The Abortion Papers: Volume 2* (Cork University Press 2015) 179; Katherine Side, 'A geopolitics of migrant women, mobility and abortion access in the Republic of Ireland' (2016) 23(12) Gender, Place & Culture 1788; Taryn de Vere, '40pc of maternal deaths in Ireland are migrant and ethnic minority women' *Herfamily.ie* (Dublin, 2018) < https://www.herfamily.ie/pregnancy/40-of-maternal-deaths-in-ireland-are-migrant-women-293482 > accessed 3 June 2023; Paola Rivetti, 'Race, Identity and the State After the Irish Abortion Referendum' (2019) 122 Feminist Review 181; National Women's Council of Ireland, *Accessing abortion in Ireland: meeting the needs of every woman* (National Women's Council of Ireland 2021) 45.

[243] *Butler, Gambetti and Sabsay* (n 170) 5.

[244] Zeynep Gambetti, 'Risking Oneself and One's Identity: Agonism Revisited' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in Resistance* (Duke Press 2016) 45; *Athanasiou* (n 176) 261; *Butler* (n 124) 18, 21;
Butler, Gambetti and Sabsay (n 170) 1, 3; *Bracke* (n 199) 59; *Hirsch* (n 199) 80; *Lindsey* (n 182) 296; *Mackenzie* (n 160) 36; *Plonowska Ziarek* (n 164) 72; *Rogers* (n 175); *Sabsay* (n 167) 282; *Tzelepis* (n 176) 154, 164.

[245] *Mackenzie, Rogers and Dodds* (n 156) 9.

[246] *Lindsey* (n 182) 305.

good faith, if laws and policies create new vulnerabilities, feelings of powerlessness or alienation, or result in loss of agency, they can be described as pathogenic or derivative vulnerabilities.[247] As a result, these vulnerabilities give rise to an urgent obligation to reform the laws and policies responsible for their creation or exacerbation. In the Irish context, visibilising the oppressive effects of restrictive information laws undermined any supporting claims that the laws were in place to protect vulnerabilised subjects from injury or trauma. This reduced legitimacy prompted and facilitated reform proponents to increase political and legal pressures for these laws to be repealed or reformed.[248]

Objections to repressive laws are most potent when the calls for change come from those with direct lived experience of their adverse effects. Scholars described a duality of framing within designations of vulnerability whereby it can be the site of 'victimization and passivity', but also that of agency, political resistance and demands for justice.[249] When interventions are targeted towards certain classes of person based on being for their protection and benefit, those subjects can reject such claims by showing the incompatibility of these claims with their experiences, needs, wishes, and ways of being.[250] Exposing the reality of living within restrictive regulatory frameworks challenges 'hidden assumptions' in law, culture and society and naturalised harms.[251] Through their rejection of paternalism, those with lived experience of claimed protective

[247] *Mackenzie* (n 160) 38, 47-48.
[248] See Chapters Two and Four and Appendix 3 for details of such pressures.
[249] Quote from *Butler, Gambetti and Sabsay* (n 170) 1-3; See also Basak Ertür, 'Barricades: Resources and Residues of Resistance' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in Resistance* (Duke Press 2016) 97, 112; *Athanasiou* (n 176) 275; *Munro and Scoular* (n 163) 189, 195.
[250] Nükhet Sirman, 'When Antigone is a man: feminist "trouble" in the Late Colony' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) Vulnerability in resistance (Duke University Press 2016) 191.
[251] Quote from *Mackenzie* (n 160) 36; See also *Ahiska* (n 166) 229; *Athanasiou* (n 176) 262; *Fawcett* (n 172) 477.

interventions can call the State actors and supporters of those infrastructures to account by demanding that their agency be affirmed in law and policy.[252] As I discuss in Chapters Four and the Conclusion, abortion seekers and criminalised abortion providers challenged information restrictions, filled information gaps, and corrected anti-abortion mis/disinformation that had proliferated under censorship. Their testimonies created an alternative archive of stories, enabling them to insert themselves into spaces of law, policy and official narrative, from which they were previously excluded.[253] The State and those who support these interventions are then forced to defend or atone for decisions and infrastructures that gave rise to these vulnerabilising conditions.[254] As narrative is, to quote Ewick, 'a powerful technique of legitimisation', abortion seekers and criminalised abortion providers speaking out was an impactful form of resistance.[255]

By exposing and acknowledging the harms of regressive laws, these stories also encourage solidarity and empathy in communities. They create spaces for others without direct experiences to see the world differently and to consider alternative ways of being.[256] Prompting critical examinations of vulnerabilities allows people to question power relationships and how knowledge is created through patriarchy, politics, science and culture.[257] This can undo decades of information controls that sought to foreclose such critical reimaginings and new or altered norms that are affirming of agency. These connections and bonds are formed, as Athanasiou recounted, because there are shared

[252] Rema Hammami 'Precarious Politics. The Activism of "Bodies That Count" (Aligning with Those - That Don't) - in Palestine's Colonial Frontier' in Judith Butler, Zeynep Gambetti, Leticia Sabsay (Eds.) *Vulnerability in Resistance* (2016 Duke University Press) 167, 174; *Butler* (n 115) 137, 157; *Butler* (n 124) 15; *Sirman* (n 250) 192; See the discussion on the stories of abortion seekers from p. 375-381.
[253] *Athanasiou* (n 176) 273.
[254] *Butler* (n 124) 22; *Gambetti* (n 244) 37; *Hammami* (n 252) 174.
[255] *Ewick* (n 114) 87.
[256] *Sirman* (n 250) 191.
[257] *Athanasiou* (n 176) 274; *Butler* (n 115) 48; *Sirman* (n 250) 205.

conditions of vulnerability which are often marked by histories of resistance.[258] People act as parts of movements to engage in political arenas and
they build alternative infrastructures to assist vulnerabilised subjects, allowing people to circumvent paternalistic or political services.[259] Through such resistance, the State, hegemonic institutions and oppressive norms themselves become vulnerable to contestation.[260] In Chapter Four, I recounted how these strategies undermined, subverted and largely countered information restrictions, forcing reforms. I accounted for how the protective arguments that initially formed the bedrock of anti-abortion information controls were reclaimed by those with direct lived experience and those who supported them to legitimise and normalise pro-choice arguments. The result was the dismantling of the dominant anti-abortion ideologies that sustained information controls, and ultimately the repeal of most of those regressive, paternalistic laws.

Contribution to the Literature

[258] *Athanasiou* (n 176) 271; *Butler* (n 124) 15.
[259] *Athanasiou* (n 176) 259; *Brown* (n 157) 314, 317-318; *Butler* (n 124) 14, 19; *Munro and Scoular* (n 163) 193; *Sabsay* (n 167); *Plonowska Ziarek* (n 164) 67-68, 78, 80-81.
[260] *Butler* (n 115) 48.

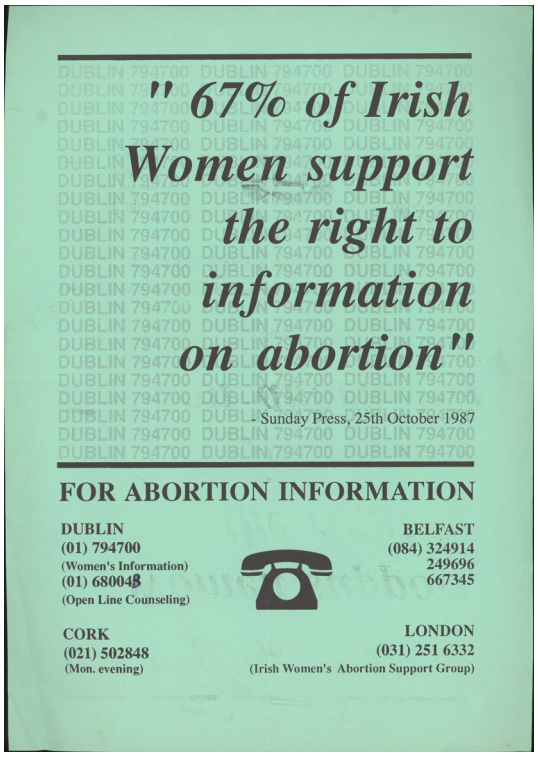


Image Introduction.7: Women's Information Network Leaflet.[261]

I contribute to the existing literature by centring information restrictions and focusing on their creation and enforcement in far greater detail. Information control as a strategy was primarily addressed in the literature alongside other anti-abortion tools and techniques of governance, e.g., criminalisation and travel injunctions. By focusing my analysis on information, I could explore the specific dynamics behind law, enforcement and popular support. I could deliver an account of why, for example, the prohibitory anti-abortion framework was sustained by the State for so long despite, as the leaflet above shows, many people did not support it. To denote which areas of scholarship my work contributes to, I considered Banakar's recommendation that researchers critically engage with existing bodies of knowledge rather than simply summarising existing work

[261] Copyright Women's Information Network. Source is the Digital Repository of Ireland < https://repository.dri.ie/catalog/8k7229557 > accessed 3 November 2023.

in complementary areas.[262] Following this, I considered where consensus and conflicts lay within the literature and the various theories and methods researchers used to explore the operation and effects of information controls. I chose not to limit myself to legal analyses as work from other disciplines - e.g., historical, public health perspective, activist – were vital to my understanding of censorship and abortion regulations. I believe my work would also be of interest to scholars outside of legal scholarship and outside of reproductive rights research. There are four areas where my thesis adds to or strengthens existing domains of knowledge: connections between different iterations of censorship, nation-building, vulnerability as a political strategy, and the failure of censorship.

Connecting iterations of censorship

Literature examining censorship in Ireland can be divided into that which focuses on the years before the Eighth Amendment (1983), between the Eighth, Fourteenth Amendments (1992) and the Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995 and after the 1995 Act. The Authors come from varied backgrounds, including State agencies, non-governmental organisations, academics, and journalists. Often, these authors had a specific, narrow focus to their research, e.g., the experiences of information seekers under the 1995 Act. I have taken a broader scope in this thesis as I have examined information restrictions that were created and enacted from 1929 to 2018. Taking a long approach enabled me to tie together iterations of information control to build a comprehensive overview. I could then show how anti-abortion ideologies endured therein. I reflected upon how these

[262] *Banakar* (n 19).

restrictions were sustained, adapted, and countered. This strategy has allowed me to build upon the work of authors like Quilty, who emphasised how knowledge creation is socially situated.[263] The narrow interpretations of the Eighth Amendment were, as Enright and de Londras argued, 'deeply entrenched' in anti-abortion political and constitutional ideologies.[264] That is, they were not an inevitable outcome. It was fears of future 'floodgate' or 'slippery slope' effects, as de Londras and Graham described, that resulted in information controls being used by the State and anti-abortion advocates to foreclose abortion normalisation and legalisation.[265] Knowledge was therefore controlled through anti-abortion legal prohibitions on, and requirements for, speech and information provisions. As Fletcher detailed, the 'old ways' and 'habit and institutionalization' of anti-abortion approaches to law-making were difficult to displace.[266] Norms and ideals were perpetuated through information regulations. I demonstrate how these dynamics were present from the 1929 Act, not just from the creation of the Eighth Amendment, the point at which analyses often begin in the literature. In terms of future insights, my work accounted for why protecting vulnerable subjects through the control of information provision and circulation remains politically persuasive and is reflected in the current legal framework: the 2018 Act.[267]

[263] Aideen Quilty, 'Water, Water Everywhere … exploring education geographies of abortion' in Aideen Quilty, Catherine Conlon, Sinéad Kennedy (Eds.) *The Abortion Papers: Volume 2* (Cork University Press 2015) 189, 202-204.
[264] *Enright and de Londras* (n 242).
[265] Fiona de Londras and Laura Graham, 'Impossible floodgates and unworkable analogies in the Irish abortion debate' (2013) 3(3) Irish journal of legal studies.
[266] Ruth Fletcher, '#RepealedThe8th: Translating Travesty, Global Conversation, and the Irish Abortion Referendum' (2018) 26(3) Feminist Legal Studies 233, 244.
[267] See the Conclusion chapter.

A further benefit to taking a broad scope for my analysis is that I could expand upon existing work that considered the influence of lobby and campaign groups on Irish information regulations. Often in the literature, pro-censorship and anti-abortion campaigners were considered separately. Abortion scholars tended to focus on information control as a secondary issue to foetal rights' to life protections. Censorship scholars tended to focus upon literary censorship as it was the most prevalent form of censorship in Ireland.[268] Authors like Fletcher,[269] Kennedy,[270] Coliver,[271] and Conlon[272] wrote pieces focusing primarily upon information regulations but were mainly concerned with post-Eighth Amendment developments. My thesis brings together these areas of scholarship so that I could demonstrate how anti-abortion and pro-censorship campaigners were impactful in terms of creating and sustaining censorship. As I discuss in Chapters One and Three, their interventions were an integral part of the creation and sustaining of the 1929 Act.[273] In the 1960s/1970s, anti-contraception groups opposed family planning reforms because they could lead to a reform of abortion laws.[274] Later, the passing of the Eighth Amendment provided a legal instrument of strategic and material importance to force the cessation of non-directive counselling. Later, anti-censorship and pro-choice campaigners rendered information restrictions obsolete through their campaign work. Information became a legitimate area for reform under the 2018 Act. I show how critical legal changes were often reflective of the ideologies and

[268] *Ó'Drisceoil* (n 79); *Ó'Drisceoil* (n 82) 291; *Martin* (n 36).
[269] See Ruth Fletcher, 'Peripheral governance: administering transnational health-care flows' (2013) 9(2) International Journal in Law in Context 160;
[270] Sinéad Kennedy, 'The right to know: gender, power, reproduction and knowledge, regulation in Ireland' in Mary Corcoran and Pauline Cullen (Eds.) *Producing Knowledge, Reproducing Gender Power, Production and Practice in Contemporary Ireland* (UCD Press 2020).
[271] *Coliver* (n 235).
[272] *Conlon* (n 215).
[273] Anthony Keating, 'Censorship: The Cornerstone of Catholic Ireland' (2013) 57(2) Journal of Church and State 289.
[274] *Rose* (n 65).

outcomes intended by particular influential campaigners.[275] Charting the threads of how these movements grew and changed is key for current understandings of why anti-abortion proponents are framing information as a method through which abortion can be minimised, re-stigmatised and exceptionalised.[276] This serves as a warning for any pro-choice or non-directive legislator or campaigner to ensure that law, and the discourse around it, does not fall into 'paternalistic logics' that Butler, Gambetti and Sabsay warn can undermine the agency of vulnerabilised subjects.[277]

I aligned my analysis closer to the literature on the criminalisation of abortion than that considering censorship in other criminalised areas, e.g., indecency and obscenity, censorship in wartime, etc. However, my thesis still contributes knowledge on how censorship was created and enforced in Ireland. I identified how publications that were deemed by the Minister for the Censorship of Publications Board to have advocated abortion or contraception were held in contempt. These prohibited publications were excluded from moments of reform such as the Censorship of Publications Act 1967 and in the case of abortion information, the Health (Family Planning) Act 1979. I also demonstrated the overlapping of principles within censorship practices that impacted censorship of literature, non-fiction publications that were deemed by the Minister or the Board to be indecent or obscene, and those prohibited by the Minister or the Board for having advocated abortion or contraception. I discuss in Chapters One and Three that these included prosecutions and injunctions but also bureaucratic hurdles to information

[275] *Ferriter* (n 65) 95; *Inglis* (n 9).
[276] See the Conclusion chapter.
[277] *Butler, Gambetti and Sabsay* (n 170) 2.

access such as permit requirements.[278] By highlighting these dynamics, I could show how 'pragmatic' censorship or 'censorship by anticipation' as Woodman described it, was encouraged through such measures.[279] This added to accounts of later forms of information control, such as Koegler's analysis of the 1995 Act, addressing why there were years of legally unnecessary anticipatory censorship in Ireland around abortion information provision.[280] This foreclosure, as I demonstrate in Chapter Three, was part of the reason why anti-abortion viewpoints were sustained in Ireland for so long, despite thousands of people travelling for abortions. Authors conducting research in this area in the future can use my analysis as a basis for considering why the 2018 Act – despite being reform legislation - retained information-based barriers to access that were embedded in previous iterations of anti-abortion information-control ideologies.[281]

Nation building and anti-abortion ideologies

A common theme within literature analysing abortion restrictions and censorship was that of nation-building. Authors identified criminalisation in both areas as being a tool of governance through which an idealised Irish identity with ties to Catholicism could be created and sustained. Kent described censorship serving 'a self-designed web of cultural, political and economic isolationism' through which censors could define what was seen as 'normal' in society.[282] Keating linked this strategy to attempts to return

[278] For examples of people being prosecuted for circulating indecent or obscene materials see *Ferriter* (n 65) 155; *McAvoy* (n 97) 43; *Ó'Drisceoil* (n 79); *Ó'Drisceoil* (n 82) 291; *Waterford Standard* (n 81).
[279] *Woodman* (n 64) 200, 202-203.
[280] Keith S. Koegler, 'Ireland's Abortion Information Act of 1995' (1996) 29(5) Vanderbilt Journal of Transnational Law 1117, 1143.
[281] See the Conclusion chapter.
[282] Brad Kent, 'Zealots, Censors And Perverts: Irish censorship and Liam O'Flaherty's *The Puritan*' (2006) 14(3) Irish Studies Review 344.

Ireland to the halcyon days of being the island of saints and scholars.[283] Why authors argued this was the case was, to quote Conrad, a perception that there was security in living within a 'domestic patriarchy' and paternalistic purity norms.[284] Oaks described there being a romanticisation of anti-abortion ideologies as a marker of Irishness.[285] Furthermore, there were benefits for the Irish State in foreclosing challenge as it provided protection for an 'insecure state'.[286] Mistruths or shortcomings of dominant social teachings could be ignored or supressed.[287] How this thesis builds upon this body of research is that I demonstrated how abortion information restrictions contributed to this nation building project. It did so by establishing and sustaining anti-abortion ideologies, largely by ensuring the proliferation of anti-abortion information sources. The dominance of anti-abortion information sources could be instrumentalised by anti-abortion advocates to claim that criminalisation of abortion and censorship reflected the consensus position of people in Ireland.[288] McDonnell and Allison described such framings as 'semantic subterfuge'.[289] My observations reflect the work of authors who emphasised that changes to abortion and information regulations have often come at times of political instability.[290] Claiming that there was a concrete and immovable

[283] *Keating* (n 273) 291.
[284] Quote from Kathryn Conrad, 'Fetal Ireland: National Bodies and Political Agency' (2001) 36(3&4) Éire-Ireland 153, 156; Clara Fischer, 'Gender, Nation, and the Politics of Shame: Magdalen Laundries and the Institutionalization of Feminine Transgression in Modern Ireland' (2016) 41(4) Signs: Journal of Women in Culture and Society 821, 828; *O'Carroll* (n 112) 57.
[285] Laury Oaks, 'Irishness, eurocitizens, and reproductive rights' in Sarah Franklin (Ed.) *Reproducing reproduction: kinship, power and technological innovation* (University of Pennsylvania Press 1998) 142-143.
[286] Quote from *Keating* (n 273) 294; See also *Martin* (n 36) 98.
[287] J.J. Lee, *Ireland 1912-1985 : Politics and Society* (Cambridge University Press, 2010) 158-159; Anthony Keating, 'Women their own worst enemy: sex crime in the Free State' (2014) Crimsoc: Journal of Social Criminology.
[288] See Chapter Three.
[289] *McDonnell and Allison* (n 65) 819; See also Tom Hesketh, *The second partitioning of Ireland?: the referendum of 1983* (Brandsma Books 1990).
[290] Jeffrey A. Weinstein, 'An Irish Solution to an Irish Problem: Ireland's Struggle with Abortion Law' (1993) 10(1) Arizona Journal of International and Comparative Law 165; Brian Girvin, 'Moral politics and the Irish abortion referendums, 1992' (1994) 47(2) Parliamentary Affairs 203; *Lee* (n 287) 653.

community position on abortion and information control provided politicians with a way of securing votes.[291]

This approach of restricting access to abortion and to information that challenged those prohibitory approaches was not uniquely Irish. Anti-abortion advocates often framed their worldview as one that was intrinsic and central to the Irish identity, moral values and experiences. However, many European countries adopted similar laws and also cast them as being necessary to protect vulnerable women and girls.[292] Irish abortion criminalisation was, as de Londras remarked, a British import.[293] Despite this, anti-abortion proponents persistently feared that foreign influence might endanger their plans for a particular post-independence identity including a community adherence to an anti-abortion *status quo*.[294] The countries marked as threats included rapidly secularising France and Russia,[295] the US after *Roe vs Wade*,[296] and Britain due to its women's movement and the Abortion Act 1967.[297] Ireland joining the European Community in 1972 augmented such concerns.[298] My analysis in Chapter Three showed how that anti-abortion State and campaigners intended that anti-abortion

[291] Lisa Smyth, 'Narratives of Irishness and the Problem of Abortion: The X Case 1992' (1998) 60(1) Feminist Review 61, 66; *Ferriter* (n 65) 187-188; See Conor Cruise O'Brien in *Hesketh* (n 289) 146; *Smyth* (n 41) 140.
[292] *Earner-Byrne* (n 63) 361.
[293] Fiona de Londras, 'Constitutionalizing foetal rights: a salutary tale from Ireland' (2015) 22 Michigan Journal of Gender and Law 243, 253.
[294] *Earner-Byrne* (n 63).
[295] Siobhán Kilfeather, 'Irish feminism' in Joe Cleary and Claire Connolly (Eds.) *The Cambridge Companion to Modern Irish Culture* (Cambridge University Press 2006) 96, 106.
[296] Cara Delay, 'Wrong for womankind and the nation: Anti-abortion discourses in 20th-century Ireland' (2019) 17(3) Journal of Modern European History: Special Issue: Reproductive Decision-making in Comparative Perspective 312.
[297] Pauline Cullen and Elżbieta Korolczuk, 'Challenging abortion stigma: framing abortion in Ireland and Poland' (2019) 27(3) Sexual and Reproductive Health Matters 6; *Ó'Drisceoil* (n 82) 286; *Smyth* (n 291) 69-70.
[298] David Cole, 'Going to England: Irish Abortion Law and the European Community' (1993) 17(1) Hastings International and Comparative Law Review 113; Ruth Fletcher, 'National crisis, supranational opportunity: the Irish construction of abortion as a European service' (2000) 8(16) Reproductive health matters 35; Rick Lawson, 'The Irish Abortion Cases: European Limits to National Sovereignty' (1994) 1 European Journal of Health Law 167.

information controls would neutralise any such risks that counterhegemonic information from abroad would circulate or proliferate in Ireland. Those ideas – especially those from Britain - could not, therefore, undermine any claimed unifying anti-abortion community consensus.[299] Ireland could be free of, to quote Keating, the 'sin' of other countries.[300] Or at least to contain such sin to certain controlled quarters so ideas would not be spread indiscriminately.[301] There was, according to authors like Dooley, a comfort in claims of there being a 'moral homogeneity' in Ireland.[302] Such strategies involved – as I discuss in Chapters One and Three - using the criminal law to expel counterhegemonic information sources from the public domain and to prevent them from being created in Ireland. This allowed anti-abortion campaigners to claim that they were only seeking to confirm existing laws and values, rather than establishing new ones.[303]

While anti-abortion advocates may have claimed that their moral stances were, to quote O'Carroll, 'universally valid', they were aware of the potential for resistance.[304] Ewick aptly described ideologies as needing to be 'be lived, worked out, and worked

[299] Barry Collins and Patrick Hanafin, 'Mothers, maidens and the myth of origins in the Irish Constitution' (2001) 12 Law and Critique 53, 63; Ruth Fletcher, 'Post-colonial Fragments: Representations of Abortion in Irish Law and Politics' (2001) 28(4) Journal of Law and Society 568; Ruth Fletcher, 'Reproducing Irishness: Race, Gender, and Abortion Law' (2005) 17(2) Canadian Journal of Women and the Law 365; Anne Speed, 'The Struggle for Reproductive Rights: A Brief History in its Political Context' in Ailbhe Smyth (Ed.) *The Abortion Papers Ireland* (Attic Press 1992) 85; *Ó'Drisceoil* (n 82) 286.
[300] Quote from *Keating* (n 81) *The Uses and Abuses* 67-79 and *The Waterford Standard* 17-18; Alyssa Best, 'Abortion Rights along the Irish-English Border and the Liminality of Women's Experiences' (2005) 29(3/4) Dialectical Anthropology 423; *Smyth* (n 291) 70.
[301] For a discussion of containment culture in Ireland see Christina Quinlan, 'Policing Women's Bodies in an Illiberal Society: The Case of Ireland' (2017) 27(1) Women & Criminal Justice 51; See the discussion of the Censorship of Publications Board *Report* see p. 98-99.
[302] *Dooley* (n 191) 167.
[303] Wendy Holden, *Unlawful carnal knowledge: the true story of the Irish 'X' case* (Harper Collins 1994) 52-53.
[304] *O'Carroll* (n 112) 57.

on…expressed and applied and challenged,' for them to endure and to be effective.[305] Limiting access to counterhegemonic information, as I argued in Chapter Three, can assist in this process by establishing the anti-abortion position as an anchor identity for Irishness. Losing control of information regulations and dominant messaging on contested issues was seen by conservative advocates to be a sign that the moral consensus was failing, endangering the State, religious and cultural institutions.[306] As Gearty noted, anti-abortion advocates were concerned that a 'newer, younger, freer Ireland' would result in abortion prohibitions being overturned or challenged by opponents.[307] Any potential for a cascade of liberalisation, what Chubb described as the 'domino theory', needed to be quashed.[308] Hence, anti-abortion proponents sought to control access to information and protested any potential reforms that opened up lawful speech to include counterhegemonic information sources. I discussed this in Chapter Two about prohibitions on communicating facilitative information about abortion services abroad. Privileging and allowing for the circulation of information reflective of an anti-abortion standpoint would result in people internalising conservative ideas.[309] This would reinforce existing norms and stigmatisation but would also foreclose contestation of those ideas. Such regulations forced people, as Cole described, to live in 'enforced ignorance'.[310] Persistent conservative, cautious approaches to law-making that prioritised abortion reduction or elimination is part of why anti-abortion ideologies

[305] *Ewick* (n 114) 80.
[306] *Smyth* (n 41).
[307] Conor Gearty, 'The Politics of Abortion' (1992) 19(4) Journal of Law and Society 441, 447.
[308] *Chubb* (n 64) 18; See also Ursula Barry, 'Discourses on foetal rights and women's embodiment' in Aideen Quilty, Sinéad Kennedy, and Catherine Conlon (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 130, 138-140; *Oaks* (n 285) 132.
[309] *Collins and Hanafin* (n 299) 53-73.
[310] Ruth Riddick (Open Door and Line) discussing the work of David Cole in 'Group reports' in *London Irish Women's Centre* (n 99) 8.

remained dominant in Ireland for so long.[311] Legislators were often reluctant to engage with abortion and information law reforms, or would only do so with the endorsement of the electorate through a referendum.[312] Censorship or the privileging of anti-abortion information sources could, as I showed through this thesis, be instrumentalised to foreclose resistance and challenges to the idea of the anti-abortion position being the Irish position.

Protective justifications for anti-abortion law-making

A prominent argument that censorship proponents used to justify information suppression was, as I detail in Chapters One and Two, the need to protect vulnerable subjects from the harms of abortion. Abortion seekers and foetal life could be, they claimed, endangered by non-directive and pro-choice information sources that would facilitate or normalise abortion. Framing information regulations as a matter of welfare and harm avoidance allowed these advocates to cast themselves not as censors or supporters of paternalistic agency curtailments but as benevolent protectors.[313] This cloaked the political motivations and the use of 'lawfare' by anti-abortion legal, medical and cultural gatekeepers.[314] Preserving what these advocates considered to be

[311] For a discussion of this approach in relation to anti-abortion law-making see Máiréad Enright, 'four pieces on Repeal: notes on art, aesthetics and the struggle against Ireland's abortion law' (2020) 124 Feminist Review 104.
[312] Gavin Barrett, 'The use of referendums in Ireland: an analysis' (2017) 23(1) The Journal of Legislative Studies 71; Brian Girvin, 'Social Change and Moral Politics: The Irish Constitutional Referendum 1983' (1986) XXXIV Political Studies 61, 67; Brendan Kennelly and Eilis Ward, 'The abortion referendums' in Michael Gallagher and Michael Laver (Eds.) *How Ireland voted 1992* (Folens and PSAI Press 1993) 115; *Girvin* (n 290); *McAvoy* (n 230) 48-51, 54-57.
[313] Anne-Mari Mustonen, Tommi Paakkonen, Esko Ryökäs and Petteri Nieminen, 'Abortion debates in Finland and the Republic of Ireland: textual analysis of experiential thinking and argumentation in parliamentary and layperson discussions' (2017) 14(1) Reproductive Health 163.
[314] Quote from Fiona de Londras and Máiréad Enright, '"The only lawyer on the panel": anti-choice lawfare in the battle for abortion law reform' in Kath Browne and Sydney Calkin (Eds.) *After Repeal: Rethinking Abortion Politics* (Bloomsbury Academic 2020) 53, 54; Marie Fox and Therese Murphy, 'Irish Abortion: Seeking Refuge in a Jurisprudence of Doubt and Delegation' (1992) 19(4) Journal of Law and Society 454, 456; Laury Oaks, '"Abortion is part of the Irish experience, it is part of what we are": the transformation of public discourses on Irish abortion policy' (2002) 25(3) Women's Studies International Forum 315, 319-320; ; Laury Oaks, 'Antiabortion positions and young

vulnerable foetal life was often the primary focus in their strategic use of law to restrict access to abortion, and information. According to such perspectives, other abortion issues were considered by anti-abortion proponents to be peripheral or inferior to this central foetal protective motivation.[315] Authors identified consistent descriptions of foetal life as vulnerable,[316] innocent,[317] unable to defend themselves,[318] and having embodied precariousness.[319] Their status was exceptionalised to the extent that Hanafin noted that foetal life was treated in law as if they were citizens with no obligations.[320] This was to the extent that they necessitated a whole societal response to lessen the dangers posed to them by unjust external threats.[321] My work builds upon this research to show that pro-choice or non-directive abortion information was targeted in law for the same reasons. Legal approaches included restrictions but also mandated 'alternatives' information. The result was decades of limited access to counterhegemonic or facilitative information or communications, and paternalistic law-making that curtailed the transformative potential of moments of reform. My work can also form part of the evidential basis for anyone considering the shortcomings in the 2018 Act and how the

women's life plans in contemporary Ireland' (2003) 56 Social Science and Medicine 1973, 1976; *Barry* (n 308); *Conrad* (n 284) 155; *Dooley* (n 191) 173; *Fletcher* (n 298) 577.

[315] Paul Loughlin, 'Debating contraception, abortion and divorce in an era of controversy and change: new agendas and RTÉ radio and television programmes 1968-2018: Volume One' (PhD Thesis, Trinity College Dublin 2020) 159.

[316] Máiréad Enright, 'Abortion Law in Ireland : Reflecting on Reform' in Lynsey Black and Peter Dunne (Eds.) Law and *Gender in Modern Ireland: Critique and Reform*, (Hart Publishing 2019) 55; Nuala O'Faolain, 'Abortion debate was not based on rights' *The Irish Times* (Dublin, 22 May 1995) 14; *Smyth* (n 291) 60.

[317] Delores Dooley Clarke, 'Divergence between theory and practice' in Mavis Arnold and Peadar Kirby (Eds.) *"The Abortion Referendum" : The Case Against* (Anti-amendment campaign 1983) 57; Ann Curran, 'Ordinary and Extraordinary Images: Making Visible the Operations of Stock Photography in Posters Against the Repeal of the 8th Amendment' (2022) 6(1) Feminist Encounters: A Journal of Critical Studies in Culture and Politics 7, 9-10; *Enright* ibid; *O'Faolain* ibid.

[318] Richard Scriven, 'Placing the Catholic Church: the moral landscape of repealing the 8th' in Kath Browne and Sydney Calkin (Eds.) *After Repeal: Rethinking Abortion Politics* (Bloomsbury Academic 2020) 191, 195; *Curran* ibid.

[319] Fiona de Londras and Mima Markicevic, 'Reforming abortion law in Ireland: Reflections on the public submissions to the Citizens' Assembly' (2018) 70 Women's Studies International Forum 89, 94; *Loughlin* (n 315) 357; *Smyth* (n 291) 60.

[320] Patrick Hanafin, 'Valorising the Virtual Citizen: The Sacrificial Grounds of Postcolonial Citizenship in Ireland' (2003) 4(1) Law, Social Justice & Global Development Journal.

[321] *de Londras* (n 293).

ideological foundations of abortion information controls were sustained through provisions like the mandatory three-day delay period.[322] In addition, how and why the anti-abortion movement continues to cite information control as an indispensable strategy for abortion reduction or elimination.[323]

Within law and culture, people are treated differently depending on the degree of harm that they are considered to pose to vulnerable subjects.[324] I identified that those who facilitated abortions or who challenged condemnatory framings of abortion, were considered by anti-abortion advocates to endanger foetal life and vulnerable abortion seekers.[325] This designation resulted in, for example, pregnancy service providers being prohibited from making appointments on behalf of their patients/clients under the 1995 Act.[326] Though pregnant people were also deemed to pose a risk to vulnerable foetal subjects.[327] This was not specific to Ireland, or to abortion, as Ahiska noted, women are often ascribed a duality in terms of being an object for protection and a threat in themselves.[328] Authors identified how in the Irish abortion context, anti-abortion proponents declared the 'womb' to be the most 'dangerous place in the world'.[329]

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[322] See for example *de Londras and Markicevic* (n 319) 93; Kate Hunt, 'Social movements and human rights language in abortion debates' (2021) 20(1) Journal of Human Rights 72.
[323] For visualisation of the foetal subject as an anti-abortion strategy see *Barry* (n 308) 132-134; *Conrad* (n 284) 157-158; *Curran* (n 317) 7; *Kuźma-Markowska and Kelly* (n 116) 11-14; *Loughlin* (n 315) 357.
[324] *Fawcett* (n 172) 478.
[325] See Chapters One, Two and Three.
[326] See p. 192-198.
[327] Joan Hoff, 'Comparative analysis of abortion in Ireland, Poland and the United States' in Mary O'Dowd and Sabine Wichert (Eds.) *Chattel, servant or citizen: women's status in church state and society* (The Institute of Irish Studies, Queen's University Belfast 1995) 254, 258; Geraldine Meaney, *Sex and nation: women in Irish culture and politics* (Attic press 1991) 4; *Conrad* (n 284) 158; *Sheldon* (n 240) 90-101.
[328] *Ahiska* (n 166) 213.
[329] Gerard Casey (Christian Solidarity Party) 'Failure of imagination in abortion debate' *The Irish Times* (18 March 1997) 14; Nell McCafferty, *A woman to blame: the Kerry babies case* (Attic Press 1985) 175; *Conrad* (n 284); *O'Faolain* (n 316).

Pregnant people were creators of life and, to quote O'Carroll, a potential 'taker of life'.[330] Instead, their maternal duty should have involved a sacrifice to preserve foetal life.[331] Those who departed from that social, cultural and legal expectation to continue their pregnancies were considered by anti-abortion critics as being deviant, abnormal or untrustworthy.[332] My research contributes to this body of knowledge by showing how these framings resulted in prohibitions upon certain facilitative and counterhegemonic information-sharing. If pregnant people could not be relied upon to fulfil norms, the law would create barriers to access and would stigmatise their choice to end their pregnancy. Information restrictions were a strategy through which the State and anti-abortion advocates could claim to be the moral protectors of vulnerable foetal life.

Scholars who considered how abortion was regulated in Ireland highlighted the nuance and variations within the moral status afforded to foetal life.[333] As I described in Chapter Four, some people believed that pregnant people were treated unjustly, cruelly and paternalistically by denying them access to abortion. I think this is why anti-abortion and pro-censorship proponents framed their preferred interventions as being caring, rather than coercive. Feminist scholars demonstrated that this was not confined to the regulation of abortion in Ireland. For example, Conroy recounted that women's access to the public domain - e.g., juries, workplaces, social spaces – was limited on this protective basis.[334] Governments justified using law and culture to encourage women to

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[330] *O'Carroll* (n 112) 65.
[331] Siobhán Mullaly, 'Debating reproductive rights in Ireland' (2005) 27(1) Human Rights Quarterly 78; *Inglis* (n 9); *Meaney* (n 327) 3.
[332] *Enright* (n 316); *Hug* (n 127) 182; *Oaks* (n 285) 60; *Smyth* (n 291) 60.
[333] Attracta Ingram, 'Home and Away: The Unequal Vista for Irish Women' in Ailbhe Smyth (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 149, 150-151.
[334] Pauline Conroy, 'Dúirt bean liom … A woman told me … Punishing the productive and the reproductive' in Aideen Quilty, Sinéad Kennedy, and Catherine Conlon (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 50; *Collins and Hanafin* (n 299) 66; *Smyth* (n 291).

fulfil their perceived 'normal and natural' roles in the home to be protected from claimed economic or civic pressures.[335] My work evidenced how information controls were part of this paternalistic legacy. I expanded upon the research of scholars like McAvoy and Delay, who focused on abortion criminalisation in the early Twentieth Century.[336] Often, abortion seekers were described as innocent, panicked girls who needed to be protected from their own poor decision-making.[337] This claim was often combined with that which posited that childbirth was the optimum outcome for pregnant people in terms of their mental, physical and moral health.[338] Health-based claims became particularly important within anti-abortion discourse when key scientific and medical evidence no longer supported abortion criminalisation,[339] and when absolutist foetal protective interventions lost popular support because it was discriminatory against pregnant people.[340] All of these dynamics applied to the regulation of counterhegemonic and facilitative abortion information in Ireland. Controlling access to information would ensure that pregnant people made what anti-abortion proponents regarded as the more

[335] Quote from the Minister for Justice Kevin O'Higgins (Cumann na nGaedheal, formerly Sinn Féin) quoted in Maryann Gialanella Valiulis, 'Power, Gender, and Identity in the Irish Free State' (1995) 6(4) and 7(1) Journal of Women's History 117, 122; Stephanie Lord, 'The Eighth Amendment: planting a legal timebomb' in Aideen Quilty, Sinéad Kennedy, and Catherine Conlon (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 104-106; Evelyn Mahon, 'Women's Rights and Catholicism in Ireland' (1987) 1(166) New Left Review 166, 53-54; Anne Quesney, 'Speaking Up! Speaking Out! Abortion in Ireland, exploring women's voices and contemporary abortion rights activism' in Aideen Quilty, Sinéad Kennedy, and Catherine Conlon (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 158, 163-166; *Inglis* (n 9); *Kelly* (n 114) 185; *Oaks* (n 285) 145.
[336] Cara Delay, 'Pills, potions, and purgatives: women and abortion methods in Ireland, 1900–1950' (2019) 28(3) Women's History Review 479; Cara Delay and Annika Liger 'Bad Mothers and Dirty Lousers: Representing Abortionists in Post-independence Ireland' (2020) 54(1) Journal of Social History 286; *Larmour* (later McAvoy) (n 85).
[337] Clare Murray, 'The Protection of Life During Pregnancy Act 2013: Suicide, dignity and the Irish discourse on abortion' (2016) 25(6) Social & Legal Studies 667; *Delay* (n 296); *Loughlin* (n 315) 147-148; *Porter* (n 74) 280.
[338] Kate Hunt, 'Social movements and human rights language in abortion debates' (2021) 20(1) Journal of Human Rights 72; Kim-Sue Kreischer, 'The relation and function of discourses: a corpus-cognitive analysis of the Irish abortion debate' (2019) 14(1) Corpora 105, 116-119, 122-123; *Cullen and Korolczuk* (n 297); *Kuźma-Markowska and Kelly* (n 116) 9, 18; *Loughlin* (n 315) 175.
[339] *Fox and Murphy* (n 314) 456; *Kuźma-Markowska and Kelly* (n 116).
[340] Carol Mason, 'Opposing Abortion to Protect Women: Transnational Strategy since the 1990s' (2019) 44(3) Signs: Journal of Women in Culture and Society 665; Maeve Taylor, Alison Spillane, Sabaratnam Arulkumaran, 'The Irish Journey: Removing the shackles of abortion restrictions in Ireland' (2020) 62 Best Practice and Research Clinical Obstetrics and Gynaecology 36, 40-41; Breda O'Brien (Organiser of the *5,000 Too Many* Conference) *All-Party Oireachtas Committee on the Constitution* (n 94); *Quesney* (n 335) 160-162.

beneficial choice to continue their pregnancies.[341] Sheldon described paternalistic information controls as being grounded in the idea that 'providing women with information that empowers them to manage their own pregnancies cuts against the grain of a powerful Irish discourse of women as victims of both unwanted pregnancies and those who offer abortion services'.[342] I showed how strands of this approach continued through the 2018 Act and in the attempts of anti-abortion campaigners in Ireland to use information-based strategies to exceptionalise and to create barriers to abortion access once more.

Resisting anti-abortion information controls

Ewick and Silbey asked, 'if hegemony refers to that which is unthinkable, resistance must depend on some point in thinking the unthinkable. How does this happen?'.[343] This was a question that I was interested in exploring as the view of many authors was that censorship left Ireland, to borrow Brown's description, with 'severely stunted…cultural and social development'.[344] My work in Chapter Four contributes to this literature by recounting how, despite the dominance of pro-censorship and anti-abortion ideologies in Ireland, people did resist and reject them. It was by no means a simple feat. To quote Keating, censorship 'skewed communication on the issues relating to the moral, economic, and political life of the nation for decades…and became an encumbrance to

[341] Breda O'Brien, 'Irish Abortions: Can We Reduce the Number?' (2001) 90(358) Studies 152, 154; *Antiabortion positions* (n 314) 1982; *Loughlin* (n 315) 141.
[342] *Sheldon* (n 240) 97; See also *Sheldon* (n 235) 830.
[343] Patricia Ewick and Susan Silbey, 'Narrating Social Structure: Stories of Resistance to Legal Authority' (2003) 108(6) American Journal of Sociology, 1328.
[344] *Brown* (n 111) 40-41, 68-69, 175.

Ireland's emergence into true democratic nationhood.'[345] Countering censorship through legal means was not always possible due to the privileging of anti-abortion laws and judicial interpretations and the weak freedom of expression provisions in the Constitution.[346] A hostile environment ensured that, as Conlon described, many abortion seekers did not expect lawful help to end their pregnancies.[347] Returning to Darnton's observations of censorship support and opposition involving intertwined dynamics, it was also the case that few critics of censorships were wholly opposed to it.[348] People did often believe that censorship was desirous in many instances; abortion facilitation and advocation being one of them. Authors have described these dynamics as demonstrating 'a censorship mentality' in Ireland.[349] When people did object to censorship it was usually focused on protections for private readers and those in the publications and retail trades.[350] Even the European Court of Human Rights' judgments that found that Ireland's abortion and information laws did violate rights were rightly criticised by scholars for their limited transformative potential due to their narrow focus and the application of a wide margin of appreciation.[351] All of these aspects contributed to, what Kennedy described as 'reactive' pro-choice activism due to the dominance of

[345] *Keating* (n 273) 307; See also the comments of Séan O'Faoláin quoted in *Ó'Drisceoil* (n 82) 294.
[346] See p. 137, 357, and 433-435.
[347] *Conlon* (n 215) 58-59.
[348] *Darnton* (n 108).
[349] See the comments of Benedict Kelly and Julia Carlson (n 188) 18, 34.
[350] D[aniel] C[ostigan], 'Memo' (20 September 1938) 5, Folder no 90-102-233, National Archives of Ireland; Brian Girvin, 'Contraception, Moral Panic and Social Change in Ireland, 1969–79' (2008) 23(4) Irish Political Studies 555, 557; *Adams* (n 41) 84, 96-97, 138; *Brown* (n 111) 196; *Keating 'Uses and abuses'* (n 81); *Kent* (n 282) 187.
[351] For cases see *Dublin Well Woman Centre Ltd v Ireland* 1994 WJSC-SC 2704 Application no. 14235/88 and 14234/88 (European Court of Human Rights, 29 October 1992); *A, B and C v Ireland* Application no. 25579/05 (European Court of Human Rights, 16 December 2010); For discussions see Brenda Daly, 'Access to abortion services: the impact of the European Convention on Human Rights in Ireland' (2011) 30 Medicine and Law 267; Angela Thompson, 'International protection of rights an analysis of Open Door Counselling and Dublin Well Woman Centre v Ireland' (1994) 12 Boston University International Law Journal 371, 373.

anti-abortion ideologies in Ireland.[352] Many of those who campaigned against absolutist anti-abortion law-making even felt compelled to confirm that their personal views aligned with abortion reduction or elimination perspectives.[353] Girvin described changes in Ireland coming in a way that was heavily incremental and I demonstrated how information controls contributed to this.[354]

Reform advocates were successful, however, in achieving change. I accounted for the role that pro-choice, anti-censorship activists and proponents played in encouraging and facilitating the liberalisation of law. Duffy emphasised how Irish history is not only formed of the experiences of injustice and oppression but also of those who resisted and rebelled.[355] People have, as authors like Lee described, spoken out against anti-abortion ideologies for years, contesting those narratives.[356] This was important as people did change their minds about abortion when they encountered information that challenged essentialist, paternalistic anti-abortion claims.[357] My work builds upon descriptions made by scholars like Buckley that information was more than a 'neutral, secondary term but [is] a powerful catalytic agent in itself'.[358] Censorship, in making information a topic of debate drew people into considering whether information

[352] Sinéad Kennedy, 'A Tale of Two Referendums: A Comparative Study of the Anti-Amendment Campaign and Together for Yes' (2022) (6)(1) Feminist Encounters: A Journal of Critical Studies in Culture and Politics 2, 5; *Cork Abortion Information Campaign* (n 78) 2, 17.
[353] Alan MacSimóin, 'A history of the struggle for abortion rights in Ireland' (25 April 2009) *Workers Solidarity Movement* < http://www.wsm.ie/c/abortion-rights-ireland-history > accessed 4 April 2023; *Horgan* (n 193) 12.
[354] *Girvin* (n 312) 67, 80-81.
[355] Sandra Duffy, 'a change is gonna come: reflections on the Repeal campaign' (7 January 2019) < https://sandraduffy.wordpress.com/2019/01/07/a-change-is-gonna-come-reflections-on-the-repeal-campaign/ > accessed 3 May 2023.
[356] Angel Li, 'From Ireland to Northern Ireland: campaigns for abortion law' (16 June 2018) 391 The Lancet, 2403-2404.
[357] Jenny Beale, *Women in Ireland: Voices of Change* (Indiana University Press 1987) 118; Dolores Dooley, 'Twenty years on: 1983-2003' in The Cork Women's Political Association, *Vow: voices of women* (2003) 8th Amendment Special Edition, 19; *Quilty* (n 263) 196-198.
[358] *Buckley* (n 216) 123.

restrictions were justified. Even in times of suppression, there were opportunities for resistance, or for building the foundations for future strategies of activism and alternative information provision.[359] Connolly recounted that information controls were a major 'feminist mobilising issue' from which the pro-choice movement grew after the disappointment of the Eighth Amendment.[360] I explored these ideas in Chapter Four and recounted how counterhegemonic information reached people in Ireland. These channels of information access and people's interest in or need for abortion information rendered prohibitions obsolete. As I described, censorship opponents used law and cultural boundary pushing to force the State to undo most forms of censorship and criminalisation.

One source of counterhegemonic information that scholars continuously highlighted as being impactful on law reform was personal testimonies.[361] When people with lived experience spoke, they could challenge the type of anti-abortion claims that justified information restrictions to create and sustain popular support for law reform.[362] Open

[359] *Ferriter* (n 65) 227-228.
[360] See Linda Connolly on how information restrictions were a major 'feminist mobilising issue' as those who felt disillusioned by the Eighth Amendment could focus on right to access information in 'Explaining Repeal: a long term view' in Kath Browne and Sydney Calkin (Eds.) *After Repeal: Rethinking Abortion Politics* (Bloomsbury Academic 2020) 36, 48; *Hug* (n 127) 166.
[361] Orlaith Darling, 'Storytelling and the Repeal of the 8th Amendment: Narrative and Reproductive Rights in Ireland' (2020) 5 Rejoinder < https://irw.rutgers.edu/rejoinder-webjournal/issue-5-storytelling-for-social-change/483-storytelling-and-the-repeal-of-the-8th-amendment-narrative-and-reproductive-rights-in-ireland > accessed 26 May 2023; Lisa Hallgarten, 'Abortion narratives: moving from statistics to stories' (2018) 391 The Lancet 1988; Orla McDonnell and Padraig Murphy, 'Mediating abortion politics in Ireland: media framing of the death of Savita Halappanavar' (2019) 16(1) Critical Discourse Studies, 1-20; Tanya Saroj Bakhru, 'Reproductive Health and Human Rights: Lessons from Ireland' (2017) 18(2) Journal of International Women's Studies 27; Clara Fischer, 'Feminists redraw public and private spheres: Abortion, vulnerability, and the affective campaign to repeal the eighth amendment' (2020) 45(4) Signs 485; Aideen Catherine O'Shaughnessy, 'Triumph and concession? The moral and emotional construction of Ireland's campaign for abortion rights' (2021) 29(2) European Journal of Women's Studies 223.
[362] Niamh NicGhabhann, 'City walls, bathroom stalls and tweeting the Taoiseach: the aesthetics of protest and the campaign for abortion rights in the Republic of Ireland' (2018) 32(5) Continuum 553; Máiréad Enright, Kathyrn McNeilly, Fiona de Londras, 'Abortion activism, legal change, and taking feminist law work seriously' (2020) 71(3) Northern Ireland Legal Quarterly OA7; *Chan* (n 196); *Dully* (n 98); *Kennedy* (n 352); *McAvoy* (n 141).

discussions and consciousness-raising were vital strategies for those seeking to reframe abortion as a matter of respecting agency, providing care and vindicating the rights of pregnant people.[363] These speakers could challenge the naturalised harms of decades of abortion stigmatisation and criminalisation.[364] These contestations took the form of 'top-down, selective curation' of particularly poignant stories as part of formal campaigns and 'bottom-up grassroots engagement' where people recounted their own experiences in the public domain.[365] Service providers added to these conservations, outlining how and why care-based justifications for anti-abortion restrictions were not reflective of reality and were a significant source of hardship for pregnant people.[366] Porter identified that 'responsibility-based arguments' about 'care, connections, and social duties' are persuasive in Ireland so these interventions spoke to those community motivations and visions of self.[367] Not only did people sharing counterhegemonic information help to normalise abortion,[368] but they built the 'cumulative energy', as Barr described it, to help repeal the Eighth Amendment in 2018.[369] My work added to these observations by considering the space provided by censorship for these discussions to take place and to change how abortion was considered in the community. As more people spoke out against anti-abortion regulations or took legal action against the State,

[363] Kate Mishler, '"It's Most Peculiar That This Particular Story Doesn't Get Told": A Reproductive-Justice Analysis of Storytelling in the Repeal Campaign in Ireland, 2012–18' (2021) 56(3-4) Éire/Ireland 80; Ailbhe Smyth, 'The contemporary women's movement in the Republic of Ireland' (1988) 11(4) Women's Studies International Forum 331, 341; *Muldowney* (n 91).
[364] *Cullen and Korolczuk* (n 297); *Fletcher* (n 216).
[365] Quote from Lydia Michie, Madeline Balaam, John McCarthy, Timur Osadchiy, Kellie Morrissey, 'From Her Story, to Our Story: Digital Storytelling as Public Engagement around Abortion Rights Advocacy in Ireland' (2018) Paper 357 CHI 2018 Best Paper Award, 2-3; Ruth Fletcher, 'Silences : Irish Women and Abortion' (1995) 50 Feminist Review 44, 46, 55. See also *Chan* (n 196) 7.
[366] For examples see *Dully* (n 98); *Hug* (n 127) 168-169; *Saroj Bakhru* (n 361); See p. 379-381.
[367] *Porter* (n 74) 279, 294.
[368] Kelsey O'Donnell, 'Breaking the Silence: Women's Stories as Agents of Change for Abortion Rights in Ireland' (Thesis International Studies, University of Iowa 2017); *Mishler* (n 363) 88; *Quesney* (n 335).
[369] Rebecca Anne Barr, 'Repealing the Eighth: Abortion referendum was won by narrative' *The Irish Times* (Dublin, 31 May 2019).

the foundational claims of censorship as protecting vulnerable subjects became untenable.[370] This applied legally, practically and politically as the majority of the electorate voted for change in the Fourteenth and Thirty-Sixth Amendments.[371]

Conversely, silence was also a powerful form of resistance. An early example of this argument was made by Adams when he proposed that a lack of criticism around censorship of publications advocating contraception did not necessarily mean that people supported it. They may have adopted a 'private right-public wrong' approach of reading what they wanted in their own homes.[372] This was not without issue as I evidenced in Chapter Three; information restrictions were partially justified on the basis that they reflected a pro-information control, anti-abortion community consensus. Though as authors like Fletcher and Chan have rightly identified, silence was also a tool for resistance as it allowed people to exercise their reproductive agency.[373] Silence was protective against stigma, backlash or criminalisation. In Chapter Four, I considered how underground or secretive information-sharing strategies subverted information controls by keeping channels open for disseminating facilitative or counterhegemonic information. The availability of this information subverted information restrictions and made them unworkable from an enforcement perspective.

[370] For a discussion about the limits of law when it fails to meet cultural standards and expectations see *Enright, McNeilly, and de Londras* (n 362).
[371] For a timeline see Appendix 3.
[372] *Adams* (n 41) 138-139; See also Senator John McQuillan (National Progressive Democrats, previously Labour Party, National Progressive Democrats, Independent, and Clann na Poblachta) Seanad Éireann debate, Wednesday 7 June 1967; Rosita Sweetman, *On our backs: sexual attitudes in a changing Ireland* (Pan books 1979) 12.
[373] *Chan* (n 196) 76-77; *Fletcher* (n 365).

The final way that my thesis contributes to the existing literature is that I expanded upon the idea that the strategies of pro-censorship and anti-abortion proponents ultimately undermined their abortion minimisation or elimination goals. Eggert and Rolston described the effect of the continual raising of abortion as an issue as shifting the 'unthinkable' to be 'almost inevitable'.[374] This occurred through the sometimes unpredictability of judicial interpretation with the 'as far as practicable' aspect of the Eighth Amendment confirming a right to an abortion to save the life of the 'mother' in the *X* case.[375] In the context of information regulations, Sterling cited how the efforts of anti-abortion advocates to shield Irish abortion law from international legal oversights ultimately lead to the enshrining of express freedoms to travel and information access in the Constitution.[376] Anti-abortion campaigning for laws that would establish an absolutist anti-abortion legal framework ensured that despite abortions often taboo status, it was persistently debated.[377] As I outlined in Chapter Four, decades of abortion legal contestations, debates and public consultations created spaces in which pro-choice or anti-abortion campaigns could challenge foundational ideologies of the criminalisation of abortion and abortion information.[378] To quote McGahern, censorship contains an 'in-built self-destruction' by drawing attention to that it is intended to quash.[379] Even in times when anti-abortion or pro-censorship proponents were defining and driving

[374] *Eggert and Rolston* (n 99) 171.
[375] For discussions of the *X* case see p. 162-163 and 280-282.
[376] Abigail-Mary E.W. Stirling, 'The European Union and abortion tourism: Liberalizing Ireland's laws' (1997) 20(2) Boston College International and Comparative Law Review 385; *Cole* (n 298) 118.
[377] For discussions of taboo see Sinéad Kennedy, 'Ireland's handmaid's tale' in Aideen Quilty, Sinéad Kennedy, and Catherine Conlon (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 276, 278-280; Eric Olund, 'Repealing a 'legacy of shame': press coverage of emotional geographies of secrecy and shame in Ireland's abortion debate' in Kath Browne and Sydney Calkin (Eds.) *After Repeal: Rethinking Abortion Politics* (Bloomsbury Academic 2020) 174.
[378] Theresa Reidy and Jane Suiter, 'Does Social Media Use Matter? A Case Study of the 2018 Irish Abortion Referendum' (2023) 11(1) Media and Communication 81; *Cole* (n 298) 118.
[379] Benedict Kelly and John McGahern in *Carlson* (n 188) 34 and 67.

restrictive legal agendas, opponents built movements and demands for change by using the spaces created by censorship being a subject for public discourse.

Conclusion and outline of chapters

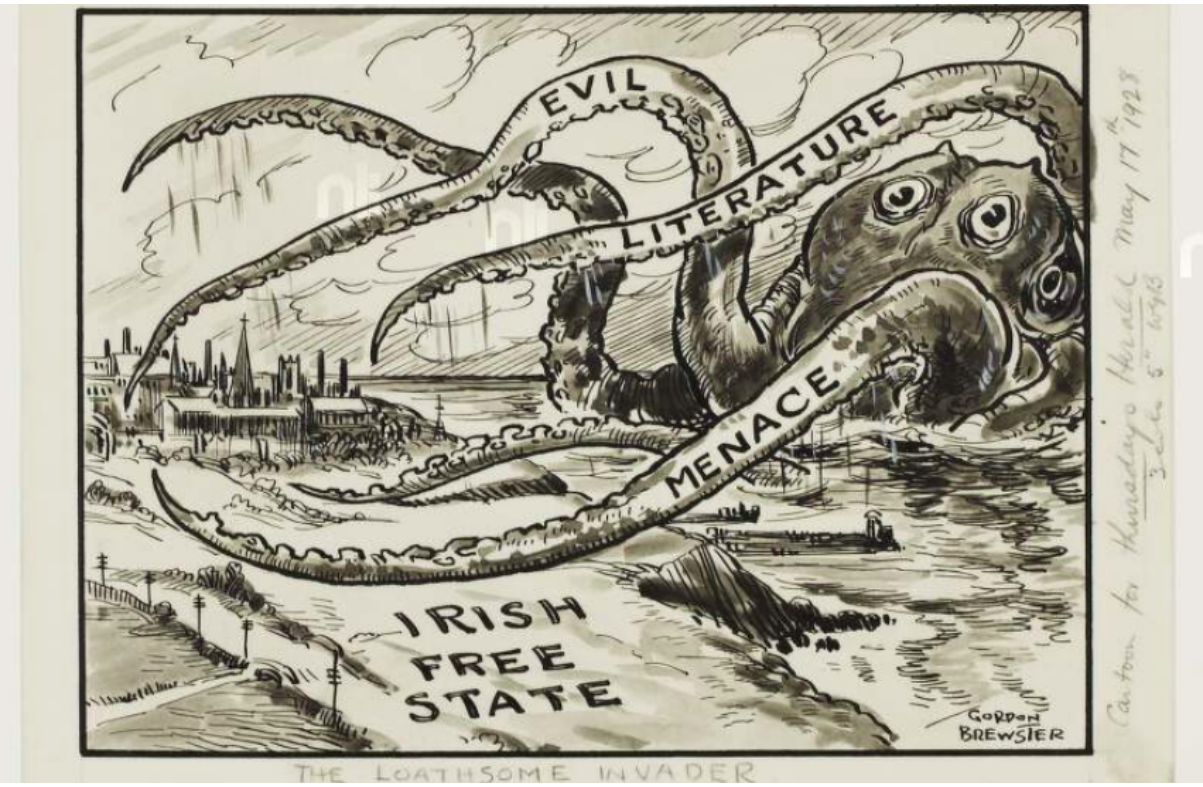


Image Introduction.8 Gordon Brewster's 'The Loathsome Invader'.[380]

Brewster's cartoon is indicative of the idea of information as threat that I discuss in Chapter One. I began by outlining how fears of foreign or divergent worldviews gaining popularity lead censorship proponents to advocate for an expanded legal framework for information controls. To not do so would leave these publications and advertisements to endanger vulnerable readers, especially if the content advocated abortion or contraception. I recounted the influence of these arguments from the Committee on Evil

[380] Gordon Brewster, 'The Loathsome Invader' (1928) accessed < https://catalogue.nli.ie/Record/vtls000247072 > 23 November 2023.

Literature to the drafting of the Censorship of Publications Act 1929. The result was the State limiting the legal sale, distribution and advertisements of such publications. The protective imperative that was foundational to this framework was sustained by the State for decades through the expansion of censorship under the Censorship of Publications Act 1946 and the exclusion of abortion information from reforms introduced by the Censorship of Publications Act 1967 and the Health (Family Planning) Act 1979. Concerns for vulnerable readers endured but lost prominence in the arguments of the anti-abortion movement due to the emphasis on foetal rights protections used to support the introduction of the Eighth Amendment in 1983. Dual protective statements invoking the need to protect vulnerable pregnant people and foetal rights to life were then successfully instrumentalised by anti-abortion actors to curtail non-directive crisis pregnancy counselling and referrals under the *Open Door* and *Grogan* cases. I argued that the fact that the courts enjoined counsellors and students' unions to prevent them from sharing information about safe, legal abortion services abroad demonstrated the power that arguments relating to the need to ameliorate vulnerabilities can have politically and legally. The decades of censorship that I discussed in this chapter were framed by State and anti-abortion proponents as not being oppressive, but as part of a necessary approach to protect and care for those they believed would be harmed by abortion and information that facilitated abortion access.

My focus shifted in Chapter Two as I considered how and why information provision became a more prominent strategy to achieve a reduction in the number of people who chose abortion. The State initiated a shift in the legal framework and policy and service

delivery to affect its abortion minimisation goals. I began by examining the State's failed attempt to inoculate Irish abortion prohibitions from possible effects of the Maastricht Treaty. It became neither politically nor legally feasible for the State to continue to approach information regulations from a solely prohibitory standpoint due to there being vocal opposition to this approach and the Supreme Court confirming that a person could lawfully access an abortion if their life was at risk in *Attorney General v X*. The solution adopted by the government was to create a qualified freedom to share and access information legal abortion services abroad. These qualifications were, as I demonstrated, embedded in the same anti-abortion, paternalistic claims as prohibitions. Vulnerable subjects - foetal life and assumed mis/underinformed, crisis-driven abortion seekers – remained framed as being best served through abortion elimination strategies. In relation to information regulations, this involved sustaining advocation restrictions, but also by mandating the provision of information intended to encourage the continuation of pregnancy in the 1995 Act. This linking of information provision to diverting people away from abortion would shape the establishment and operation of the Crisis Pregnancy Agency (CPA). Despite the CPA promoting their supported counselling services as non-directive and non-judgemental, the continued anti-abortion orientation of the law meant that the State funded and promoted anti-abortion organisations with historically problematic practices. In the final section, I reflected upon how this view of information provision as an effective abortion diversion strategy curtailed the transformative potential of the 2018 Act. I identified the mandatory 3-day delay period as an example of this enduring ideology as government members justifying it continued to perpetuate the protective imperatives for information control that cast

abortion seekers as impressionable, insecure decision makers and foetal life as vulnerable and in need of legal protections intended to disincentivise abortion.

In Chapter Three, I considered the legal framework in the context of how information controls were purposed to establish and preserve anti-abortion ideologies. The longevity and dominance of anti-abortion perspectives were not inevitable or an accident. It was an outcome of a system of information control deliberately designed to suppress counterhegemonic ideas. I outlined how this strategy was created and perpetuated through law from the construction of the 1929, 1946 and 1967 Acts. Anti-abortion publications were not impacted by law so they could be produced and circulated. The State and censorship proponents considered pro-choice or non-directive information sources to be a threat to abortion awfulisation, stigmatisation and exceptionalisation so were targeted through criminalisation. This instrumentalisation of information regulations then limited the transformative potential of the Fourteenth Amendment and the 1995 Act, despite evidence that the electorate could have supported a wider range of liberalisations. The embedded nature of anti-abortion ideologies foreclosed this, however. Conversely, a recognition by legislators that consensus or majority views on abortion were changing ensured that the State introduced some reforms including a partial reversal of the *Open Door* case to allow for the sharing of information about how and where abortion services abroad could be located. I concluded the chapter by examining how information-based legal strategies were conceptualised during times of increased abortion access in Ireland. Due to growing abortion acceptability, anti-abortion information controls largely lost much of their legitimacy. However, the legacies of decades of information suppression meant that anti-abortion ideologies remained

present in the legislative imagination and in the campaigning goals of anti-abortion proponents. The result of this was that the government failed to remove all information-based barriers to abortion access and it had left opportunities for anti-abortion actors to attempt to reorientate information provision towards reinvigorating and reinforcing anti-abortion ideological dominance once more.

I examined why and how these information regulations failed to either foreclose abortion liberalisation or stem the number of people choosing abortion in Chapter Four. I considered how this occurred in the Irish context by reflecting on the work of scholars who argued that censorship ultimately undermines itself. I began by discussing the difficulties with enforcing censorship due to geography, technology and issues with resourcing. Next, I considered the issue created by the legal framework itself in terms of insecure law enforcers and how publicity around censorship drew attention to suppressed information. These dynamics were accompanied by deliberate and purposeful resistance where people took legal actions against censors and abortion criminalisation, engaged in strategic law-breaking, created their own alternative information-sharing infrastructures, and told their own stories to counter the naturalised harms of censorship and abortion criminalisation. In the final section, I argued that governments acknowledged that criminalisation could have unjust and regressive outcomes for information seekers and sharers. The legal framework was anti-abortion and oppressive, but it was not as restrictive as its most vociferous advocates would have preferred. Just as protecting vulnerable subjects formed part of the critical justifications for censorship, they also prompted governments to introduce defences,

exemptions and lawful information-sharing about how and where abortions could be accessed abroad and why abortion should be legalised.

Chapter One: Establishing non-directive or pro-choice abortion information as a threat to vulnerable subjects

Introduction

> We have exposed the myth that un-wanted pregnancies are just punishment for the sin of enjoying our bodies and the myth that poverty, chastity, and suffering are somehow laudable. Finally, and most important, we've exploded the myth that abortion is a crime. The only crime surrounding abortion is the colossal crime that has been perpetrated against the right of women to control their own bodies. The whole abortion debate in the final analysis boils down to just one question: shall women have the right to control their own bodies?
>
> National Abortion Campaign, *Abortion Internationally*[1]

In 1983, *Abortion Internationally* was prohibited by the Censorship of Publications Board. By the time of writing, this publication, and seven others, remain prohibited as they were judged by the Minister for Justice or the Board to have advocated abortion.[2] Their sale, distribution, or advertising without a permit is an offence.[3] In this chapter, I argue that these works were prohibited as they were deemed to be a threat to

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[1] Barbara Roberts, 'Introduction – Abortion and Patriarchal Society' in Veronica Leon, Joyce Kane, Sylvia Mann, Jane Woods, Manuela Lombardo, Jeanna Saint and Rose Knight (Eds.), *Abortion Internationally* [National Abortion Campaign 1978?] 2.

[2] This was correct as of 25 November 2023. See Censorship Board, 'Register of Prohibited Publications', (Department of Justice 31st December 2016) <https://jobs.justice.ie/en/JELR/Register_of_Prohibited_Publications_2016.pdf/Files/Register_of_Prohibited_Publications_2016.pdf> accessed 4 January 2023.

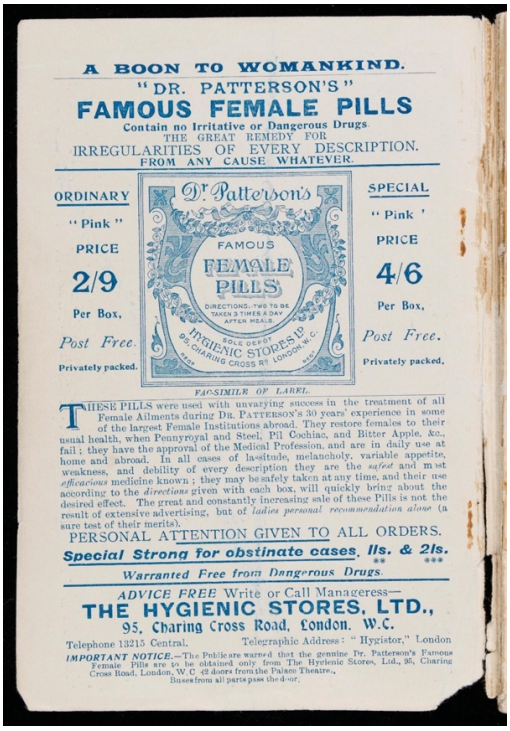
[3] Censorship of Publications Act 1946, s 14.

vulnerable subjects. As abortion was a crime and considered to be dangerous to foetal life and impressionable pregnant people, information that facilitated or normalised abortion necessitated suppression. The legal framework developed by the State to counter these risks of harms began in 1926 with the Committee on Evil Literature expressing concerns about advertisements for abortifacients circulating in Ireland. Their findings influenced the Censorship of Publications Acts 1929 and 1946, under which publications like *Abortion Internationally* were prohibited. Assignments of vulnerability are, as I detailed in the Introduction, complex, and not all readers were considered to require protection from potential reading materials. Professionals could receive permits to access prohibited publications and they were not deemed to be at risk from the information therein. The paternalistic rationale that was central to the foundations of the censorship framework was pernicious and ensured that abortion was excluded from the reforms introduced in the Censorship of Publications Act 1967 and the Health (Family Planning Act) 1979.

Anti-abortion campaigners also adopted protective arguments to encourage censorship or information control. One group, SPUC, with the cooperation of the Attorney General obtained injunctions against non-directive crisis pregnancy counsellors and three students' unions to force them to cease sharing information about how and where abortions could be accessed abroad. These cases – *Open Door* and *Grogan* – showed that the High and Supreme courts regarded this information as an acute, urgent risk to foetal life as it assisted abortion seekers in circumventing Irish abortion criminalisation. These decisions created a class of vulnerable subjects whose rights justified censorship

– foetuses – but also subordinated classes of other subjects – pregnant people and information sharers - who could not rely upon other fundamental rights in the Constitution to lawfully access this contested information. The idea of there being a need to protect vulnerable subjects in law through the curtailment of the dissemination of facilitative abortion information was a potent and enduring part of censorship enforcement in Ireland.

Dangerous information and the establishment of a new censorship infrastructure



A BOON TO WOMANKIND.

"DR. PATTERSON'S"

FAMOUS FEMALE PILLS

Contain no Irritative or Dangerous Drugs.

THE GREAT REMEDY FOR IRREGULARITIES OF EVERY DESCRIPTION. FROM ANY CAUSE WHATEVER.

ORDINARY "Pink" PRICE 2/9 Per Box, Post Free. Privately packed.

Dr. Patterson's FAMOUS FEMALE PILLS DIRECTIONS.—TWO TO BE TAKEN 3 TIMES A DAY AFTER MEALS. HYGIENIC STORES LD 95, CHARING CROSS RD LONDON W.C.

SPECIAL "Pink" PRICE 4/6 Per Box, Post Free. Privately packed.

FACSIMILE OF LABEL.

THESE PILLS were used with unvarying success in the treatment of all Female Ailments during DR. PATTERSON'S 30 years' experience in some of the largest Female Institutions abroad. They restore females to their usual health, when Pennyroyal and Steel, Pil Cochiae, and Bitter Apple, &c., fail; they have the approval of the Medical Profession, and are in daily use at home and abroad. In all cases of lassitude, melancholy, variable appetite, weakness, and debility of every description they are the *safest* and most *efficacious* medicine known; they may be safely taken at any time, and their use according to the *directions* given with each box, will quickly bring about the desired effect. The great and constantly increasing sale of these Pills is not the result of extensive advertising, but of *ladies personal recommendation alone* (a sure test of their merits).

PERSONAL ATTENTION GIVEN TO ALL ORDERS.

Special Strong for obstinate cases, 11s. & 21s.

Warranted Free from Dangerous Drugs.

ADVICE FREE Write or Call Manageress—

THE HYGIENIC STORES, LTD.,

95, Charing Cross Road, London, W.C.

Telephone 13215 Central. Telegraphic Address: "Hygistor," London

IMPORTANT NOTICE.—The Public are warned that the genuine Dr. Patterson's Famous Female Pills are to be obtained only from The Hygienic Stores, Ltd., 95, Charing Cross Road, London, W.C. (8 doors from the Palace Theatre.) Buses from all parts pass the door.

Image Chapter One.1: An advertisement for Dr Patterson's 'female pills'[4]

[4] Digitised image from The Wellcome Collection's *Page of advertisements from 'The Poplar Herbal'…for 'Dr Patterson's Famous Female Pills'* [1910-1919?] < https://wellcomecollection.org/works/bccttqx5 > accessed 4 January 2023.

The Offences Against the Persons Act 1861 criminalised providing or accessing an abortion in Ireland.[5] It also created sanctions for a principal in the second degree, an accessory before the fact, and those who counselled, aided or abetted in the 'commission of any indictable misdemeanour.'[6] People who shared information with abortion seekers about how and where illegal abortions could be accessed in Ireland could be committing an offence under the 1861 Act. Scholars noted that prosecution of these 'referral agents' - as they were sometimes described – were infrequent due to networks operating in a secretive, underground manner.[7] Abortion seekers could connect with information and abortion providers through word-of-mouth recommendations.[8] Alternatively, they would find each other through coded notices in publications.[9] The advertisement for Dr Patterson's 'female pills' above is one example of illicit abortifacient advertising. The hidden nature of illegal abortion services meant that law enforcement often only took place after targeted sting operations or after an abortion seeker was killed or seriously injured.[10] Targeting these sometimes more

[5] ss 58 and 59.
[6] s 67; For a discussion of these sanctions see M.J. Findlay, 'Criminal Liability for Complicity in Abortions Committed outside Ireland' (1980) 15(1) Irish Jurist 88.
[7] Pauline Jackson 'Abortion Trials and Tribulations' (1987) Women and Gender Studies Series Working Papers No. 1, 5, 8; R.S. Rose, 'An outline of fertility control, focusing on the element of abortion in the Republic of Ireland to 1976' (PhD Thesis University of Stockholm 1976); Sandra Larmour, *Aspects of the State and Female Sexuality in the Irish Free State* (PhD thesis University College Cork 1998) 243-244.
[8] See for example 'Handywomen' in Cara Delay and Annika Liger, Bad Mothers and Dirty Lousers: Representing Abortionists in Postindependence Ireland' (2020) 54(1) Journal of Social History 286; Cara Delay, 'Kitchens and Kettles: Domestic Spaces, Ordinary Things, and Female Networks in Irish Abortion History, 1922–1949' (2018) 30(4) Journal of Women's History 11.
[9] See for example Rasfara Mahara, the 'Indian Phrenologist' in 'Charges against a coloured man' *The Irish Times* (Dublin, 14 December 1928) 11 and Cara Delay, 'Pills, potions, and purgatives: women and abortion methods in Ireland, 1900–1950' (2019) 28(3) Women's History Review 479; Also William Coleman an electro-therapist in *Rose* (n 7) and *Larmour* (n 7) 263-264, 267; For 'Widow Welch's Female Pills' see Greta Jones, 'Marie Stopes in Ireland – The Mother's Clinic in Belfast, 1936-47' (1992) 5(2) Social history of medicine: the journal of the Society for the Social History of Medicine 255, 259.
[10] Kenneth E.L. Deale, *Beyond any reasonable doubt?: a book of Irish murder trials* (Gill and MacMillan 1990); Cara Delay, 'Wrong for womankind and the nation: Anti-abortion discourses in 20th-century Ireland' (2019) 17(3) Journal of Modern European History: Special Issue: Reproductive Decision-making in Comparative Perspective 312; Wendy Holden, *Unlawful carnal knowledge: the true story of the Irish 'X' case* (Harper Collins 1994) 54-55; Pauline Jackson, *The Deadly Solution to An Irish Problem* (Women's Right to Choose Campaign 1983); Ray Kavanagh, *Mamie Cadden: backstreet abortionist* (Mercier Press 2005); Sandra McAvoy, 'A fairly prevalent crime' in The Cork Women's

visible referral agents and advertisers was, therefore, a key strategy for actors looking to shut-down the abortion trade.[11]

The founding of the Saorstát in 1922 brought with it the potential for legal changes to supress published advertisements. There was a campaign held by primarily Catholic campaigners in favour of new legislation to curtail the circulation of what the Council of Irish Bishops described as the 'the bad book' and the 'indecent paper'.[12] For these censorship advocates, cheap paperbacks and imported newspapers were the primary sources of concern.[13] Ireland had quite high literacy rates.[14] It was women and young people, however, who were identified by these proponents as being particularly vulnerable to influence. For example, censorship proponent R.S. Devane spoke of bookshops who were 'educating women in hideous forms of vice' and having a 'deplorable effect' on young people.[15] His claims reflected what censorship proponents saw as evidence of the failure of the existing legal framework to stifle the dissemination

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Political Association, *Vow: voices of women* (2003) 8th Amendment Special Edition, 12-14; Clíona Rattigan, '"Dark Spots" in Irish Society: Unmarried motherhood, crime and prosecution in Ireland, 1900-1950' (PhD thesis Trinity College Dublin 2008); *Delay* (n 9) 479–499; *Delay and Liger* (n 8); *Jones* (n 9) 267; *Larmour* (n 7); *Rose* (n 7).

[11] Sandra McAvoy, 'Before Cadden: Abortion in Mid-Twentieth Century Ireland' in Dermot Keogh, Finbarr O'Shea and Carmel Quinlan (Eds.) The Lost Decade: Ireland in the 1950s (Mercier 2004) 147.

[12] Anthony Keating, 'Setting the agenda for the press: the 1929 case against the *Waterford Standard*' (2012) 16 New Hibernia Review 2, 24.

[13] R.S. Devane, *Evil Literature: Some suggestions* (Browne and Nolan, 1927) 16; R.S. Devane, 'Indecent Literature: Some Legal Remedies' (1925) XXV Irish Ecclesiastical Record 182; For further discussions see Michael Adams, Censorship: the Irish Experience (University of Alabama 1968); Kevin Boyle and Marie McGonagle, 'Censorship of Publications - Irish Style' (1989) 10 Journal of Media Law and Practice 87, 88; Terence Brown, *Ireland: a social and cultural history 1922-1979* (Fontana 1981) 68-71; Ruth Fletcher, 'Post-colonial Fragments: Representations of Abortion in Irish Law and Politics' (2001) 28(4) Journal of Law and Society 568; Diarmaid Ferriter, Occasions of Sin (Profile 2012) 95-96; Peter Martin, 'Censorship in the Two Irelands 1922-1939' (PhD thesis, Trinity College Dublin 2002) 110-113, 118; Donal Ó'Drisceoil, 'A Dark Chapter: Censorship and the Irish Writer' in Clare Hutton (Ed.) *The Oxford History of the Irish Book, Volume V: The Irish Book in English, 1891-2000* (Oxford University Press 2011) 285-286; Senia Pašeta 'Censorship and Its Critics in the Irish Free State 1922-1932' (2003) 181 Past & Present 193, 196; Kevin Rafter, 'Evil Literature: the banning of the *News of the World* in Ireland' (2013) 19(4) Media History 408; *Delay* (n 9) 488; *Delay and Liger* (n 8) 3; *Keating* ibid; *Rattigan* (n 10) 284-285.

[14] For discussions of literacy in Ireland see Louise Ryan, *Gender, Identity, and the Irish Press, 1922-1937: Embodying the Nation* (E. Millen Press 2002) 6; Louise Fuller, 'Religion, politics and socio-cultural change in twentieth-century Ireland' (2005) 10(1) The European Legacy 41, 43

[15] *Devane* 'Indecent Literature…' (n 13) 194-196.

of undesirable materials, including those facilitating abortion or contraception.[16] To explore the need for change, the Minister for Justice Kevin O'Higgins, established the Committee on Evil Literature (the Committee) in 1926.[17] The purpose of the Committee was to consider whether the law was sufficient to protect 'public morality'.[18] This remit was cast widely by the Committee and its witnesses as they identified welfare preservation and protecting vulnerable readers as part of the benefits of censorship expansion.[19] Unmarried people, the working classes, and rural dwellers were considered in the Committee's *Report* in terms of them being potentially vulnerable to undue influence.[20] Publications could influence vulnerable subjects, causing them to act in immoral or harmful ways. A quote from two proponents illustrated this argument:

> The lewd newspaper is a far greater danger than the public-house; and the sins and crimes that it tends to foster are of a far deeper dye, and cause more fatal social havoc, than common drunkenness. We would like to see our police as busy about bad publications as about bad public-houses. The victims of the one may be numbered by the thousand; the potential victims of the other by the hundred thousands. The poisoned minds are many times more numerous than the congested livers.
>
> Father McInerney (Irish Vigilance Association) quoting Captain Harry Harrison of the *Irish Truth* [21]

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[16] Catholic Truth Society of Ireland, *The problem of undesirable printed matter: suggested remedies* (Catholic Truth Society 1926); *Devane* (n 13) 197; For additional discussion see Una Crowley and Rob Kitchin 'Producing 'decent girls': governmentality and the moral geographies of sexual conduct in Ireland (1922-1937)' (2008) 15(4) Gender, Place and Culture 355; Sandra McAvoy, 'Its effect on public morality is vicious in the extreme': defining birth control as obscene and unethical, 1926–32' in Elaine Farrell (Ed.) *She was in the Family Way* (School of Advanced Study, University of London 2012) 35, 52; *Martin* (n 13) 113-114, 118; *Ó'Drisceoil* (n 13) 285-286, 288-289.
[17] The Committee on Evil Literature, *Report of the Committee on Evil Literature* (Stationary Office 1927) 3.
[18] *Committee on Evil Literature* ibid A2.
[19] Those who gave evidence as witnesses to the Committee were Irish Christian Brothers, Irish Vigilance Association Dublin Branch, Irish National Teachers' Organisation, Catholic Headmasters' Association, Catholic Writers' Guild, Dublin Christian Citizenship Council, Catholic Truth Society of Ireland, Marian Sodalities of Ireland, Eason & Sons, Ltd., Irish Retail Newsagents' Booksellers' and Stationers' Association, Department of Posts and Telegraphs, Customs and Excise, An Garda Síochana, Reverend R.S. Devane. *Committee on Evil Literature* (n 17) 4-5.
[20] *Committee on Evil Literature* (n 17); See also Susannah Riordan, ''Storm and Stress': Richard Devane, Adolescent Psychology and the Politics of Protective Legislation 1922–1935' in Catherine Cox and Susannah Riordan (Eds.) *Adolescence in Modern Irish History* (Palgrave Macmillan London 2015) 129; *Adams* (n 13) 25-34.
[21] *Keating* (n 12) 27.

Therefore, the dissemination of these publications should be controlled through law.[22] The *Report* reflected the most immediate concerns of censorship proponents, namely publications that were considered to be indecent or to have advocated contraception.[23] Some of the notable witness contributions came from state actors who did not feel empowered by law to seize potentially obscene publications lawfully.[24] For example, the Gardaí only confiscated literature about contraception if it contained anatomical illustrations.[25] Hence, witnesses from the Department of Posts and Telegraphs advocated for an expansion of their powers to allow them to detain and destroy parcels containing advertisements for contraceptives.[26]

Abortion was not a prevalent issue in the *Report*, perhaps due to the existing penalties under the 1861 Act.[27] Though, as the advertisement for Dr Patterson's 'female pills' showed, it was not always clear if substances advertised as 'menstrual regulators' or 'emmenagogues' were contraceptives, abortifacients, or something else.[28] This was raised at the Committee with one chemist giving evidence that some medications were

[22] *Ó'Drisceoil* (n 13) 288.
[23] *Committee on Evil Literature* (n 17) A3, 13-16; *Catholic Truth Society of Ireland* (n 16); Devane 'Indecent Literature…' (n 13) 197; For further discussions see Ann Daly, ''Veiled obscenity': contraception and the Dublin Medical Press, 1850–1900' in Elaine Farrell (Ed.) *She was in the family way: pregnancy* (School of Advanced Study, University of London 2012) 15; Sandra McAvoy, ''Bring forth abundantly in the earth, and multiply therein' (Genesis 9:7): Aspects of Irish discourse on contraception (1837-1908)' in Máire Leane and Elizabeth Kiely (Eds.) *Sexualities and Irish society: a reader* (Orpen Press 2014) 3; Donal Ó'Drisceoil, ''The best banned in the land': Censorship and Irish Writing since 1950' (2005) 35 The Yearbook of English Studies 139; *Crowley and Kitchin* (n 16); *Martin* (n 13) 118; *McAvoy* (n 16) 52; *Ó'Drisceoil* (n 13) 285-286, 288-289; *Pašeta* (n 13) 197, 204.
[24] There were a number of pieces of legislation in place that the Committee on Evil Literature examined as part of their report endorsing the creation of a new censorship framework. These included the Obscene Publications Act 1857, Dublin Police Act 1842, Towns Improvement Ireland Act 1854, Customs Consolidation Act 1876, Indecent Advertisements Act 1889, and the Post Office Act 1908.
[25] *Martin* (n 13) 121.
[26] *Adams* (n 13) 31.
[27] John Horgan, 'Saving us from Ourselves: Contraception, Censorship and the 'Evil Literature' Controversy of 1926' (1995) 5 Irish Communications Review 61, 61-62; The sale, advising, offering or importing of contraception would not be prohibited directly until the Criminal Law (Amendment) Act 1935.
[28] *Delay* (n 9); *McAvoy* (n 16) 49; *McAvoy* (n 11) 150, 154-156.

'camouflaged abortifacients'.[29] The people publishing these advertisements and supplying these medications were described in the *Report* in terms connoting immorality due to the dangers that they posed to innocent and unsuspecting young readers.[30] Concerns about illegal abortions were not unreasonable as, according to Connolly, it was estimated that over 100 people died per year as a result of illegal and unsafe abortions in the 1930s.[31] The Committee did not expressly cite this as a reason for prohibiting advertisements for abortifacients, however. Instead, the Committee emphasised a need to deny impressionable readers access to these publications to ensure that they adhered to social norms and hegemonic concepts of personal responsibility.[32] Otherwise, to quote the Committee speaking about contraception, the impact on morality may 'ultimately be very bad', if not 'vicious in the extreme.'[33]

The solution recommended by witnesses and the Committee was to use law to limit the circulation of certain types of publications and advertisements to foreclose deviant sexual behaviour. There were variations among the degree of intervention that witnesses felt was appropriate. One of the more paternalistic approaches suggested by R.S. Devane who argued that publications should be judged by the standard of what was acceptable for a 16-year-old girl to read.[34] Some witnesses who adopted this more

[29] Quote from James Kerr reference in *Larmour* (n 7) 224; *McAvoy* (n 11) 154-155; *Committee on Evil Literature* (n 17) 16.
[30] *Committee on Evil Literature* (n 17) 16.
[31] Linda Connolly, 'Explaining Repeal: a long term view' in Kath Browne and Sydney Calkin (Eds.) *After Repeal: Rethinking Abortion Politics* (Bloomsbury Academic 2020) 36, 46; See also Lindsey Earner-Byrne, *Mother and child: maternity and child welfare in Dublin, 1922–60* (Manchester University Press 2013) 41-42; Lindsey Earner-Byrne, 'Moral Prescription: The Irish Medical Profession, the Roman Catholic Church and the Prohibition of Birth Control in Twentieth-century Ireland' in Catherine Cox and Maria Luddy (Eds.) *Cultures of Care in Irish Medical History, 1750-1970* (Palgrave Macmillan 2010) 207, 212; *Kavanagh* (n 10).
[32] *Committee on Evil Literature* (n 17) 13-16.
[33] *Committee on Evil Literature* (n 17) 15.
[34] *Martin* (n 13) 114-115.

top-down suppressive approach did not even believe that there needed to be evidence of harm having befallen a particular reader. To quote the Marian Sodalities, 'a sanitary engineer in condemning a drain does not need to show that it has made a particular person sick'.[35] They did not want the State to wait for legal action to be taken against these condemned information sources.

The Committee did not recommend an age limit-based test but it did align to this exclusionary, paternalistic view on how the State should engage with such information. In its recommendations, the Committee outlined that the law should change to prohibit the sale and distribution of publications that advocated contraception, unless to an 'authorised' person.[36] The State would decide upon who would, or would not, be granted access.[37] To tackle abortifacient advertising, the Committee endorsed expanding the definition of prohibited 'indecent' advertisements in the Indecent Advertisements Act 1889 (1889 Act) to include any:

> …document or picture or printed or written matter which relates or refers, or may be reasonably supposed to relate or refer, to any disease affecting the generative organs of either sex, or to any complaint or infirmity arising from or relating to sexual intercourse, or to the prevention or removal of irregularities in menstruation, or to drugs, medicines, appliances, treatment, or methods, for procuring abortion or miscarriage or preventing conception.[38]

By doing so, the law would limit the creative opportunities for advertisements to skirt the boundaries of legality. Any State actors who came into contact with such sources -

[35] *Martin* (n 13) 115.
[36] *Committee on Evil Literature* (n 17) 10.
[37] See the section on permits on p. 254.
[38] *Committee on Evil Literature* (n 17) 19. For a further discussion see *Crowley and Kitchin* (n 16) 361.

Gardaí, customs authorities, postal workers, and the courts - would also be empowered to act against anyone attempting to cloak advertisements for illegal abortifacients in coded or vague language.

The classification of certain persons as vulnerable is impactful because, to quote Butler, 'those groups become reified as definitionally "vulnerable," fixed in a political position of powerlessness and lack of agency'.[39] The State or other actors can then step in to provide interventions for vulnerabilised people by claiming that they are acting in their best interests, even if counter to the views of the vulnerable subject themselves. The Censorship of Publications Act 1929 (the 1929 Act) was enacted on-foot of the Committee's *Report*. Supporters framed it as, to borrow the words of a former censor, 'protective not punitive.'[40] The Minister for Justice (the Minister) James Fitzgerald-Kenney outlined that the intended primary beneficiaries of the protective effects of the 1929 Act were to be 'young and inexperienced readers', the 'innocent-minded and the pure-minded', rural dwellers and the working classes.[41] These vulnerable subjects would be guarded against encountering information that Fitzgerald-Kenney described as 'propaganda' and 'evil'.[42] These publications had the potential to act upon impressionable readers who could be 'injured' by or after such an encounter.

[39] Judith Butler, 'Rethinking Vulnerability and Resistance' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 12, 25.
[40] Andrew Comyn, 'Censorship in Ireland' (1969) 58(229) Studies: An Irish Quarterly Review 42, 45. Comyn was in post from the From 5 December 1956 to 12 February 1962. *Adams* (n 13) 246.
[41] Quotes from the Minister for Justice James FitzGerald-Kenney (Cumann na nGaedheal, then Fine Gael) Dáil Éireann debate, Wednesday 24 October 1928, vol 26, no 7; See other contributions in favour of censorship in order to protect these classes of person in Dáil Éireann debate, Thursday 18 October 1928, vol 26, no 5; Dáil Éireann debate, Friday, 19 October 1928 vol.26, no. 6; Seanad Éireann debate, Wednesday 10 April 1929, vol 12, no 1; Seanad Éireann debate, Thursday 11 April 1929, vol 12, no 2.
[42] Quotes from the Minister for Justice James FitzGerald-Kenney (Cumann na nGaedheal, then Fine Gael) Dáil Éireann debate, Wednesday 27 February 1929, vol 28, no 4; Dáil Éireann debate, Thursday 28 February 1929, vol 28 no 5.

Criminalisation was the strategy adopted by this government to prevent such harms from befalling those classes of impressionable reader.[43]

There were two approaches to the legal suppression of information.[44] First, involved requiring the removal of information from the public domain and the second sought to prevent the creation or dissemination of information in the first place. The 1929 Act utilised both strategies to restrict general access to facilitative or counterhegemonic abortion information. To tackle the type of advertisements discussed by the Committee, the 1929 Act expanded the categories of what was considered to be indecent, and therefore unlawful, under the 1889 Act to include euphemisms for abortion and abortifacients.[45] To address the threat posed by publications advocating contraception, the Committee recommended that the Minister establish a Board to advise him on which publications were 'demoralising or corrupting' and should be prohibited.[46] The 1929 Act created the Censorship of Publications Board (the Board) and empowered its members to examine publications for advocacy of contraception and abortion.[47] Publications could be referred to the Board by the Minister for Justice or they could initiate their own examinations.[48] The final decision would rest with the Minister or, in practice, his civil

[43] The Minister for Justice James FitzGerald-Kenney (Cumann na nGaedheal, then Fine Gael) Seanad Éireann debate, Wednesday 10 April 1929, vol 12, no 1.
[44] See the section on creating the possible and the impossible on p. 32.
[45] Section 17(1); The full text was advertisements which relate to any 'disease affecting the generative organs of either sex, or to any complaint or infirmity arising from or relating to sexual intercourse, or to the prevention or removal of irregularities in menstruation, or to drugs, medicines, appliances, treatment, or methods for procuring abortion or miscarriage or preventing conception'.
[46] *Committee on Evil Literature* (n 17) 18.
[47] Censorship of Publications Act 1929, ss 6 and 7. The Board could also examine publications on the grounds of them being indecent or obscene and periodicals for dedicating an 'unduly large proportion of space to the publication of matter relating to crime'.
[48] Censorship of Publications Act 1929, ss 6(1), 6(5) and 7(1); The power of the Board to examine books on their own initiative came from amendment no 4 introduced by the Minister for Justice James FitzGerald-Kenney (Cumann na nGaedheal later Fine Gael) Dáil Éireann debate, Wednesday 20 March 1929, vol 28, no 12.

servants whether or not to issue a prohibition order.[49] Once issued, it was an offence to sell, distribute, import, or advertise that publication without a permit from the Minister. This way, direct circulation of condemned information would be prohibited as the publications would be removed from public access. The prohibitions on advertisements sought to foreclose 'indirect' advocacy.[50] That is unapproved readers would not be able to bypass restrictions as they could not be informed of the existence of contested information sources, or where they could be accessed elsewhere.

The mechanism that the government intended to be the most effective in controlling information access was section 16 of the 1929 Act.[51] Section 16 made it an offence for a person to print, publish, sell, expose, offer or distribute – or to cause or store for these purposes – any publication that advocated, or could 'reasonably be supposed to advocate', abortion or contraception without a permit from the Minister. This reflected the second strategy of attempting to prevent contested information from circulating in the first place as section 16 applied to all publications, not just those specifically prohibited by the Minister. This offence was foundational to establishing the ideological and strategic foundations of Irish abortion information restrictions. It demonstrated just

[49] Censorship of Publications Act 1929, s 10. An amendment introduced by Patrick Joseph Ruttledge (Fianna Fáil previously Republican and Sinn Féin) expressly stated that a civil servant would examine a contested publication and the Minister would give the final permissions to refer the publication to the Board. This was designed to prevent 'frivolous' complaints. James FitzGerald-Kenney (Cumann na nGaedheal, then Fine Gael) rejected the amendment stating that this was the practice for how Ministers operated anyway and would not change under the 1929 Act. The amendment was by leave withdrawn. In Dáil Éireann debate, Wednesday 27 February 1929, vol 28, no 4.
[50] The advertising prohibition was not in the original Bill but was a suggestion made by Deputy Patrick Joseph Ruttledge (Fianna Fáil previously Republican and Sinn Féin) who introduced an amendment in Dáil Éireann debate, Wednesday, 27 February 1929, vol 28, no 4. Justice James Fitzgerald-Kenney Cumann na nGaedheal, then Fine Gael) introduced his own amendment to implement this suggestion. Dáil Éireann debate, Wednesday 20 March 1929, vol 28, no 12; For discussions around 'indirect' advocacy see Deputy Michael Tierney (Cumann na nGaedheal and later Fine Gael) Dáil Éireann debate, Thursday 28 February 1929, vol 28, no 5; Deputy Eamon de Valera (Fianna Fáil previously Republican and Sinn Féin) Dáil Éireann debate, Thursday 11 July 1929, vol 31, no 5.
[51] The Minister for Justice James FitzGerald-Kenney (Cumann na nGaedheal later Fine Gael) Dáil Éireann debate, Thursday, 21 February 1929, vol 28, no 2; *Adams* (n 13) 181.

how dangerous legislators regarded these publications to be as section 16 only applied to those deemed to have advocated abortion or contraception. The exceptionalisation of counterhegemonic information about abortion and contraception reflected how negatively those creating and disseminating those publications were held to be by legislators. Authors, publishers, and editors were framed in the Oireachtas as operating for their own financial or sexual benefits and they needed to be targeted by law to protect vulnerable subjects.[52] Importers and distributors were targeted as these publications originated primarily from overseas.[53] Encouraging self-censorship through criminalisation was the optimum method of supressing this information as it could also prevent the development of any future domestic interest in producing these condemned publications.[54] The 1929 Act by expanding the 1889 Act, creating prohibition orders, and establishing section 16 offences, created a framework intended to establish an inhospitable legal environment through which information considered to be dangerous could be prevented or removed.

For information producers, sharers or readers there was a key qualifier in the 1929 Act: the permit facility.[55] Permits were reflective of the fact that there were categories of person deemed to be strong enough to withstand the influence of corrupting publications. Vulnerability is, as Hirsch described it, 'socially, politically, and

[52] See the discussions in Dáil Éireann debate, Friday 19 October 1928, vol 26, no 6 and Seanad Éireann debate, Thursday 11 April 1929, vol 12, no 2
[53] Marie McGonagle, 'Censorship laws are out of date' *The Post.ie* (Dublin, 10 September 2000) < https://web.archive.org/web/20070929120428/http://archives.tcm.ie/businesspost/2000/09/10/story573869038.asp > accessed 11 June 2023.
[54] The Minister for Justice James FitzGerald-Kenney (Cumann na nGaedheal, then Fine Gael) Dáil Éireann debate, Wednesday 24 October 1928, vol 26, no 7 and Dáil Éireann debate, Thursday, 21 February 1929, vol 28, no 2
[55] Censorship of Publications Act 1929, ss 10(3) and 16(5); Censorship of Publications Act 1946, s 19.

economically created and differentially imposed'.[56] Legislators and policy makers recognise vulnerabilities among some classes of persons but they can also, to quote FitzGerald and Munro, go to 'extreme measures' to 'eliminate, even deny vulnerability' in themselves and others.[57] In this context, the people deemed to be strong enough to withstand the corruption of prohibited publications included State actors charged with enforcing the system: civil servants, Gardaí, the Board, customs officers, judges etc. Board[58] (and Appeal Board)[59] members largely came from people with middle-to-upper class professions. The permit facility was a recognition that readers could also be invulnerable to influence. The Committee in their *Report* concluded that it was 'indiscriminate circulation' in relation to contraception that was the issue of concern.[60] 'Authorised persons' should be able to continue accessing information that was otherwise denied to the public. Following this argument, the aim for the State was not total information elimination but information control. The 1929 Act adopted this approach, demonstrating that the government also did not view counterhegemonic publications as being universally harmful. It was audience dependant and there were

[56] Marianne Hirsch, 'Vulnerable Times' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 76, 80.
[57] Sharron A. FitzGerald and Vanessa E. Munro, 'Sex Work and the Regulation of Vulnerability(ies): Introduction' (2012) 20 Feminist Legal Studies 183, 185.
[58] See the involvement of Trinity College Dublin academics at p. 348; For example, in the early 1940s the Board was made up for five men in high positions in academia: Very Reverend Patrick Canon Boyle (Professor of Easter Languages Trinity College), Dennis Coffey (President of UCD), William Magennis (Professor of Metaphysics UCD), W.J. Williams (Lecturer in Education UCD), William R. Fearon (Professor of Biochemistry Trinity College). In 'Memo regarding censorship' (Undated) Folder no 90-102-137, National Archives of Ireland; Other examples of Board members include John Charles Conroy (judge) Emma Bodkin (accountant), Frances T. O'Reilly (retired civil servant), A.F. Comyn (solicitor) and R.R. Figgis (business owner). Listed in Oscar Traynor (Minister for Justice) 'Letter to Judge Conroy about his appointment' (2 October 1957) Folder no 90-102-26, National Archives of Ireland; Thaddeus G. O'Sullivan (judge) in James Everett (Minister for Justice) 'Appointments to the Censorship of Publications Board' (13 February 1956) Folder no 90-102-26, 1 of 2, National Archives of Ireland.
[59] Some examples of members include Richard McLoughlin (Supreme Court judge) and John Vincent Kelly (psychiatrist) in 'Judge and doctor for appeal body' *Irish Press* (X, 28 May 1969) Folder no 90-102-142, 1 of 2; Arthur Gibney (architect), Michael Binchy (former judge) in Seamus Brady, 'Censorship: Our system needs to be changed but...' *Irish Press* (Dublin, 9 December 1966) Folder no 90-102-142, 1 of 2 National Archives of Ireland; J.T. Wigham (Department of Pathology in Trinity College) 'Recommendation letter for Wigham' (9 November 1943) Folder no 90-102-25, National Archives of Ireland.
[60] *Committee on Evil Literature* (n 17) A3, 13-15, 19.

readers who the Department of Justice could consider to be incorruptible enough to be set apart from readers generally and be granted access to these publications.[61]

The Committee did not specify which readers should be eligible for permits. Horgan recounted that one member of the Committee - Reverend J. Sinclair Stevenson – separated the 'ordinary young person and decent citizen' who required protection from a class of 'right people', i.e., professionals who needed access to prohibited publications.[62] This separation is not unusual in legal responses to perceived vulnerabilities. Mackenzie detailed how divisions between two classes of person – one vulnerabilised, one with professional privilege – can perpetuate inequalities created or exacerbated by law.[63] Vulnerable people are managed differently by the State and can be excluded from domains of knowledge and support available to others.[64] The 1929 Act did not specify who these approved readers would be either. Instead, the Minister – or in practice, civil servants – were empowered to issue permits 'for reasons which appear to him sufficient',[65] or 'at his discretion'.[66] From debates, it was apparent that professionals would have privileged access in order to support the condemnation of counterhegemonic and facilitative publications.[67]

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[61] For differences in management approaches in response to classifications of vulnerable subjects see Kate Brown, "Vulnerability': Handle with Care' (2011) 5(3) Ethics and Social Welfare 313; Judith Butler, Zeynep Gambetti and Leticia Sabsay, 'Introduction' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 1, 5.
[62] Quoted in *Horgan* (n 27) 65.
[63] Catriona Mackenzie, 'The Importance of Relational Autonomy and Capabilities for an Ethics of Vulnerability' in Catriona Mackenzie, Wendy Rogers, and Susan Dodds (Eds.) *Vulnerability: New Essays in Ethics and Feminist Philosophy* (Oxford University Press 2014) 33, 47.
[64] Sharron A. FitzGerald, 'Biopolitics and the regulation of vulnerability: the case of the female trafficked migrant' (2010) 6(3) International Journal of Law in Context 277; *Brown* (n 61); *Butler, Gambetti and Sabsay* (n 61).
[65] Censorship of Publications Act 1929, ss 10(3) and 16(5).
[66] Censorship of Publications Act 1946, s 19(1).
[67] See the section on permits and reasons granted from p. 254-256

To gain a deeper insight into what these criteria were in practice, I analysed a batch of 175 permits issued between 1933 and 1957, and the correspondence around them, from the Board's archives. I did not limit my sample to publications prohibited for having advocated abortion or contraception due to the small numbers of permits that I was able to locate and because permits were granted by the Department of Justice as a precaution against customs seizures.[68] The permit holders in my sample were almost all professionals: booksellers, doctors, a medical superintendent, a psychotherapist, a medical psychologist, a physiotherapist/chiropodist, a priest, a senator and university libraries.[69] Their reasons for requiring access focused on the benefit that the publication would have for their professional practice or scholarly pursuits. Examples were: for the study of 'medical ethics',[70] for 'medical reasons',[71] for use 'in private practice',[72] 'for reference in my professional work,'[73] to build a reference library,[74] and for his 'own

[68] One example of the latter came from Trinity College Dublin who subscribed to *Birth Control News* from the Birth Control Information Centre. This likely would have been prohibited under section 16 of the 1929 Act so they needed a permit to lawfully import it. See Folder no 90-102-10(2 of 2), National Archives of Ireland.
[69] Folder numbers 90-102-8 and 90-102-10, National Archives of Ireland; Martin also found that those who were granted permits were academics, businessmen, doctors or writers i.e., people in 'respectable' and 'mature' professions. *Martin* (n 13) 295.
[70] Reverend Henry Gaffney, 2 February 1947, folder number 90-102-8, National Archives of Ireland. He requested *Encyclopaedia of Sex* and *Red Light* – if the first publication was *Encyclopaedia of Sex Practice* by Drs. A. Willy, L. Vander, O. Fisher and others it was prohibited for advocating contraception or abortion (published in Iris Oifigiúil on 10 June 1941 and 25 November 1958). I could not find *Red Light* on my list of prohibited works for advocation of contraception or abortion, so it may have been prohibited for being indecent or obscene.
[71] Letter requesting a permit from T.M. Corbet, 17 November 1947, folder number 90-102-8, National Archives of Ireland. He was requesting *Ideal Marriage : it's psychology and technique* by Van de Velde (prohibited for being indecent or obscene and published in Iris Oifigiúil 24 February 1931).
[72] Request for a permit from Thomas Farrell, 12 December 1947, folder number 90-102-8, National Archives of Ireland. He requested *Encyclopaedia of Sex Practice* by Drs. A. Willy, L. Vander, O. Fisher and others (prohibited for having advocated abortion or contraception and published in Iris Oifigiúil on 10 June 1941 and 25 November 1958); See also Robert O'Dolan, 16 June 1953, folder number 90-102-8, National Archives of Ireland. He had requested *Ideal Marriage : it's psychology and technique* by Van de Velde (prohibited for being indecent or obscene, Iris Oifigiúil 24 February 1931).
[73] Dorothy Dockrell, 9 April 1949, folder number 90-102-8, National Archives of Ireland. She requested *Married Love* by Marie Stopes (prohibited for having prohibited for advocating contraception or abortion and published in Iris Oifigiúil 13 May 1930 and 28 April 1959); See also permit request from Ernest P. Collins, 25 February 1947, 90-102-8, National Archives of Ireland and permit request from P. Ahearne 7 February 1949, 90-102-8, National Archives of Ireland.
[74] P. Murphy, 15 August 1951, folder number 90-102-8, National Archives of Ireland. He had requested *The Modern Woman's Home Doctor* edited by W. Arbuthnot Lane (prohibited for having advocated contraception or abortion published in Iris Oifigiúil 21 March 1939.

personal use'.[75] The high number of professionals in my sample may be due to archival filing. It could also be because the British Medical Association's library refused to lend their books to Irish doctors unless they had a permit due to concerns that customs could detain the publications.[76] My interpretation is that permits were mostly confined to those with a professional status i.e., not vulnerable to influence. Letters and notations from the civil servants administering the permits seem to support this. For example, one requester who said he was 'not likely to be corrupted' by his reading, was granted a permit.[77] Those who civil servants believed may be harmed or convinced by these materials were refused permits. One physician in my sample was initially rejected as civil servants mistakenly took him as a medical student.[78] In the case of booksellers,

[75] Request for a permit from Reverend John Blowick, 24 July 1951, folder number 90-102-8, National Archives of Ireland. He had requested a publication called *The Hygiene of Marriage* by Isabel Emslie Hutton that had been prohibited for having advocated contraception or abortion (Iris Oifigiúil 24 February 1931); See also the permit granted to Burns, Oats and Washburne Ltd who were religious booksellers. They requested a permit to import a copy of *Heart of the Matter* by Graham Greene for a Reverend Monsignor. Their request was approved despite giving no reason as to why their reader wanted to access the publication. Letter from Burns, Oats and Washburne Ltd to the Censorship of Publications Board, 3 August 1948, folder number 90-102-8, National Archives of Ireland.

[76] For an example see letter to D.J. O'Doherty from T. John Shields, 8 August 1950, folder number 90-102-8, National Archives of Ireland. He was looking to borrow Van de Velde's *Ideal Marriage : it's psychology and technique* that was prohibited for being indecent or obscene (Iris Oifigiúil 24 February 1931); Correspondence between John R. Shea from T. John Shields, 2 April 1948 and 2 February 1951, folder number 90-102-8, National Archives of Ireland. He was requesting the publications *Human Sex Anatomy* by Robert Latou Dickinson and Van de Velde's *Ideal Marriage : it's psychology and technique* (prohibited for being indecent or obscene, Iris Oifigiúil 24 February 1931). I was unable to find *Human Sex Anatomy* in the list of works prohibited for advocating contraception or abortion so if it was prohibited it was probably for being indecent or obscene; Letter from E.G. Hobart requesting a permit for *Human Sex Anatomy* by Robert Latou Dickinson as the BMA library requested that he obtain a permit first, 5 February 1951, folder number 90-102-8, National Archives of Ireland; Letter to John J. Gray from T. J. Sheilds, 29 July 1953, folder number 90-102-8, National Archives of Ireland. He was requesting *Marriage Manual: a practical guide-book to sex and marriage* by Hannah and Abraham Stone. This was not on the list of publications that I found to have been prohibited for having advocated or promoted abortion so if it was prohibited it may have been for indecency or obscenity.

[77] Letter to F.C. Hill from P.B. (Peter Berry of the Department of Justice), 29 Aibrean 1948, folder number 90-102-8, National Archives of Ireland. He had requested a publication called *Herculaneum et Pompeii* and this had not been prohibited for having advocated abortion or contraception nor had it at that time been prohibited for being indecent or obscene. It was a precautionary issuing of a permit. The note was dated 3 May 1948; See also the Quaker 'middle-aged grandfather' who received a permit after he stated that he was unlikely to be easily corrupted by the publication that he was seeking. Martin (n 13) 293.

[78] Request for a permit from W.J.H. Collins, stamped 30 October 1947, folder number 90-102-8, National Archives of Ireland for Van de Velde's *Ideal Marriage : it's psychology and technique* that was prohibited for being indecent or obscene (Iris Oifigiúil 24 February 1931); The Department checked the medical register for his name and asked that he obtain a letter from his professor stating why he would need access to this work. Letter from D.C. (Daniel Costigan of the Department of Justice) to W.J.H. Collins re permit request, 6 Samhain 1947, folder number 90-102-8, National Archives of Ireland; Letter from W.J.H. Collins, stamped 8 November 1947, folder number 90-102-8, National Archives of Ireland; Letter from DC (Daniel Costigan) to W.J.H. Collins re permit request, 6 Samhain 1947, folder

they were granted permits to sell contested publications but were required to keep a record of those they sold prohibited publications to, and to furnish this list upon request to the Department of Justice.[79] This was akin to conditions in the Sale of Poisons Act 1870, denoting just how toxic and dangerous the State regarded these publications.[80] The permit system, although it granted access to condemned publications, was administered in a way so as not to undermine or challenge the claimed protective aims and ideological foundations of the censorship system.

The permit facility was not the sole aspect of the 1929 Act that created a two-tier, paternalistic framework for information control. The Board were required under the 1929 Act to consider a number of factors before recommending the prohibition of a book. These categories were biased towards that professional readership who could be considered to be mature or stalwart enough not to be harmed by counterhegemonic information. These were the 'nature and extent of circulation', the 'class of reader' and the 'literary, artistic, scientific or historic merit' of each book.[81] The harmfulness of a particular book was partially affirmed not based on content *per se*, but also the on intended audience. Daly's work demonstrated how this was not unique to the 1929 Act. She recounted how the *Dublin Medical Press* described a publication about contraception as being obscene and immoral, even though it was written by a doctor as:

number 90-102-8, National Archives of Ireland; See also R.S. Rose on medical students who had access to information about abortion in *Rose* (n 7).

[79] Permit granted to Mercier Press, 7 January 1947, 90-102-8, National Archives of Ireland; Permit granted to Browne & Nolan Limited, 8 April 1948, folder number 90-102-8, National Archives of Ireland. Both of these permits were for *The Laws of Life* that was prohibited for being indecent or obscene primarily due to its discussion of the 'safe period' (published in Iris Oifigiúil 10 October 1941).

[80] Sandra Larmour details how abortifacients like ergot of rye were controlled under this Act. *Larmour* (n 7) 229-232.

[81] Censorship of Publications Act 1929, s 6. In the initial Bill this was to be a suggestion but it was amended to be a requirement after a vote in Seanad Éireann debate, Thursday 25 April 1929, vol 12, no 5. Senator Thomas Johnson (Labour Party) introduced the amendment.

> The obscenity or not of a book much depends upon the class of readers for whom it is written. What would not be obscene to a medical doctor or a student of physiology, would undoubtedly be obscene to the youth who read it to gratify prurient curiosity.[82]

Further evidence of this were two additional small but significant specifications in the 1929 Act. Firstly, publications that were for the 'information or instruction' of the legal and medical professions were excluded by the government from the definition of prohibitable book or periodical.[83] The Board would decide on the *bona fides* of any educational or professional purpose.[84] This provision was intended to reassure nervous professionals as the government was not of the view that such publications would be prohibited. To quote the Fitzgerald-Kenney, only publications that were 'likely to get amongst persons who would be injured by the reading of them' would be censored.[85] The second aspect was the government's attempt to curtail any unauthorised access to contested information by refusing the requests from some opposition legislators that the Board's deliberations be held in public. Privacy would be needed, according to Fitzgerald-Kenney, to ensure that 'prurient-minded' people would not have access to soon-to-be-prohibited publications.[86] This decision created a barrier to people learning about contested publications and would limit the unpredictable contagious effect of speech.[87]

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[82] *Daly* (n 23) 32.
[83] Censorship of Publications Act 1929, s 2.
[84] See the Minister for Justice James FitzGerald-Kenney (Cumann na nGaedheal, then Fine Gael) Dáil Eireann accepting an amendment from the Seanad to define book in section 2 as not including those published for the education or use of those in the medical or legal professions. Dáil Éireann debate, Thursday 11 July 1929, vol 31, no 5; See also Dáil Éireann debate, Thursday 27 February 1929, vol 28, no 4 and Seanad Éireann debate, Wednesday 10 April 1929, vol 12, no 1.
[85] The Minister for Justice James Fitzgerald-Kenney (Cumann na nGaedheal, later Fine Gael) Dáil Éireann debate, Wednesday 10 April 1929, vol 12, no 1.
[86] The Minister for Justice James FitzGerald-Kenney (Cumann na nGaedheal later Fine Gael) Dáil Éireann debate, Thursday, 21 February 1929, vol 28, no 2.
[87] Judith Butler, *Excitable Speech* (Routledge Classics 2021) 103-127.

Censorship refinement and prosecutions

The Censorship of Publication 1946 amended the 1929 Act. Entitled 'an act to make further and better provision' for censorship, Ó'Drisceoil aptly described the 1946 Act as a 'consolidation of the *status quo*'.[88] Censorship proponents were not satisfied by the outcomes of the 1929 Act as they believed that law was failing to adequately curtail the dissemination of contested information through international paperbacks, newspapers, and advertisements.[89] Contraception remained a topic of great alarm with opponents like Stephen J. Browne describing the curtailment of 'propaganda' as a critical strategy for controlling access to contraceptives themselves.[90] Advertisements for 'female pills' continued to be published in newspapers,[91] and due to World War II travel bans, more Irish illegal abortions providers were caught, exposed and prosecuted.[92] Censorship proponents remained steadfast in their claims that the young and the 'ordinary citizen' needed protection from dangerous ideas and assistive information circulated through publications.[93] Censorship infrastructure could support public health goals as a form of

[88] *Ó'Drisceoil* (n 13) 297.
[89] See for example, Letter from the Catholic Truth Society of Ireland to the Minister for Justice, 'Recommendations for new censorship system' (11 February 1939) Folder no 90-102-135, National Archives of Ireland; Catholic Truth Society of Ireland, 'Question of Amending the Censorship of Publications Act 1929' Folder no 90-102-135, National Archives of Ireland; Irish Retail Newsagents', Booksellers, and Stationers' Association referenced in D(aniel) C(ostigan), 'Memo on circulating libraries' (22 May 1939) Folder no 90-102-233, National Archive of Ireland; *Adams* (n 13) 312.
[90] Stephen J. Brown (priest and librarian) 'Concerning censorship' (1936) 64 The Irish Monthly 751, 26-27.
[91] Cara Delay, ''Poisons or other Noxious Things': Women's Illegal Abortion Strategies in Twentieth-Century Ireland' *UCD Centre for the History of Medicine in Ireland* (9 May 2014) < http://historyofmedicineinireland.blogspot.com/2014/05/poisons-or-other-noxious-things-womens.html > accessed 17 April 2023.
[92] Pauline Conroy, 'Dúirt bean liom…A woman told me…Punishing the productive and the reproductive' in Aideen Quilty, Sinéad Kennedy and Catherine Conlon (Eds.) *The Abortion Papers: Volume 2* (Cork University Press 2015) 50; Chrystel Hug, *The politics of sexual morality in Ireland* (Macmillan 1998) 161; Ann Rossiter, *Ireland's Hidden Diaspora: The Abortion Trail and the Making of a London-Irish Underground* (IASC Publishing 2009); *Delay* ibid; *Jackson* (n 10); *Jackson* (n 7) 3; *McAvoy* (n 11) 153.
[93] Irish Retail Newsagents', Booksellers, and Stationers' Association referenced in D(aniel) C(ostigan), 'Memo on circulating libraries' (22 May 1939) Folder no 90-102-233, National Archive of Ireland; *Adams* (n 13) 312; *Browne* (n 90) 33-34; *Martin* (n 13) 309.

benevolent intervention to protect vulnerable subjects. Returning to Brown, he described the need to supress condemned information as being as compelling as fixing a 'choked up sewer', with censors akin to sanitary inspectors.[94] It was on the State to address the legal framework to provide a better form of protection for its citizens. The State - both in terms of government and civil service - remained committed to paternalistic censorship, noting that the Board considered publications with 'two types of reader' in mind: the persuadable and the invulnerable.[95] The Department of Justice believed that the 1929 Act had been successful in reducing the circulation of periodical publications and those which advocated contraception.[96] Hence, the 1946 Act maintained much of the existing censorship infrastructures including the Board and prohibitions on publications deemed to have advocated abortion or contraception.[97] The changes enacted by the 1946 Act were intended to strengthen existing censorship.

The first notable change introduced in the 1946 Act was the transfer of power to prohibit a publication from the Minister for Justice to the Board.[98] Under the 1929 Act, the Board only made recommendations. However, as Adams noted, the Minister usually followed their advice.[99] The Minister for Justice responsible for the drafting of the 1946 Act,

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[94] *Brown* (n 90) 26, 29, 31, 35.
[95] D(aniel) C(ostigan), 'Memo on circulating libraries' (22 May 1939) 2, Folder no 90-102-233, National Archive of Ireland.
[96] Correspondence in folder no 90-102-135, National Archives of Ireland; See also the Minister for Posts and Telegraphs Patrick Little (Fianna Fáil) who stated 'As far as periodical publications are concerned there has been, I think, complete success and no complaints; and it should be remembered that the main reason for setting up the board was to check the import of undesirable newspapers, and other periodicals. There have been some objections to prohibition orders in respect of books, but these objections have been very few when it is remembered that nearly 2,000 books have been prohibited' in Seanad Éireann debate, Wednesday 14 November 1945, vol 30, no 10.
[97] This was the intention according to the government as they wanted to adjust particular parts of the infrastructure without creating a 'patchwork' legislative framework. So, they repealed large sections of the 1929 Act and recreated it in the 1946 Act. The quote source was the minister for Posts and Telegraphs Patrick Little (Fianna Fáil) Seanad Éireann debate, Wednesday 14 November 1945, vol 30, no 10.
[98] Censorship of Publications Act 1929, ss 7, 9 and 14.
[99] *Adams* (n 13) 62.

Gerald Boland, had wanted to abolish the Board and replace it with a single censor, as with film censorship.[100] His discomfort with being directly responsible for individual censorship decisions, and any criticism that followed, prompted him to consider this change.[101] Boland was convinced by Senator and censor William Magennis and Archbishop John Charles McQuaid to transfer powers away from the Minister to the Board instead.[102] This shifting of power moved censorship even further away from members of the public, augmenting the two-tier nature of censorship. The Minister was an elected representative, meaning that he was accountable to his constituents. The Board was a panel of five volunteers who were appointed and removed by the Minister in a private process.[103] Board members under the 1946 Act would make censorship decisions denying their fellow citizens access to information in a secretive quasi-judicial manner with little-to-no public oversight.[104] The Board did not even need the public to complain about a publication as they could examine books on their own initiative or have their secretary make a complaint in a private capacity.[105] The public had lost one

[100] Boland was part of Fianna Fáil (formerly Republican). See *Adams* (n 13) 98; *Ó'Drisceoil* (n 13) 297; Censorship of Films Act 1923.
[101] The Minister for Justice Gerard Boland (Fianna Fáil, formerly Republican) recounted that *The Irish Times* would write that 'Mr Gerald Boland has banned the following books' rather than 'the Minister for Justice' and this is why he 'if for no other reason' assigned the power of prohibition over to the Censorship Board. Quote from Seanad Éireann debate, Wednesday 14 Jun 1967, vol. 63 no. 6. See also Dáil Éireann debate, Wednesday 24 October 1945, vol 98, no 5.
[102] Magennis was not a representative of a political party. *Adams* (n 13) 104; *Ó'Drisceoil* (n 13) 297.
[103] Julia Carlson, 'Introduction' in Julia Carlson (Ed.) *Banned in Ireland: censorship and the Irish writer* (University of Georgia Press 1990) 4; See the section discussing the Board p. 347-349.
[104] For an example of criticism of the Board see the letter of Daniel D. Maloney to the then Leader of the Opposition, Deputy Eamonn De Valera (Fianna Fáil). Maloney described the Board as a group of 'bigots sitting in secret conclave' who get to decide 'that the Irish reading public are unfitted for self-determination or discernment in important fields of morals and aesthetics'. Letter dated 1 August 1931, folder number MS 41,178 /73, Sheehy-Skeffington Papers, National Library of Ireland.
[105] The Department of Justice had suggested that the Board should be expressly empowered to do this in National Archives of Ireland. It was enshrined in s 6 of the 1946 Act to allow the Board to examine books in this way. They then could use the workaround of their staff making a complaint for periodicals. See 'Memorandum regarding suggestions for the amendment of the censorship of publications act, 1929, made by the Catholic Truth Society of Ireland' 2-3, Folder no 90-102-135, National Archives of Ireland; Letter from S.A. Roche (Stephen Roche secretary of the Board) to the Minister for Justice, 'Observations on suggestions made (November 1930) by the Censorship Board for amendments of the Act' (November 1930) 1, Folder no 90-102-135, National Archives in Ireland.

of the few mechanisms of control – lobbying the Minister - that they had over the censorship process. Censorship proponents were not alienated by this change as they considered the Board to be engaged in vital, protective work.[106] For example, Senator Helena Concannon thanked the Board on behalf of the 'ordinary, low-brow people' and 'the women of Ireland', who could be harmed through the circulation of condemned reading and advertising materials.[107]

This distancing of the Minister from censorship was further facilitated through the creation of the Censorship of Publications Appeal Board.[108] The Minister was empowered under the 1929 Act to revoke or amend prohibition orders.[109] He could potentially be tasked with reviewing a prohibition order that a colleague, or even they himself, had issued.[110] From a procedural or justice-based viewpoint this was not an appropriate review mechanism. Even the Board had criticised this approach as it, in their view, rendered the Minister an 'absolute' censor.[111] This facility seemed anomalous as the Censorship of Films Act 1923 created an appeal board for the decisions of the film censor.[112] The Appeal Board would replace the Minister by reviewing, amending or revoking prohibitions orders. However, this new infrastructure did not challenge or

[106] See for example the praises of Senator Seán Patrick Campbell (Fianna Fáil) for the Board in Seanad Éireann debate, Wednesday 14 November 1945, vol 30, no 10.
[107] Senator Helena Concannon (Fianna Fáil) Seanad Éireann debate, Wednesday 14 November 1945, vol 30, no 10.
[108] Censorship of Publications Act 1946, ss 8(2) and 10(1)
[109] Censorship of Publications Act 1929, s 8.
[110] Boland did experience such stresses related to his censorship decisions. The most notable being his decision decisions to prohibit *The Laws of Life* by Halliday Sutherland for being indecent or obscene based on its inclusion of the 'safe period' as a method of acceptable family planning. See the segment of Oireachtas debates discussed on p. 14.
[111] 'Memorandum of an interview accorded a deputation from the Censorship of Publications Board by the Minister for Justice as a sequel to certain representations previously made to the Minister in writing regarding the Act of 1929 and difficulties attending its operation' (1 August 1940) Folder no 90-102-135, National Archives of Ireland.
[112] Censorship of Films Act 1923, ss 3, 4 and 8. Though the Censorship of Films Appeal Board did not have powers to issue new certifications, it would make recommendations to the Official Censor who could them accept or deny their recommendation.

undermine the paternalism of the censorship framework. Rather, it reinforced the bias towards censorship being a top-down approach that facilitated professional expertise and access, while denying others. Unlike the Board, the chair of the Appeal Board was required to be a lawyer, i.e., a judge, barrister or solicitor.[113] The government intended this provision to legitimise the Appeal Board and make it harder to criticise them for acting *ultra vires*. Furthermore, only the author, editor or publisher of a publication, or five members of the Oireachtas working together, could initiate an appeal. If an 'ordinary' member of the public wished to do so, they would have to lobby these empowered parties instead. This was not an issue for Boland as he was of the view that members of the Oireachtas would represent the interests of the public.[114] Who after all, he asked, could be 'more representative' than members of the Oireachtas whose 'business' it was to look after the interests of their communities?[115] His words demonstrated that the paternalism of censorship was deliberate and regarded by the State as a benefit, rather than a regressive form of gatekeeping and exclusionary practice. Members of the public would, unless they possessed the professional legitimacy to have access to permits and appeals, remain primarily as recipients or targets of censorship.

[113] The judge was required to be one of the Supreme, High or Circuit Court and the barrister or solicitor was required to have been practicing for at least seven years. There were no statutory qualifications for the four other 'ordinary members'. Censorship of Publications Act 1946, s 3(1).
[114] The Minister for Justice Gerald Boland (Fianna Fáil) Dáil Éireann debate, Wednesday 24 October 1945, vol 98, no 5.
[115] The Minister for Justice Gerald Boland (Fianna Fáil) Dáil Éireann debate, Wednesday 24 October 1945, vol 98, no 5. He also said that it was the 'business' of members of the Oireachtas to look after the rights of the ordinary citizen'. See Seanad Éireann debate, Thursday 29 November 1945, vol 30, no 12.

If members of the public could appeal, the stigmatisation and criminalisation of abortion meant that it was unlikely that they would have succeeded for any work prohibited on the grounds of advocation of abortion. William Magennis showed how highly condemnatory censors were of such publications at the time when he argued that the existence of publications that he considered to be 'advocating…murder' evidenced the need for censorship.[116] The dangers posed by such publications was why supporters framed censorship as 'protection' work rather than as information suppression *per se*.[117] It was then unsurprising that the 1946 Act affirmed and expanded restrictions in slight but potentially impactful ways. Firstly, the Act formalised the informal arrangement whereby customs officers would confiscate and submit all intercepted works about contraception (and most likely abortion if there were any) to the Board.[118] Under the 1929 Act, it was considered legally questionable whether or not customs officers could seize publications that were not yet prohibited.[119] Customs were a significant source of referrals; Adams recounted that the government believed that almost half of all complaints came from customs officers.[120] The government wanted to keep this channel for referrals open so confirmed its legality in the 1946 Act. Secondly, the Board were empowered to prohibit a broader range of publications. The 'information or instruction' exemption in the 1929 Act was omitted from the 1946 Act.[121] In addition, the Board

[116] Seanad Éireann debate, Thursday 13 December 1945, vol 30, no 14; Though Magennis's Amendment no 30 which was intended to remove the obligation of the Board to consider the 'scientific' nature of a publication was opposed by the Minister for Justice as the Board were still empowered to prohibit those works regardless. See William Magennis (Independent) Seanad Éireann debate, Thursday 29 November 1945, vol 30, no 12. Magennis withdrew the amendment.
[117] *Martin* (n 13) 313; James Kelly, 'The Operation of the Censorship of Publications Board: The Notebooks of C. J. O'Reilly, 1951-55' (2004) 38 Analecta Hibernica 223.
[118] Censorship of Publications Act 1946, s 5; *Martin* (n 13) 291.
[119] Letter from S.A. Roche (Stephen Roche secretary of the Board) to the Minister for Justice, 'Observations on suggestions made (November 1930) by the Censorship Board for amendments of the Act' (November 1930) 1, Folder no 90-102-135, National Archives in Ireland; *Martin* (n 13) 291.
[120] *Adams* (n 13) 102.
[121] Censorship of Publications Act 1946, s 1.

could also prohibit a publication based on commercial featured advertisements, even if the publication itself did not advocate abortion or contraception.[122] Previously the Board could recommend prohibition. However, it was unclear if an unrelated advertisement alone met the threshold for advocation under the 1929 Act.[123] These changes increased the potential for gatekeeping and suppressing contested information. The 1946 Act was, therefore, an entrenchment of paternalistic law-making and a way for the State to distance itself from individual censorship decisions while retaining overall control of the infrastructure, including who would be granted permits to access condemned publications.

The 1861 Act remained operative during these decades and, to quote Jackson, it was not a 'dead letter or dustridden tome'.[124] People who referred abortion seekers to illegal abortion providers continued to be prosecuted. Scholars who examined these trials identified factors that I believe were present in, and relevant to, pro-censorship arguments. Motivations to protect vulnerable abortion seekers from potentially unsafe, exploitative illegal abortions were one such commonality. Rattigan highlighted how providers and referrers were often the focus of prosecutions, not abortion seekers.[125] She referenced a judge in a 1945 trial who said that as 'bad' as abortion seekers were, any men who assisted them, were 'infinitely worse'.[126] Facilitators of abortions received

[122] Censorship of Publications Act 1946, s 9(2).
[123] National Archives of Ireland; 'Memorandum regarding suggestions for the amendment of the censorship of publications act, 1929, made by the Catholic Truth Society of Ireland', 2-3, Folder no 90-102-135, National Archives of Ireland; Brian MacMahon (Department of Justice) 'Board suggestions to improve act' (27 November 1930) 2, Folder no 90-102-135.
[124] *Jackson* (n 7) 8.
[125] *Rattigan* (n 10) 279, 282; *Jackson* (n 7); *Jackson* (n 10).
[126] *Rattigan* (n 10) 297.

heavy criticism, especially when there was a monetary exchange as part of the process. Payments took place between the abortion provider and the advertiser, the abortion seeker and the referrer, or the referrer received a portion of the final fee charged by the provider. This commercial element reinforced framings of those involved in abortion as taking advantage of desperate pregnant people due to selfish, profit-driven motives.[127] Not accepting a fee was not a guaranteed defence, however, as some judges considered referral agents to be as morally and legally culpable as the person who carried out the abortion.[128] Jackson described one judge in a 1944 case describing abortion referral as being 'akin to murder or attempted murder'.[129] Abortion seekers were, as recounted by Delay and Liger, treated with a degree of compassion in some trials, particularly if they cooperated with Gardaí and were regretful.[130] This affirmed the casting of abortion seekers as misguided, desperate, vulnerable subjects. The condemnation of abortion facilitators and pity for those who sought abortions was reflective of the State's approach to controls on assistive or counterhegemonic information in publications. People involved in producing or disseminating these publications were regarded as a risk to vulnerable people and criminalised.[131] Vulnerable readers were instead to be prevented from encountering these publications

[127] For examples of trials involving payment see 'Two Prisoners as State Witnesses' *The Irish Times* (Dublin, 4 July 1944) 2; 'Illegal Operation Charge' *The Irish Times* (Dublin, 8 July 1944) 2; 'Three years' sentence' *The Irish Times* (Dublin, 31 October 1944) 2; For discussions see *Larmour* (n 7); *McAvoy* (n 11) 154-160; *Rose* (n 7).
[128] For examples of a trial see 'Doctor and business man charged' *The Irish Times* (Dublin, 25 July 1944) 2; 'Dr. Ashe acquitted, Flynn convicted and put back' *The Irish Times* (Dublin, 27 July 1944) 2; 'Doctor found guilty' *The Irish Times* (Dublin, 25 November 1944) 5; 'Doctor sentenced' *The Irish Times* (Dublin, 5 December 1944) 2; For discussions see *Delay and Liger* (n 8) 9; *Jackson* (n 7) 8; *Larmour* (n 7) 243; *McAvoy* (n 11) 152-153.
[129] *Jackson* (n 7) 5.
[130] *Delay and Liger* (n 8) 7-8; See also Anne O'Connor on how 19th century public opinion seemed to be more lenient on abortion and convictions were not common. In 'Women in Irish Folklore: The testimony regarding illegitimacy, abortion and infanticide' in Margaret MacCurtain and Mary O'Dowd (Eds.) *Women in early modern Ireland* (Edinburgh University Press 1991) 304.
[131] For example, see Dáil Éireann debate, Friday 19 October 1928, vol 26, no 6 and Seanad Éireann debate, Thursday 11 April 1929, vol 12, no 2.

through the proactive and retrospective censorship created through the 1929 and 1946 Acts.

Excluding abortion from censorship reforms

The Censorship of Publications Act 1967 (the 1967 Act) liberalised the censorship framework. However, the casting of counterhegemonic or facilitative abortion information as dangerous, and censorship as protective, by the State meant that publications that prohibited the advocation of abortion were omitted from these reforms. In 1966, the Taoiseach, Seán Lemass, said that censorship laws protected 'young people …in the same way as we protect them from bad food, or dirty milk, or destructive drugs.'[132] The Minister for Justice, Brian Lenihan, aligned with this view stating that that 'evil literature' could be 'just as damaging' as drugs.[133] Hence, the State would continue to criminalise these publications as, to borrow a phrase from Munro and Scoular, 'a benevolent force'.[134] The 1967 Act was a response to controversies concerning literary censorship which had become an embarrassment for the State.[135] The Board prohibited works by lauded Irish writers and this drew uncomfortable international attention and domestic criticism.[136] To address this, the prohibition orders for books that were banned

[132] He was a member of Fianna Fáil. The quote is from Tribune special correspondent, 'The bad books that still come in' *Connaught Tribune* (Galway, 2 December 1966) 90-102-142 Folder 01 of 2, National Archives of Ireland; The Minister for Justice responsible for the 1967 Act, Brian Lenihan (Fianna Fáil) also stated that 'One must have a means of protecting people against evil literature which can be just as damaging as drugs. I think everybody in this House would agree we must have a censorship code' in Dáil Éireann debate, Wednesday 24 May 1967, vol 228, no 12.
[133] The Minister for Justice, Brian Lenihan (Fianna Fáil) Dáil Éireann debate, Wednesday 24 May 1967, vol 228, no 12.
[134] Vanessa E. Munro and Jane Scoular, 'Abusing Vulnerability? Contemporary Law and Policy Responses to Sex Work in the UK' (2012) 20 Feminist Legal Studies 189, 191.
[135] Dermot Keogh, Twentieth Century Ireland (New Gill History of Ireland 2005); Carlson (n 103); *Ó'Drisceoil* (n 13).
[136] Lenihan did reject an amendment - no 6 – that would have differentiated between books written by Irish authors and others in terms of access to the appeals process. It was introduced by Deputy Seán Dunne (Labour Party).

on the grounds of being indecent or obscene would expire after 12 years. The government claimed that those judgements were subjective and could change over time.[137] It was open to the Board to prohibit those works again, but they would need to re-examine the book. This expiration did not apply to books that were prohibited on the grounds of advocation of abortion or contraception. Their orders would remain in place until revoked. The 1967 Act did not make any changes to section 16 of the 1929 Act or to the issuing of prohibition orders. Despite suggestions from other legislators that censorship become a wholly court-based system for transparency and legal fairness, the government kept the Board and the existing layers of prohibitions operative.[138] Paternalism of the 1929 and 1946 Acts also remained firmly in place. This was evidenced in Lenihan's description of the Board. The Board was, he stated, the 'community's watchdog' performing 'one of the most difficult and unrewarding tasks of any voluntary body providing public services'.[139] The government was happy to see the Board continue to apply the 'standards of the average mature and responsible adult' to all the works that they were examining.[140] Information that remained considered by the State and the Board to be dangerous, toxic and contagious because it advocated abortion or contraception would continue to be suppressed by law in order to protect claimed vulnerable readers.

Lenihan did so on the grounds that he did not believe that Irish morality was superior to the morality of those from abroad. Dáil Éireann debate, Wednesday 24 May 1967, vol 228, no 12.

[137] Censorship of Publications Act 1967, s 12(1).

[138] The Minister for Justice, Brian Lenihan (Fianna Fáil) Seanad Éireann debate, Wednesday 14 June 1967, vol 63, no 6; For a discussion of the perceived popularity of the Board see p. 247.

[139] The Minister for Justice, Brian Lenihan (Fianna Fáil) Dáil Éireann debate, Wednesday 10 May 1967, vol 228, no 6.

[140] The Minister for Justice, Brian Lenihan (Fianna Fáil) Dáil Éireann debate, Wednesday 10 May 1967, vol 228, no 6 and Seanad Éireann debate, Wednesday 7 June 1967, vol 63, no 5.

Shifting the vulnerable subject, separating abortion from contraception

> Abortion even carried out in the best circumstances is not the most desirable form of controlling fertility, and the need to resort to it should be reduced to a minimum. The fact that the practice is widespread, and is often carried out in extremely undesirable conditions, is due in large part to the absence of scientific contraceptive facilities for great numbers of women, particularly those in poor circumstances. To this extent the authorities, both central and local, who refuse to make provision for this advice to be given to women who desire to limit their families for economic reasons, are directly responsible for the deaths and ill health caused by abortion…The Churches cannot escape responsibility either.
>
> Dorothy Thurtle, *Abortion: Right or Wrong?*[141]

This extract is from the longest remaining publication prohibited for having advocated abortion.[142] While advocating for abortion law reform, Thurtle blamed UK governments and religious authorities for vulnerabilising women by denying them control over their reproductive lives. In Thurtle's view, the cause of harm was a lack of safe, accessible, legal abortion and contraception services. Her message that contraception and abortion were protective of women's health and economic security was at odds with the Irish State's view of abortion and the information that facilitated or normalised it. In the 1970s, the categorisation of contraception as an unnecessary, dangerous and exploitative intervention would change, leading to further reform of censorship laws. Censorship proponents justified it as being necessary to protect vulnerable people. However, as Sirman remarked, critical examinations of vulnerabilities can create spaces

[141] Dorothy Thurtle, *Abortion: Right or Wrong?* (T Werner Laurie 1940) 79.
[142] As of 17 November 2023. The notice of the prohibition appeared in Iris Oifigiúil on 13 February 1942.

through which power can be questioned and reconfigured.[143] The catalyst for the decoupling of contraceptive information from abortion information came from a case where the Supreme Court engaged in a critical re-evaluation of criminalisation of contraception: *McGee v The Attorney General*.[144]

Ireland in the 1970s was sometimes a harsh and punitive place for pregnant people. Those who were not married faced ostracism, institutionalisation, concealed pregnancies, forced adoptions, or birthing abroad.[145] Married women were potentially impacted by repeated, unwanted pregnancies or having to rely upon abstinence or inaccurate family planning methods.[146] One such woman was Mary McGee. On the advice of her doctor, she had attempted to import spermicide as another pregnancy would endanger her life.[147] Customs seized the spermicide, and McGee challenged section 17 of the Criminal Law (Amendment) Act 1935 in the courts. The Supreme Court found in her favour, declaring that section 17 violated her right to marital privacy.[148] *McGee* was not directly concerned with information regulations, but the judgment impacted censorship laws in two ways. Firstly, now that McGee was entitled to access

[143] Nükhet Sirman, 'When Antigone is a man: feminist "trouble" in the Late Colony' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 191, 205.
[144] [1973] IESC 2; [1974] IR 284.
[145] Rosita Boland, 'Stories of concealed pregnancy in Ireland: 1973-2013' *The Irish Times* (Dublin, 6 February 2021); Commission of Investigation into Mother and Baby Homes, *Final Report of the Commission of Investigation into Mother and Baby Homes* (Department of Children, Equality, Disability, Integration and Youth, 22 November 2021); Diarmaid Ferriter, 'The Irish abortion question has always been linked to class, secrecy and moral judgment' *The Irish Times* (Dublin, 23 August 2014).
[146] Deirdre Foley, ''Too Many Children?' Family Planning and Humanae Vitae in Dublin, 1960–72' 46(1) Irish Economic and Social History 142; Laura Kelly, 'Debates on family planning and the contraceptive pill in the Irish magazine Woman's Way, 1963–1973' (2020) Women's History Review 1; Dorine Rohan, *Marriage: Irish style* (Mercier Press 1969).
[147] *McGee* (n 144). Fitzgerald CJ detailed listed Mary McGee's health problems as encompassing cerebral thrombosis, temporary paralysis and toxaemia with high blood pressure. Should she become pregnant again, her life would be in danger.
[148] This was an unenumerated right. The Supreme Court confirmed that such rights existed in the Irish Constitution in *Ryan v Attorney General* (1965) IESC 1; (1965) IR 294.

contraceptives, she had a corollary right to access information to allow her to do so safely. The criminalisation of producing or disseminating publications that advocated contraception in the 1929 and 1946 Acts was incompatible with this right. Secondly, McGee's exposure of the real, tangible dangers created by the contraception prohibitions countered claims that the State was acting in the best interests of women by limiting their options within reproductive decision-making. Her contestation opened up a space where people could question the foundational claims of restrictive laws and consider if alternative legal frameworks would be more respectful and affirming of vulnerable subjects and their agency. Pro-reform advocates could now use the *McGee* decision to push for law reform, including to the 1929 and 1946 Acts, to allow people to access the information that they needed so that they could make informed decisions about fertility control.[149]

The *McGee* decision created lots of public debate along the lines of what Gambetti described as a *res publica* or public thing, in that the State was required to respond.[150] The government either had to defend their position, and take steps to affirm it in law, or to commit to change. A Fianna Fáil government enacted change through the Health (Family Planning) Act 1979 (the 1979 Act). This legislation amended the 1889, 1929 and 1946 Acts by removing the advocation or advertising of contraception as a ground for prohibition or prosecution.[151] Abortion remained categorised in law and through

[149] See debates in Seanad Éireann debate, 14 November 1973, vol 76, no1; Seanad Éireann debate, 13 February 1974, vol 77, no 1; Seanad Éireann debate, 20 February 1974, vol 77, no 2; Seanad Éireann debate, 21 February 1974, vol 77, no 3; Seanad Éireann debate, Thursday 16 December 1976, vol 85, no 12; Commission on the Status of Women, *Report to the Minister for Finance* (Stationary Office December 1972) para 574, 225.
[150] Zeynep Gambetti, 'Risking Oneself and One's Identity: Agonism Revisited)' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in Resistance* (Duke Press 2016) 28.
[151] Health (Family Planning) Act 1979, s 12.

censorship as dangerous and unacceptable. The 1979 Act even included a 'saver' that the government intended to reconfirm the impermissibility of abortifacient advertising.[152] The continued condemnatory approach to abortion information regulation was acceptable both politically and legally due to the dominant anti-abortion ideology in the Oireachtas and the emphasis of the judges in *McGee* that the decision only applied to contraception.[153] This linking of abortion to harmful outcomes was so pernicious that even those who could be considered more liberal in their politics, advocated for contraception reform within an anti-abortion lens. For example, Senator Mary Robinson argued that there was a case to be made that censorship should be eased for contested publications about abortion, but only so readers could be 'protected' from abortion by being informed its potential 'dangers'.[154] The endurance of these paternalistic, anti-abortion arguments meant that while *McGee* challenged the naturalised harms of contraception restrictions, the transformative potential of the judgment and the re-examination of the role of law in reproductive decision-making was limited to contraception. The decision and the political reaction to it did not reframe facilitating or legitimising abortion information away from being considered to be injurious or harmful to vulnerable pregnant people. *McGee* and the 1979 Act separated abortion and contraception in information regulations. However, this division was of scant comfort for anti-abortion proponents who regarded the 1979 Act as an indication that the criminalisation of abortion was not guaranteed. All it could take was a person like Mary

[152] ss 10 and 12; The Minister for Justice, Charlie Haughey (Fianna Fáil) Dáil Éireann debate, Wednesday 28 February 1979, vol 312, no 3.
[153] See the comments of Griffin and Walsh JJ specifically limiting the impact of *McGee* to contraceptives in *McGee v The Attorney General and the Revenue Commissioners* [1973] IESC 2; [1974] IR 284.
[154] Senator Mary Robinson (Independent and later Labour) Seanad Éireann debate, Thursday 21 February 1974, vol 77, no 3.

McGee to challenge the 1861 Act in court by identifying any harm caused to her by abortion criminalisation. The solution identified by anti-abortion advocates was a constitutional foetal right to life.

Shifting the vulnerable subject, enshrining a constitutional foetal right to life

> No matter what the arguments for and against abortion are, there remains one undeniable fact. It is legally available in Britain under the terms of the 1967 Abortion Act. At Marie Stopes we believe that women who have an unplanned pregnancy should be offered non-judgemental advice…That's why we employ trained counsellors who will talk over the options available to you…we've found that the majority of women actually feel immense relief after an abortion…At Marie Stopes we believe that talking about abortion is just as important as the procedure itself.
>
> Marie Stopes, *The Guardian*[155]

This quote is from an advertisement for the UK abortion provider Marie Stopes, published in *The Guardian* in 1992. It included the telephone numbers and addresses for clinics in England. The Irish distributor of *The Guardian* – Easons – chose to destroy the edition of the newspaper rather than distribute it.[156] They did so because they were concerned that they might be prosecuted for disseminating unlawful advocation of abortion. Easons were unlikely to be prosecuted as section 16 actions were rare.[157] Their concerns were understandable, however, due to the repressive anti-abortion

[155] 'It took an act of parliament to legalise abortion. Does it take an act of courage to talk about it?' *The Guardian* (London 21 May 1992) 9.
[156] Mark Little, 'Newspaper pulled over abortion services ad' *RTÉ Archives* (Dublin, 20 May 1992) accessed <https://www.rte.ie/archives/2017/0518/876228-guardian-newspaper-withheld-from-sale/> 6 January 2023.
[157] For a discussion of the lack of prosecutions see p. 345-347

atmosphere around information-sharing due to the constitutional foetal right to life (the Eighth Amendment) that had been enshrined in the Irish Constitution in 1983.

Anti-abortion advocates campaigned for the creation of a constitutional foetal right to life because they saw a shift in law and the discourse around it that indicated criminalisation of contraception or abortion on the grounds of them being harmful to vulnerable subjects was no longer unequivocally accepted. It was no comfort to anti-abortion proponents that *McGee* applied to contraception only and that the 1979 Act reaffirmed the prohibitions on abortion. These concerns were grounded in the inability or unwillingness of some conservative advocates to differentiate between abortifacients and contraception in terms of effect, morality or claimed risk of harm to vulnerable subjects.[158] An alarming aspect of *McGee* was the argument that the criminalisation of contraception risked Mary McGee's health and the Supreme Court's acceptance of that argument. Anti-abortion proponents foresaw that a similar argument about the 1861 Act could successfully challenge abortion prohibitions.[159] An example was Senator Michael Joseph O'Higgins, who said, if reform was successful for contraception, 'on the grounds of civil rights, minority rights or on the grounds of particular circumstances causing individual hardship,' would it be possible to 'argue against other measures—no matter

[158] Their concerns were primarily in relation to IUDs, low-oestrogen, or progesterone-only pills; For examples see Dáil Éireann debate, Wednesday 25 April 1979, vol 313, no 9; Dáil Éireann debate, Wednesday 9 May 1979, vol 314, no 2; Seanad Éireann debate, 17 July 1979, vol 92, no 13; For discussions see Tom Hesketh, The second partitioning of Ireland?: the referendum of 1983 (Brandsma Books 1990) 171; Sylwia Kuźma-Markowska and Laura Kelly, 'Anti-abortion Activism in Poland and the Republic of Ireland c.1970s–1990s' (2022) 46(3) Journal of Religious History, 6; *Rose* (n 7).

[159] See William Binchy, 'The Need for a Constitutional Amendment' in Austin Flannery (Ed.) *Abortion & Law* (Dominican Publications 1983) 116, 120-121; Emily O'Reilly, *Masterminds of the Right* (Attic Press 1997); *Brown* (n 13) 305; *Hesketh* ibid 128; *Hug* (n 92) 146.

how obnoxious to public feeling, objectionable to public morality or erosive of the common good—which are advanced on similar grounds?'[160]

The likelihood of the High or Supreme Courts declaring the 1861 Act repugnant to the Constitution was, to quote Hardiman, an 'unreal scare tactic'.[161] A dominant anti-abortion narrative prevalent during this time was that it was physically and psychologically harmful for anyone who chose to undergo one.[162] Anti-abortion advocates described abortion as a form of violence against women,[163] that it hurt people's mental health,[164] and that they would regret abortion.[165] It was doubtful that criminalised, stigmatised abortion would be legalised in Ireland. However, it was not impossible. As Hirsch recounted when discussing the power of acknowledging vulnerabilities, when people recognise shared and produced vulnerabilities, it can

[160] Michael Joseph O'Higgins (Fine Gael) Seanad Éireann debate, Thursday 21 February 1974, vol 77, no 3.
[161] Adrian Hardiman, 'The Constitution and the Amendment' in Mavis Arnold and Peadar Kirby (Eds.) *"The Abortion Referendum": The Case Against* (Anti-amendment campaign 1983) 33; See also Anna Eggert and Bill Rolston, 'Ireland' in Bill Rolston and Anna Eggert (Eds.) *Abortion in the new Europe: A comparative handbook* (Greenwood Press 1994) 157, 163; James Kingston and Anthony Whelan with Ivana Bacik, *Abortion and the Law* (Round Hall Sweet and Maxwell 1997); Paul Loughlin, 'Debating contraception, abortion and divorce in an era of controversy and change: new agendas and RTÉ radio and television programmes 1968-2018: Volume One' (PhD Thesis, Trinity College Dublin 2020) 142-143, 149-150; John Quinlan, 'The Right to Life of the Unborn-An Assessment of the Eighth Amendment to the Irish Constitution' (1984) 3(4) Brigham Young University Law Review 371, 394-396; Ciara Staunton, 'As Easy as A, B and C: Will A, B and C v. Ireland Be Ireland's Wake-up Call for Abortion Rights?' (2011) 18(2) European Journal of Health Law 205, 207; Jennifer Schweppe, 'Introduction' in Jennifer Schweppe (Ed.) *The Unborn Child, Article 40.3.3 and Abortion in Ireland: Twenty-five years of protection?* (The Liffey Press 2008).
[162] Dáil Éireann debate, Thursday 4 July 1974, vol 274, no 3; Seanad Éireann debate, Wednesday 4 April 1979, vol 91, no 11; Seanad Éireann debate, Wednesday 4 July 1979, vol 92, no 9; Dáil Éireann debate, Thursday 17 December 1981, vol 331, No. 12; Dáil Éireann debate, Tuesday 26 January 1982, vol 332 no 1; Dáil Éireann debate, Wednesday 9 February 1983, vol 339, no 10; Dáil Éireann debate, Tuesday 8 March 1983, vol 340, no 10; Seanad Éireann debate, Tuesday, 10 May 1983, vol 100, no 7.
[163] The Minister of State at the Department of the Taoiseach Nuala Fennell (Fine Gael) Dáil Éireann debate, Thursday 17 February 1983, vol 340, no 3.
[164] Irish Bishops Conference, *Human life is sacred: pastoral letter of the Archbishops and Bishops of Ireland to the clergy, religious and faithful* (Irish Bishops Conference May 1975); Archbishops and bishops of Ireland, 'Yes to Life*' in Austin Flannery, *Abortion & Law* (Dominican Publications 1983)14, 22, 24-25; Dominic Johnson, 'Abortion' *The Irish Times* (Dublin 20 March 1981) 9; Austin Flannery, 'About this book' in Austin Flannery (Ed.) *Abortion & Law* (Dominican Publications 1983) 1; Deputy Seán McCarthy (Fianna Fáil) Dáil Éireann debate, Wednesday 2 March 1983, vol 340, no 8; John F Murphy (National Maternity Hospital Obstetrician and Gynaecologist) in Various authors, *Abortion Now* (Life Education and Research Network (LEARN) 1983).
[165] PLAC in Fintan O'Toole, 'The Moral Monopoly' *In Dublin Magazine* (Dublin, 8 July 1982); Hilary Dully, 'Balance, binary debate and missing women: a discourse analysis and creative response to 30 years of the abortion debate on RTÉ current affairs television, 1983-2013' (PhD thesis, National University of Ireland, Galway 2016).

prompt or facilitate them to reflect upon structures of law-making, enforcement and power divisions.[166] Thousands of people were travelling from Ireland to England for abortions. In the year after the passing of the Abortion Act 1967, 64 Irish residents were recorded as having accessed abortions in Britain.[167] By 1982, this was 3,650 people.[168] There was no law preventing this travel as the 1861 Act only had a domestic effect.[169] Each of these people had a story and could potentially challenge abortion restrictions in law as with the *McGee* case. Furthermore, these people could generate sympathy for their hardships, which may increase support for abortion liberalisation. There were indications that some views may be shifting on abortion at this time. One example was Deputy Michael Keating, who suggested that if a person still wanted an abortion after the State provided anti-abortion counselling, she should be referred to safe abortion services abroad as this would protect her from being harmed by unscrupulous, dangerous services.[170]

Anti-abortion campaigners identified a constitutional amendment that would enshrine a foetal right to life as a method through which abortion law liberalisation could be foreclosed. There was also an information element to their strategy formation. Some anti-abortion proponents ascribed increasing abortion numbers to abortion seekers

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[166] *Hirsch* (n 56) 76.
[167] The Minister for Health Erskine Childers (Fianna Fáil) Dáil Éireann debate, Thursday 2 November 1972, vol 263, no 3; Minster for State Tony Newton (Conservatives) in HC Deb 30 November 1987 vol 123 cc472-81W.
[168] Irish Family Planning Association 'Submission to the Citizens' Assembly: A health and rights approach to abortion in Ireland' (16 December 2016) <https://www.ifpa.ie/sites/default/files/ifpa_submission_to_the_citizens_assembly.pdf> accessed 6 January 2023.
[169] John Bonnar (PLAC), 'Advice 'oriented to abortion'', *The Irish Times* (Dublin, 14 March 1980) 6; *Binchy* (n 159) 126; Maria Luddy, 'Unmarried Mothers in Ireland, 1880–1973' (2011) 20(1) Women's History Review 109, 121; Mary Mathews, 'Quantitative Inference with the Right to Life: Abortion and Irish Law' (1976) 22(4) The Catholic Lawyer 344, 349.
[170] See the comments of Deputy Michael Keating (Fine Gael) in Dick Hogan, 'Cash urged to prevent abortions' *The Irish Times* (Dublin, 22 October 1979) 1.

being ignorant of what they regarded as truth of abortion: that it was detrimental to health and wellbeing.[171] In this framing it was mostly the misinformed, the young and those making decisions in crisis who chose abortion.[172] Those who held these views believed that the State needed to provide more information intended to dissuade people from choosing abortions. A Constitutional foetal right to life could encourage governments to pivot from the solely prohibitory approach to information regulation to also incorporate positive strategies for abortion reduction or elimination. This could involve additional resourcing including counselling and information provision about supports for pregnancy, parenting and adoption.[173] Some governments thus far had resisted these calls. For example, Erskine Childers, as a Minister for Health, said that no additional services were required; adoption was legal and voluntary organisations provided crisis pregnancy assistance.[174] The number of people accessing abortions in England, however, signalled that the existing information and counselling infrastructures were losing their effectiveness against legal abortion in England.

Censorship would remain an important strategy under this new constitutional framework.[175] By casting anti-abortion arguments in protective language, advocates could continue the practice established by previous generations of censorship proponents and disavow the mantle of police or censor. They could claim that their legal

[171] *Irish Bishops Conference* (n 164); *Hesketh* (n 158) 48.
[172] Camilla Hannon (Irish Countrywomen's Association president) 'Minutes of AGM' (23 April 1981) Folder no 39,316, National Library of Ireland; *Flannery* (n 164)
[173] John Bonnar (n 169); *Hesketh* (n 158); Julia Vaughan (PLAC) in *Loughlin* (n 161) 148-149; Deputy Mary O'Rourke (Fianna Fáil) Dáil Éireann debate, Tuesday 8 March 1983, vol 340, no 10.
[174] See for example the Minister for Health Erskine Childers (Fianna Fáil) Dáil Éireann debate, Thursday 2 November 1972, vol 263, no 3.
[175] For a call to create an 'extra-territorial offence' with 'severe penalties' for abortion referrals see M. McCormack, 'Abortion referral' *The Irish Times* (Dublin, 26 October 1979) 11

strategies for suppressing facilitative information were a legitimate form of benevolent protection for vulnerable people experiencing a crisis pregnancy.[176] Anti-abortion advocates turned their attention towards the growing network of non-directive and feminist, peer-supportive, pro-choice counselling and information providers. Organisations like Well Woman (founded 1978),[177] the Irish Pregnancy Counselling Centre (founded 1980),[178] and Open Door Counselling (founded 1983)[179] were considered by anti-abortion campaigners to be threats as they referred people to clinics abroad. Students' unions in universities also provided information about abortion and pro-choice counselling services.[180] To quote the Irish Catholic Bishops' Conference, without the 'encouragement and advice' of such organisations, people would not choose abortion.[181] This framing reflected how, according to Butler et al., vulnerability is often construed as the sight of victimisation and passivity. In contrast, paternalism involves agency and action.[182] In this context, anti-abortion critics regarded these services as being as, if not more, responsible for a person's decision to have abortion than the vulnerable, misinformed abortion seeker.[183] Worryingly for anti-abortion advocates these

[176] Jane Linden, 'Defence of the Silent and Unseen' in Austin Flannery (Ed.) *Abortion & Law* (Dominican Publications 1983) 85, 87; See *Butler* on how calls for legal action can follow designations of the sources of harm (n 87) 23-24, 100-101, 110-112.
[177] Well Woman, 'About us' <https://wellwomancentre.ie/about-us/> accessed 7 January 2023; Mary Gordon, 'Fighting for Control - the ongoing struggle for reproductive rights' (1984) The Irish Feminist Review 7.
[178] Sandra Colliver, 'Ireland' in Sandra Colliver (Ed.) *The Right to Know. Human Rights and Access to Reproductive Health Information* (Article 19 and the University of Pennsylvania Press 1995) 159; The Irish Pregnancy Counselling Centre closed for financial reasons. See Sandra McAvoy, 'From anti-amendment campaigns to demanding reproductive justice: the changing landscape of abortion rights activism in Ireland 1983-2008' in Jennifer Schweppe (Ed.) *The Unborn Child, Article 40.3.3° and Abortion in Ireland: Twenty-Five Years of Protection?* (Liffey Press 2008) 15.
[179] Sandra Burke *Profile of first 202 women to attend Open Door Counselling (July - September 1983)* (Open Door Counselling 1983); Ruth Riddick, *Making Choices: The Abortion Experience of Irish Women* (O.D.C. Ltd 1988); Ruth Riddick, 'Towards a Feminist Morality of Choice' in Ailbhe Smyth (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 186; *Gordon* (n 177); For additional discussions see p. 269.
[180] *O'Toole* (n 165); For further discussion see p. 142 and p. 267.
[181] *Archbishops and bishops of Ireland* (n 164) 18, 24-25.
[182] *Butler, Gambetti and Sabsay* (n 61) 1, 3.
[183] *Archbishops and bishops of Ireland* (n 164) 24-25.

information services were popular among those who could reach them. For example, in its first month the Irish Pregnancy Counselling Centre counselled 250 clients about abortion.[184] The familiar pro-censorship argument that dangerous information sharers were acting for their own selfish profit motives was raised by these anti-abortion campaigners as reasons why these organisations should be moved against.[185] While this strategy had worked previously to expand censorship of publications, it was more difficult in this context as these organisations were private but not necessarily profit making. The counselling and information services also referred people to legal services abroad and there was no legal impediment to them doing so.[186] Furthermore, these services provided an alternative information infrastructure that allowed people to avoid anti-abortion services that may try and convince them to continue their pregnancies.[187] Critics of these 'referral clinics', as they were sometimes called, believed that the enshrinement of a foetal right to life would provide encouragement for the government to take action to shut these organisations down.[188] It would also be more accessible, both pragmatically and ideologically, to target these organisations through law, rather than secretive vulnerable abortion seekers experiencing crisis.[189] Eliminating the first

[184] *O'Reilly* (n 159) 53. O'Reilly also details that by 1976, the Irish Family Planning Association (IFPA) was receiving two calls a week from members of the public looking for information about abortion abroad (p. 40); By the time they were enjoined, Well Woman were counselling an average of 40 people per week and Open Door were counselling 20. See Lorna Siggins, 'Closed Line' *The Irish Times* (Dublin, 9 January 1987) 11.
[185] See debates in Seanad Éireann debate, Wednesday 4 April 1979, vol 91, no 11; Dáil Éireann debate, Thursday 4 July 1974, vol 274, no 3; Dáil Éireann debate, Tuesday 8 March 1983, vol 340, no 10; Seanad Éireann debate, Tuesday 10 May 1983, vol 100, no 7; *Archbishops and bishops of Ireland* (n 164) 24-25.
[186] Jenny Beale, *Women in Ireland: Voices of Change* (Indiana University Press 1987); Gene Kerrigan, 'The Moral civil war' *Magill* (Dublin, 31 August 1983); *Findlay* (n 6); *Hesketh* (n 158).
[187] For descriptions of anti-abortion information services and crisis pregnancies agencies see J.P. Davey, 'Information on abortion' *The Irish Times* (Dublin, 25 July 1989) 11; Tom Ingoldsby (Reverend) 'Information on abortion' *The Irish Times* (Dublin, 28 July 1989) 11; Mary Lucey (SPUC) in Andrew Rynne, *Abortion: the Irish question* (Ward River Press 1982) 182; Eilish O'Leary (Mater Hospital Social Worker), 'Management of Problem Pregnancies' in Various authors, *Abortion Now* (Life Education and Research Network (LEARN) 1983).
[188] See Deputy Pádraig Flynn (Fianna Fáil) Dáil Éireann debate, Wednesday 23 February 1983, vol 340, no 5 and Dáil Éireann debate, Wednesday 2 March 1983, vol 340, no 8; For a discussion see Maol Muire Tynan, 'Centre's journey through the maze of law' *The Irish Times* (Dublin, 21 July 1993) 2.
[189] Connolly (n 31) 46.

steps on what one anti-abortion proponent termed 'the abortion treadmill' would reduce the number of people travelling for an abortion.[190] This would be to the benefit of abortion seekers who they argued neither needed, or truly wanted, an abortion.[191]

Protection of pregnant people was not the sole argument invoking vulnerability used by anti-abortion campaigners to justify a constitutional amendment restricting abortion. The need to protect vulnerable foetal life featured heavily in anti-abortion campaigning.[192] As I discussed in the Introduction, foetal life was often depicted by anti-abortion advocates as the ultimate vulnerable subject who was unable to speak, act, or advocate for themselves.[193] Therefore foetal life required others to guard them, including through law. The organisations who referred people abroad for abortions were endangering foetal life and necessitated legal interventions to curtail their facilitative information-sharing activities.[194] These organisations were non-directive in their approach, but anti-abortion advocates claimed that this was insufficient protection. The failure came from what anti-abortion advocates regarded as general ignorance of what they believed to be the truth of foetal development and a lack of encouragement for pregnant people to reflect upon the humanity of the foetus.[195] Information regulations influenced by a foetal protective constitutional amendment could create the conditions in society and in law for the

[190] Quote from *O'Leary* (n 187); See also Deputy Michael Barrett (Fianna Fáil) Dáil Éireann debate, Thursday 17 February 1983, vol 340, no 3.
[191] Catherine Burke (Life UCD president), 'Information on Abortion' *The Irish Times* (Dublin, 2 March 1990) 13; Katherine Davey (Life counsellor), 'Information on Abortion' *The Irish Times* (Dublin, 26 February 1990) 11; Various Authors, *Abortion Now* (Life and Education Research Network (LEARN) 1983); *Dully* (n 165); *Rynne* (n 187) 178; *Hesketh* (n 158) 294; Linden (n 176).
[192] Pat Brennan, 'Backlash and blackmail' *Magill* (Dublin, July 1982) 16.
[193] See p. 67-69.
[194] Deputy Alice Glenn (Fine Gael) Dáil Éireann debate, Tuesday 26 January 1982, vol 332, no 1; Siobhán Hall, 'Abortion' *The Irish Times* (Dublin 16 January 1982) 15*; 'Advice 'oriented to abortion''* (n 169); *Irish Bishops Conference* (n 164); *Kuźma-Markowska and Kelly* (n 158) 14; *McCormack* (n 175).
[195] *O'Leary* (n 187).

further entrenchment of foetal protective ideologies and practices through the encouragement of the continuation of pregnancy and the creation of barriers to access. This final text of this amendment - the Eighth Amendment (Article 40.3.3°) – 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.[196]

The Eighth Amendment and restrictions on speech

> If you are thinking about having an abortion you'll probably be weighing up the arguments for and against - but you'll also be thinking of your own particular situation. Before you take your decision talk it over with your doctor or a counsellor at one of the pregnancy advisory services mentioned on page 115.[197]
>
> The Irish Family Planning Association (address page 115) is very sympathetic and helpful to girls who want a pregnancy termination operation.'[198]
>
> Jane Cousins, *Make it Happy*

In her guide for teens, Cousins acknowledged that people from Ireland did travel for abortions. By publishing the details of the IFPA, Cousins communicated to her readers that there were receptive, non-directive Irish counselling and information services that would assist abortion seekers. Although her advice mirrored that often provided by those opposed to abortion – do not panic and seek professional help – the Board

[196] Eighth Amendment of the Constitution Act 1983.
[197] Jane Cousins, *Make it Happy* (1978 Virago) 75.
[198] *Cousins* ibid 78.

prohibited *Make it Happy* in 1981.[199] This decision, whether intentional or not, reflected the larger anti-abortion movement's strategy of targeting of pro-choice organisations.[200] Some anti-abortion advocates had claimed that the Eighth Amendment would only copper-fasten existing laws in Ireland and that it would not interfere with any care received by pregnant people.[201] However, as McDermott and Murphy argued, 'once started [censorship] is notoriously difficult to stop'.[202] There were anti-abortion advocates who wanted to use the Constitution to shut down non-directive or pro-choice counselling or information services.[203] The Eighth Amendment, with its vague concept of 'as far practicable',[204] was not simply a restatement of existing law. The wording provided a strategy for anti-abortion campaigners to initiate legal proceedings intended to curtail assistive information-sharing in Ireland. [205]

[199] The *Register* lists *Make it Happy* as being prohibited for having advocated abortion. In Iris Oifigiúil however, none of the dates provided to me by the secretary of the Censorship of Publications Board lead to a notice of a prohibition order based on this ground. Instead, there is a notice for *Make it Happy* on the 21 July 1983 but it stated that it was being prohibited for being indecent or obscene. Unfortunately, the secretary was unable to clarify this discrepancy. *Make it Happy* remains on the *Register* at time of writing (3 July 2023).
[200] At the 'Birth Right' conference in 1984, anti-abortion campaigners discussed possible legal options for the quelling of non-directive counselling organisations who referred people abroad for abortions. See *Gordon* (n 177).
[201] Cornelius O'Leary (PLAC) in *Hesketh* (n 158) 306; 'Preface' in Various authors, *Abortion Now* (Life Education and Research Network (LEARN) 1983) 5.
[202] Róisín McDermott and Margaret Murphy, 'Abortion referral ruling' *The Irish Times* (Dublin, 24 February 1987) 9.
[203] Sacred Congregation for the Declaration of the Faith, 'Declaration on Procured Abortion' in Austin Flannery (Ed.) *Abortion & Law* (Dominican Publications 1983) 1, 6, 12.
[204] For contemporary criticisms of the wording see 'Chronology of long campaign' *The Irish Times* (Dublin, 7 September 1983) 10; 'Wexford Doctors & Lawyers will vote 'no'!' (1983) < https://irishelectionliterature.com/2018/05/06/from-1983-wexford-doctors-lawyers-will-vote-no-leaflet-from-the-wexford-anti-amendment-campaign/ > accessed 8 February 2023; *Hardiman* (n 161) 34; For a discussion see Stephanie Lord, 'The Eighth Amendment: planting a legal timebomb' in Aideen Quilty, Sinéad Kennedy, and Catherine Conlon (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 104, 112-113.
[205] The Anti-Amendment Campaign did warn that the Eighth Amendment would allow anti-abortion actors to target organisations or individuals like doctors who provided referrals with injunctions. See *Rynne* (n 187) 173, 177-178, 181-182; People's Democracy, 'No more chains! Why you should oppose the Constitutional Ban on Abortion' (1982); Dick Spring (Labour Party leader) 'Statement on the Eighth Amendment' (1 September 1983) Folder no 49,494/925, 3, National Library of Ireland; 'This amendment could kill women' (1983) (3) < https://irishelectionliterature.com/2017/01/15/from-1983-this-amendment-could-kill-women-leaflet-from-the-anti-amendment-campaign-repealthe8th/ > accessed 22 June 2023; Senator Shane Ross (Independent, later Fine Gael and Independent) Seanad Éireann debate, Wednesday 18 May 1983, vol 100, no 9; *Hesketh* (n 158) 171, 377.

The lack of State action against these organisations was a source of frustration for anti-abortion campaigners. For example, Loretto Browne of the Society for the Protection of Unborn Children (SPUC), remarked that 'the fact that many thousands would not have recourse to abortions in Britain were it not for referral services seems to have been ignored'.[206] These organisations had been, to quote Mary Lucey (SPUC), operating 'underneath the eyes of the law' and now needed the full force of law to be brought to bear against them.[207] SPUC had undertaken to 'do whatever is necessary' to prevent abortions and to prompt the State to act against these information sharers.[208] Their strategies involved lobbying politicians and making complaints under the 1929 and 1946 Acts.[209] In an attempt to encourage the government to use the Eighth Amendment to suppress facilitative information-sharing from non-directive or pro-choice organisations, anti-abortion advocates continued to equate information-sharing with violence.[210] At one of their pickets of Open Door Counselling, SPUC's members held up placards emphasising their view that referrals were a form of violence against vulnerable subjects: 'stop referral', 'abortion referral kills' 'abortion is illegal why not referral?' and '(abortion is) violent to unborn babies and to women'.[211] The benefit of this approach

[206] Loretto Browne, 'The Campaign to Legalise Abortion' in Various Authors, *Abortion Now* (Life and Education Research Network (LEARN) 1983, 32.
[207] Quote from Mary Lucey (SPUC) *O'Reilly* (n 159) 99-100, 110. See also Marie Vernon (SPUC) in 'Judge steps down after SPUC objections' *The Irish Times* (Dublin, 19 July 1992) 3.
[208] Patsy Buckley (SPUC public relations officer) in Deaglán de Bréadún, 'SPUC wants abortion advice ban' *The Irish Times* (Dublin, 10 January 1984) 7; Carol Coulter 'Woman to defy abortion ruling' *The Irish Times* (Dublin, 30 December 1986) 1; Marie Vernon (SPUC), 'Abortion ruling' *The Irish Times* (Dublin, 12 February 1987) 13.
[209] *Adams* (n 13) 66-67; *de Bréadún* ibid; *Hesketh* (n 158) 114.
[210] For later examples Deirdre Maniford (Galway Christian Community) in Jim Fahy, 'Row Over Abortion Posters' *RTÉ Archives* (Dublin, 16 March 1987) < https://www.rte.ie/archives/collections/news/21242699-row-over-abortion-posters/ > accessed 17 June 2023; Jack Fitzpatrick, 'Abortion information' *The Irish Times* (Dublin, 29 August 1989) 9.
[211] Niall Kiely, 'SPUC pickets Dublin service' *The Irish Times* (Dublin, 28 March 1984) 10; For other pickets see Sam, 'Dublin Well Woman Centre Picket' (*Come Here to Me!: Dublin Life and Culture* 25 April 2018) <https://comeheretome.com/2018/04/25/dublin-well-woman-centre-picket-1978/> accessed 7 January 2023; Pauline Conroy Jackson, 'Women's movement and abortion: the criminalization of Irish women' in Drude Dahlerup (Ed.) *The new women's movement: feminism and political power in Europe and the USA* (Sage publications 1986) 48, 59; *Gordon* (n 177).

was, returning to Butler's work, that when a person identifies in speech an injury or violent act, and the person/people responsible for that speech, they can call for a remedy to be granted in law.[212] The person calling for a legal intervention can become an advocate for the vulnerable subject. Its members did not believe that they were being 'cruel', 'unkind' or 'uncaring' by curtailing information-sharing about abortion services abroad.[213] Rather, they were protecting vulnerable foetal life and pregnant people from what they believed were the harms of abortion and the falsehoods of non-directive counselling. Some proponents even believed that they were acting for the benefit of information sharers who were themselves misinformed about the reality of abortion.[214] SPUC's messaging around these information and counselling services demonstrated the continual linking from anti-abortion advocates with the need for law to control and suppress information about how and where abortions could be accessed abroad on the basis that it would provide necessary protections for vulnerable subjects.

The State response was positive but not proactive. A Minister for Health, Barry Desmond promised to refuse any family planning service permission to dispense contraception if they also provided abortion referrals under the Health (Family Planning) (Amendment) 1985.[215] However, licencing was of limited use as not all crisis pregnancy

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[212] *Butler* (n 87) 5, 20-24, 77, 101, 110-112.

[213] For comments about protecting vulnerable foetal life see Mary Lucey (SPUC) in Kevin O'Connor, 'Abortion referral' *RTÉ Archives* (Dublin, 12 January 1987) < https://www.rte.ie/archives/collections/news/21236640-abortion-referral/ > accessed 17 June 2023; For SPUC linking abortion to claimed harmful side effects see Anne Dempsey, 'Abortion those for…and those against…' *The Irish Independent* (Dublin, 28 May 1981) 14; 'Lesson 13: Introduction to the abortion issue' in Noirin Hayes, Deirdre MacGovern, Frances Kavanagh, Liam Cummins, John McCann, Kevin Doran, *Life must go on: A pro-life education programme for post-primary schools* (Helicon 1982) 64-65; For a later example of a claim that non-directive counselling failed to tell pregnant people about the truth of abortion see Patrick Davey (sic) (Should be Patrick Daly) in Kathryn Holmquist, 'British anti-abortion group criticised' *The Irish Times* (Dublin, 2 November 1989) 9.

[214] *Fahy* (n 210).how

[215] The Minster for Health Barry Desmond (Labour) Dáil Éireann debate, Wednesday 20 February 1985, vol 356, no 2; Senator Michael Ferris (Labour) Seanad Éireann debate, Wednesday 27 February 1985, vol 107, no 6; See contributions in Dáil Éireann debate, Wednesday 20 February 1985, vol 356, no 2.

counselling organisations provided contraceptive services. Open Door, for example, only provided counselling and assistance with appointment-making.[216] SPUC were frustrated by what they perceived to be the lack of State interventions, so they launched a legal action against Open Door Counselling,[217] and Well Woman.[218] Their express stated purpose for doing so was to curtail sources of information and assistance that endangered vulnerable foetal life and failed to act in the best interests of panicked, under/misinformed abortion seekers who would later regret their abortions.[219] This emphasis on information suppression as protection work, reflected Butler's observation that when concepts of injurious words, lawful speech, and vulnerable subjects become intertwined, citizens can be empowered in law to act as censors, as well as the State.[220] SPUC's choice of target organisations reflected how pre-existing boundaries influence which words are categorised as being injurious in law and in culture. Well Woman had long drawn the ire of anti-abortion campaigners, with the Pro-Life Amendment Campaign describing their counsellors as acting dangerously through their abortion facilitation at its founding conference.[221] Some legislators also criticised Well Woman in Oireachtas debates by emphasising that non-directive approaches to counselling were failing vulnerable young people by not convincing them to remain pregnant.[222] SPUC had even considered using the Eighth Amendment to curtail Well Woman's work before the Eighth Amendment referendum passed.[223] In addition to Well Woman, Open Door

[216] Open Door Counselling, *An Unexpected Pregnancy: and how we can help!* (Open Door Counselling, 1983).
[217] The name changed to Open Line in 1984. For the sake of clarity, I will continue to refer to them as Open Door. See 'Open Door Counselling Ltd.' *The Irish Times* (Dublin, 1 August 1984) 18.
[218] 'SPUC sues Well Woman centres' *The Irish Times* (Dublin, 1 July 1985) 10; *de Bréadún* (n 208); *Jackson* (n 7) 9.
[219] Marie Vernon (SPUC) 'The case against abortion information' *The Irish Times* (Dublin, 25 September 1992) 12.
[220] *Butler* (n 87) 47-48.
[221] See comments of John O'Reilly (PLAC) in *Hesketh* (n 158) 5.
[222] Deputy Seán McCarthy (Fianna Fáil) Dáil Debate, 14 February 1985, vol 355, no 12.
[223] See comments of Loretto Browne (SPUC) in *O'Toole* (n 165) 20.

was also a pivotal organisation in a growing network of non-directive support organisations.[224] Both services had links to international abortion services and pro-choice solidarity networks. Interrupting their information services was vital for the success of anti-abortion strategies; SPUC claimed that these two services referred 70% of all those who travelled for abortions.[225] This was probably accurate as McAvoy recounted that by 1980 Well Woman had referred 1,000 pregnant people to British abortion services.[226] As abortion seekers sought out non-directive organisations specifically because they would provide referrals, it is unsurprising that organisations with a pro-choice or non-directive ethos would serve more people seeking help with abortion access.[227] Their effectiveness and openness to operating outside of the anti-abortion *status quo* meant that, in SPUC's opinion, these organisations posed a specific and urgent risk to foetuses and pregnant people, and they were identifiable targets for legal interventions intended to create barriers to abortion.

SPUC's chosen strategy was to request a declaration from the High Court that providing the names, addresses, and contact details of legal abortion services abroad to abortion seekers and assisting those abortion seekers with appointment-making by liaising with

[224] For discussions of domestic referrals see Caroline Walsh, 'Thousands face abortion without advice' *The Irish Times* (Dublin, 25 September 1985) 19; *Commission of Investigation into Mother and Baby Homes* (n 145) para. 12.92, p. 47; *Burke* (n 191); *Siggins* (n 184).
[225] *'SPUC sues Well Woman Centres'* (n 218); 'Findings on abortion disturbing, says Cura' *The Irish Times* (Dublin, 19 July 1984) 6. The IFPA were also criticised by anti-abortion proponents for their links to international organisations but it was less clear to me how open the IFPA were about their referral activities and why they were not targeted. For an example of the criticism see *Brennan* (n 192) 16.
[226] *McAvoy* (n 178) 20; I think the report that SPUC is relying upon is Geoffrey Dean's and his findings seem to confirm the accuracy of their statement. See Geoffrey Dean, *Termination of pregnancy: England 1983: Women from the Republic of Ireland* (Medico-Social Research Board 1984).
[227] Sinn Féin's Department of Women's Affairs, *Abortion Ireland* (Sinn Féin 1981) 4; For later examples see Saoirse Nic Gabhainn and Vivienne Batt (prepared by Maureen Gilbert), *Crisis Pregnancy Counselling in Ireland* (Crisis Pregnancy Agency, July 2004) Report no 4; Catherine Conlon, *Mixed Methods Research of Crisis Pregnancy Counselling and Support Services* (Crisis Pregnancy Agency, January 2005) Report no 12.

abortion services was unlawful under Article 40.3.3°.[228] Having a private organisation initiating censorship was not new. Under the 1929 and the 1946 Acts, any person could make a complaint about a publication to the Minister, the Board or the Gardaí.[229] Early censorship proponents supported the public having such powers to advocate for information suppression as, to quote Devane, no matter how 'well-intentioned' the law was, the success of censorship would depend on the cooperation of the public.[230] What was different about SPUC's action using the Eighth Amendment was the scale and the scope afforded to SPUC to act as citizen censors. It did not matter, their counsel argued, that the Attorney General (AG) had not initiated these proceedings or the government had not passed guiding legislation denoting the boundaries of permissibility under the Eighth Amendment. Where there was a right, there was a remedy.[231] SPUC's claim that these proceedings were needed to protect the ultimate vulnerable subject – foetal life – led to the AG taking over responsibility for the case as a 'relator action'. The AG became the plaintiff and guided strategy, and SPUC's counsel made arguments during the hearings.[232] The cooperation between SPUC and the AG reflected what Butler described as the convergence of the goals of the State and some private citizens to act as censors based on protecting the rights of claimed vulnerable subjects.[233] This

[228] *Attorney General (at the relation of the Society for the Protection of Unborn Children) v Open Counselling Limited and Dublin Well-Woman Centre Limited* (1986) WJSC-HC 1783; They also argued that these activities amounted to 'counselling and procuring' pregnant people to travel abroad and these services amounted to a conspiracy to corrupt public morals but the court did not make a ruling on this ground as it was a matter for a jury See Hamilton P. in 163, 178-9.
[229] Censorship of Publications Act 1929, ss 6, 7, 16 and 17; Censorship of Publications Act 1946, ss 6 and 9; See also Minister for Justice James FitzGerald-Kenney (Cumann na nGaedheal) Seanad Éireann debate, Wednesday 10 April 1929, vol 12, no 1.
[230] *Devane* (n 13) 185.
[231] See the comments discussed in Nell McCafferty, 'As far as practicable' in Ailbhe Smyth (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 157, 159.
[232] See Officer of the Attorney General, 'Relator actions' < https://www.attorneygeneral.ie/ag/agrelator.html > accessed 22 November 2023.
[233] For discussions of citizen censors see *Butler* (n 87) 47-48.

joint approach afforded the State and the anti-abortion movement a type of discursive power as they could claim a whole-nation approach to foetal protection that would seek out, condemn, and suppress those who engaged in assistive information-sharing.[234]

The remedy requested by the AG and SPUC was an injunction, enjoining the counsellors from providing facilitative information services.[235] Hamilton P. in the High Court agreed and issued the following injunction against the counsellors:

> The Court doth declare that the activities of the defendants, their servants, or agents in assisting pregnant women within the jurisdiction to travel abroad to obtain abortions by referral to a clinic; by the making of their travel arrangements, or by informing them of the identity and location of and method of communication with a specified clinic or clinics are unlawful, having regard to the provisions of Article 40, s 3, sub-s 3 of the Constitution.[236]

Bacik described Hamilton P.'s judgment as a 'breathtaking leap in logic'.[237] When the injunction was considered as part of the practice of the non-directive or pro-choice abortion information suppression in Ireland, however, his decision was aligned with the logics of the previous iterations of the censorship framework. Hamilton P. saw the counsellors as undermining the protections created through the 1861 Act and natural law for vulnerable foetal life.[238] By assisting people to bypass abortion criminalisation, the counsellors were speaking a type of wounding words that necessitated legal interventions to quell them.[239] The degree of vulnerability ascribed to foetal life by

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[234] For a discussion of discursive power see *Butler* (n 87) 76.
[235] *Open Door* (n 228) 32-34; 62-65.
[236] *Attorney General (at the relation of the Society for the Protection of Unborn Children) v Open Counselling Limited and Dublin Well-Woman Centre Limited* [1988] IR 593 at 627.
[237] Ivana Bacik, 'The Irish Constitution and Gender Politics: Developments in the Law on Abortion' (2013) 28(3) Irish Political Studies 380, 385.
[238] *Open Door* (n 228) 13-14, 24-26.
[239] *Open Door* (n 228) 217.

Hamilton P. was so great that he regarded 'any action' that endangered foetal life as potentially violating Article 40.3.3° to the extent that the courts needed to provide a remedy to protect them.[240] Following Butler, the speech of the counsellors were akin to a form of conduct that inflicted a type of injury upon the listener.[241] It did not matter that the counselling was non-directive in approach, that the counsellors did not advocate abortions, or that abortion was not an inevitability after a counselling session.[242] Hamilton P. did not even condemn the counsellors as malicious actors, instead describing them as 'skilled…concerned…and well-motivated' people.[243] The fact that they 'intentionally' provided information that had the effect of potentially undermining the rights to life of a vulnerable subject was enough for him to condemn their information-sharing activities and to enjoin the organisations.[244]

The focus of the plaintiff's arguments on protecting foetal rights to life allowed the SPUC, the AG and Hamilton P to frame themselves not as censors but as protectors. They were to return to Butler, legitimising their legal interventions as advocations for a vulnerable subject who could not speak or act for themselves.[245] As Brown recounted, such framings provide cover for coercive interventions.[246] Scholars identified legal actors as regarding their duties in law differently based on different concepts of vulnerability and how those actors applied them to various classes of vulnerable

[240] *Hamilton P. in Open Door* (n 228) 20(3); 214.
[241] *Butler* (n 87) 123-124.
[242] *Hamilton P. in Open Door* (n 228) 203.
[243] *Hamilton P. in Open Door* (n 228) 161.
[244] *Hamilton P. in Open Door* (n 228) 201-203.
[245] See Judith Butler, 'Rethinking Vulnerability and Resistance' (2014) 15 accessed < http://bibacc.org/wp-content/uploads/2016/07/Rethinking-Vulnerability-and-Resistance-Judith-Butler.pdf > accessed 25 June 2023; *Butler* (n 87) 20, 113-115.
[246] *Brown* (n 61) 314, 316.

subjects.[247] In this context, Fletcher described the *Open Door* judgments as being 'absolutist' and 'fundamentalist' due to how they prioritised foetal rights protections.[248] This was aptly demonstrated by Hamilton P's dismissal of the concerns of the counsellors as to the effect that the injunction would have on the rights and safety of abortion seekers and the oppressive potential that allowing a private group like SPUC to act against other private citizens would have. Hamilton P. said of the of the case that, 'I am being asked to 'decide about a non-existent unborn child and a non-existing pregnant woman'.[249] Despite this, his adherence to the idea of the extremely vulnerable foetal subject allowed him to justify SPUC's involvement in the case. He declared that SPUC did not need a 'personal interest' in this case; they just needed to show 'interest as a member of the public'.[250] It did not matter that there was no actual pregnancy in question; the risk of information-sharing violating foetal rights to life was enough for him to issue an order. About protections for pregnant people, Hamilton P refused to make allowances for them, stating that it was not incumbent on him to do so as there was no pregnant person party to the case.[251] He dismissed and treated the rights of the 'mother' as being subordinate to the exceptionalised class of vulnerable foetuses. Hamilton P. regarded his duty in law as being more urgent and necessitating of a remedy to protect foetal rights to life.

[247] See for example *Brown* (n 61) 313; *Mackenzie* (n 63) 36.
[248] Ruth Fletcher, '"Pro-Life" Absolutes, Feminist Challenges: The Fundamentalist Narrative of Irish Abortion Law 1986-1992' (1998) 36(1) Osgoode Hall Law Journal; See also Richard F. Humphreys, 'Courts have tended to absolutism' *The Irish Times* (Dublin, 19 February 1992) 6.
[249] *McCafferty* (n 231) 157, 163.
[250] *Hamilton P. in Open Door* (n 228) 81.
[251] *Hamilton P. in Open Door* (n 228) 213; Nell McCafferty's coverage of the case did outline that Hamilton P. did consider the right to life of the 'mother' and questioned SPUC about this. See (n 231) 157.

Ahiska's work highlighted another aspect of vulnerability that may account for why Hamilton P refused to engage positively with arguments focused on vulnerable pregnant people. She explained how women are often framed in law and in culture in a dualistic way, as being objects for protection and a source of danger for other vulnerable subjects.[252] Considering this along with Butler's work, those who would-be protectors identify as a threat, or those who act contrary to social norms, become a legitimate subject for State or legal interventions.[253] Munro and Scoular remarked that such dynamics are also applied to those regarded by the State as vulnerable subjects in themselves, as those people are expected by in law and in culture to adhere to certain norms in order to manage their exposure to risk.[254] Hamilton P cast pregnant people as potential rights violators. He stated it 'lies not in the power of a parent to terminate its (foetal) existence'.[255] Abortion seekers were acting counter to what the anti-abortion movement, the AG, and Hamilton P regarded as the common good. When pregnant people deviated from expectations and sought out or explored abortion as an option, they were not entitled to the protection of the court in this context. Compounding this was Hamilton P's rejection of the 'right to privacy, the rights of association and freedom of expression and the right to disseminate information' as any way limiting the absolutist protections for foetal rights to life.[256] Information-based rights were 'qualified' in his view. In contrast the foetal right to life was 'fundamental'. This dismissal set a high threshold

[252] Meltem Ahiska, 'Violence Against Women in Turkey: Vulnerability, Sexuality and Eros' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 211, 213.
[253] *Butler* (n 87) xvi.
[254] *Munro and Scoular* (n 134) 189.
[255] *Hamilton P. in Open Door* (n 228) 214.
[256] *Hamilton P. in Open Door* (n 228) 216.

for challenge as the counsellors could not rely upon these rights or the right to life of the 'mother' in Article 40.3.3° to defend their services.[257]

The counsellors appealed to the Supreme Court. Since Hamilton P's decision was focused on protecting vulnerable subjects, the counsellors adopted a strategy which sought to differentiate the varying levels of impact that different forms of information-sharing would have. They categorised their provision of information about how and where to access safe and legal abortions abroad as 'essential'.[258] This information protected the safety of abortion seekers as they could advise upon safe, legal, non-exploitative abortion services as the counsellors inspected clinics abroad to ensure they met a high standard of care before referring people to them.[259] For direct appointment-making on behalf of clients, the counsellors stated that they could forgo it as long as they could continue to direct people to good abortion providers. The Supreme Court dismissed their appeal and confirmed the injunction, rewording it slightly for clarity:

> And it is ordered that the defendants and each of them, their servants or agents be perpetually restrained from assisting pregnant women within the jurisdiction to travel abroad to obtain abortions by referral to a clinic, by the making for them of travel arrangements, or by informing them of the identity and location of and the method of communication with a specified clinic or clinics or otherwise.[260]

[257] For discussions see Máiréad Enright, Vicky Conway, Fiona de Londras, Mary Donnelly, Ruth Fletcher, Natalie McDonnell, Sheelagh McGuinness, Claire Murray, Sinéad Ring, Sorcha uí Chonnachtaigh, 'Abortion Law Reform in Ireland: A Model for Change' (2015) 5(1) *feminists@law*, 5; Angela Thompson, 'International protection of rights an analysis of Open Door Counselling and Dublin Well Woman Centre v Ireland' (1994) 12 Boston University International Law Journal 371.
[258] *Finlay CJ. in Open Door* (n 236) 621.
[259] *Finlay CJ. in Open Door* (n 236) 620-621.
[260] *Finlay CJ. in Open Door* (n 236) 627.

Butler, Gambetti, and Sabsay argued that vulnerabilities are often 'politically produced' and 'unequally distributed'.[261] By dismissing the counsellors' arguments, the Supreme Court demonstrated how in the context of abortion information, categories of vulnerable subjects are constructed, contingent and orientated towards an anti-abortion perspective. The duty that the Supreme Court believed they owed to vulnerable subjects remained focused on vindicating foetal subjects' superior right to life. Finlay CJ. gave the leading judgment; he stated that even if the counsellors could establish that harm would befall abortion seekers due to the information vacuum created by the injunction, '… it would not be a valid reason why the Court should not restrain the activities in which the defendants were engaged.'[262] The rights to life of the 'mother' under Article 40.3.3° could be dismissed as, according to Finlay CJ., it was not part of the facts of the case or the submissions of the counsellors that their information services served the purpose of protecting that right.[263] In contrast, highly vulnerable foetal rights to life necessitated protection to the extent that the Supreme Court rejected arguments relying upon constitutional or European law based information rights if they had, to again quote to quote Finlay CJ., 'the direct consequence of destroying the expressly guaranteed constitutional right to life of the unborn'.[264] It did not matter if the counselling was non-directive with no advising or encouragement towards abortion.[265] Returning to Butler's analysis, it was as if the mere utterance of the word 'abortion' was an 'an injury, as if the word performed the act'.[266] The counsellors' speaking of how and

[261] See *Butler, Gambetti and Sabsay* (n 61) 5.
[262] *Finlay CJ. in Open Door* (n 236) 624.
[263] *Finlay CJ. in Open Door* (n 236) 621.
[264] *Finlay CJ. in Open Door* (n 236) 625
[265] *Finlay CJ. in Open Door* (n 236) 624.
[266] *Butler* (n 87) 21-22, 23-24, 100-101, 110-115, 123-124.

where clinics could be found abroad had such an effect as it helped the abortion seeker to 'attain her objective'.[267] They were the identifiable sites of harmful conduct and therefore, could be lawfully restrained to protect vulnerable foetal subjects.

The power of arguments invoking the need for an all-societal response to protect vulnerable foetal subjects was further evidenced by the Supreme Court confirmation that SPUC could act as a type of citizen censor. The judges confirmed that although this case did not concern an actual pregnant person or foetus, the AG and SPUC still had *locus standi* to request that the courts issue an injunction to force the cessation of the counsellors' information-sharing.[268] The AG in his role as the defender of the Constitution had a direct *locus standi* connection to the rights protection arguments. SPUC, however, as a private, activist group demanding that other private citizens be prevented by the courts from speaking, had a less secure claim. The Supreme Court declared that the test in such cases should be if those seeking to act as protectors had established a 'bona fide concern and interest' in the right in question.[269] The general nature of this requirement was a direct reflection of the high degree of protection afforded to foetal rights to life. Not allowing for a flexible categorisation of who could act on behalf of foetal subjects could, as Finlay CJ. outlined, result in the Court negating its duty to defend foetal life.[270] The precarity of that life and its inability to defend itself from sources of threat like the counsellors required both the State and citizen intervention. This interpretation applied not only in this case, however. SPUC saw the possibilities of

[267] *Finlay CJ. in Open Door* (n 236) 624.
[268] *Open Door* (n 236) 594.
[269] *Open Door* (n 236) 594.
[270] *Finlay CJ. in Open Door* (n 236) 623.

this absolutist foetal protective judgment and turned their attention to another prevalent group of information sharers: University College Dublin (UCD) students' union.

The Eighth Amendment and restrictions on the printed word

> It goes almost without saying that attempts at self-abortion are just as dangerous as back street terminations. Women still buy all sorts of preparations from the chemists and take them by mouth or place them in the vagina. These methods are most unlikely to get rid of the baby, but they may well seriously harm the mother.
>
> Therefore, if you genuinely want a termination, get one done legally by a competent and reputable surgeon. This chapter will tell you how to go about it.
>
> Dr David Delvin.[271]

Through this warning from *The Book of Love*, Delvin sought to prevent people from resorting to unsafe, illegal abortions. Despite Delvin's attempts to protect vulnerable abortion seekers, the Board prohibited the book in 1983 because it 'advocated' abortion.[272] While Delvin advised people to seek out medical care, he did not provide any names, addresses or contact details in the editions of the book that I read. It was perhaps enough that he treated abortion as if it were in his view, a regrettable but possible option for the ending of a crisis pregnancy. Groups that did publish the details of abortion and information services included several students' unions.[273] The *Open Door* decision resulted in Well Woman ceasing to provide non-directive counselling and Open Door shut down, with its members retreating to become volunteer crisis helpline

[271] David Delvin, *The Book of Love* (St. Martin's Press and Jove Publications 1976) 243-244.
[272] Notice of the prohibition order was published in Iris Oifigiúil on 16 December 1983.
[273] *Bacik* (n 237) 386.

volunteers.[274] This was impactful as they were vital organisations in the Irish network of non-direct and pro-choice abortion information providers. Furthermore, magazines removed related content from their publications destined for Ireland and Dublin Public Libraries removed books from their shelves due to fears of legal intervention using the *Open Door* precedent.[275] Numerous people continued to share information but the students' unions were the most visible and accessible. One judge, McCarthy J., later described their information dissemination as 'flamboyant'.[276] Their approach was in part a way to assist students in accessing abortions. However, it was also intended as an anti-censorship protest.[277] SPUC regarded those unions as legitimate and necessary targets for further Eighth Amendment based legal action to curtail assistive information-sharing.

Students' unions had a long history of publishing information about abortion services abroad. I found accounts from the early 1970s citing their welfare services and student guidebooks as the sources the unions used to disseminate this information.[278] I found no records of the Board prohibiting their publications or the DPP initiating any prosecutions under the 1929 or the 1946 Acts. This lack of legal interventions was perhaps due to the Board having largely fallen out of use by the 1970s/1980s and the rarity of section 16 prosecutions.[279] *Open Door* provided SPUC with, to use a phrase

[274] For further discussions of the impact of censorship on these organisations see p. 27 and the post-injunction actions of these counsellors see p. 366-368.
[275] See p. 27-28.
[276] *The Society for the Protection of Unborn Children (Ireland) Limited v Stephen Grogan and others* [1989] IR 753, 770.
[277] See Chapter Four for a wider discussion of purposeful, pro-choice information-sharing.
[278] *Rose* (n 7).
[279] For a discussion of the lack of censorship enforcement see p. 357-358 and p. 345-347.

from FitzGerald, a 'set of techniques' that allowed them to seek to use the law to control the speech of people that they regarded as sharing information in a way that undermined abortion criminalisation and foetal rights to life.[280] The *bona fide* test set out by the Supreme Court empowered SPUC to take legal action claiming that they were doing so on behalf of extremely vulnerable foetal life.[281] Some anti-abortion students referred to foetal life as the 'most defenceless element in our society'.[282] SPUC's adherence to this claim allowed them and their supporters to continue to disassociate with the often stigmatised label of censor and to maintain instead that they were acting as protectors.[283] It did not matter to SPUC or their supporters that the unions were sharing information in a guidebook intended for a general student audience, rather than to abortion seekers in a counselling session. Returning to Butler's work, designations of dangerousness and unacceptability in language can be based not only on 'what' we say but on 'that which we effect, the act and its consequences'.[284] Critics of the information-sharing of the unions described them as 'assassins' or paramilitaries in Northern Ireland for sharing information that could assist a person in accessing an abortion abroad.[285] Instead, the unions should encourage students to make the 'responsible decision' to

[280] *FitzGerald* (n 64) 290.
[281] See the comments of Mary Lucey (SPUC) in Charlie Bird, 'USI Abortion Information' *RTÉ Archive* (Dublin, 19 September 1989) < https://www.rte.ie/archives/collections/news/21359220-usi-abortion-information/ > accessed 17 June 2023; *O'Connor* (n 213).
[282] Declan Matthews and Mark Hamilton (Eds.) *SUSS* (The SUSS 1989); *Ingoldsby* (n 187); For discussion see Mary Muldowney, 'Breaking the silence: pro-choice activism in Ireland since 1983' in Jennifer Redmond, Sonja Tiernan, Sandra McAvoy, Mary McAuliffe (Eds.) *Sexual politics in modern Ireland* (Irish Academic Press 2015) 127, 134.
[283] For examples of this framing see Marc Coleman (Students for Life) 'Information on abortion' *The Irish Times* (Dublin, 21 August 1989) 11; Carol Coulter, 'Abortion leaflets to be distributed' *The Irish Times* (Dublin, 13 October 1989) 8; *Davey* (n 213); For a later example see Mary Lucey (SPUC) 'Abortion Information Bill' *The Irish Times* (Dublin, 7 April 1995) 15.
[284] *Butler* (n 87) 8.
[285] Quote from Una Blake, 'Information on Abortion' *The Irish Times* (Dublin 20 October 1989) 13; See also Brendan O'Connor, 'Information on abortion' *The Irish Times* (Dublin, 18 October 1989) 13; Mary Maher, 'USI abortion policy likely to be ratified' *The Irish Times* (Dublin 18 November 1989) 2; *Matthews and Hamilton* (n 282); For later examples see Gerard Carroll, 'USI policy' *The Irish Times* (Dublin, 26 April 1991) 13; Peter Scully (Youth Defence) in Deaglán de Bréadún, 'Picketing of TDs to continue' *The Irish Times* (Dublin, 17 October 1992) 5.

continue their pregnancies or refer them to anti-abortion organisations as a way of protecting foetal life and maternal health.[286] To not do so was akin to encouraging pregnant people to choose abortion, or at the very least, removing a delay or a barrier than may otherwise have caused abortion seekers to reconsider.[287]

SPUC first sought to use the *Open Door* decision to apply pressure on UCD's students' union by asking them to remove the potentially unlawful information from their future guidebooks.[288] While students' unions were framed harshly by abortion opponents for sharing condemned information, Marie Vernon (SPUC) did believe that the union members were themselves misguided, naïve young people who were misinformed about abortion.[289] SPUC's warning was an attempt to set the union right by limiting how many students had access to contested abortion information through union publications before entering into a protracted legal battle. However, as vulnerability scholars and Butler noted, when subjects do not align with societal norms or expectations, they can become construed as acting against widely accepted boundaries of permissibility in speech and behaviour.[290] This happened when UCD's union refused to remove the abortion content. SPUC applied to the High Court, requesting that the court issue an injunction on the ground that publishing information about abortion services abroad was also repugnant to Article 40.3.3° foetal rights to life. The union did not capitulate and the case proceeded to the High Court.

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[286] Quote from Laurence Egar, 'Snuffing out life at Trinity College Dublin' in Declan Matthews and Mark Hamilton (Eds.) *SUSS* (The SUSS 1989); *Matthews and Hamilton* (n 282).
[287] *Matthews and Hamilton* (n 282); For a later example see Anne Brown (Right to Life Tralee) in John Walshe, 'USI to maintain stance on abortion information' *The Irish Times* (Dublin, 22 April 1991) 1.
[288] *The Society for the Protection of Unborn Children v Diarmuid Coogan and Others* [1989] IR 734, 734.
[289] Marie Vernon (SPUC) in 'Leader prepared to go to jail' *The Irish Times* (Dublin, 8 August 1992) 4.
[290] See 'Limiting the domain of the possible' p. 32.

A difference from the *Open Door* case was that the AG did not join the case against UCD students' union. SPUC initiated proceedings before confirming his involvement.[291] The absence of the AG was decisive to Carroll J in the High Court (*Coogan* case), refusing SPUC *locus standi*.[292] SPUC could not act as citizen censors in their own right. She stated that it was not up to SPUC to be 'the self-appointed' police of the *Open Door* decision and to silence other private citizens.[293] The AG was the appropriate person to act as a protective censor in his role as the defender of the Constitution. However, as Butler identified, when decisions are made there are often disagreements in law and culture over who has the power to categorise the injuriousness of speech.[294] SPUC appealed, and the Supreme Court overturned Carroll J.'s decision.[295] The majority decision reflected what Munro and Scoular recounted as the potency that arguments invoking the need to protect vulnerable subjects can have.[296] By affirming that SPUC had *locus standi*, the majority in the Supreme Court demonstrated how paternalism exacerbates unequal power dynamics between the State and citizens, and between citizens.[297] The AG had disavowed Carroll J.'s interpretation of his role as being the 'exclusive' protector of constitutional rights.[298] Following *Open Door*, all SPUC had to establish was a '*bona fide* concern and interest' in protecting a constitutional right and an 'objective proximity to that infringement'.[299] The majority judges described foetal life

[291] *Coogan* (n 288) 734.
[292] *Coogan* (n 288) 737.
[293] *Coogan* (n 288) 737.
[294] *Butler* (n 87) 2, 18, 20, 55, 77.
[295] *Coogan* (n 288) 734-735.
[296] The majority was Finlay CJ., Walsh, Griffin, and Hederman JJ. McCarthy J. dissented. For discussion of the power of arguments from vulnerability see *Munro and Scoular* (n 134) 191. See also *Brown* (n 61).
[297] For a discussion of how these dynamics can operate see *Mackenzie* (n 63) 47; *Munro and Scoular* (n 134) 191.
[298] *Finlay CJ.* in *Coogan* (n 288) 740-741.
[299] *Coogan* (n 288) 734.

in terms connoting extreme vulnerability and an urgent need for protection. For example, Finlay CJ. said of abortion cases, 'there can never be a victim or potential victim who can sue,' and this was an issue because abortion led to the 'death' of a 'child.'[300] In these precarious circumstances where, to quote Walsh J., 'unborn life is threatened…there is an obvious need for somebody to assert the interest of the unborn'.[301] Returning to Butler, they outlined how the legal and political actors designate who can act as the advocates or protectors of vulnerable subjects.[302] In this context, the uniquely vulnerable status of foetal subjects induced the majority of the Supreme Court to continue to recognise SPUC as private citizen protectors for those constitutional rights. SPUC could be, to quote Enright et. al., potential 'champions of the unborn'.[303]

Carroll J. warned the unions to read the *Open Door* decision 'carefully', implying that had she decided that SPUC had *locus standi* she may have issued an injunction against them.[304] It was Costello J. in the High Court who issued an interim injunction against UCD students' union, preventing them from lawfully publishing abortion clinic information in their guidebook.[305] The case for the interlocutory injunction was heard before Carroll J. and there were now three additional groups of defendants: Trinity College Dublin (TCD) students' union, Union of Students in Ireland (USI) and their printers.[306] SPUC added these parties (*Grogan* case) as they disseminated information

[300] *Finlay CJ.* in *Coogan* (n 288) 742.
[301] *Walsh J* in *Coogan* (n 288) 743, 747
[302] *Butler* (n 39); *Butler* (n 245).
[303] *Enright et. al.* (n 257) 10.
[304] *Carroll J. in Coogan* (n 288) 737.
[305] *Grogan* (n 276) 754, 757.
[306] *Grogan* (n 276) 753.

about how and where to access an abortion abroad in their welfare publications.[307] Carroll J.'s decision reflected Butler's observation that decisions as to what is, and is not, injurious language can be fraught with complexities and disagreements over where the boundaries should lie.[308] Rather than enjoining or issuing committal or sequestration orders against the unions and the printers, Carroll J. referred a number of European Communities law (EC Law) questions raised by the unions to the European Court of Justice (ECJ).[309] Carroll J. was open to considering that there may be other fundamental rights that required qualifiers to Article 40.3.3° foetal rights to life.[310]

SPUC abided by their promise to do all they could to combat threats to foetal life and appealed the lack of an interlocutory injunction to the Supreme Court. The same judges who decided that SPUC had *locus standi*, agreed to overturn Carroll J.'s decision partially. The judges issued an interlocutory injunction against the unions and printers.[311] Fletcher described the Supreme Court judgments criticising Carroll J. as being embedded in 'fundamentalist concern' for protecting foetal rights to life at the expense of all other rights.[312] It was evident that the Supreme Court judges believed that the unions sharing this information was causative in terms of facilitating people to have abortions abroad. Like the counsellors in *Open Door*, this rendered the guidebook communications a form of unlawful assistance due to Article 40.3.3° foetal rights to

[307] *Grogan* (n 276) 753.
[308] *Butler* (n 87) 18.
[309] *Grogan* (n 276) 754, 758.
[310] McCarthy J. in the Supreme Court was another judge who dissented. He did not believe that SPUC had *locus standi* to act against the students' unions without the AG. See *McCarthy J.* in *Coogan* (n 288) 748-752.
[311] All of the judges at this hearing - Finlay CJ., Walsh, Griffin, and Hederman JJ and McCarthy J who had dissented previously – were in favour of issuing the interlocutory injunction. See *Grogan* (n 276) 754-755.
[312] *Fletcher* (n 248) 6.

life.[313] Even McCarthy J. who had dissented in the *Coogan* case stated that he could not see 'any real difference' between the information-sharing of the counsellors (speech) and the unions (publications) as they both guided people towards abortion service providers.[314] Walsh J.'s judgment was insightful when considering why the Supreme Court and anti-abortion advocates regarded information disseminated in this format as being such a threat that it necessitated legal restraints. Firstly, he argued that as abortion could not be 'remedied', it needed to be prevented through the law blocking ways of bypassing criminalisation, including restricting assistive information.[315] Secondly, the guidebook omitted 'any reference' to foetal rights to life. This he regarded as an abdication of duty to protect that vulnerable subject.[316] Thirdly, as unions' disseminated the information through a publication it had a contagious potentiality due to the accessibility and shareability of print. The guidebook had, to quote Walsh J. a 'greater and more indiscriminate' risk to foetal life than even one-on-one crisis pregnancy counselling.[317] In his view the unions compounded this by sharing information in a 'broadcast manner'.[318] The clinic information was dangerous due to its uncontrollability and potential broad audience. It, therefore, needed to be removed from the public domain. As the students' unions were not acting as responsible citizens and orientating their information-sharing away from abortion, the Supreme Court was empowered and legitimised to act as foetal protectors by issuing the injunction to foreclose non-directive or pro-choice information-sharing.[319]

[313] *Finlay CJ.* in *Grogan* (n 276) 755, 764-766.
[314] *McCarthy J.* in *Grogan* (n 276) 770-771.
[315] *Walsh J.* in *Grogan* (n 276) 768.
[316] *Walsh J.* in *Grogan* (n 276) 767.
[317] *Walsh J.* in *Grogan* (n 276) 766.
[318] *Walsh J.* in *Grogan* (n 276) 766.
[319] For discussions on responsible citizenship and vulnerability see *Butler* (n 87) 77; *Munro and Scoular* (n 134) 203.

Regarding the rights of pregnant people, the Supreme Court again afforded them a lesser status of protection. The framing of foetal life as being so immediately precarious was evident in Finlay CJ.'s conclusion that only a competing right to life could challenge or counterbalance foetal Article 40.3.3° rights.[320] Such a subordinating interpretation did not mean that the pregnant people were not vulnerable subjects. Walsh J., for example, expressed concern that an 'unmarried pregnant woman' may experience 'intense pressures of social kind' to have an abortion.[321] The Supreme Court did not consider this vulnerabilisation in terms of how to affirm informed and agentic decision-making. Instead, the judges saw the protections for pregnant people as tied to foetal rights to life. Only once pregnant people adhered to the norms of 'responsible citizenship' and were resilient during crises by choosing to remain pregnant would the courts vindicate their information rights.[322] To again quote Walsh J., pregnant people had 'obligations' not to 'endanger' foetal rights to life.[323] Those who failed to meet this standard would be cast by others, to borrow Smyth's framing, as 'morally untrustworthy' and therefore not entitled to protections unless they conformed to the anti-abortion values of the State, law and community.[324] Hence, the Supreme Court were dismissive of the fundamental rights of pregnant people including the right to bodily autonomy, to information, and to privacy. A further demonstration of how pregnant people's rights were contingent on an

[320] *Finlay CJ.* in *Grogan* (n 276) 765.
[321] *Walsh J.* in *Grogan* (n 276) 767; In *Coogan* he stated that these pressures could come from her family. See *Coogan* (n 288) 743.
[322] Quote from *Munro and Scoular* (n 135) 203; For a discussion on social obligations and vulnerabilities see *Brown* (n 61); For a discussion on resilience see *Hirsch* (n 56) 82.
[323] *Walsh J.* in *Grogan* (n 276) 767; For a discussion of this aspect of these cases see *Fletcher* (n 248) 45.
[324] Lisa Smyth, *Abortion and Nation: The Politics of Reproduction in Contemporary Ireland* (Routledge 2005) 79-80; See also *Ahiska* (n 252) 213; *Butler* (n 87) xvi; *Fletcher* (n 248) 53.

alignment with an anti-abortion perspective was Finlay CJ.'s description of SPUC having their rights 'very clearly affected' by Carroll J.'s refusal to issue an interlocutory injunction against the unions.[325] Foetal rights impacted the entirety of society and other private citizens who wanted to be their advocates and protectors. By undermining foetal rights to life, the unions were not aligned to these anti-abortion values and therefore no such allowance would be made for their facilitative information-sharing.

The ECJ confirmed that the injunction did not violate EC law.[326] The case against the unions moved back to the High Court (*Grogan No 4*) where Morris J. issued a permanent injunction against them and their printers.[327] According to Butler's framework, meanings in speech can become fixed through prosecutions as courts and law enforcement decide upon categories of un/speakability.[328] This dynamic was present when with Morris J. reaffirmed the unions' information-sharing as unlawful under Article 40.3.3°. His judgment was notable as it came after the *X* case wherein the Supreme Court clarified that if the right to life of the 'mother' under Article 40.3.3° was endangered by her pregnancy, she could lawfully have an abortion.[329] Arguably, this meant that any pregnant person in this situation should have a corollary right to information to allow her to vindicate her right to life.[330] The unions attempted to rely upon the *X* decision and to show that their information-sharing had a vital protective effect for the rights to life of abortion seekers.[331] Morris J. rejected this argument,

[325] *Finlay CJ.* in *Grogan* (n 276) 763.
[326] For a more detailed discussion of this case see p. 358-360.
[327] *The Society for the Protection of Unborn Children v Stephen Grogan and others (No 4)* [1994] 1 IR 46.
[328] *Butler* (n 87) 92.
[329] *Attorney General v X and others* [1992] 1 IR 1
[330] For a further discussion of *Attorney General v X* see p. 159-163.
[331] *Grogan No 4* (n 327) 47.

choosing to adhere to the foetal protective arguments of the previous judgments. As the information remained facilitative, it remained a threat to vulnerable foetal life and should, according to his interpretation, remain unlawful. Relating to paternalism, Morris J. adopted the view that any vulnerabilisation of pregnant people was due to their immaturity or embarrassment at having made a stigmatised decision to have an abortion.[332] Following Bracke's work on resilience and vulnerabilised people failing to act as a good, moral, enduring citizen, the implication in Morris J.'s decision was that any harm that came to abortion seekers was their fault and did not require information access to be remedied in law.[333] Morris J.'s reductive logic was so pernicious that he refused to consider publishing the details of abortion services abroad from the perspective of an information seeker who may meet the *X* case criteria. As the unions disseminated information to what he called 'the community at large' instead of a discrete category of abortion seekers, they could not rely upon *X* to prevent him enjoining them permanently.[334] Foetal rights to life protections, despite there again being no actual pregnancy in question in this case, convinced him to render this information unsaid and unsayable.[335] This decision remained in place until 1997.[336] The *Open Door* injunction was lifted in 1995.[337]

Conclusion

> We believe that women must be free to *choose* between abortion and childbirth. We want all abortions to be legal, free, voluntary and safe,

[332] *Morris J.* in *Grogan (no. 4)* (n 327) 52-53.
[333] Sarah Bracke 'Bouncing Back: Vulnerability and Resistance in Times of Resilience' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in Resistance* (Duke Press 2016) 52; See also Hirsch (n 56) 82.
[334] *Morris J.* in *Grogan (no. 4)* (n 327) 47, 54.
[335] *Butler* (n 87) 39, 76.
[336] John Connolly, 'Unions to watch their words' *The Irish Times* (Dublin, 11 March 1997) 38; *The Society for the Protection of Unborn Children v Grogan and Others (No 5)* (1998) 4 IR 343, [1997] 3 JIC 0601.
[337] See Jim Dunne, 'Ruling ends centre's uncertain future' *The Irish Times* (Dublin, 24 June 1995) 4; 'Well Woman Centre, SPUC come to agreement over abortion information' *The Irish Times* (Dublin, 24 June 1995) 4.

> done in a supportive atmosphere with sufficient information-sharing and counselling.
>
> *Our Bodies, Ourselves*[338]

This extract from the *Our Bodies, Ourselves* British edition is from the chapter that the authors intended to inform and prepare those considering abortion in a respectful and agency-affirming way. For abortion seekers navigating the hostile information environment in Ireland, the information in this chapter was vital.[339] After the *Open Door* decision, Dublin Public Libraries removed this book from their loanable stock on foot of a complaint of a member of the public.[340] Dublin Public Libraries returned the book to the shelves for borrowing after the Fourteenth Amendment enshrined a Constitutional freedom to share and access information about legal abortion services abroad in 1992.[341] In this chapter, I recounted how and why anti-abortion moments of censorship were carried out by State actors and private citizens in Ireland. I evidenced how important arguments invoking the need to protect vulnerable people were used to create, sustain and expand information restrictions. Information that allowed people to locate illegal domestic abortion services or to bypass abortion criminalisation and travel abroad was categorised in law as being injurious, toxic and contagious. The vulnerable subjects identified by censorship proponents as needing legal protections were young, naïve, mis/underinformed pregnant people and innocent foetal life that could not speak or advocate for themselves. The legal response was to continue abortion assistance

[338] Boston Women's Health Book Collective, *Our Bodies, Ourselves*, Angela Philips and Jill Rakusen (Eds.) (Penguin 1979) 293.
[339] Some editions contained the telephone number for the Irish Women's Abortion Support Group, for example. Ann Rossiter, *Ireland's Hidden Diaspora: The Abortion Trail and the Making of a London-Irish Underground* (IASC Publishing 2009).
[340] Victoria White, 'Will the British phone books be next?' *The Irish Times* (Dublin, 17 February 1992) 11; Mary Freehill, 'Women's health books back in Dublin public libraries' *The Irish Times* (Dublin, 18 February 1993) 13.
[341] For a more detailed discussion of the Fourteenth Amendment see p. 170-181.

and advertising criminalisation in the 1861 and 1889 Acts. These were augmented through further criminalisation of advertisements and prohibitions on the advocation of abortion in publications in the 1929 and 1946 Acts. Information sources that advocated abortion were later excluded from the reforms introduced by governments in the 1967 and 1979 Acts. After the passing of the Eighth Amendment, the *Open Door* and *Grogan* decisions confirmed the unlawful categorisation of information about how and where to access an abortion abroad as part of a crisis pregnancy counselling service and in welfare guidebooks. These restrictions are all now defunct and in Chapter Two I argued that the State shifted how it approached abortion information regulations away from the prohibitory approach outlined in this chapter towards a renewed and expanded focus on information provision as a strategy to reduce or eliminate abortions.

Chapter Two: Continuing prohibitions and the introduction of mandatory provision of 'alternatives' information intended to reduce abortions

Introduction

Do you feel that you would have wanted to talk it through with an independent person at all?

No, I am sure, it would have been a waste of everyone's time. They would have tried to talk me out of it and everything, and I just want to get this over with and get back to normal, you know, forget the whole thing.

…

Did she [doctor] talk through all the options with you?

Like I said, I was shocked but I knew pretty much straight off what I wanted, she did talk about other options like adoption and the like but it wasn't realistic and wasn't taken seriously by either of us, she knew what I wanted, we were er, just going through it like, you know, it wasn't really.

[Age unknown, going steady (is not pregnant by long term partner)][1]

[1] Evelyn Mahon, Catherine Conlon and Lucy Dillon, *Women and Crisis Pregnancy: A Report Presented to the Department of Health and Children* (Stationary Office 1998) 235-236.

This experience, recounted by the abortion seeker in the *Women and Crisis Pregnancy Report*, outlined what it was like to request information from a doctor about abortion services abroad under the Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995 (1995 Act). While it was legal to impart that information, the 1995 Act required pregnancy service providers also to share information about the 'options', i.e., parenting, fostering or adoption.[2] This requirement applied regardless of the wants or needs of the abortion seeker. Hence the disingenuous conversation recalled above. The exchange is illustrative of the next major focus of the State and anti-abortion advocates within information regulations: the provision of anti-abortion or pro-continuation of pregnancy information. In this Chapter, I examined how abortion minimisation or elimination through information provision gained in prevalence in legal spaces alongside censorship. The critical foundational ideology of this approach was for the State to address the claimed crisis and mis/underinformed decision-making of abortion seekers. Once informed and counselled, the abortion seeker would no longer be vulnerable to influence and they would choose to remain pregnant. Information could, as Butler recounted, dispel any threat posed by persuasive contested speech.[3] This strategy was popular among legislators and anti-abortion campaigners as it was potentially more impactful in terms of protecting foetal life by diverting people away from abortion. Information-sharing also allowed those actors to cast themselves as protectors, not censors in a more direct, logical way.

[2] Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995 (1995 Act), s 5.
[3] Judith Butler, *Excitable Speech* (Routledge Classics 2021) 12.

I examined how the State responded to another assumed threat from abroad: the Maastricht Treaty. The Irish government's attempt to exempt abortion restrictions from European Union oversight failed because of a case that demonstrated the extreme harms caused to abortion seekers by restrictive laws: *Attorney General v X*.[4] The legal and political terrain had shifted, and it was no longer feasible for the State to sustain a prohibitory information regulation infrastructure. The legal reforms instituted by the following governments involved a referendum, where the electorate approved of a constitutional freedom to access and share information about abortion services abroad (the Fourteenth Amendment). The 1995 Act was introduced to denote the boundaries of permissibility for information-sharing under the Fourteenth Amendment using a dual approach of information criminalisation and mandatory information provision. The idea that doctors and counsellors could use information to dissuade people from choosing abortion continued with the establishment of the Crisis Pregnancy Agency (CPA). The CPA funded and promoted several organisations to provide non-directive counselling. However, due to the continued anti-abortion orientation of the law and legislative culture, the CPA included two staunchly anti-abortion organisations in their supported services. The persuasiveness and political advantageousness of framing information-based interventions in such a caring light endured in the Health (Regulation of Termination of Pregnancy) Act 2018 (2018 Act). Despite the electorate voting in favour of removing the Eighth Amendment (the Eighth) from the Constitution it remained the position of the Irish State, and anti-abortion campaigners, that certain forms of

[4] [1992] 1 IR 1.

information could dissuade people from choosing abortion and this was a worthy goal to pursue in law to protect vulnerable subjects.'

Reducing abortions through information controls: maintaining criminalisation and introducing mandatory provision

> To seek help in Ireland would be a waste of time really.
> Participant no. 14.[5]

Marie Vernon of the Society for the Protection of Unborn Children (SPUC) said, 'there is no necessity for any girl to go to Britain, they can have every help here, including advice on having their babies adopted if they wish'.[6] Her statement was a common refrain among those who opposed abortion: that the only information that a pregnant person needed was that which was biased towards them continuing their pregnancies. As I discussed in Chapter One, SPUC had attempted to realise this as the reality in Ireland using the Eighth Amendment to silence non-directive and pro-choice information sharers. Most abortion seekers from Ireland, however, chose to travel directly to abortion services in Britain rather than seeking out assistance to remain pregnant from anti-abortion services.[7]

Vernon's statement was from 1988, the peak of anti-abortion information suppression. By the early 1990s, the legitimacy of censorship as a method of information regulation

[5] Deborah Jane Quinney, 'Abortion and Irish women: a descriptive study (by in-depth interview) exploring the experiences of 53 women from the Republic of Ireland having abortions in England' (Master's in public health, University of Liverpool, 1991), 32.
[6] '1,010 Irish abortions in three months' *The Irish Times* (Dublin 23 September 1988) 9.
[7] *Quinney* (n 5) 32.

had begun to wane in legislative, political and cultural spaces. As Butler outlined, there are often 'significant disagreement' among people about the divisions between lawful versus unlawful speech, harmful versus helpful speech, and speech versus conduct.[8] The spark for the weathering of legal restraints on abortion clinic information-sharing began when the European Court of Justice (ECJ) clarified in the *Grogan* case that abortion provided lawfully and for remuneration was a protected service under European Community (EC) law.[9] Irish information providers who the Irish courts had not enjoined could re-establish their facilitative abortion information services with EC protections once they signed a commercial agreement with an abortion service abroad. The Irish Family Planning Association did this by joining up with BPAS in Britain. For anti-abortion advocates who were used to dominating legal spaces, the *Grogan* decision was alarming. The judgment sparked those long-standing fears of foreign corruption upon Irish morals. These anti-abortion proponents called upon the State to respond to protect vulnerable foetal life and pregnant people from what they claimed to be the scientifically demonstrated adverse medical effects of abortion.[10]

The Irish State and government remained anti-abortion. To bolster legal prohibitions on abortion and information provision, the bigger government party Fianna Fáil negotiated a Protocol to the Treaty on European Union [Maastricht].[11] The electorate needed to

[8] *Butler* (n 3) 20, 101.
[9] For a more in-depth discussion see p. 358-360.
[10] For an example of this argument see Women Hurt By Abortion, *An approach to healing for women hurt by abortion* (Revised Ed.) (Women Hurt by Abortion 1990) 39.
[11] Orla McDonnell and Jill Allison, 'From biopolitics to bioethics: church, state, medicine and assisted reproductive technology in Ireland' (2006) 28(6) Sociology of Health and Illness 817, 824-825; Sarah Pentz Bottini, 'Europe's Rebellious Daughter: Will Ireland Be Forced to Conform Its Abortion Law to That of Its Neighbors?' (2007) 49(2) Journal of Church and State 211, 213-214; Madeleine Reid, 'Abortion Law in Ireland After the Maastricht Referendum' in Ailbhe Smyth (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 25; Lisa Smyth, *Abortion and Nation: The Politics of Reproduction in Contemporary Ireland* (Routledge 2005).

approve Maastricht through referendum before the Treaty could be ratified. Fianna Fáil were concerned that the threat of additional ECJ interventions related to Article 40.3.3° would lead anti-abortion advocates to vote no.[12] In particular, anti-abortion lobbyists sounded the alarm of the possible legalisation of abortion advertisements now that the ECJ had confirmed abortion as a protected service.[13] The text of the Protocol was:

> Nothing in the Treaty on the European Union, or in the Treaties establishing the European Communities or in the Treaties or Acts modifying or supplementing those Treaties, shall affect the application in Ireland of Article 40.3.3. of the Constitution of Ireland.[14]

When news of the Protocol broke in the media, it generated immediate controversy and pushback. Returning to Plonowska's observations, when unequal inflictions of vulnerability are exposed, they create political debate. Such discussions can lead to people questioning how power is operationalised and distributed.[15] This is particularly apparent when those vulnerabilities already impact those living with multiple dimensions of disadvantage.[16] The Protocol signalled a commitment from the Irish State to continue treating the rights of pregnant people as being inferior to foetal rights to life, both in the Irish constitution and in terms of European rights.

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[12] For fears of ECJ oversight and Article 40.3.3° see Declan Walsh, 'Information ban can no longer face challenge in EC' *The Irish Times* (Dublin, 11 December 1991) 8; Geraldine Kennedy, 'EC law may rule out new vote on abortion' *The Irish Times* (Dublin, 2 April 1992) 1; Cabinet Committee, *Green Paper on Abortion* (Department of the Taoiseach 1999) para. 3.17, p. 25; Emily O'Reilly, *Masterminds of the Right* (Attic Press, 1997) 140-141; Siobhán Mullaly, 'Debating reproductive rights in Ireland' (2005) 27(1) Human Rights Quarterly 78, 91-93.

[13] Ruth Fletcher, 'National crisis, supranational opportunity: the Irish construction of abortion as a European service' (2000) 8(16) Reproductive health matters 35, 38; Sean Flynn 'Anti-abortion lobby says EC Protocol insufficient' *The Irish Times* (Dublin 20 February 1992) 5; Siofra O'Leary, 'Freedom of establishment and freedom to provide services: the Court of Justice as a reluctant constitutional adjudicator: an examination of the abortion information case' (1992) European Law Review 1.

[14] See Protocol 17 in 'Treaty on European Union' (Office for Official Publications of the European Communities 1992) < https://europa.eu/european-union/sites/europaeu/files/docs/body/treaty_on_european_union_en.pdf> accessed 25 February 2020.

[15] Ewa Plonowska Ziarek, 'Feminist Reflections on Vulnerability: Disrespect, Obligation, Action' (2013) 42(3) SubStance 67.

[16] Alice M. Miller, 'Sexuality, Violence against Women, and Human Rights: Women Make Demands and Ladies Get Protection' (2004) 7(2) Sexuality, Human Rights, and Health 16, 25; Leticia Sabsay, 'Permeable bodies: vulnerability, affective powers, hegemony' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 278, 282.

Exacerbating the concerns of critics of the Protocol that Irish women would be harmed by limiting their recourse to the ECJ, was the 1992 case, *Attorney General v X* (*X* case).[17]

In Chapter One, I discussed how the *McGee* case opened up a space in which the criminalisation of the sale and importation of contraception could be interrogated and questioned by people in Ireland.[18] The *X* case had the same effect on absolutist abortion prohibitions. The defendant in the *X* case was a suicidal, pregnant 14-year-old survivor of sexual violence. She wanted an abortion. Despite her precarious and vulnerable state, the Attorney General (AG) sought an injunction to prevent her from travelling for an abortion.[19] His argument demonstrated how classifications of vulnerability can result in would-be claimed protectors using coercive legal approaches to force subjects to adhere to what they believed to be approved of legal, social or cultural norms or behaviours.[20] His targeting of *X* also showed how those who visibilise their vulnerabilities and contest dominant paternalistic framings of care are further vulnerable to backlash and additional paternalistic or regressive interventions.[21] To justify his request, the AG relied upon the *Open Door* interpretation of the protective

[17] *X* (n 4).
[18] p. 115-118.
[19] She and her parents had travelled to Britain for an abortion. Before they left her parents had asked the Gardaí if evidence could be taken from foetal tissue to assist with the prosecution of the man who assaulted her. Through the chain of enquiries, the AG became informed of the case and he began legal proceedings to compel her to continue her pregnancy. Her family returned to fight the case. See *X* (n 4).
[20] For discussions about vulnerability and oppressive, unjust, paternalistic responses see Kate Brown, ‘‘Vulnerability’: Handle with Care’ (2011) 5(3) Ethics and Social Welfare 313, 314, 316, 318; Catriona MacKenzie, Wendy Rogers, and Susan Dodds, ‘What is Vulnerability, and Why Does It Matter for Moral Theory?’ in Catriona Mackenzie, Wendy Rogers, and Susan Dodds (Eds.) *Vulnerability: New Essays in Ethics and Feminist Philosophy* (Oxford University Press 2014) 2, 15-16; Vanessa E. Munro and Jane Scoular, ‘Abusing Vulnerability? Contemporary Law and Policy Responses to Sex Work in the UK’ (2012) 20 Feminist Legal Studies 189, 192, 203.
[21] Athena Athanasiou, ‘Nonsovereign Agonism (or, Beyond Affirmation versus Vulnerability)’ in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in Resistance* (Duke Press 2016) 262; See also *Butler* (n 3) xvi.

mandate of the Eighth Amendment. He argued that he needed to act to protect vulnerable foetal rights to life. Costello J. in the High Court granted the injunction on the grounds that he had a duty to safeguard precarious foetal rights to life. Unlike *Open Door,* there was an actual pregnant person as a party to the case. However, Costello J. continued to subordinate her rights by designating a lower degree of danger to her situation, stating, 'the risk that the defendant may take her own life if an order is made is much less and is of a different order of magnitude than the certainty that the life of the unborn will be terminated if the order is not made'.[22] She held that duality wherein she was both a vulnerable subject and the source of threat to herself and foetal life as 'the risk to the mother's life comes from herself'.[23] As she was, to use a phrase from O'Carroll, a potential 'taker of life' as her interests were not aligned with that of her pregnancy and the court intervened to reduce the threat that she posed to the ultimate vulnerable foetal subject.[24] Instead, her 'devoted parents' could 'help her through the difficult months ahead'.[25]

The public's response to Costello J.'s judgment evidenced how when vulnerabilities are exposed to scrutiny and debate, the *status quo* can be questioned by the general public and they can imagine alternative futures. This can involve a critical reassessment of legal frameworks that do not, to quote Munro and Scoular, offer 'on the ground'

[22] *Costello J.* in *X* (n 4) 12.
[23] *Costello J.* in *X* (n 4) 11.
[24] J.P. O'Carroll, 'Bishops, knights — and Pawns? Traditional thought and the Irish abortion referendum debate of 1983' (1991) 6(1) Irish Political Studies 53, 65; See also Meltem Ahiska on the duality applied to women in 'Violence Against Women in Turkey: Vulnerability, Sexuality and Eros' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 211.
[25] *Costello J.* in *X* (n 4) 12.

protections to those who are targeted by those interventions.[26] The *X* injunction was unacceptable to many people in Ireland.[27] People began to question if their own anti-abortion views were as absolutist as portrayed by anti-abortion campaigners.[28] Even some anti-abortion proponents were critical of the decision, with one quoted by O'Reilly as lamenting that the AG had not 'lost the file'.[29] *X* made it clear that the promises of pro-Eighth Amendment campaigners that the referendum would only confirm existing law and only those facilitating abortions through information provision would be targeted, were false.[30] Butler recounted that when people are faced with adversity, those challenges can galvanise movements and people come together to demand changes so that they can have a 'livable life'.[31] Seeing the harms inflicted on this vulnerable girl brought people together to protest against the judgment and to call for

[26] *Munro and Scoular* (n 20) 193.
[27] For examples see Lorna Donlon, '"An Internment Camp for Pregnant Young Women"' *RTÉ Archives* (Dublin, 22 February 1992) < https://www.rte.ie/archives/exhibitions/1666-women-and-society/459005-x-case-protest-march/ > accessed 19 June 2023; Democratic Left, Crisis Pregnancy: prevention and termination, (Democratic Left 1998); For discussions see Ivana Bacik, 'Government must act on reality of crisis pregnancy' *The Irish Times* (Dublin, 6 February 2012) 16; Caroline McCamley (formerly Dublin Well Woman and National Women's Council of Ireland) in Ronan Burtenshaw, 'The X-Files' *Rabble* (Dublin, 6 November 2013) < https://www.rabble.ie/2013/11/06/the-x-files/ > accessed 29 May 2023; Therese Caherty, 'Choosing to tell : women's accounts of the experience of abortion' (Mphil Trinity College Dublin 1994) 13; Hilary Dully, 'Balance, binary debate and missing women: a discourse analysis and creative response to 30 years of the abortion debate on RTÉ current affairs television, 1983-2013' (PhD thesis, National University of Ireland, Galway 2016); Brian Girvin, 'Moral politics and the Irish abortion referendums, 1992' (1994) 47(2) Parliamentary Affairs 203; Wendy Holden, *Unlawful carnal knowledge: the true story of the Irish 'X' case* (Harper Collins 1994); Chrystel Hug, *The politics of sexual morality in Ireland* (Macmillan 1998) 167, 178; Alan MacSimóin, 'A history of the struggle for abortion rights in Ireland' (25 April 2009) *Workers Solidarity Movement* < http://www.wsm.ie/c/abortion-rights-ireland-history > accessed 4 April 2023; Sandra McAvoy, 'From anti-amendment campaigns to demanding reproductive justice: the changing landscape of abortion rights activism in Ireland 1983-2008' in Jennifer Schweppe (Ed.) *The Unborn Child, Article 40.3.3° and Abortion in Ireland: Twenty-Five Years of Protection?* (Liffey Press 2008) 15, 31; *Smyth* (n 11).
[28] Linda Hogan, 'Procreative Choice: A Feminist Theological Comment' in Ailbhe Smyth (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 175; Brendan Kennelly and Eilis Ward, 'The abortion referendums' in Michael Gallagher and Michael Laver (Eds.) *How Ireland voted 1992* (Folens and PSAI Press 1993) 115, 131; 'Ireland: Battle of Maastricht' *The Economist* (London, 29 February 1992) 55; Anne Speed, 'The Struggle for Reproductive Rights: A Brief History in its Political Context' in Ailbhe Smyth (Ed.) *The Abortion Papers: Ireland* (Attic Press, 1992) 85.
[29] *O'Reilly* (n 12) 127; See also Conor Gearty, 'The Politics of Abortion' (1992) 19(4) Journal of Law and Society 441, 442; Louise Ryan, 'A decent girl well worth helping: women, migration and unwanted pregnancy' in Liam Harte and Yvonne Whelan (Eds.) *Ireland beyond boundaries: mapping Irish studies in the twenty-first century* (Pluto 2007) 135.
[30] See p. 127-128.
[31] Judith Butler, 'Rethinking Vulnerability and Resistance' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 12, 18-19.

abortion law reform.[32] Opposition legislators introduced a Bill to hold a referendum on removing Article 40.3.3° from the Constitution.[33] It was even reported that the government urged the family to appeal.[34] These actions demonstrated the power that exposing politically and legally created vulnerabilities can have on the legitimacy and acceptability of regressive laws.

X's family appealed to the Supreme Court. They had no choice but to do so if they wanted to travel without risk of prosecution. However, their appeal was a powerful moment of resistance as they evidenced how the claimed protection offered to them by law against abortion was, to use Sirman's insights, of no use to them.[35] They needed access to abortion. The Supreme Court judges who had refused to consider the rights of pregnant people under Article 40.3.3° were now tasked with hearing *X*'s appeal. Their decision affirmed that *X* was vulnerable in her own right and when there was a real and substantial risk to the life of the mother, including from suicide, she could access a lawful abortion.[36] The judges lifted the injunction, much to the relief of even some anti-

[32] For discussions on how vulnerability can create solidarity and interconnectedness see Marianne Hirsch, 'Vulnerable Times' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 76, 80; For examples see Senator Frances Fitzgerald (Fine Gael) Dáil Éireann debate, Thursday 2 March 1995, vol 450 no 1; Deputy Charlie McCreevy (Fianna Fáil) who said that *X* promoted people to think of their own families in Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; For discussions see Janet Hadley, *Abortion between freedom and necessity* (Temple University Press 1996) 20.
[33] The Bill did not proceed and eventually lapsed with the dissolution of the Oireachtas in November 1992. Houses of the Oireachtas, 'Eleventh Amendment of the Constitution Bill 1992 (Bill 2 of 1992)' < https://www.oireachtas.ie/en/bills/bill/1992/2/ > accessed 7 April 2023.
[34] The State also reportedly paid for the family's costs. See Evelyn Mahon, 'Abortion Debates in Ireland: An Ongoing Issue' in Dorothy McBride Stetson (Ed.) *Abortion Politics, Women's Movements, and the Democratic State: A Comparative Study of State Feminism* (Oxford University Press 2001) 157, 165; *Holden* (n 27).
[35] Nükhet Sirman, 'When Antigone is a man: feminist "trouble" in the Late Colony' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 191, 203; See also *Butler* (n 31) 15.
[36] *X* (n 4) 3. Finlay CJ, McCarthy, O'Flaherty, and Egan JJ agreed to overturn the injunction and Hederman J dissented.

abortion campaigners.[37] The judgment was not concerned directly with information regulation. Yet, *X* was a transformative case as the Supreme Court confirmed an interpretation of Article 40.3.3° that arguably created a corollary right to access information to vindicate the right to life of the 'mother'.[38] In addition, two judges in their *obiter* comments reflected on the relationship between law, policy and information, reframing them in positive rather than negative terms.[39] McCarthy and O'Flaherty JJ. referenced protecting foetal rights to life through State information and service provision. To quote McCarthy J., 'the State may fulfil its role by providing necessary agencies to help, to counsel, to encourage, to comfort, to plan for the pregnant woman, the pregnant girl or her family'.[40] These comments were not binding, but they were indicative of a notable shift in prevalence in discursive spaces towards information-sharing as opposed to information suppression for achieving abortion reduction or elimination aims.

The next test for the anti-abortion State was convincing the electorate to support the Protocol.[41] Critics of the Protocol included the junior coalition party - the Progressive

[37] *X* was referred to a hospital in England and travelled where she was found to have miscarried. *Holden* (n 27) 158; For anti-abortion campaigners' relief at the Supreme Court decision to overturn Costello J.'s judgment see Christine Newman, 'Bonner denies wanting to stop travel' *The Irish Times* (Dublin, 27 February 1992) 4; Mary Muldowney, 'Breaking the silence: pro-choice activism in Ireland since 1983' in Jennifer Redmond, Sonja Tiernan, Sandra McAvoy, Mary McAuliffe (Eds.) *Sexual politics in modern Ireland* (Irish Academic Press 2015) 127, 134-136.
[38] This interpretation was later confirmed by the Supreme Court when they were considering the constitutionality of the Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995. See *In the matter of Article 26 of the Constitution and in the matter of the Regulation of Information (Services out-side the State for Termination of Pregnancies) Bill 1995* [1995] 1 IR 1, 33.
[39] See Jennifer Schweppe on how even though the Eighth Amendment was worded in positive terms, it had only been enforced and interpretated using negative perspectives. In 'Introduction' in *The Unborn Child, Article 40.3.3 and Abortion in Ireland: Twenty-five years of protection?* (The Liffey Press 2008).
[40] *McCarthy J.* in *X* (n 4) 83; See also *O'Flaherty J.* in *X* (n 4) 40, 87-88.
[41] Ivana Bacik, 'The Irish Constitution and Gender Politics: Developments in the Law on Abortion' (2013) 28(3) Irish Political Studies 380.

Democrats – and many opposition legislators.[42] Their focus remained that the Protocol could have the effect of treating Irish women, to quote Deputy Brendan Howlin, as 'second-class citizens'.[43] The *X* decision provided those concerned about the harms of anti-abortion laws with only a small degree of comfort. Although people whose lives were at risk due to their pregnancy may be able to access lawful abortion, as Fox and Murphy recounted, the decision failed to challenge broader anti-abortion prohibitions. The decision, they argued, treated abortion access as a matter of 'self-defence' within an 'antagonist' view of pregnancy that weighed up who should be protected in law.[44] The judgment was not about affirming the agency of abortion seekers. Furthermore, the *obiter* comments of three Supreme Court judges referenced the possibility that Article 40.3.3° could limit the right to travel *simpliciter* – and in turn corollary information rights – when the life of the pregnant person was not at risk.[45] How this interpretation meshed with the impact of the Protocol was unclear and it was possible that the *X* decision would not protect information-based rights for a broader class of abortion seekers in Ireland.[46]

What was certain was that the Protocol shook the trust of the electorate and the Oireachtas. As vulnerability scholars have remarked, governments often frame themselves as the guarantors of rights and advocates for vulnerable people.[47] Making a

[42] *Girvin* (n 27) 207-208.
[43] Deputy Brendan Howlin (Labour Party) Dáil Éireann debate, Tuesday 12 May 1992, vol 419, no 5; For a discussion of this argument see *McAvoy* (n 27) 32-33.
[44] Marie Fox and Therese Murphy, 'Irish Abortion: Seeking Refuge in a Jurisprudence of Doubt and Delegation' (1992) 19(4) Journal of Law and Society 454, 461.
[45] *Finlay CJ, Hederman and Egan JJ* in *X* (n 4) 3; *Holden* (n 27) 131-132.
[46] *Smyth* (n 11); *'Ireland: Battle of Maastricht'* (n 28).
[47] *Butler* (n 31) 25.

deal that would lose pregnant people access to EC rights was possibly incompatible with any such claims from the government. In addition, women were openly and vocally rejecting the paternalistic, prohibitory approach to information abortion regulations. Examples in the Oireachtas included Deputy Nuala Fennell arguing that such restrictions treated women as if they were criminals or 'immature' children.[48] Even members of conservative Fianna Fáil were growing frustrated with this approach, with Minister Mary O'Rourke stating that it was 'particularly galling' that pregnant people were treated in law as if they 'could not comprehend it [non-directive or pro-choice information] or may be tainted in any way by it.'[49] Their criticisms joined those of non-directive or pro-choice advocates and campaigners who continued to lobby for the reversal of the *Open Door* and *Grogan* decisions.[50] Information restrictions had lost a large degree of their legitimacy as it was evident that they were not protecting vulnerable pregnant people but were instead creating additional stresses and harms for them. The response from the Progressive Democrats and opposition members was to attempt to use legal means to bind the Fianna Fáil section of the government to hold a referendum to confirm information and travel rights before they held the Maastricht referendum.[51] Fianna Fáil's plans to lock-in the anti-abortion vote with the Protocol now

[48] Quoted in *Smyth* (n 11) 108; Deputy Nuala Fennell (Fine Gael) Dáil Éireann debate, Tuesday 5 May 1992, vol 419, no 1.
[49] The Minister of State at the Department of Industry and Commerce Mary O'Rourke (Fianna Fáil) Dáil Éireann debate, Wednesday, 13 May 1992, vol 419, no 6.
[50] See debates in Dáil Éireann debate, Tuesday 28 April 1992, vol 418, no 7; Dáil Éireann debate, Tuesday 12 May 1992, vol 419, no 5.
[51] The Minister for Energy Robert Molloy (Progressive Democrats, previously Fianna Fáil) Dáil Éireann debate, Wednesday 13 May 1992, vol 419, no 6; Denis Coghlan, 'Coalition split over sequence of proposed referendums' *The Times* (Dublin, 9 April 1992) 1; Denis Coghlan 'PDs yield on treaty referendum' *The Irish Times* (Dublin, 10 April 1992) 1; Joe Carroll, 'FG, Labour attempt to delay Maastricht poll' *The Irish Times* (Dublin, 4 May 1992) 4; Their strategies to force the government to do this involved introducing their own Eleventh Amendment of the Constitution Bill and attempting to amend the government's Eleventh Amendment of the Constitution Bill to include information and travel rights.

risked losing the pro-information reform vote which potentially endangered the ratification of Maastricht.[52]

Recognising and limiting freedoms to access information about legal abortion services abroad

> The situation in Ireland is ridiculous and should just not be tolerated. The decision to have an abortion is not half as difficult as trying to find out about clinics here and actually coming.
>
> 24 – Civil Servant.[53]

This participant from Francome's study demonstrated how negatively some abortion seekers in Ireland regarded restrictions. Rather than protecting abortion seekers from unethical information providers or profit-driven abortion services, information restrictions were experienced by those vulnerablised subjects as burdensome and paternalistic. '24- Civil Servant' was not alone in her condemnation of abortion information prohibitions. Legislators, campaigners and even McCarthy J. in *X* all criticised the lack of legislation guiding the boundaries of the permissible under Article 40.3.3°.[54] One barrister after the *Grogan* decision described abortion and information laws as being 'uncontrollable' due to their *ad hoc* development and the involvement of so many

[52] For contemporary examples of these criticisms and demands see Denis Coghlan, 'Pressure on for 'advice' reference in the Protocol' *The Irish Times* (Dublin 12 March 1992) 4; Mary Cummins, 'Women's rights TDs seek text' *The Irish Times* (Dublin, 30 April 1992) 5; Renagh Holohan, 'Three routes are open to Reynolds' *The Irish Times* (Dublin, 19 September 1992) 4; For discussion see David Cole, 'Going to England: Irish Abortion Law and the European Community' (1993) 17(1) Hastings International and Comparative Law Review 113; Laury Oaks, 'Irishness, eurocitizens, and reproductive rights' in Sarah Franklin (Ed.) *Reproducing reproduction: kinship, power and technological innovation* (University of Pennsylvania Press 1998) 132, 136; *Mahon* (n 34) 167-168.
[53] Colin Francome, *If you ever go across the sea to England: a study of 200 Irish women travelling for their abortions* (Middlesex Polytechnic Health Research Centre 1991) 14.
[54] *McCarthy J.* in *X* (n 4) 82; See *Bacik* on judicial impatience and the *X* case in (n 41) 395.

different legal actors and pressure groups.[55] Censorship was not fulfilling its founding mandate of either alleviating hardships or preventing abortions. The Fianna Fáil section of the government continued to argue post-*X* that the Protocol would provide protections for both foetal rights to life and the rights of the pregnant person.[56] Few people were convinced, however. Influential people and groups like the Commission on the Status of Women continued to lobby the government seeking clarification on information rights and plans to re-establish non-directive crisis pregnancy services.[57] It was then no longer politically tenable for the government to ignore or to tacitly accept abortion information restrictions.[58] The government proposed to amend the Protocol to confirm a right to travel and to 'lawful information' to provide reassurances to those threatening to vote no to ratification.[59] Maastricht Treaty partners refused to reopen negotiations but agreed to a Solemn Declaration.[60] It read:

> That it was and is their intention that the Protocol shall not limit freedom to travel between Member State or, in accordance with conditions which may be laid down, in conformity with Community law, by Irish legislation, to obtain or make available in Ireland information relating to services lawfully available in Member States.

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[55] Quote in *O'Reilly* (n 12) 122.
[56] See the contributions of Fianna Fáil party members in Dáil Éireann debate, Wednesday 6 May 1992, vol 419, no 2; Dáil Éireann debate, Tuesday 12 May 1992, vol 419, no 5 and Dáil Éireann debate, Wednesday 13 May 1992, vol 419, no 6; Joe Carroll, 'White Paper on treaty today' *The Irish Times* (Dublin, 23 April 1992) 1.
[57] See for example Second Commission on the Status of Women, 'Report to the Government' (Stationary Office 1993) 336, 453, 516-517; Denis Coghlan, 'Comprehensive "Yes" vote heavy blow to anti-abortion lobby' *The Irish Times* (Dublin, 20 June 1992) 1; Debate in Dáil Éireann debate, Tuesday, 12 May 1992, vol 419, no 5; *Girvin* (n 27) 209.
[58] Colin Francome, 'Irish Women Who Seek Abortions in England' (1992) 24(6) Family Planning Perspectives 265, 267.
[59] Denis Coghlan and Sean Flynn, 'New abortion protocol proposed' *The Irish Times* (Dublin, 26 March 1992) 1.
[60] The Solemn Declaration was the result as Ireland's Treaty partners would not reopen negotiations on the wording of the Treaty itself. This was because they were concerned that it would impact Treaty negations in their own countries. See Sean Flynn, 'EC States likely to fight protocol change' *The Irish Times* (Dublin, 4 April 1992) 7; Denis Coghlan and Sean Flynn, 'Government to discuss draft wording of declaration today' *The Irish Times* (Dublin, 14 April 1992) 1; The government claimed that they could not delete the Protocol. See Sean Flynn, 'Declaration seen as only option' *The Irish Times* (Dublin, 29 April 1992) 4; For discussions see Keith S. Koegler, 'Ireland's Abortion Information Act of 1995' (1996) 29(5) Vanderbilt Journal of Transnational Law 1117; Jeffrey A. Weinstein, 'An Irish Solution to an Irish Problem: Ireland's Struggle with Abortion Law' (1993) 10(1) Arizona Journal of International and Comparative Law 165; *Holden* (n 27) 187-189.

> At the same time the High Contracting Parties solemnly declare that, in the event of a future constitutional amendment in Ireland which concerns the subject matter of Article 40.3.3 of the Constitution of Ireland and which does not conflict with the intention of the High Contracting Parties hereinbefore expressed, they will, following the entry into force of the Treaty on European Union, be favourably disposed to amending the said Protocol so as to extend its application to such constitutional amendment if Ireland so requests.[61]

Like the Protocol, the effect of the Solemn Declaration was uncertain. The government maintained that the Declaration would have a persuasive value among Ireland's treaty partners.[62] To further clarify abortion-related rights, including the freedom to share and access information about abortion services abroad, the government committed to hold referendums after the referendum on Maastricht. These assurances were persuasive for many political actors, and the electorate voted to pass the Eleventh Amendment to ratify Maastricht in June 1992.[63]

Despite these political promises, the law remained restrictive and embedded in anti-abortion, pro-censorship ideologies. Even with the Solemn Declaration, possibilities for lawful information-sharing about how and where abortions could be accessed abroad were limited. The primary example of this was in July 1992, Morris J. issued a permanent injunction against the students' unions.[64] He did so stating that the

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[61] 'Treaty on European Union - Declaration of the High Contracting Parties to the Treaty on European Union', (29 August 1992) 11992M/AFI/INT/IRL, *C 191* < https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:11992M/AFI/INT/IRL&qid=1614260886985&from=EN> accessed 15 January 2023.
[62] *Coghlan and Flynn* (n 60).
[63] Department of Housing, Planning and Local Government, *Referendum results 1937-2019* (Department of Housing, Planning and Local Government 2019) 44-46; For supporters see Denis Coghlan, 'Leaders of four main parties join to back 'Yes' vote' *The Irish Times* (Dublin, 10 June 1992) 1; For those who still called for a no vote due to the lack of clarification for information and travel rights see Maol Muire Tynan, 'Repeal Campaign might share Hanafin Platform' *The Irish Times* (Dublin, 9 April 1992) 4; Geraldine Kennedy, 'Protocol has created legal morass for campaigners' *Irish Times* (Dublin, 15 June 1992) 4; *McAvoy* (n 27) 32-33.
[64] *The Society for the Protection of Unborn Children (Ireland) Limited v Stephen Grogan and others (No 4)* [1994] 1 IR 46, 55; For further discussion see p. 149-151, 511.

Protocol and the Solemn Declaration were not due to come into force until the following year, so he did not need to account for them. Anti-abortion campaigners were also doubling down on the arguments that they had used to create and sustain paternalistic information restrictions. While many prevalent campaigners had opposed limitations on the freedom to travel as being illiberal, limiting the dissemination of information about abortion services abroad was pragmatic and protective.[65] It was pro-choice actors, they claimed, who were exploiting *X* for their ulterior motive of achieving abortion liberalisation in Ireland and she should have been offered counselling instead of being permitted to travel.[66] Their proposed solution was for the government to hold referendums to return to a pre-*X* legal framework, including the continued prohibition on the circulation of information that facilitated abortion.[67] According to this view, the role of information should remain biased towards the continuation of pregnancy through supports including counselling provision. Support infrastructures could, these proponents claimed, ameliorate the vulnerabilities created by pregnancy, would protect foetal rights to life and pregnant people from what they claimed to be the physical and psychological harms of abortion.[68] Though as Minister Robert Molloy argued, as the government planned to

[65] *Carroll* (n 56); *Coghlan* (n 52); *Newman* (n 37); *Reid* (n 11) 35.
[66] For examples of the argument that *X* should have been refused an abortion and offered counselling and pregnancy supports see E. Gallagher (Women Hurt by Abortion) 'Abortion travel ruling' *The Irish Times* (Dublin, 22 February 1992) 17; Andy Pollak, 'Political consensus will not influence Church – Bishop' *The Irish Times* (Dublin, 21 February 1992) 5; Clement Loscher, *The X Case: How Abortion Was Brought Into Ireland* (Human Life International 1992); Denis Murphy (Life Interest) 'Additional cruelty of abortion no solution' *The Irish Times* (Dublin, 27 August 1992) 10; Paul Loughlin, 'Debating contraception, abortion and divorce in an era of controversy and change: new agendas and RTÉ radio and television programmes 1968-2018: Volume One' (PhD Thesis, Trinity College Dublin 2020) 305-306; *Dully* (n 27) 95-97; *Fox and Murphy* (n 44) 457-458; *Holden* (n 27) 88-89, 107-109, 177; *Newman* (n 37); *Smyth* (n 11); For a later example see William Binchy, 'No democratic mandate to make abortion legal' *The Irish Times* (Dublin, 25 November 1994) 14.
[67] *Coghlan and Flynn* (n 59).
[68] For an example of this argument see Youth Defence/Pro-Life Movement, 'Abortion kills women and children' (Youth Defence/Pro-Life Movement 1992) < https://irishelectionliterature.com/2012/11/18/1992-referendum-leaflet-

hold a referendum on travel rights in the context of abortion access there would be 'no sound or logical basis' for denying people information about abortion services abroad.[69]

The wording created through the Fourteenth Amendment (the Fourteenth) by the government did affirm the lawfulness of information about how and where abortions could be accessed abroad.[70] It was framed through an abortion reduction or eliminating lens, however. It read:

> This subsection shall not limit freedom to obtain or make available, in the State, subject to such conditions as may be laid down by law, information relating to services lawfully available in another state.[71]

Vulnerability scholars warn that people should take a cautious approach when they advocate for legal interventions to ameliorate the vulnerabilities of vulnerable subjects. If underlying paternalism is not confronted by reformers in the legislative or service provision process, governments can end-up reifying State power while framing oppressive frameworks as benevolent and caring.[72] The Fourteenth included the caveat, 'conditions as may be laid down by law'.[73] The Thirteenth Amendment concerning freedom to travel had no such limitation.[74] The government intended to

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from-youth-defence-pro-life-movement-urging-a-no-vote-against-travel-information-and-abortion/ > accessed 15 March 1995.

[69] The Minister for Energy Robert Molloy (Progressive Democrats, formerly Fianna Fáil) Dáil Éireann debate, Wednesday 13 May 1992, vol 419, no 6; *Cummins* (n 52).

[70] 'Legal advice points to new abortion referendum' *The Irish Times* (Dublin 21 February 1992) 4; *Cole* (n 52); *Fox and Murphy* (n 44) 458.

[71] Fourteenth Amendment of the Constitution Act 1992.

[72] See 'Limiting the domain of the possible' from p. 32.

[73] See comments about the need to control information in Seanad Éireann debate, Thursday 29 October 1992, vol 134, no 7; *Brown* (n 20) 319.

[74] The full text of the Thirteenth Amendment was 'This subsection shall not limit freedom to travel between the State and another state.' See Thirteenth Amendment of the Constitution Act 1992.

retain control over legal information-sharing to affect anti-abortion goals. Media reports claimed that the Fianna Fáil section of the government had refused to publish the wording of the Fourteenth before the referendum on Maastricht as they were struggling to draft a version that was restrictive enough.[75] It was clear from debates and interviews that the paternalistic and regressive framings of non-directive or pro-choice information-sharing as being dangerous and necessitating of the oversight of the criminal law would continue in future legislation.

The maintenance of some forms of information restrictions would be accompanied by, as detailed by some government sources, required information and service provision. Returning to the vulnerability literature, managerial types of interventions are commonly relied upon by State to address hardship, inequality and injustice. Miller remarked that such strategies allow States to claim to be acting in the best interests of subjects rather than questioning the role of law in creating oppressive frameworks.[76] FitzGerald recounted that these tools of governance are intended by those who create and manage them to encourage vulnerable subjects to internalise the ideas and solutions being offered by the State and advocates.[77] This results in vulnerable subjects self-governing and self-regulating according to legal and societal expectations. In this context, the government planned to limit the lawful provision of information about how and where to access an abortion abroad to 'full' non-directive counselling sessions.[78]

[75] See debates in Dáil Éireann debate, Wednesday 6 May 1992, vol 419, no 2; Dáil Éireann debate, Tuesday 12 May 1992, vol 419, no 5; Also, *Carroll* (n 56); *Cummins* (n 52).
[76] *Miller* (n 16) 28.
[77] Sharron A. FitzGerald, 'Biopolitics and the regulation of vulnerability: the case of the female trafficked migrant' (2010) 6(3) International Journal of Law in Context 277, 280.
[78] The Minister for Health John O'Connell (Fianna Fáil) Dáil Éireann debate, Tuesday 20 October 1992, vol 423, no 8; The Minister for Justice Pádraig Flynn (Fianna Fáil) Dáil Éireann debate, Wednesday 21 October 1992, vol 424, no 1;

Directive counselling services, the only type available in mainstream settings after *Open Door*, had not affected a reduction in the number of people who chose abortion.[79] Non-directive counselling was identified by the government as an alternative method for delivering information that may dissuade a person from choosing abortion. Hence, information providers would be required to provide information about what the State considered to be 'alternative options' to abortion alongside clinic details.[80] The benefits of this intervention were linked to the continued framing by anti-abortion advocates that many people who decide to have an abortion do so due to crisis, panic or a lack of accurate information.[81] Requiring people to undergo counselling before they could access information would slow decision-making and fill presumed information gaps. Pregnant people could then, to quote the Minister for Justice Pádraig Flynn, make an 'educated and informed decision' knowing 'precisely what they were getting into'.[82] The comments of government members evidenced that they hoped that people would decide against abortion as a result. Deputy Éamon Ó'Cuív even classed this strategy as a public health measure, akin to mandatory information provision on cigarette packets.[83]

The Minister of State at the Department of Justice Willie O'Dea (Fianna Fáil) Seanad Éireann debate, Friday 30 October 1992, vol 134, no 8.

[79] Caroline McCamley (chair of Well Woman) 'Censoring newspapers will not prevent women having abortions' *The Irish Times* (Dublin, 22 May 1992) 7.

[80] The Minister for Justice and for Industry and Commerce Pádraig Flynn (Fianna Fáil) Dáil Éireann debate, Thursday 22 October 1992, vol 424, no 2; Government of Ireland, *The referendums on the right to life, travel and information key questions and answers: an information publication from the Government* (Government of Ireland 1992) 13.

[81] For examples of this argument see Archbishops and bishops of Ireland, 'Yes to Life*' in Austin Flannery (Ed.), *Abortion & Law* (Dominican Publications 1983) 14, 18; *Women Hurt By Abortion* (n 10) 58-59.

[82] The Minister for Justice and for Industry and Commerce Pádraig Flynn (Fianna Fáil) Dáil Éireann debate, Thursday 22 October 1992, vol 424, no 2; See also comments of the Minister of State at the Department of Justice Willie O'Dea (Fianna Fáil) Seanad Éireann debate, Friday 30 October 1992, vol 134, no 8; *Government of Ireland* (n 80) 13.

[83] Seanad Éireann debate, Friday 30 October 1992, vol 134, no 8.

By taking an information provision approach, the government could claim that they were adopting a 'positive' caring approach rather than acting solely as a censor.[84]

Butler described how listeners could construe speech in ways that were different to that of the intentions of the speaker.[85] Such interpretations may reflect the ideologies of the listener or the person deciding on the injuriousness of the speech. The State can, for example, 'restage' how terms are used in language and in law.[86] The government's intentions for definitions of non-directive counselling were reflective of Butler's insights. Contemporary non-directive counselling services and information providers included providing practical help as part of their approach, e.g., organising appointments and travel.[87] They may also speak to the pregnant person over multiple consultations or sessions. Still, practical assistance was something they were willing to provide.[88] The government intended to continue designating such help as unlawful abortion assistance under Article 40.3.3° as they considered it to be 'directive' counselling.[89] The justification provided by the government for this categorisation was that they were protecting vulnerable pregnant people from undue influence and shielding foetal rights to life.[90]

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[84] See the comments of the Minister for Health John O'Connell (Fianna Fáil) Dáil Éireann debate, Thursday 22 October 1992, vol 424, no 2; The Minister for Justice Pádraig Flynn (Fianna Fáil) Dáil Éireann debate, Thursday 22 October 1992, vol 424, no 2 and Seanad Éireann debate, Wednesday 28 October 1992, vol 134, no 6.
[85] *Butler* (n 3) 84.
[86] *Butler* (n 3) 101.
[87] See Open Door Counselling, *An unexpected pregnancy* (1983); Defend the Clinics Campaign, *Fact pack for women on abortion* (Defend the Clinics Campaign 1987); Ruth Riddick, *Making Choices: The Abortion Experience of Irish Women* (O.D.C. Ltd 1988); Irish Family Planning Association, *Annual report 1994* (Irish Family Planning Association 1995) 20; See the *Open Door* case p. 137-138.
[88] For examples of this approach see ''These women are not selfish'' *The Irish Times* (Dublin, 10 July 1978) 12; Caroline Walsh, 'Thousands face abortion without advice' *The Irish Times* (Dublin, 25 September 1985) 19; Carol Coulter, 'Noonan's Bill: Safety net or path to an abortion culture?' The Irish Times (Dublin, 4 March 1995) 9.
[89] Edward O'Loughlin, 'We actually think they've got it right this time' *The Irish Times* (Dublin, 22 October 1992) 7; The Minister for Justice and for Industry and Commerce Pádraig Flynn (Fianna Fáil) Dáil Éireann debate, Thursday 22 October 1992, vol 424, no 2; The Minister of State at the Department of Justice Willie O'Dea (Fianna Fáil) Seanad Éireann debate, Friday 30 October 1992, vol 134, no 8; *Government of Ireland* (n 80) 13.
[90] *Smyth* (n 11).

The government perpetuated several aspects of the existing paternalistic, condemnatory censorship framework by continuing this prohibition. This included the view that those who assisted people to access abortions were suspect and necessitated legal oversight, and that abortion seekers were, to borrow a phrase from Miller, 'powerless and untrustworthy'.[91] This strategy also allowed the government to retain power over information provision while casting themselves as the benevolent protector and advocate for vulnerable subjects.[92] For a counselling session to be considered non-directive and therefore lawful, the pregnant person would have to make her own appointment or travel arrangements or seek out assistance from someone in a personal capacity.[93]

The ideological dimension of these protective claims was apparent in the government's planned omissions from their legislation. The lawful/unlawful, non-directive/directive distinctions would have only applied to those services that provided information about legal abortion services abroad. Anti-abortion services would be free in law to advocate against abortions, to promote the continuation of pregnancy, and to make appointments and travel arrangements on behalf of their clients.[94] Legislation would be directed towards serving the abortion reduction or elimination goals of the State, rather than affirming the agency of abortion seekers through counselling safeguards. Reflecting Walsh J.'s view in *Grogan*, only those pregnant people whose wishes aligned with foetal protection imperatives could be assisted directly in law to find the services that they

[91] *Miller* (n 16) 29.
[92] *Butler* (n 31) 15.
[93] *Government of Ireland* (n 80) 13.
[94] The Minister for Justice and for Industry and Commerce Pádraig Flynn (Fianna Fáil) Dáil Éireann debate, Thursday 22 October 1992, vol 424, no 2.

needed.[95] The potential risk of this legislation creating or exacerbating hardships for abortion seekers was dismissed by the government, even in the case of those abortion seekers who met the *X* case threshold for a lawful abortion under Article 40.3.3° i.e., those whose lives were at risk due to their pregnancy. The government maintained that these people would be treated in Ireland so they would not require information about services abroad. These abortion seekers would also be offered all 'reasonable' treatments including 'psychological counselling and social supports' to facilitate her bringing her pregnancy to term if the risk to her life was from suicidality.[96] The government claimed that these approaches were embedded in a 'deep concern' for the right to life of pregnant people.[97] They should be seen, however, in the context of the government also proposing to remove suicide as a risk to life of the 'mother' under Article 40.3.3° through the Twelfth Amendment. Government members believed the continuation of pregnancy was the best option, so they wanted to instrumentalise the law to encourage people not to choose abortion, including through information regulations.

Legislators and pro-reform campaigners criticised the government's plans as continuing to vulnerabilise pregnant people. However, the transformative potential of their objections was limited as many of them reflected, to use Butler, Gambetti and Sabsay's phrase, the 'paternalistic logics' of the government.[98] These critics and the government

[95] See p. 148-149.
[96] Lorna Donlon, 'Proposals On Legislation Over Abortion' *RTÉ* (Dublin, 18 November 1992) < https://www.rte.ie/archives/2017/1116/920632-proposals-on-abortion/ > accessed 9 February 2023; For references to positive and negative anti-abortion approaches see the *obiter* comments in *X*.
[97] Quote from *Government of Ireland* (n 80) 3.
[98] Judith Butler, Zeynep Gambetti and Leticia Sabsay, 'Introduction' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 1, 2.

were aligned in framing abortion as the least desirable pregnancy outcome.[99] Some even echoed the claims of anti-abortion advocates that abortion seekers often made rushed, panicked, under/misinformed decisions and were at risk from physical or psychological side effects should they choose abortion.[100] Abortion was 'negative', whereas the continuation of pregnancy was the 'positive' option.[101] As the majority of abortion seekers were travelling directly to Britain, those with more liberal outlooks wanted to remove as many barriers to counselling access as possible in order to encourage people to engage with services before leaving Ireland.[102] The hope was that after receiving this information and support, they would choose to remain pregnant.[103] For example, Senator David Norris said of his time supporting university students that counselling could, 'take the temperature down… because they [pregnant people] were able to receive information in the broadest sense, meaning counselling, in which all the options were laid out before them and the inevitable consequences, negative and positive, of either course of action…'.[104] Another example was Deputy Pronsias de

[99] For examples see Des O'Malley (leader Progressive Democrats) 'Abortion referenda: where we stand' (November 1992) < https://irishelectionliterature.com/2013/06/08/from-1992-progressive-democrats-des-omalley-outlines-the-partys-reasons-to-vote-no-on-the-abortion-referendum/ > 15 March 2023; Dick Spring (Labour Party) 'Abortion and the right to life' in Group of the Party of European Socialist (Eds.) *A collection of speeches of Dick Spring* (1993) < https://irishelectionliterature.com/2017/02/23/1992-dick-spring-speech-on-abortion-and-the-right-to-life/ > 15 March 2023.

[100] For examples see contributions in Seanad Éireann debate, Friday 30 October 1992, vol 134, no 8; Billy Stamp (Young Fine Gael) 'Abortion Information' *The Irish Times* (Dublin 5 October 1989) 11; Alliance for Choice, '1992 referendum leaflet' (Alliance for Choice 1992) < https://irishelectionliterature.com/2012/11/16/1992-abortion-referendums-leaflet-from-the-alliance-for-choice/ > accessed 15 March 2023

[101] See as an example Senator Mary Jackman (Fine Gael) Seanad Éireann debate, Friday 30 October 1992, vol 134, no 8.

[102] *Second Commission on the Status of Women* (n 57); See also the Coalition for Freedom and Women in Mary Cummins, 'Andrews urged to lobby of deletion of abortion protocol' *The Irish Times* (Dublin, 2 May 1992) 7; 'Doctors testify on abortion in SPUC claim' *The Irish Times* (Dublin 23 July 1992) 2.

[103] See contributions in Dolores Dooley, 'Medical Ethics in Ireland: A Decade of Change' (1991) 21(1) The Hastings Center 18, 19; Sean O'Neill, 'London agencies speak of women's despair' *The Irish Times* (Dublin, 19 February 1992) 5; Dáil Éireann Debate, Thursday, 22 October 1992, vol 424, no 2 and Seanad Éireann debate, Thursday 29 October 1992, vol 134, no 7; Maxine Brady (former USI president) 'Punish and Be Banned' in Patrick Smyth and Ellen Hazelkorn (Eds.) *Let in the light : censorship, secrecy and democracy* (Brandon Books 1993) 92; Sandra Coliver, 'Ireland' in Sandra Coliver (Ed.) *The right to know: human rights and access to reproductive health information* (Article 19 and university of Pennsylvania Press 1995) 159, 172.

[104] Senator David Norris (Independent) Seanad Éireann debate, Friday 30 October 1992, vol 134, no 8.

Rossa who claimed that 'everyone of them [abortion seekers] needed counselling before she stepped on a plane, weeks before she stepped on a plane, and certainly every single one of them needed counselling when she stepped off that plane again'.[105] These contributions evidenced what Miller described as strategies adopted to ameliorate vulnerabilities actually bolstering paternalistic coercive interventions that undermine the agency of targeted subjects.[106] Rather than continuing to push for the State to address the core, foundational injustice of abortion criminalisation, by advocating for the reestablishment of non-directive counselling services in this manner, these narratives reaffirmed the framing of abortion seekers as mis/underinformed insecure decision makers.

Vulnerability is, to quote Munro and Scoular, a powerful 'rhetorical, and political device.[107] It is possible that pro-reform legislators adopted those 'paternalistic logics' for strategic or pragmatic reasons.[108] Fletcher outlined that pro-choice arguments struggled to find resonance in the 1980s/1990s.[109] Anti-abortion ideologies were dominant. There were real fears that backlash from anti-abortion campaigners could delay the reestablishment of lawful non-directive counselling.[110] Linking non-directive counselling to abortion reductions and foetal rights to life could counter anti-abortion claims that the

[105] Deputy Pronsias de Rossa (Labour) Dáil Éireann debate, Thursday, 22 October 1992, vol, 424 no 2; For another example of pro-reform advocates stating that abortion seekers have counselling before travelling see Pam Moloney and Jim Loughran (Campaign to Separate Church and State, Jim Loughran was also a founding member of the IFPA) 'Information on abortion' *The Irish Times* (Dublin, 11 October 1991) 11.
[106] *Miller* (n 16) 40.
[107] *Munro and Scoular* (n 20) 191.
[108] *Butler, Gambetti and Sabsay* (n 98).
[109] Ruth Fletcher, 'Post-colonial Fragments: Representations of Abortion in Irish Law and Politics' (2001) 28(4) Journal of Law and Society 568, 569-570.
[110] See for example the concerns of Well Woman in relation to the pro-choice messaging of the Defend the Clinics Campaign in Sean Flynn, 'Centre wary of campaign on abortion' *The Irish Times* (Dublin, 14 September 1985) 6.

Fourteenth or any legislation to follow was too permissive and a betrayal of the principles of the Eighth. The benefit would be that abortion seekers could once again access information about safe, legal services abroad from reputable services and they could bypass anti-abortion, directive organisations. Emphasising counselling also opened up spaces in which opposition legislators could push for wider boundaries of permissibility around information-sharing while maintaining the legitimacy that protective arguments afforded. These proponents could criticise the failures of law and policy and avoid being labelled by anti-abortion advocates as being subversive or radical. For example, the Labour Party and Democratic Left introduced amendments to the Fourteenth Amendment of the Constitution Bill 1992 proposing to guarantee access to information about new forms of medication abortion and to add explicit permissions for 'assistance' and 'counselling'.[111] Those who introduced the amendments intended for them to prevent the criminalisation of people who assisted pregnant people to travel abroad for an abortion.[112] The government rejected these amendments, claiming that they were unnecessary as the Fourteenth's inclusion of the term 'information' could cover counselling, and legal abortion products abroad and that there would be no criminalisation for a person assisting a person to seek an abortion abroad in a personal capacity.

[111] For the 'counselling or assistance' amendment, see amendment no 1 introduced by Deputy Brendan Howlin (Labour) Dáil Éireann debate, Thursday, 22 October 1992, vol, 424 no 2 and 'Counselling or assistance' in amendment no 1 introduced by Senator Joe Costello (Labour) Seanad Éireann debate, Friday 30 October 1992, vol 134, no 8.
[112] See contributions in Dáil Éireann debate, Thursday, 22 October 1992, vol, 424 no 2; Seanad Éireann debate, Friday 30 October 1992, vol 134, no 8.

The government stated that they remained 'fully committed to the protection of the right to life of the unborn'.[113] Members refused, however, to confirm specifics for the definitions that they intended to include in planned legislation.[114] This reflected Butler's observations on the 'significant disagreement' that can arise within concepts of which speech is injurious.[115] Despite the intended legislation to give effect to the Fourteenth - should it be passed by the electorate - being orientated against abortion, conservative anti-abortion campaigners opposed the Fourteenth.[116] These anti-abortion advocates remained steadfast in their view that the boundaries of permissibility laid down in *Open Door* should remain as it permitted only 'factual' information about abortion to be shared.[117] They wanted to sustain, to take a phrase from Butler, 'legacies of usage' in permissible speech to reflect their view of abortion as a dangerous act chosen by the desperate and under/misinformed.[118] These campaigners viewed the Fourteenth as being an 'insidious code' that would allow for the bypassing of abortion criminalisation

[113] *Government of Ireland* (n 80) 3; See also The Minister for Justice and for Industry and Commerce Pádraig Flynn (Fianna Fáil) Dáil Éireann debate, Thursday 22 October 1992, vol 424, no 2.
[114] The Minister for Justice Pádraig Flynn (Fianna Fáil) Dáil Éireann debate, Thursday 22 October 1992, vol 424, no 2.
[115] *Butler* (n 3) 20, 101.
[116] The Society for the Protection of Unborn Children, 'Abortion Information' 2 < https://irishelectionliterature.com/2013/07/10/1991-anti-abortion-information-leaflet-from-spuc-with-an-unusual-graph/ > accessed 29 November 2023; Denis Coghlan, 'New abortion poll is sought' *The Irish Times* (Dublin, 23 March 1992) 1; Lorna Siggins, 'Group claims wide support' *The Irish Times* (Dublin, 28 March 1992) 4; Marie Vernon (SPUC), 'The case against abortion information' *The Irish Times* (Dublin, 25 September 1992) 12; John Sweeney, 'Information on abortion' *The Irish Times* (Dublin, 26 September 1992) 11; Support Life Ireland, *Pope's warning to Ireland* (Support Life Ireland 1992) < https://irishelectionliterature.com/2016/05/18/popes-warning-to-ireland-vote-no-leaflet-from-the-1992-abortion-referendum/#more-35821 > accessed 15 March 2023; Pro-Life Campaign, 'Vote no to abortion on referendum day' (Pro-Life Campaign 1992) < https://irishelectionliterature.com/2010/01/25/pro-life-campaign-leaflet-1992-abortion-referendum/ > accessed 15 March 2023; Pro-Life Campaign, '1992 referendum leaflet' (Pro-Life Campaign 1992) < https://irishelectionliterature.com/2009/09/29/1992-abortion-referendum-pro-life-campaign-flyer/ > 15 March 2023; Páidí Sweeney, 'Abortion – the Bishops Statement' (Páidí Sweeney 1992) < https://irishelectionliterature.com/2012/11/28/from-1992-the-supreme-court-judges-who-approved-abortion-in-the-x-case-committed-the-mortal-sin-of-murder/ > 15 March 2023; Youth Defence/Pro-Life Movement, 'Abortion kills women and children' (Youth Defence/Pro-Life Movement 1992) < https://irishelectionliterature.com/2012/11/18/1992-referendum-leaflet-from-youth-defence-pro-life-movement-urging-a-no-vote-against-travel-information-and-abortion/ > accessed 15 March 1995*; Loughlin* (n 66); *O'Loughlin* (n 89).
[117] *Vote no to abortion on referendum day* ibid.
[118] *Butler* (n 3) xvi, 28.

through referrals and advertising.[119] Opening up lawful information-sharing was the equivalent of collaborating with the dangerous and exploitative abortion industry.[120] Any assistive information that endangered vulnerable foetal life and exposed abortion seekers to consequences like the claimed 'post-abortion syndrome' should, to borrow a phrase from Butler, 'qualify as an object of prosecution'.[121] It should not be a constitutionally protected freedom. Instead, the law should confine itself to permitting only what anti-abortion advocates considered to be the 'bland and morally neutral' facts concerning abortion, e.g., what an abortion is and its side effects.[122] Doing so would protect vulnerable subjects as they believed that no one would choose an abortion if they internalised what anti-abortion advocates believed to be the truth of abortion. The Fourteenth was a departure from the protective imperative of the Eighth Amendment to protect vulnerable foetal life and impressionable abortion seekers as it would remove a barrier to access created by information suppression. To ameliorate the vulnerabilities exposed by *X* and the thousands of people who travelled for an abortion each year, the government should instead fund more anti-abortion counselling agencies to discourage abortion and encourage the continuation of pregnancy.[123] These arguments did not find

[119] Quote from Caroline Simmons (Pro-Life Campaign) in Mary Holland, 'Where each side believes the other is the loser' *The Irish Times* (Dublin, 28 November 1992) 9; For similar criticisms see Norrie Comer-Buckley (Doctor) in Deaglán de Bréadún, 'Kerry Abortion Opponents organise' *The Irish Times* (Dublin, 29 April 1992) 4; Senator Des Hanafin (Fianna Fáil and Pro-Life Campaign) 'Abortion issue inexorably entangled with treaty vote' *The Irish Times* (Dublin, 15 June 1992) 4; Uinsionn MacDughghaill, 'Campaign tactics of Youth Defence criticised' *The Irish Times* (Dublin, 6 October 1992) 2; Denis Faul (Reverend) 'Abortion referendum' *The Irish Times* (Dublin, 12 October 1992) 3; 'Bishops accept both 'Yes' and 'No' votes' *The Irish Times* (Dublin, 6 November 1992) 5; *Youth Defence/Pro-Life Movement* (n 116) (4).

[120] For a comparison between providing information and 'contract killers' see Deaglán de Bréadún, 'Information right to be challenged' *The Irish Times* (Dublin, 23 October 1992) 7; *Smyth* (n 11) 94; See Judith Butler on speakers inflicting injury on listeners in *Butler* (n 3) 123-124.

[121] *Butler* (n 3) 47; Michael Coleman (Fine Gael Councillor) in 'Referendum on information and travel sought' *The Irish Times* (Dublin, 18 May 1992) 4; *Holden* (n 27); *O'Loughlin* (n 89); *Women Hurt By Abortion* (n 10).

[122] *MacDughghaill* (n 119); *Youth Defence/Pro-Life Movement* (n 116) [4].

[123] *'Referendum on information and travel sought'* (n 121); *Vernon* (n 116); *Youth Defence/Pro-Life Movement* (n 116).

resonance with the government or the electorate. The Fourteenth Amendment passed with 59.9% of those who voted, voting yes.[124]

State approved information-sharing: abortion minimisation and abortion displacement travel

> I felt we got no support. It was assumed we understood what a fatal foetal anomaly was. It was assumed we understood what anencephaly was. ... I just felt that there was nothing there for [me]. Washing your hands, 'bye now', and the door is closed. And I remember walking out of the hospital holding my husband's hand, thinking, 'is this it?'' We've just been told 'your baby's going to die whatever circumstances that it may be, and we can't help you here if you want to get medical treatment. And there's the name of the clinic. See you later.' That's basically what they do to you here…I was scared to think that... she [the doctor] can't say anything that would be seen to influence [my] decision... Medical professionals, most of them that I encountered in Ireland, they feel their hands are tied... to even to tell you if this is the medically correct thing to do.
>
> Grainne.[125]

Grainne's experience from the *She is Not a Criminal* report occurred under the legislation that was introduced to denote the 'conditions' of lawful information-sharing under the Fourteenth: the 1995 Act. The lack of information and advice that she received was not an isolated, singular moment of poor medical practice. Rather it was a foreseeable outcome of the restrictions and requirements created for information sharers in the anti-abortion 1995 Act. Despite the negative effect that the 1995 Act had on the care received by families such as Grainne's, the government responsible for the

[124] *Department of Housing, Planning and Local Government* (n 63) 50-52; For a discussion of the results see Geraldine Kennedy, 'Abortion issue is heavily defeated' *The Irish Times* (30 November 1992) 6; Theresa Reidy, 'Abortion referendums in Ireland' in Stanley D. Brunn and Roland Kehrein (Eds.) *Handbook of the changing world language map* (Springer International Publishing, 2020) 2311; *Girvin* (n 27); *Kennelly and Ward* (n 28).
[125] Interview with Grainne in Amnesty International, *She is Not a Criminal* (Amnesty International 2005) 69.

1995 Act claimed that the legislation was designed to protect vulnerable pregnant people.[126] The 1995 Act, therefore, perpetuated the abortion elimination and minimisation strategies of previous iterations of information suppression while allowing the State to cast itself as providing benevolent protection for vulnerable subjects.

There were two critical judgments issued around the passing of the Fourteenth that increased the political and legal pressures on the government to legislate. The first was the European Court of Human Rights' (ECtHR) decision in *Open Door and Well Woman v Ireland*.[127] Unlike with *Grogan* in the ECJ, counsel for the State had to concede in hearings that due to the *X* case, a class of person was entitled to access information about services abroad under Article 40.3.3°.[128] The ECtHR maintained the same view of the preliminary judgment from the European Commission on Human Rights, finding that the injunction was contrary to the Article 10 rights (freedom of expression) of the counsellors and the two women who had joined their application.[129] Specifically, the majority cited the fact that the injunction would apply even to those cases that may meet the *X* threshold for a lawful abortion as creating the volitation.[130] The timing of the judgment was vital as it was issued the day before the final Oireachtas debate on the wording of the Fourteenth.[131] This, combined with the decision itself, was powerful in

[126] See Catriona MacKenzie, Wendy Rogers, and Susan Dodds on how laws intended to ameliorate vulnerabilities can, if they are regressive and undermining of the agency of vulnerable subjects, result in the creation of pathogenic vulnerabilities. In *MacKenzie, Rogers, and Dodds* (n 20) 9.
[127] *Open Door and Well Woman v Ireland*, Application no. 14234/88; 14235/88 (European Court of Human Rights, 29 October 1992).
[128] Denis Coghlan and Sean Flynn, 'Cabinet split on revision of EC Protocol' *The Irish Times* (Dublin 25 March 1995) 1; Sean Flynn, 'Limited right to abortion information conceded' *The Irish Times* (Dublin, 25 March 1992) 3.
[129] Renagh Holohan, 'Right to abortion information upheld' *The Irish Times* (Dublin, 16 May 1991) 2; Teresa Blake, 'European court may show flexibility in abortion information case' *The Irish Times* (Dublin, 22 May 1991) 10; For a further discussion see p. 360-362.
[130] *Open Door* (n 127) para. 73.
[131] The Fourteenth Amendment of the Constitution Bill 1992 was introduced on the 15 October 1992, the decision from the European Court of Human Rights was issued on the 29 October 1992, and the final Oireachtas debate to

discursive spaces as it bolstered the claims of reform advocates that information restrictions were not protective. Rather, they were contrary to realising the human rights of abortion seekers and sharers.[132] The Article 10 violations created under this oppressive framework should be remedied through the passing of the Fourteenth and the State re-establishing non-directive counselling and information services.

The second judgment was the Supreme Court's refusal to lift the *Open Door* injunction.[133] The majority ruled that as a court of final appeal, the Supreme Court did not have jurisdiction to amend such an order unless there was a mistake or fraud involved.[134] Instead, the High Court should review the injunction in the context of the Fourteenth and the *X* case. The decision seemed to indicate, like with Morris J. in *Grogan*, that the Irish courts would adjudicate abortion information cases cautiously. Legislation would potentially be required to guide the courts away from their conservative precedents now that the electorate had arguably endorsed a more liberal information regulation framework. A further notable aspect of this case was that alternative perspectives were present in the judgment. Constitutions are 'living' documents that change with legal and social developments, and this did impact how some legal actors considered the divisions between harmful/benign speech and speech and conduct.[135] Counsel for SPUC argued against the lifting of the injunction until there

approve the text of the Fourteenth Amendment took place on the 30 October 1992. See Houses of the Oireachtas 'History of this Act' < https://www.oireachtas.ie/en/bills/bill/1992/26/ > accessed 12 January 2023.

[132] For examples of legislators arguing these points see Seanad Éireann debate, Friday 30 October 1992, vol 134, no 8.

[133] *Attorney General (at the relation of The Society for the Protection of Unborn Children) v Open Door Counselling Limited and Dublin Wellwoman Centre Limited (No. 2)* [1994] 2 IR 333, 336.

[134] *Open Door Counselling* ibid 334; The majority judges were Finlay CJ, Hederman, Egan and Blayney JJ.

[135] Quote from Fiona de Londras and Máiréad Enright, *Repealing the 8th: Reforming Irish abortion law* (Policy Press 2018) 15, 19, 36.

was legislation in place to guide the boundaries of permissibility of the Fourteenth. Otherwise, the 'unborn' would 'suffer' and protections for their right to life should take 'precedence' over realising information freedoms.[136] SPUC's previous ally, the AG, disagreed with them and instead affirmed that Constitutional rights were not contingent on there being active guiding legislation. It would be lawful for the court to discharge the injunction.[137] Agreeing with the AG was a dissenting judge: Denham J. She stated that the Supreme Court had a 'duty to act' and needed to remove the injunction to vindicate the freedoms in the Thirteenth and Fourteenth Amendments.[138] Her judgment was notable because she recognised that vulnerabilities can be politically, legally and socially produced:

> …basic information alone will enable the economically and socially advantaged to travel. However, assistance may be essential to persons who are economically and socially deprived. A person who has no means and is socially deprived or intellectually disadvantaged, maybe unable to travel even if given information…this creates inequality between those who are economically and socially advantaged and those who are not. Restrictions on the provision of assistance to a disadvantaged person may result in their inability to exercise a constitutional right.[139]

[136] *Open Door* (n 133) 336.
[137] *Open Door* (n 133) 336.
[138] *Denham J. in Open Door* (n 133) 351, 354 and 357.
[139] *Denham J. in Open Door* (n 133) 354

The court should have removed the injunction to prevent the worsening of these disadvantages and to ensure that the constitutional rights of abortion seekers were not set at 'nought'.[140] Denham J. evidenced how the foregrounding of the vulnerabilisation of pregnant people created spaces in which people could engage critically with the dynamics between law, information and hardship. These arguments then were, to return to Munro and Scoular powerful and persuasive ways of advocating for change.[141]

The 1995 Act was not the first attempt at legislating for the Fourteenth. A Labour Party Minister for Health, Brendan Howlin, drafted a Bill. I could not find a copy, but media reporting around it indicated that Howlin was required to balance his own party's pro-information reform stance with the restrictive commitments given by Fianna Fáil at the time of the referendum.[142] According to newspaper articles, the Bill would have allowed pregnancy counselling and information services to share information about abortion services abroad. Surrounding these lawful information exchanges would be service and management-style approaches to abortion assistance that continued to frame abortion as the least favourable option and would encourage the continuation of pregnancy. The Bill would have mandated that information providers detail 'the possible hazards and other consequences of abortion' to abortion seekers before any clinic details.[143] Sustaining the paternalistic justifications of previous iterations of information control, this requirement was again couched as being necessary to protect vulnerable abortion

[140] *Denham J. in Open Door* (n 133) 357-368.
[141] *Munro and Scoular* (n 20) 191.
[142] The Minister for Health Brendan Howlin (Labour) in Denis Coghlan, 'Charity can become scarce when seats and power are at stake' *The Irish Times* (Dublin, 10 March 1994) 12.
[143] Deaglán de Bréadún, 'FF-Labour agreement to speed pace of change' *The Irish Times* (Dublin, 5 December 1994) 7.

seekers.[144] It would be as if the 'magical efficacy' of that speech, to quote from Butler, could be dispelled or neutralised through this additional information.[145] Abortion seekers would internalise pro-continuation of pregnancy messages so that they could self-govern and adhere to idealised norms by rejecting abortion.[146] This would also protect foetal rights to life. Where the Bill diverged from previous Fianna Fáil promises was that it would have permitted pregnancy services to make appointments and travel arrangements with abortion providers on behalf of their patients/clients.[147] The reported reason for this change reflected Denham J.'s judgment in *Open Door*: not allowing for assistance may violate the freedoms to travel (the Thirteenth Amendment).[148] Information under this Bill would have served the dual goals of ameliorating vulnerabilities by helping people to access safe abortion services while attempting to reduce the number of people choosing abortions on the basis that the continuation of pregnancy was in the best interests of pregnant people. Before the Bill could progress, however, the government collapsed.[149]

The 1995 Act was passed by the Rainbow Coalition government (Fine Gael-Labour-Democratic Left). Its members were generally supportive of information reforms. However, the 1995 Act was conservative, and its terms treated regulated information as if it were 'toxic'.[150] The 1995 Act permitted the sharing of information that could facilitate

[144] For a discussion of this approach and vulnerable subjects see *Miller* (n 16) 28.
[145] *Butler* (n 3) 22, 110.
[146] See *FitzGerald* (n 77) 280.
[147] Maol Muire Tynan, 'Abortion Bill Will Not Outlaw Referrals' *The Irish Times* (Dublin, 3 November 1994) 1.
[148] *Tynan* ibid; See *Denham J. in Open Door* (n 133) 354, 357-368.
[149] The government fell due to the Brendan Smyth abuse controversy. See Harry McGee 'Coalition in power two years when Smyth row erupted' *The Irish Times* (Dublin, 15 March 2010) 7; *Smyth* (n 11).
[150] Quote from Niall Behan (IFPA) in Ellen Coyne, ''No plans' to scrap abortion information law' *The Times* (London, 29 October 2015); See also *Amnesty International* (n 125) 72.

a person to access an abortion abroad – termed 'Act information'[151] - in media sources, at public meetings and in pregnancy consultations.[152] Information providers were required to abide by several conditions for those communications to be lawful. Sharing Act Information was unlawful if accompanied by the 'advocacy or promotion of the termination of pregnancy',[153] or if the information was not 'truthful and objective'.[154] Those imparting information as part of pregnancy services had the additional responsibility to 'fully inform the woman of all the courses of action that are open to her in relation to her particular circumstances'.[155] These professional or volunteer service providers were also prohibited from making appointments or travel arrangements on behalf of abortion seekers.[156] These interventions may have seemed beneficial in terms of addressing the stigmatisation and the widespread mis/disinformation about abortion that flourished under an anti-abortion regulatory framework. However, as Finlay CJ. had noted in *Open Door*, the legislature could denote the boundaries of permissibility for information-sharing in a more open way than the Supreme Court had.[157] An adherence to 'paternalistic logics' around abortion seekers, and commitments to foetal protection, foreclosed transformative or liberatory reforms with abortion continuing to be framed as the harmful, least desirable option.[158] The Minister for Health Michael Noonan placed the 1995 Act as part of a package of law, research and education through which the State would work towards 'minimising the circumstances in which such high numbers of

[151] Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995, s 2.
[152] Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995, ss 3 and 5.
[153] Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995, s 3(1)(II)(b) and ss 5(a) and 5(b)(iii).
[154] Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995, s 5(b)(iii).
[155] Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995, s 5(b)(iii).
[156] Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995, s 8.
[157] *Finlay CJ* in *Attorney General (at the relation of The Society for the Protection of Unborn Children) v Open Door Counselling Limited and Dublin Wellwoman Centre Limited* [1988] IR 593, 625.
[158] Quote from *Butler, Gambetti and Sabsay* (n 98) 2.

women seek to have abortions'.[159] Even Democratic Left - who would later advocate for 'safe, legal' abortion - held the view that it should also be 'rare'.[160] Where they differed from more conservative legislators was that the government believed the key to reducing abortions was information provision, not information suppression.

Butler, Gambetti and Sabsay described how paternalism is often regarded as the site of action. In contrast, vulnerability is that of 'victimization and passivity'.[161] The agency of those considered to be vulnerable by the State is suspect or insecure, driving justifications for legal interventions.[162] The 1995 Act was reflective of this perspective. The role of information was to address assumed insecure, crisis, isolated or under/misinformed abortion decision-making.[163] A person who did not know the risks that she was placing herself under when she opted for abortion was the targeted subject.[164] The strategies initiated by the 1995 Act expanded State control and management over information provision, rather than addressing abortion criminalisation and censorship as the causes of injustice, inequality and oppression. In the Oireachtas, legislators frequently described abortion seekers in such terms. For example, Senator Louis Belton said their 'minds are not their own when they are going through a time of

[159] The Minister for Health Michael Noonan (Fine Gael) Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; See also debates in Dáil Éireann debate, Tuesday 7 March 1995, vol 450, no 2 and Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Department of Health, 'A Guide to the Regulation of Information (Services Outside the State For Termination of Pregnancies) Bill, 1995' (Department of Health February 1995) 1; 'Bill's objective is to clarify legal entitlements' *The Irish Times* (Dublin, 24 February 1995) 7.
[160] Quote from Democratic Left, *Crisis Pregnancy: prevention and termination* (Democratic Left 1998) 2; Richard Balls, 'Urgent action sought on crisis pregnancies' *The Irish Times* (Dublin, 26 May 1998) 3.
[161] *Butler, Gambetti and Sabsay* (n 98) 1.
[162] *Brown* (n 20) 313.
[163] For some examples of this framing in the Oireachtas see Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7.
[164] For discussions of abortion 'regret' Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8.

crisis'.[165] Non-directive counselling would not only be permitted, but 'full counselling' on 'all the available options' would be required of pregnancy service providers before they could share information about abortion services abroad.[166] Deputy Monica Barnes described this approach as '…the opportunity to consult an impartial, skilled, professional person who will give them information from which they will be able to get enough knowledge and support to stop them choosing the option of abortion.'[167] The risk otherwise would be, according to Deputy Liz McManus, that pregnant people would make an 'ill-considered decision' to have an abortion due to a lack of information.[168] The 1995 Act would deflect any 'threat' by neutralising the persuasive effect of assistive abortion information.[169] By grounding this requirement in protective arguments, the government were engaged in what vulnerability scholars recounted as the objectifying and generalising of vulnerable subjects in law and service provision.[170] The specific wants or needs of the individual abortion seeker were irrelevant to this requirement reflecting FitzGerald's analysis that interventions targeting vulnerable subjects can be instrumentalised for exclusion, rather than participation and equality.[171] By making

[165] Senator Louis Belton (Fine Gael) Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7.
[166] The Minister for Health Michael Noonan (Fine Gael) Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; An Roinn Sláinte, 'Explanatory Memo' (Feabhra 1995) < https://data.oireachtas.ie/ie/oireachtas/bill/1995/8/eng/memo/bills1995-10882-02.pdf > accessed 16 January 2023.
[167] Deputy Monica Barnes (Fine Gael) Dáil Éireann debate, Thursday 22 October 1992, vol 424, no 2. See also Department of Health, *A Guide to the Regulation of Information (Services Outside the State For Termination of Pregnancies) Bill, 1995* (Department of Health February 1995) 1; Democratic Left, Lifting the Veil: Crisis Pregnancies and the Need for Research (Democratic Left 1995) 12.
[168] Deputy Liz McManus (Democratic Left and later the Labour Party) Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1.
[169] See Judith Butler on the dispelling of threats in language in *Butler* (n 3) 2, 12, 22, 116.
[170] Sturla J. Ståsett, The Ethics of Vulnerability, Social Inclusion and Social Capital' (2007) 34(1) Forum for Development Studies 45; *Athanasiou* (n 21) 271; *FitzGerald* (n 77) 185, 278-279; *Miller* (n 16) 28.
[171] *FitzGerald* (n 77). See also *Mahon, Conlon and Dillon* (n 1) 237, 242, 287-296, 301-307; For later accounts of abortion seekers being required to receive information that they were not interested in see Saoirse Nic Gabhainn and Vivienne Batt (prepared by Maureen Gilbert), *Crisis Pregnancy Counselling in Ireland*, (Crisis Pregnancy Agency, July 2004) Report no 4, 21; Ruth Fletcher, Richie Keane, Mark Murphy and Veronica O'Keane, *Submission to the United Nations Human Rights Committee for Ireland's review under the International Covenant on Civil and Political Rights* (12 June 2014) 24 < https://doctorsforchoiceireland.files.wordpress.com/2013/04/dfc_submission_unhrc_iccpr_final_june2014.pdf > 18 March 2023.

'alternatives' information provision mandatory, the 1995 Act assumed the abortion seeker to not be in possession of enough information for her to act as expected for a 'responsible' citizen i.e., to continue her pregnancy.[172] That way abortion seekers could, to again quote from the Oireachtas debates, be 'braver' and realise it was 'not the end of the world' if they continued with their pregnancies.[173] As most abortion seekers travelled directly to abortion services abroad, the government hoped that the 1995 Act would result in people undergoing counselling as part of their information-seeking process.[174]

Paternalistic logics continued through the 1995 Act's extension of prohibitions on the advocation or promotion of abortion when 'Act information' was being shared in the public domain or in pregnancy consultations.[175] Grainne's example above illustrated how this prohibition was silencing and impeding of care, not protective.[176] Despite this effect, the prohibition was included in the 1995 Act on the basis that it would affirm the integrity of a person's abortion decision-making process. The government rationale reflected Butler's accounts of how speech can be construed as inflicting injury upon a person as a form of conduct or force.[177] Speech could also contract the listener, even if

[172] Quote from *Munro and Scoular* (n 20) 203; See also *FitzGerald* (n 77) 280; The Minister for Justice Michael Noonan (Fine Gael) Seanad Éireann debate, Tuesday, 14 March 1995, vol 142, no 8; *Coyne* (n 150).
[173] 'Braver' quote from Senator Ann Gallagher (Labour Party) Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; 'not the end of the world' quote from Deputy John Browne (Fine Gael) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3.
[174] Minister for Justice Michael Noonan (Fine Gael) in Dermot Kelly and Michael O'Regan, 'Minister says few referred for abortions by professionals' *The Irish Times* (Dublin, 2 March 1995) 9; The Minister for Health Michael Noonan (Fine Gael) Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4 and Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8.
[175] Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995, s 3(1)(II)(b) and ss 5(a) and 5(b)(iii).
[176] *Amnesty International* (n 125).
[177] See Judith Butler on speech and the infliction of injury in *Butler* (n 3) 11, 66, 71-72, 123-124.

that was not the intention of the speaker.[178] Noonan's contributions evidenced this perspective and perpetuated the framing of non-directive or pro-choice information sharers as being suspect.[179] He described advice in terms connoting pressure, coercion or manipulation e.g., 'to force the decision', 'push an option' and to 'impress upon'.[180] There was, he claimed, 'no doubt' that pregnant people would be influenced in such conversations.[181] It was as if, to echo Butler, that the speaking of this information was part of performing the abortion act itself against 'defenceless' foetal life.[182] Instead, all an information provider could do under the 1995 Act was to 'starkly' describe the circumstances and options.[183] For an example of what this meant in practice the AG outlined that a 'doctor cannot advise that the woman have a termination, but he can say that she will die without a termination.'[184] This was such a fine line that opposition legislators attempted to remove criminal penalties for doctors advising or assisting their patients based on what the doctors believed was best medical practice. Noonan rejected their attempts and compared it to making lawful advice in favour of other potential acts of violence – a domestic violence survivor killing their abuser or euthanasia – to emphasise the undesirability of anyone recommending abortion as an

[178] *Butler* (n 3) 20, 84, 113-115.
[179] See also s 7 of the 1995 Act which prohibited financial relationships between information services and abortion clinics abroad. This was to ensure that no one could make more money from directing people to abortion services than they would from referring people to pregnancy services.
[180] The Minister for Health, Michael Noonan (Fine Gael), Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4; Dáil Éireann debate, Friday 10 March 1995, vol 450, no 5; Seanad Éireann debate, Tuesday, 14 March 1995, vol 142, no 8.
[181] The Minister for Health Michael Noonan (Fine Gael) Seanad Éireann debate, Tuesday 14 March 1995, vol 142 no 8.
[182] *Butler* (n 3) 11, 21-22.
[183] Quote from the Minister for Justice Michael Noonan (Fine Gael) Dáil Éireann debate, Friday 10 March 1995, vol 450, no 5. See also Dáil Éireann debate, Thursday, 9 March 1995, vol 450, no 4; Seanad Éireann debate, Tuesday, 14 March 1995, vol 142, no 8; For a discussion of the speech and conduct distinction Butler (n 3) 20-24, 101, 110-112.
[184] *In the matter of Article 26* (n 38) 17 S.C.

option.[185] Abortion would be treated under the 1995 Act as a harmful, criminalised, intervention that the law needed to guard against.[186]

The prohibition on assistance with appointment-making and travel arrangements further evidenced how caring, protective arguments can be used by their advocates to justify and cloak regressive, manipulative, coercive legal regulations.[187] Noonan described this break in the continuity of care as a 'cooling off period' or a period of 'reflection'.[188] The strategy here was that by preventing professionals from communicating with each other on behalf of a client, it would force an abortion seeker to leave a counselling session and make their own appointments, slowing abortion travel. In the gap, the government hoped that the assumed crisis of the abortion seeker would abate and that she would receive the information and support that would convince her to remain pregnant.[189] This prohibition applied even to those who may have met the *X* case criteria and wanted to travel abroad for an abortion. Noonan insisted that augmenting the time between counselling and appointment-making was 'best counselling practice'.[190] To allow

[185] The Minister for Health Michael Noonan (Fine Gael) Dáil Éireann debate, Thursday, 9 March 1995, vol 450, no 4.
[186] See government statements in Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Seanad Éireann debate, Tuesday, 14 March 1995, vol 142, no 8.
[187] s 8; For theory see in particular *Butler, Gambetti and Sabsay* (n 98) 5; *Sabsay* (n 16) 281.
[188] Quotes from The Minister for Health Michael Noonan (Fine Gael) in Carol Coulter, 'Long wait for the Bill born of the "X" Case' *The Irish Times* (Dublin, 24 February 1995) 7; Dáil Éireann debate, 9 March 1995, vol 450, no 4; Seanad Éireann debate, 14 March 1995, vol 142, no 8. See also Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; The Attorney General in *In the matter of Article 26* (n 38) 17 S.C.
[189] Section 5 was the section that the government would be most impactful in terms of reducing abortion numbers. See the Minister for Health, Michael Noonan (Fine Gael) Seanad Éireann debate, Tuesday 14 March 1995, vol 142 no 8.
[190] The Minister for Health, Michael Noonan (Fine Gael) Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Seanad Éireann debate, Tuesday, 14 March 1995, vol 142, no 8. For opposition to the criminalisation of appointment-making, referrals and advising, especially for those who met the *X* case criteria see the debates in Dáil Éireann debate, Tuesday 7 March 1995, vol 450, no 2; Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Dáil Éireann debate Thursday 9 March 1995, vol 450, no 4; Dáil Éireann debate, Friday 10 March 1995, vol 450, no 5; Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8.

appointment-making, even if it was according to the wishes of the pregnant person, would be akin to directive counselling.[191] These protective claims were shallow however as government members contradicted their framings to justify mandatory refusals of assistance. Abortion seekers were vulnerable to the extent that they needed to be protected in law against their own impressionable decision-making. Yet, they were also, to quote Deputy Frances Fitzgerald, 'sufficiently adult to make the telephone call him or herself'.[192] They were simultaneously vulnerable and resilient.[193] Where the lines were drawn in the 1995 Act was that when a protective intervention served abortion reduction aims, it was permitted on the basis of serving the wants and needs of vulnerable subjects. When actions were too directly helpful, they were instead prohibited on the basis that abortion seekers were not harmed and had the requisite agency to realise their own goals. Vulnerability was, therefore, not used as an inducement in the 1995 Act to consider how best to meet the needs of abortion seekers according to abortion seekers. Instead, the 1995 Act continued to exclude those who did not act according to State norms, from State protection or facilitation in law.[194]

The prohibition on appointment-making was an example of a class of interventions created to address vulnerabilities that fall into the domain of, to use Mackenzie's

[191] The Minister for Health Michael Noonan (Fine Gael) Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8.
[192] Deputy Frances Fitzgerald (Fine Gael) Dáil Éireann debate, Thursday 2 March 1995, vol 450 no 1; See also the Minister for Health Michael Noonan (Fine Gael) Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8.
[193] For discussions around duality and vulnerability see *Ahiska* (n 24) 211; *Butler, Gambetti and Sabsay* (n 98) 5; For a discussion of resilience see Sarah Bracke, 'Bouncing Back: Vulnerability and Resistance in Times of Resilience' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in Resistance* (Duke Press 2016) 52, 62, 68.
[194] For exclusion and vulnerability see *FitzGerald* (n 77).

descriptor, 'coercive interference'.[195] The 1995 Act's privileging of the anti-abortion position at the expense of the abortion seekers that the government claimed that they were protecting was further evidenced in legislative omissions. Pregnancy services or information provided by those who did not share 'Act information' were not regulated under the 1995 Act. That means that despite Noonan's emphasis on safeguarding decision-making, he confirmed that 'counselling can direct away from but not towards the option of abortion.'[196] While he stated that it was not the 'professional function' of doctors to promote a particular option, this did not apply in law for those advocating for the continuation of pregnancy.[197] Non-directive and directive anti-abortion service providers were also free to make appointments and travel arrangements on behalf of clients/patients with parenting, adoption or fostering organisations.[198] As a person deciding against abortion was the preferred outcome for the State, the 1995 Act did not guard against it.[199] Any potentially persuasive, influential or coercive counselling or information provision had not reached the threshold of necessitating criminalisation under the 1995 Act. Noonan attempted to justify this orientation as being respectful of the wishes of pregnant people who did want to be advised and assisted on remaining pregnant.[200] They only needed to be protected from abortion. Any pregnant people who chose differently could not be advised or assisted more directly by their medical

[195] Catriona Mackenzie, 'The Importance of Relational Autonomy and Capabilities for an Ethics of Vulnerability' in Catriona Mackenzie, Wendy Rogers, and Susan Dodds (Eds.) *Vulnerability: New Essays in Ethics and Feminist Philosophy* (Oxford University Press 2014) 33, 47.
[196] The Minister for Health, Michael Noonan (Fine Gael) Seanad Éireann debate, Tuesday 14 March 1995, vol 142 no 8.
[197] The Minister for Health Michael Noonan (Fine Gael) Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8.
[198] The Minister for Health, Michael Noonan (Fine Gael) Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7.
[199] See Judith Butler on how language can derail or defuse threats in *Butler* (n 3) 12.
[200] The Minister for Health Michael Noonan (Fine Gael) Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8.

practitioners or counsellors until they had made their appointments. The implication here being that their deviance from pregnancy expectations had rendered them unworthy of assistance or legitimisation in law. The omission found favour among more conservative anti-abortion legislators who, like Senator Ann Ormonde, wanted information providers to do 'everything possible' to convince a person to continue their pregnancy including alternatives information provision and directive pregnancy counselling.[201]

The power of arguments invoking the need to protect vulnerable people was apparent in the lack of opposition that the 1995 Act generated from pro-reform sources. Most legislators aligned with the view that the number of people travelling for abortions was too high and the 1995 Act was an acceptable method of ensuring the conditions through which information provision could divert people away from choosing abortion. To quote Deputy Pádraig McCormack, all legislators were 'working towards the same aim', i.e., reducing the number of people choosing abortion.[202] While several legislators had hoped the 1995 Act would allow for some forms of assistance, only members of the Progressive Democrats were critical and attempted to amend the legislation to make it more liberal.[203] Even their contributions were tempered by political and legal pragmatism and their pro-abortion minimisation stance.[204] For example, some

[201] Senator Ann Ormonde (Fianna Fáil) Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; See also Deputy Rory O'Hanlon (Fianna Fáil) Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Deputy Matt Brennan (Fianna Fáil) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3.
[202] Deputy Pádraig McCormack (Fine Gael) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3.
[203] See Deputy Liz O'Donnell (Progressive Democrats) lamenting 'the dearth of liberal voices' criticising the 1995 Act in the Oireachtas. In Dáil Éireann debate, Friday 10 March 1995, vol 450, no 5.
[204] For an example see Deputy Helen Keogh (Progressive Democrats and later chair of Well Woman) Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Dáil Éireann debate, Friday 10 March 1995, vol 450, no 5.

legislators argued against the prohibition on appointment-making on the basis that it may dissuade people from engaging with counselling, depriving them of 'alternatives' counselling.[205] Outside of the Oireachtas, pro-reform advocates also expressed the paternalism of abortion reduction strategies to bolster support for the 1995 Act so that non-directive counselling services would be protected.[206] One of the areas in which pro-reform and pro-censorship advocates agreed was that fewer abortions meant better outcomes for pregnant people.[207] Where people differed, however, was the percieved benefits of the 1995 Act on foetal right to life protections.

Smyth recalled that under the Eighth Amendment, pregnant people were denied decisional agency as they were threats to foetal life.[208] I discussed how this duality was present in the *Open Door* and *Grogan* cases, where pregnant people were seen in anti-abortion arguments as being a vulnerable subject and vulnerabilising actor.[209] Their rights were interpreted by the courts as being inferior to foetal rights to life, until the Supreme Court *X* decision. The 1995 Act did not challenge these framings; it reaffirmed and perpetuated them. Noonan was reported to have attributed finding the correct division between foetal rights to life and the freedom to access and share abortion clinic information as the cause of initial drafting difficulties.[210] Vindicating foetal rights to life

[205] For examples see Deputy Joan Burton (Labour Party) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Senator Mary Henry (Independent) Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7.
[206] For examples see Pádraig O'Moráin, 'Many women 'happy after abortion'' *The Irish Times* (Dublin, 26 October 1992) 6; Catherine Cleary, 'Number seeking abortions in UK was highest so far' *The Irish Times* (Dublin, 17 January 1995) 2; Paul Cullen, 'Civil rights, women's groups warn on abortion Bill impact' *The Irish Times* (Dublin, 28 February 1995) 3; Trish Hegarty, 'GPs to meet on pregnancy counselling request' *The Irish Times* (Dublin, 10 March 1995) 7
[207] See for example Deputy Máire Geoghegan-Quinn (Fianna Fáil) who claimed that everyone wanted abortion numbers to be reduced regardless of whether they were pro-choice or anti-abortion.
[208] *Smyth* (n 11) 80.
[209] See *Open Door* discussed at p. 136-137.
[210] The Minister for Health Michael Noonan (Fine Gael) Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; See also Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4; Seanad Éireann debate, Tuesday 14 March 1995, vol 142 no 8.

meant that the 1995 Act could not lean 'too much' in favour of the rights of the 'mother'.[211] So as 'extraordinary sympathetic' as the government was to the plight of abortion seekers, the Eighth meant that they could not be 'neutral' on abortion.[212] The barriers to care created by the 1995 Act were intended to affirm and realise those foetal rights to life.[213] Noonan even described the rights and freedoms in 40.3.3° as 'competing' with each other.[214] Foetal rights would be afforded a privileged status as, according to Noonan, the State had greater 'responsibility' and 'absolute obligation' to vindicate rights.[215] With freedoms, all the State had to do was ensure that citizens could avail of them. This is why Noonan refused the amendments proposed by opposition legislators to allow doctors to advise abortion or to arrange appointments with clinics if they felt it best or in *X* case circumstance. Such permissions could allow doctors to 'do any act, make any arrangement, give any advice or say anything' and this would violate foetal rights to life, especially in the absence of legislation denoting the boundaries of permissibility of the *X* decision.[216] The 1995 Act permitted the lawful sharing of

[211] The Minister for Health Michael Noonan (Fine Gael) Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Seanad Éireann debate, Tuesday 14 March 1995, vol 142 no 8.
[212] Amendment no 1 was introduced to declare it lawful for a counsellor or doctor to aid or advise to a person who qualified for an abortion under *X*. See Deputy Liz O'Donnell (Progressive Democrats) Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4; Dáil Éireann debate, Friday 10 March 1995, vol 450, no 5; Amendment no 2 was introduced to permit any advice if it was based on what a medical practitioner believed to be in the 'best interests' of their patient. See Deputy Liz O'Donnell (Progressive Democrats) Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4; Amendment no 2 in the Seanad had the same purpose as O'Donnell's Amendment no 2. See Senator Cathy Honan (Progressive Democrats) Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8; Amendment 15 was introduced to remove all criminal sanctions from the 1995 Act, apart from those on unsolicited, public and home advertising. See Deputy Liz O'Donnell (PDs) Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4.
[213] For examples of this discussion see the Minister for Health Michael Noonan (Fine Gael) Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Seanad Éireann debate, 14 March 1995, vol 142, no 8; Also, Deputy Jim O'Keeffe Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; The Attorney General in *In the matter of Article 26* (n 38) 16 S.C.
[214] Quote from the Minister for Health Michael Noonan (Fine Gael) Dáil Éireann debate, Friday 10 Mar 1995, vol 450, no 5; Also, his comments in Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4.
[215] The Minister for Health Michael Noonan (Fine Gael) Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4; Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8.
[216] This quote was in response to Senator Cathy Honan's (Progressive Democrats) amendment no 2. Noonan stated that while there was a constitutional right to have an abortion under the *X* decision, doctors did not have a right to

information about abortion services abroad, however foetal rights protections remained a powerful source of limitation on its transformative and liberatory potential.

The 1995 Act fell far short, however, for those who opposed the Fourteenth on foetal protection grounds and who wanted to maintain pre-existing categories of un/lawful information-sharing.[217] In their view, facilitative information should have remained unlawful as it was a form of referral and the government in 1992 had promised that referral would not be lawful under the Fourteenth.[218] Furthermore, information was not needed to vindicate Thirteenth Amendment travel freedoms as there was no right to have an abortion abroad.[219] To support these arguments, anti-abortion campaigners and legislators continued to use dualistic arguments relating to abortion seekers.[220] In terms of information provision increasing the threat posed to vulnerable foetal subjects, Brendan Shortall (Pro-Life Campaign) referred to some abortions as being for 'reasons of convenience'.[221] As they believed abortion to be a form of abuse against 'defenceless' and 'innocent' humans, they opposed any legalisation of information that could assist people to access abortion services.[222] This framing was accompanied by the persistent pro-censorship argument that abortion was a harmful intervention

provide them and by extension, no such right to provide information, advice and assistance on that basis. In Seanad Éireann debate, 14 March 1995, vol 142, no 8; Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4.

[217] See Judith Butler on conduct, speech and pre-existing histories of linguistic freedoms. In *Butler* (n 3) xvi, 20-24, 101, 110-112.

[218] Catherine Foley, 'Youth Defence marchers refer to comparisons with Hitler' *The Irish Times* (Dublin, 6 March 1995) 4.

[219] William Binchy (PLC), 'Bill facilitates abortions as long as they are not on Irish soil' *The Irish Times* (Dublin, 2 March 1995) 14

[220] *Ahiska* (n 24) 211.

[221] Brendan Shortall (PLC advisor) 'Abortion law conflicts with established medical ethics' *The Irish Times* (Dublin, 23 May 1995) 14.

[222] Quote from Ethne M Cotter, 'Abortion Information and Truth' *The Irish Times* (Dublin, 17 June 1995) 13; See also Liam O'Connell (Reverend) 'Abortion information Bill' *The Irish Times* (Dublin, 16 March 1995) 15; Eoghan O'Raghallaigh, 'Abortion debate' *The Irish Times* 7 June 1995, 13.

provided by profit-driven, immoral or misinformed people who encouraged women, to quote Archbishop Desmond Connell, find 'peace' through abortion.[223] Vulnerable pregnant people needed to be protected from it through barriers to information access.[224] This was particularly so for those who were under the age of 18.[225] The Pro-Life Campaign even described the 1995 Act as being 'contemptuous of women's true interests' .[226] Making information available about how and where abortions could be accessed abroad was, in their minds, directive and causative.[227] It negated abortion criminalisation by essentially providing abortion service 'by the back door'.[228] Critics described the 1995 Act in terms connoting great danger and immorality including encouraging cigarette smoking, weapons, drugs, euthanasia, facilitating a Holocaust and 'aiding and abetting in murder'.[229] Instead, the government should have adopted

[223] Andy Pollak, 'Abortion Bill providing a price list for death, says Archbishop' *The Irish Times* (Dublin, 5 June 1995) 6.
[224] Mary Kennedy (Irish Family League) 'Letters to the editor' *The Irish Times* (Dublin, 14 March 1995) 13; 'Bishops see Supreme Court ruling in the X case to be a corruption of the law' *The Irish Times* (Dublin, 1 July 1995) 8.
[225] For this argument in the Oireachtas see Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8.
[226] Pro-Life Campaign statement in Trish Hegarty, 'Group seeks withdrawal of information on abortion Bill' *The Irish Times* (Dublin, 27 February 1995) 4; See also the comments of opponents of the 1995 Act on the basis of protecting pregnant people from abortion in *Coulter* (n 88).
[227] For examples of this argument see Deputy Noel Ahern (Fine Gael) Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Deputy Denis Foley (Independent) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Uinsionn MacDughghaill, 'Ministers to discuss crisis pregnancies' *The Irish Times* (Dublin, 12 February 1994) 11; Maol Muire Tynan and Carol Coulter, 'Abortion critics, supporters assail information Bill' *The Irish Times* (Dublin, 24 February 1995) 7; See Judith Butler on speech and causation in *Butler* (n 3) xvi, 23, 124.
[228] Quote from Deputy Patrick Harte (Fine Gael) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; For more examples from the Oireachtas see the debates in Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1, Dáil Éireann debate, Tuesday 7 March 1995, vol 450, no 2; Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Seanad Éireann debate, Monday 13 March 1995, Vol 142, no 7; For outside the Oireachtas see 'UUP claims Northern majority opposes abortion' *The Irish Times* (Dublin, 8 March 1995) 6; 'Letters to the Editor' *The Irish Times* (Dublin, 14 March 1995) 13; Ciaran Craven (Doctors for Life) in *Dully* (n 27) 57.
[229] Quote from Rory O'Hanlon (Opus Dei member, former High Court and president of the Law Reform Commission) in Carol Coulter, 'Divorce referendum is another milestone to a secular state, says judge' *The Irish Times* (Dublin, 25 September 1995) 4; For criticism from legislators see the debates in Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4; Seanad Éireann debate, Monday 13 March 1995, Vol 142, no 7; For outside the Oireachtas see 'Text of Statement by O'Hanlon on Abortion Information Bill' *The Irish Times* (Dublin, 1 March 1995) 3; Frank McNally and John Maher, 'Pressure failed to sway them say FB, Labour TDs' *The Irish Times* (Dublin, 6 March 1995) 4; Andy Pollak, 'Abortion opponents to continue lobby of FG' *The Irish Times* (Dublin, 6 March 1995) 4; Frans Frison, 'Abortion Information Bill' *The Irish Times* (Dublin, 13 April 1995) 17; Patrick Reidy, 'Abortion Information Bill' *The Irish Times* (Dublin, 22 April 1995) 13; Paul O'Neill, 'Abortion and Two Kinds of Law' *The Irish Times* (Dublin, 19 May 1995) 15; Gerry Ginty (Town councillor for Sinn Féin and Independent), 'Abortion law is 'abominable'' *The Irish Times* (Dublin, 25 May 1995) 4; Mary Lucey (SPUC), 'Abortion Information' *The Irish Times* (Dublin, 20 June 1995) 13;

what these proponents regarded as a benevolent, caring, protective approach. A critical component of this suggestion involved the continued criminalisation of assistive abortion information-sharing.[230] Only information that they considered to be factual – what an abortion was and its side effects, including 'post-abortion syndrome' – should be permitted to be disseminated in law.[231] Mandatory pro-birth and anti-abortion counselling formed part of this strategy,[232] as did continued censorship of assistive or counterhegemonic information sources.[233] The benefit of this would be that once abortion seekers heard about abortion from the anti-abortion perspective, they would decide against it. By failing to adhere to this more extreme anti-abortion instrumentalisation of information, the government were violating, to quote Senator Don Lydon, the 'ethical imperative' to protect the vulnerable subjects by more 'actively' dissuading people from choosing abortion.[234] The next strategy adopted by the State to address the number of people who chose abortion partially incorporated these anti-

'Leading judge condemns Abortion Information Act' *The Irish Times* (Dublin, 10 July 1995) 4; *Coulter* (n 88); *Shortall* (n 221).

[230] For examples of opposition to the 1995 Act on the basis that it facilitated abortions see Dáil Éireann debate, Tuesday 7 March 1995, vol 450, no 2; Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8; Irish Bishops Conference in ''Information' means aiding in abortion, says bishops' *The Irish Times* (Dublin, 9 March 1995) 8; *Lucey* ibid

[231] For examples of this argument in the Oireachtas see debates in Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Dáil Éireann debate, Tuesday 7 March 1995, vol 450, no 2; Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; For examples of this argument outside of the Oireachtas see 'Councillors call for a referendum on abortion' *The Irish Times* (Dublin, 7 October 1994) 2; Des Hanafin (Pro-Life Campaign), 'Abortion assistance is the same as referral' *The Irish Times* (Dublin, 28 October 1994) 12; Maol Muire Tynan, 'FG members urged to seek withdrawal of Bill', *The Irish Times* (Dublin, 3 March 1995) 7; Andy Pollak, 'Abortion opponents to continue lobby of FG' *The Irish Times* (Dublin, 6 March 1995) 4; Dick Hogan, 'Show abortion procedures on TV, says priest' *The Irish Times* (Dublin, 14 March 1995) 6; Bernadette Goulding (Women Hurt), 'I will not remain silent' in Conor O'Riordan (Ed.) *Debating the Eighth: Repeal or Retain?* (Orpen Press, 2018) 41, 45; *Binchy* (n 219); *Pollak* (n 223).

[232] For those supporting the provision of mandatory information provision in the Oireachtas see Dáil Éireann debate, Thursday 2 March 1995, vol 450 no 1; Dáil Éireann debate, Tuesday 7 March 1995, vol 450, no 2; Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; *Irish Bishops Conference* (n 230).

[233] For examples of this argument from the Oireachtas see the debates in Dáil Éireann debate, Thursday 2 March 1995, vol 450 no 1; Dáil Éireann debate, Tuesday 7 March 1995, vol 450, no 2; Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7.

[234] Senator Don Lydon (Fianna Fáil) Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; See also *Lucey* (n 229).

abortion information provision strategies: the Crisis Pregnancy Agency's funding of anti-abortion counselling organisations.

State support for counselling provision to achieve abortion reduction aims

> I went to counselling because of the way I just, like, I wanted someone, because I was so two-minded, I just wanted someone to tell me what to do.
>
> [Abortion Group A][235]
>
> I probably would have used the services if, you know, I didn't know what I wanted to do, but I just knew straight away. So I just didn't feel there was any need to talk to anyone about it.
>
> [Abortion Group P][236]

These two quotes are from Conlon's report that was commissioned by the Crisis Pregnancy Agency (the CPA) to examine the experiences and thoughts of women who had crisis pregnancies about counselling. They problematised the, to use a phrase from *Butler, Gambetti and Sabsay*, 'objectionable ontological claims' made by would-be protectors and advocates about the assumed needs of vulnerable subjects.[237] While some abortion seekers regarded counselling as a valuable service, others saw it as an imposition or unnecessary. The anti-abortion information regulation framework created by the 1995 Act did not reflect this nuance, seeing all abortion seekers as necessitating counselling about claimed 'alternatives' to abortion. Adherence to this perspective was

[235] Catherine Conlon, *Mixed Methods Research of Crisis Pregnancy Counselling and Support Services* (Crisis Pregnancy Agency January 2005) Report no 12, para. 3.3.1., 38.
[236] *Conlon* ibid 40.
[237] *Butler, Gambetti and Sabsay* (n 98) 2.

also influential in the state's expansion of statutory counselling services through the work of the CPA.

The government's hoped-for reduction in abortion numbers through the 1995 Act's requirements, did not materialise. Instead, they rose and in 2001, 6,673 Irish residents were recorded as having abortions in Britain.[238] For anti-abortion advocates who believed that previous numbers were too high, these new numbers were alarming.[239] Rather than the figures prompting a reassessment of why abortion and information criminalisation was not diverting people away from choosing abortion, those who favoured abortion minimisation or elimination continued to press information-based management or service provision strategies to achieve this aim. Smyth recounted that these rising numbers coincided with a shift away from primarily morality-based arguments to those claiming a medical and scientific basis in anti-abortion campaigning.[240] As I have noted, these arguments were present in the context of information control as they provided a foundational basis for vulnerability-based justifications for censorship. Expertise-based claims were critical at this time as they bolstered arguments that attributed the failure of prohibitions to achieve anti-abortion aims to infrastructural and resourcing issues for counselling and information services.[241]

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[238] Irish Family Planning Association, 'Submission to the Citizens' Assembly: A health and rights approach to abortion in Ireland' (16 December 2016); Sean Mac Giollarnath, 'All-Party Committee on the Constitutional submission on Article 40.3.3°' (30 November 1999) in All-Party Oireachtas Committee on the Constitution, *Fifth Progress Report: Abortion* (Stationary Office 2000) A554.
[239] For examples of comments about the numbers of abortion seekers being too high see Berry Kiely for the Pro-Life Campaign in Andy Pollak, '5,300 had abortions in Britain in 1997' *The Irish Times* (Dublin, 26 May 1998) 3; 'Abortion rate for Irish women in Britain up 10.4%, group claims' *The Irish Times* (Dublin, 8 June 1999) 4
[240] *Smyth* (n 11); For an example see Des Hanafin (Pro-Life Campaign and Senator) emphasising the Pro-Life Amendment Campaign links to consultant doctors in maternity hospitals in 'Any reform must reduce crisis pregnancies' *The Irish Times* (Dublin, 3 April 2001) 14.
[241] Marie O'Halloran, 'Government accused of inaction on abortion' *The Irish Times* (Dublin, 18 August 1999) 5.

It was, to echo de Londras, a matter of 'troubleshooting', rather than incompatibility with the needs or wants of abortion seekers.[242] Perceived failures of information services to reach abortion seekers resulted in people continuing to make decisions without what anti-abortion advocates considered to be vital information e.g., information about claimed 'alternatives', side effects and foetal development.[243] For example, Patricia Casey, said that people chose abortion, 'without any appreciation, or at best a limited appreciation, of alternatives.'[244]

Those aligned with Casey's views argued that the vulnerabilisation of pregnant people through these information gaps should be ameliorated in two ways. Firstly, a government should repeal the lawful status of sharing information about abortion services abroad. Anti-abortion advocates like William Binchy believed that the 1995 Act had 'practically wrecked' Eighth Amendment foetal rights protections.[245] Prohibiting such information exchanges would create a barrier to abortion access and would protect vulnerable foetal life and impressionable, under/misinformed abortion seekers, restoring the absolutism of Eighth Amendment primacy.[246] This suggestion would have been

[242] Fiona de Londras, ''a hope raised and then defeated'? the continuing harms of Irish abortion law' (2020) 124 Feminist Review 33, 35, 39.
[243] Carol Coulter, 'Pro-life Campaign to lobby politicians against Bill' *The Irish Times* (Dublin, 25 February 1995) 4; Breda O'Brien, 'Feminists against abortion' *The Irish Times* (Dublin, 12 May 1997) 6; Ruth Cullen (PLC) 'Debate on abortion' *The Irish Times* (Dublin, 17 June 2000) 15.
[244] Patricia Casey (*5,000 Too Many* Conference organiser) in Joe Humphreys, 'Abortion conference told image of adoption must change' *The Irish Times* (Dublin, 22 September 1998) 5; See also Máire Nic Gearailt (Doctors for Life) in *All-Party Oireachtas Committee on the Constitution* (n 238) A319.
[245] John Connolly, 'Binchy claims judges lack 'philosophic resources' in interpreting the Constitution' *The Irish Times* (Dublin, 12 August 1996) 4; See also William Binchy (PLC) 'Abortion ruling one of the most significant since the foundation of the State' *The Irish Times* (Dublin, 15 May 1995) 12; Marie O'Halloran, 'Judge's moral crusade' *The Irish Times* (Dublin, 1 March 1995) 3; *O'Raghallaigh* (n 222) 13.
[246] Abortions increase by 4% says group' *The Irish Times* (Dublin, 15 May 1996) 5; 'Outlaw abortion referrals – group' *The Irish Times* (Dublin, 25 February 1997) 4; Joe Humphreys, 'Group demands legalised abortion' *The Irish Times* (Dublin, 9 March 1998) 11; *O'Halloran* (n 241); See also the arguments of Ralph Sutton S.C. for 'unborn' in *In the matter of Article 26* (n 38) para. 1-2, p. 3, para. 6, p. 4.

challenging to action, however, as the Supreme Court considered the 1995 Act as part of an Article 26 review and found that it was compatible with the Constitution.[247] Hence it would be necessary to accompany negative strategies - i.e., restrictions – with more positive or proactive strategies. The second approach supported by anti-abortion campaigners was the mandatory or encouraged provision of information about abortion that would dissuade people from choosing abortion.[248] The 1995 Act did not specify a particular script or resource to be given to abortion seekers to meet its requirements. This perceived omission was an issue as there remained a suspicion of those who provided information among anti-abortion advocates as either maliciously or unintentionally failing to provide the pertinent information in consultations.[249] Instead, the State could provide a leaflet like those provided in some contexts in the US that detailed foetal development, side effects, and, to quote Breda O'Brien, 'the fact that it [abortion] is a permanent decision' to those considering abortion.[250] The commitment of those anti-abortion campaigners' views on counselling was so firm that they opposed another child being taken by the state to England for an abortion in 1998, claiming that her suicidality could have been managed in Ireland through counselling and supports.[251]

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[247] *In the matter of Article 26* (n 38); The 1995 Act was referred to the Supreme Court for the judges to consider if it was compatible with the Constitution by President Mary Robinson. For a case analysis see Kristin E. Carder, 'Liberalizing Abortion in Ireland: In re Article 26 and the Passage of the Regulation of Information (Services Outside the State for the Termination of Pregnancies) Bill' (1996) 3(2) Tulsa Journal of Comparative and International Law 253.

[248] Breda O'Brien and Patricia Casey in *All-Party Oireachtas Committee* (n 238) 105-106, A218-A219; Patricia Casey in *Humphreys* (n 246) 5; *O'Halloran* (n 241).

[249] Sean Mac Giollarnath in *All-Party Oireachtas Committee on the Constitution* (n 238) A554

[250] Breda O'Brien in *All-Party Oireachtas Committee* (n 238) A219..

[251] The case was *A and B v Eastern Health Board, Judge Mary Fahy and C, and the Attorney General* [1998] 1 IR 464; See Paul Cullen, 'EHB asked to affirm right to life of the unborn' *The Irish Times* (Dublin 26 November 1997) 4; For discussions about this case and this argument being applied to the *X* case see Laury Oaks, '"Abortion is part of the Irish experience, it is part of what we are": the transformation of public discourses on Irish abortion policy' (2002) 25(3) *Women's Studies International Forum* 315, 319-320; *All-Party Oireachtas Committee on the Constitution* (n 238) A296, A313; *Cabinet Committee* (n 12) para. 5.70, p. 44; *Dully* (n 27).

The State's response was to consider information-based strategies through consultations and reports. As with previous discussions around the relationships between law, information, and abortion, the focus was on how to use information and counselling to reduce the number of people who chose abortion.[252] An emphasis on management approaches aligns with Sabsay's observations that paternalism often leads to proposed solutions intended to mitigate hardships instead of challenging the regressive foundations of vulnerabilisation.[253] To quote Miller, services then become the 'exclusive remedies' for the 'subordinated female subject' and this limits liberatory imaginations.[254] The Constitution Review Group considered the work of Mahon and Conlon who remarked that a lack of counselling services 'might' contribute to higher abortion numbers.[255] In its conclusion, the Review Group stated that the State had not paid enough attention to non-legal strategies for reducing abortions such as counselling provision.[256] The Cabinet Committee who authored the *Green Paper on Abortion* continued to approach abortion from a service-based, abortion-reduction perspective, despite being empowered to consider legal and social issues. The fact that they adopted this approach is unsurprising as the Committee continued to frame many abortion seekers as being un/misinformed about claimed supports. To address issues arising from this, legal change would not be required. Instead, a government could resource the crisis pregnancy sector to provide counselling and information on 'real

[252] See for example, Democratic Left, *Crisis Pregnancy: prevention and termination* (Democratic Left 1998).
[253] *Sabsay* (n 16) 280; See also *FitzGerald* (n 77) 278.
[254] *Miller* (n 16) 28.
[255] Evelyn Mahon and Catherine Conlon 'Legal abortions carried out in England on women normally resident in the Republic of Ireland' in Constitution Review Group, *Report of the Constitution Review Group* (Stationary Office 1996) 605; For the full published report see *Mahon, Conlon and Dillon* (n 1).
[256] *Constitution Review Group* ibid 275.

alternatives' to abortion.[257] The All-Party Oireachtas Committee on the Constitution considered these recommendations. There was no change in their approach to considering abortion and information-related issues. This Committee's conclusions remained firmly ensconced in the anti-abortion, paternalistic view that there was an 'urgent need' to reduce abortion numbers and pregnant people should be offered 'real and positive alternatives to abortion' including counselling and information to achieve this.[258] All of these reports demonstrated that the State remained orientated against abortion, as Fletcher remarked, abortion remained the claimed source of hardship, not the criminalisation.[259] Within that framing, the role of information and counselling was considered by these committees to be the dissuasion and encouragement of people away from choosing abortion, rather than supporting the agency of abortion seekers and working to make abortion access less arduous.

The first Bill introduced by legislators after these reports was the Care of Persons Board Bill 2001. Its proposers, Fine Gael, believed it would address the overreliance of the State on 'solely legalistic' anti-abortion strategies.[260] As part of the Rainbow Coalition, Fine Gael had increased State financing for voluntary organisations to provide counselling. Subsequent governments continued this funding, but due to rising abortion numbers, Fine Gael believed that more State interventions were needed.[261] The Bill

[257] Quote from *Cabinet Committee* (n 12) para. 7.97, 75; See also 58.
[258] Quote from *All-Party Oireachtas Committee* (n 238) 113; See also 103, 115.
[259] Ruth Fletcher, 'Peripheral governance: administering transnational health-care flows' (2013) 9(2) International Journal in Law in Context 160.
[260] Quote from Deputy Gay Mitchell (Fine Gael), Dáil Éireann debate, Thursday 25 October 2001, vol 543, no 1.
[261] Deputy Gay Mitchell (Fine Gael), Dáil Éireann debate, Thursday 25 October 2001, vol 543, no 1; As part of the 1995 Act package Fine Gael committed to raising funding for voluntary groups to provide counselling from £70,000 per year to at least £200,000. See The Minister for Health Michael Noonan (Fine Gael) Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Dáil Éireann debate, Thursday, 9 March 1995, vol 450, no 4; Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8 and Dáil Éireann debate, Thursday 6 April 1995, vol 451, no 7; See

would have established a Board that would take 'reasonable steps' to ensure that a person could proceed in her pregnancy until 'full term and birth.'[262] Reflecting the persistent claim of abortion seekers being under/misinformed, the Board could advise them about supports to alleviate panicked decision-making.[263] Engagement with the Board was to be voluntary.[264] When considered in the context of decades of anti-abortion information regulations, this Bill was another iteration of legislators operationalising vulnerabilities to enact potentially paternalistic or invasive interventions. Its provisions continued the duality of seeing pregnant people both as vulnerable subject and as threat. By casting doubt on the capacity or informed consent of abortion seekers it framed them as being in a state of, to use MacKenzie's phrasings, 'neediness, dependence, victimhood, or helplessness'.[265] Conversely, the Bill only intended to assist those adhering to social norms and responsible citizenship by choosing to continue their pregnancies. Anyone choosing abortion would be left to navigate the restrictions and requirements of the 1995 Act. The goal of the Bill was not to facilitate the agency of pregnant people but to help realise the State's abortion reduction aims. A further aspect of this Bill was that it depoliticised the creation and exacerbation of the vulnerabilisation of abortion seekers. Treating the hardships created by anti-abortion information controls and criminalisation as a matter of poor management and resourcing it could allow the State to disavow accusations that the law was harming pregnant people if those services were funded and offered. Governments

Democratic Left, who were also part of the Rainbow Coalition, criticising what they saw as the overly legalistic approach to abortion reduction as opposed to tackling social issues. In *Democratic Left* (n 167) 1.
[262] Care of Persons Board Bill 2001, s 7(1).
[263] See for example Senator Mary Jackman (Fine Gael) Seanad Éireann debate, Wednesday 3 October 2001 vol 168, no 2.
[264] Care of Persons Board Bill 2001, s 7(4).
[265] *Mackenzie* (n 195) 34.

could claim that people were adequately supported by this Board to bring their pregnancies to term, as was in their best interest, and anyone who chose to travel did so of their own volition. This Bill was not enacted as Fine Gael were in opposition and the government had plans for their own organisation: the Crisis Pregnancy Agency (CPA).[266]

The Fianna Fáil-Progressive Democrat government established the CPA to be a 'planning and co-ordinating body' providing funding and infrastructural support to statutory and voluntary crisis pregnancy services.[267] The Minister for Health Micheál Martin described the CPA as the State's first 'serious' attempt to provide 'resources and realistic options, advice and guidance' to pregnant people.[268] Potentially, the CPA could have been transformative by rectifying the proliferation of unregulated abortion mis/disinformation. However, as Miller recounted, when State bodies address vulnerabilities, they can end up expanding and cementing existing power structures and relationships when paternalistic foundational ideologies remain intact.[269] The CPA was created to mitigate the effects of abortion restrictions, not to challenge them. Its timing evidenced this as it was created at the same time that the government were holding a referendum to partially reverse the *X* case judgment to remove suicide as a ground for abortion: the Twenty-Fifth Amendment (the Twenty-Fifth).[270] This change had been

[266] Crisis Pregnancy Agency (Establishment) Order 2001, SI no 446/2001.
[267] The Minister for Health and Children Micheál Martin (Fianna Fáil) Dáil Éireann debate, Wednesday 20 February 2002, vol 549, no 1; For statements of support for the CPA see Dáil Éireann debate, Thursday, 8 November 2001, vol 543, no 4; Dáil Éireann debate, Wednesday 14 November 2001, vol 544, no 1; Seanad Éireann debate, Friday 7 December 2001, vol 168, no 21; Seanad Éireann debate, Wednesday 12 December 2001, vol 168, no 23.
[268] The Minister for Health Micheál Martin (Fianna Fáil), Dáil Éireann debate, Tuesday 20 November 2001, vol 544, no 3.
[269] See *Miller* (n 16) 36.
[270] For analysis of the Twenty-Fifth Amendment see Kathy Allen, Mircea Mandache and Greg Nielsen, 'Soul City: Dublin and the Irish Abortion Question' (2004) 30(2) Canadian Journal of Irish Studies 48.

demanded by anti-abortion campaigners since the defeat of the Twelfth Amendment in 1992.[271] The most relevant argument to information regulations was that those who favoured reverting to a pre-*X* legal framework continued to believe that service-based responses including counselling and information provision could dissuade people from requesting abortions. This would be for the benefit of the abortion seeker as these advocates maintained that abortion was particularly harmful for mis/underinformed, distressed, abortion decision makers.[272] The government's alignment with, and capitulation to, these demands demonstrated the pernicious hold that crisis management approaches had on the legislative imagination. Abortion reduction was the State's aim and the CPA was to be an integral part of these plans.

The pro-information reform Progressive Democrats were reluctant to support the Twenty-Fifth but wholly supportive of the CPA.[273] Their view was common throughout contemporary debates. Legislators and reform advocates often criticised the Twenty-Fifth as being regressive. In contrast, the CPA was a positive, beneficial intervention.[274] Conservative anti-abortion legislators and campaigners supported both, with Deputy John Bruton even suggesting that the government delay the referendum so that the CPA could create a 'positive atmosphere' and encourage the electorate to support the

[271] Fiachra Kennedy outlined how the government were dependant on the support of four anti-abortion independent TDs who wanted another referendum to roll back the *X* decision. 'Report - Abortion Referendum 2002' (2002) 17(1) Irish Politics Studies 114, 116; For additional discussion see Carol Coulter, ''Reasonable compromise' beset by a tide of controversy' *The Irish Times* (Dublin, 8 March 2002); *Dully* (n 27) 105.
[272] See Catriona Mackenzie on how vulnerable people are often deemed to be at an increased risk of harm and having a reduced capacity to protect their own interests. In *Mackenzie* (n 196) 34-35; For examples of anti-abortion arguments see 'Feminists Against Abortion' *The Irish Times* (Dublin, 12 May 1997) 6; Breda O'Brien (Feminists for Life and Iona Institute) 'Message from the people still far from clear' *The Irish Times* (Dublin, 9 March 2002) 14; *All-Party Oireachtas Committee on the Constitution* (n 238); *Kennedy* (n 271) 119.
[273] Brian Girvin, 'Church, State, and Society in Ireland since 1960' (2008) 41(1&2) Éire/Ireland 74, 96.
[274] See for example Senator Helen Keogh (Fine Gael previously Progressive Democrats, also chair of Well Woman) Seanad Éireann debate , Friday 7 December 2001, vol 168 no 21.

Twenty-Fifth.[275] Considering these responses and the history of information regulations in Ireland, the CPA was intended to be a caring cover for the rolling back of limited abortion rights. The government could claim to be acting with benevolent or protective intentions.[276] For example, members claimed that the CPA would provide relief for overburdened voluntary services,[277] but those organisations were not consulted before the government announced their plans.[278] Further affirming this political aspect was that despite the CPA being a separate entity with a different legal basis, it was often framed by government members as being complementary with the Twenty-Fifth.[279] The Minister for Justice, John O'Donoghue, was one such person. He described the proposals as being a 'holistic' framework for abortion regulations. The CPA would be part of a 'caring and practical' package that would facilitate and convince people to remain pregnant.[280] For those who believed that abortion was harmful, the work of the CPA would therefore be sufficient to ameliorate any potential risks to pregnant people that passing the Twenty-Fifth could introduce or exacerbate.[281] In particular, those vulnerable subjects who may be more susceptible to influence or pressure would be the ones to benefit

[275] Deputy John Bruton (Fine Gael) Dáil Éireann debate, Tuesday 20 November 2001, vol 544, no 3.
[276] See for example The Minister for Health and Children Micheál Martin (Fianna Fáil) Dáil Éireann debate, Thursday, 25 October 2001, vol 543, no 1 and the Minister of State at the Department of Health and Children Tom Moffatt (Fianna Fáil) Seanad Éireann debate, Friday 7 December 2001, vol 168, no 21.
[277] Deputy Brendan Kenneally (Fianna Fáil) Dáil Éireann debate, Thursday 8 November 2001, vol 543, no 4.
[278] See 'Well Woman chairwoman condemns referendum' *The Irish Examiner* (Cork, 5 February 2000) < https://www.irishexaminer.com/news/arid-30038860.html > accessed 18 January 2023; Joe Humphreys, 'Pro-choice lobby condemns government move' *The Irish Times* (Dublin, 3 October 2001) 6; 'Cash is key in crisis pregnancies' *The Irish Times* (Dublin 29 October 2001) 11.
[279] For criticisms of the timing and the linking of the CPA and the Twenty-Fifth Amendment see Labour Party and Trade Union speeches in Folder no 49,494-925(9) and (11), National Library of Ireland; Senator Mary Henry (Independent) Seanad Éireann debate, Wednesday 3 October 2001, vol 168, no 2; Deputy Joe Higgins (Socialist Party) Dáil Éireann debate, Thursday 8 November 2001, vol 543, no. 4; Senator Mary Jackman (Fine Gael) Seanad Éireann debate, Friday 7 December 2001, vol 168, no 21.
[280] The Minister for Justice John O'Donoghue (Fianna Fáil) Dáil Éireann debate, Wednesday 14 November 2001, vol 544, no 1.
[281] For examples see statements from supporters of the Twenty-Fifth Amendment in Dáil Éireann debate, Thursday 8 November 2001, vol 543, no 4; Dáil Éireann debate, Wednesday 14 November 2001, vol 544 No 1; Seanad Éireann debate, Friday 7 December 2001, vol, 168, no 21.

from the prohibitions on abortion and the counselling support from the CPA: the young and under/misinformed,[282] those experiencing distress,[283] and those who had no other supports.[284] The Twenty-Fifth, like the Twelfth, was rejected by the electorate. The government went ahead and established the CPA.[285]

Fletcher, reflecting on the work of the CPA, argued that it could have engaged with abortion seekers on a broader level. The examples that she gave were pushing the government to clarify how to access an abortion in Ireland or to establish travel routes for those displaced by needing to travel for an abortion.[286] The CPA did have a policy advisory brief.[287] A potential reason for the lack of boundary-pushing initiatives could be that the CPA was part of a State response to abortion that treated it as a dangerous, undesirous intervention. The CPA had a statutory obligation to work towards 'a reduction in the number of women with crisis pregnancies who opt for abortion by offering services and supports which make other options more attractive.'[288] It was a continuation of the abortion-reductionist, paternalistic ideologies of the 1995 Act, not a

[282] See for example debates in Dáil Éireann debate, Thursday 8 November 2001, vol 543, no 4; Dáil Éireann debate, Wednesday 14 November 2001, vol 544 No 1; Seanad Éireann debate, Friday 7 December 2001, vol 168, no 21.
[283] See for example debates in Dáil Éireann debate, Wednesday 14 November 2001, vol 544 No 1.
[284] See for example debates in Dáil Éireann debate, Tuesday 13 November 2001, vol 543, No. 5; Dáil Éireann debate, Wednesday 14 November 2001, vol 544 No 1; Seanad Éireann debate, Friday 7 December 2001, vol, 168, no 21.
[285] The name of the Agency was changed to the Crisis Pregnancy Programme when the CPA was merged with the HSE. As of time of writing it is the HSE Sexual Health and Crisis Pregnancy Programme. For clarity and consistency, I will continue to refer to the organisation as the CPA. See Crisis Pregnancy Programme, *Annual Report 2010* (HSE and Crisis Pregnancy Programme 2011) 2; HSE, 'Sexual Health and Crisis Pregnancy Programme' < https://www.hse.ie/eng/about/who/healthwellbeing/our-priority-programmes/sexual-health/ > accessed 16 December 2023.
[286] Ruth Fletcher, 'Reproducing Irishness: Race, Gender, and Abortion Law' (2005) 17(2) Canadian Journal of Women and the Law 365, 400-401 *Fletcher* (n 259).
[287] For details of this policy remit see Crisis Pregnancy Agency, *Strategy summary: to address the issue of crisis pregnancy* (Crisis Pregnancy Agency November 2003) 4-5.
[288] Crisis Pregnancy Agency (Establishment) Order 2001, SI no 446/2001, s 4(i)(b).

replacement or challenge to it.[289] The anti-abortion orientation of the CPA founding documents also accounts for why the CPA claimed only to support and promote 'non-judgemental and trustworthy' counselling services while working extensively with two anti-abortion organisations: Cura and Life/Anew.[290]

Cura and Life/Anew were described in CPA reports as 2-option agencies because they would not provide information to abortion seekers about where they could find abortion services abroad. They were founded as anti-abortion actors believed that legal measures would not be enough to combat abortion.[291] Guarding foetal life was a key motivation for this opposition to abortion, but so too were their beliefs that abortion negatively impacted the mental and physical health of pregnant people.[292] Anti-abortion counselling and information services would play a critical role in diverting and dissuading people away from choosing abortion and these organisations served that purpose.[293] Their approaches involved informing people of what they regarded as the

[289] The Minister of State at the Department of Health and Children Tom Moffatt (Progressive Democrats) Dáil Éireann debate, Wednesday 14 November 2001, vol 544, no 1.
[290] For quotes see Crisis Pregnancy Agency, *Annual Report 2009* (Crisis Pregnancy Agency July 2010) 25, 53; Life changed their name to Anew. See Cathal Barry, 'Crisis pregnancy agency rejects claims it's no longer pro-life' *The Irish Catholic* (Dublin, 30 June 2016).
[291] See for example Dr P.J. Davey, 'Information on abortion' *The Irish Times* (Dublin, 25 July 1989) 11; MEP Dana Rosemary Scanlon in Ann Healy, 'Dana emphasises need to overcome abortion silence' *The Irish Times* (Dublin, 3 April 2000) 7; For a later example see Muiris Houston, 'Call for mental health support after abortion' *The Irish Times* (Dublin, 2 December 2008) 35.
[292] The harms Life/Anew alleged were caused by abortion were the scientifically unsupported 'Post-Abortion Syndrome', infertility, increased risk of suicide, regret, addiction issues and breast cancer. Kathryn Holmquist 'British anti-abortion group criticised' *The Irish Times* (Dublin, 2 November 1989) 9; Anne Kennedy (Committee member of Life) in Padraig O'Morain, 'Alton speaks at launch of anti-abortion video' *The Irish Times* (Dublin, 4 December 1990) 6; Julia Heffernan (Public relations officer Life) 'Debate on Abortion' *The Irish Times* (Dublin, 8 July 2000) 15; *All-Party Oireachtas Committee on the Constitution* (n 238) A320-A321; *Nic Gabhainn and Batt* (n 171) 21; *Healy* ibid.
[293] Camilla Hannon (Irish Countrywomen's Association president) 'Minutes of AGM' (23 April 1981) Folder no 39,316, National Library of Ireland; Various authors, *Abortion Now* (Life Education and Research Network (LEARN) 1983) 7-8, 82-83; Salvation Army in 'Protestant Church's' Statements' in Mavis Arnold and Peadar Kirby (Eds.) "The Abortion Referendum" : The Case Against (Anti-amendment campaign 1983); Breda O'Brien and Patricia Casey (Organisers *5,000 Too* Many conference) in *All-Party Oireachtas Committee on the Constitution* (n 238) 105-106.

'downside' of abortion and the positives of the continuation of pregnancy.[294] In addition to being funded and promoted as part of the CPA's *Positive Options* campaign to boost the prevalence of State-funded counselling, representatives from Cura and Life/Anew also served on the CPA's boards and subcommittees.[295] Both organisations had received State funding to provide counselling for people experiencing crisis pregnancies before the establishment of the CPA.[296] The involvement of these organisations in a programme that promoted itself as non-directive was an issue, as there are recorded instances of Cura and Life/Anew practising directive and obstructive counselling over decades. These involved not just refusing to provide information about how and where abortions could be accessed abroad,[297] but also not disclosing their ethos in

[294] Quote from Patrick Daly (Life Ireland chair) in Cathy Halloran, 'Life Pregnancy Care Service' *RTÉ Archives* (Dublin, 1 November 1989) < https://www.rte.ie/archives/collections/news/21369391-life-pregnancy-care-service/ > accessed 17 June 2023; For the anti-abortion ethos and information beliefs of Cura see Cura, 'Cura, who are they?' (Captured by the Wayback Machine 09 February 2005) < https://web.archive.org/web/20050209215752/http://www.cura.ie/introduction.html > accessed 16 February 2023; Reverend Christopher Jones (founder Cura) in Joint Committee on Health and Children debate, Thursday 10 January 2013; For the anti-abortion ethos and information beliefs of Life/Anew see K(evin) Doran, 'The abortion referendum' *The Irish Times* (Dublin, 17 March 1983) 9; Kevin Doran 'Life (Ireland)' *The Irish Times* (Dublin, 27 August 1984) 9; Frances O'Donnell (Honorary secretary), 'Pregnancy counselling' *The Irish Times* (Dublin, 9 March 1987) 13; Anne Kennedy (Public relations officer) in 'Abortion travel ruling' *The Irish Times* (Dublin, 29 February 1992) 9; Mary Cummins, 'Having a baby won't ruin your life' *The Irish Times* (Dublin, 6 April 1992) 15; Michael O'Regan, 'GPs' group fails to advise on abortion information' *The Irish Times* (Dublin, 13 March 1995) 4; Paul Cullen, 'EHB asked to affirm right to life of the unborn' *The Irish Times* (Dublin 26 November 1997) 4; *All-Party Oireachtas Committee on the Constitution* (n 238) A320-A322; *Barry* (n 290); *Dully* (n 27) 97; *Healy* (n 291); *Heffernan* (n 292); *O'Morain* (n 292); *Holmquist* (n 292); For both see 'Lesson 13: Introduction to the abortion issue' in Noirin Hayes, Deirdre MacGovern, Frances Kavanagh, Liam Cummins, John McCann, Kevin Doran, *Life must go on: A pro-life education programme for post-primary schools* (Helicon 1982) 66-67, 73-74; *All-Party Oireachtas Committee on the Constitution* (n 238) 71-72, A320-A322, A345-A359.

[295] For an example see Crisis Pregnancy Agency, *Annual Report 2003* (Crisis Pregnancy Agency 2004) 29.

[296] Denis Barron in Andrew Rynne, *Abortion: the Irish question* (Ward River Press 1982) 176; William Binchy (PLAC legal advisor) 'Abortion and the Law' in Various Authors, *Abortion Now* (Life and Education Research Network (LEARN) 1983) 79; The Minister of State at the Department of Health Brian O'Shea (Labour) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; The Minister for Health Michael Noonan (Fine Gael) Dáil Éireann debate, Thursday 25 April 1996, vol 464, no 5; Trish Hegarty, 'Anti-abortion agencies get bulk of all new funding' *The Irish Times* (Dublin, 4 August 1995) 5.

[297] See the warning on the *Positive Options* website that these organisations would not provide information about how and where to access abortions abroad. < https://web.archive.org/web/20171217021036/http://www.positiveoptions.ie/ > accessed 19 January 2023; Sylwia Kuźma-Markowska and Laura Kelly, 'Anti-abortion Activism in Poland and the Republic of Ireland c.1970s–1990s' (2022) 46(3) Journal of Religious History 1, 19-21; *Nic Gabhainn and Batt* (n 171) 21.

advertising,[298] offering abortion seekers counselling or referrals to GPs not to 3-option services,[299] framing abortion as an illegitimate or unacceptable outcome,[300] focusing primarily on pregnancy continuation supports,[301] using emotive language,[302] telling people they could be arrested for travelling for an abortion,[303] pressuring people to choose adoption, and they were involved with mother and baby homes.[304] They were critical of non-directive organisations who discussed abortion as a legitimate option for the ending of a pregnancy.[305] Abortion information seekers did attend these services exposing them to rejection, stigmatisation and delays.[306]

[298] 'Cura Cares' *The Irish Times* (Dublin, 2 April 1984) 21; 'Life' *The Irish Times* (Dublin, 16 January 1988) 20; Ellen Coyne, 'Crisis pregnancy agency avoids telling women it opposes abortion' *The Times* (London, 1 September 2017).
[299] This included Cura refusing to provide the *Positive Options* leaflet to their clients. See Kitty Holland, 'Instructions to Cura to stop abortion advice referrals 'would be a problem' *The Irish Times* (Dublin, 10 May 2005) 7; Patsy McGarry, 'Cura moves to clarify stance on abortion leaflets dispute' *The Irish Times* (Dublin, 12 May 2005) 8; Patsy McGarry, 'Withdrawal of leaflet may have funding implications' *The Irish Times* (Dublin, 17 June 2005) 7; Alison Healy, 'Cura may lose agency funding of €600,000' *The Irish Times* (Dublin, 8 June 2006) 11; Alison Healy, ''Too few' pregnant women in crisis seek help' *The Irish Times* (Dublin, 12 July 2007) 9; For information about referrals to GPs see Kitty Holland, 'Crisis Pregnancy body had busiest year for information requests' *The Irish Times* (Dublin, 27 July 2005) 7; Olive Braiden (Chair of the CPA) Joint Committee on Health and Children, 27 October 2005; Patsy McGarry, 'Patience on addressing Cura sacking issue urged' *The Irish Times* (Dublin, 6 February 2006) 5; The Minister for Health and Children Mary Harney (Progressive Democrats, formerly Fianna Fáil, later Independent) Dáil Éireann debate, Tuesday 24 October 2006, vol 626, no 1; The Minister for Health and Children Mary Harney (Progressive Democrats, formerly Fianna Fáil, later Independent) Dáil Éireann debate, Tuesday 20 February 2007, vol 631, no 6; Crisis Pregnancy Agency, *Annual Report 2006* (Crisis Pregnancy Agency 2007) 43; Janice Donlon, Joint Committee on the Eighth Amendment of the Constitution debate, Wednesday, 15 November 2017; *Coyne* ibid; *Healy* (n 291).
[300] Seamus Lynch, 'Controversy over Cura's pregnancies policy' *The Irish Times* (Dublin, 21 June 2005) 15; *Nic Gabhainn and Batt* (n 171) 21.
[301] *Nic Gabhainn and Batt* (n 171) 13, 23; *Kuźma-Markowska and Kelly* (n 297) 20.
[302] Participant number 6, The Citizens Assembly, 'First Hand Experiences - 6 - Citizens' Assembly' (*YouTube* Saturday 4 March 2017) < https://youtu.be/N54r5YAOR-M > accessed 19 January 2023; Participant number 6/'Niamh' later confirmed that she was speaking about Life/Anew in Ellen Coyne, 'Crisis pregnancy counsellor told Irish student abortion would lead to years in jail; Pregnancy advice has still not changed, says a woman talked into giving birth 16 years ago' *The Times* (London, 21 August 2017); *Conlon* (n 235) 81; *Coyne* (n 298).
[303] *Participant number 6* ibid; *Coyne* ibid.
[304] 'Transcript of the RTÉ Majella Moynihan documentary' *The Irish Times* (Dublin 17 June 2019); For information on the work of Cura and adoption see the Commission of Investigation into Mother and Baby Homes, *Final Report of the Commission of Investigation into Mother and Baby Homes*, (Department of Children, Equality, Disability, Integration and Youth 30 October 2020) para 145 and 147, 38; para 175-176, 45; para 211, 57; para 2.38, 28; para. 12.125-12.126, 64-66; para. 12.141, 72; para. 14.1, 1; para 24.116, 30; para 24,124, 31; Chapter 24a, p. 7-8; para 26.10, 4; para 26.12, 5; para 26.20, 6; para 26.22, 7; *Kuźma-Markowska and Kelly* (n 297) 20.
[305] *Heffernan* (n 292); *Holmquist* (n 292).
[306] Marianne Heron, 'Counselling for the right to life' *The Irish Independent* (Dublin, 28 May 1981) 14; John Walshe, 'Inquiry urged into "forgotten" pupils plight' The Irish Times (Dublin, 9 March 1990) 2; *Hayes et al* (n 294) 73; *Kuźma-Markowska and Kelly* (n 297) 20-21.

The anti-abortion ideologies and practices of these two organisations and their involvement with the CPA were problematic as the CPA promoted its supported services in terms connoting neutrality. For example, the CPA promoted their counselling programme - *Positive Options* - under the slogan, 'no judge, no jury, just information'.[307] There was a type of disconnect between such statements and those in the CPA's commissioned reports, one of which described Cura and Life/Anew as 'part-directive'.[308] Another report described best practice counselling as involving counsellors acting as 'sounding boards' for clients rather than communicating their own ideologies. This included being upfront about their ethos and referrals to other counsellors if they were conscientious objectors.[309] Arguably Cura and Life/Anew did not meet those standards at all times, based on the reports above. So why did the CPA fund and promote these organisations as 'excellent' services while allowing them to adhere to their anti-abortion ethos in a programme that promoted itself as being free of judgment for all pregnant people, including those seeking abortions?[310] One reason was that the CPA did not believe that these organisations would fail pregnant people as they were bound by the CPA's service level agreements, code of ethics and complaints system.[311] There were three additional notable reasons continuing the previous iterations of paternalistic information controls.

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[307] Crisis Pregnancy Agency (n 295) 13; For a full list of *Positive Options* organisations see < https://web.archive.org/web/20171217021036/http://www.positiveoptions.ie/ > accessed 19 January 2023.
[308] Quote from Conlon (n 235) 20; Crisis Pregnancy Agency, *Annual Report 2005* (Crisis Pregnancy Agency 2006) 5.
[309] Quote from *Nic Gabhainn and Batt* (n 171) 5-6, 8, 12; See also Crisis Pregnancy Agency, *Strategy: Leading an Integrated Approach to Reducing Crisis Pregnancy 2007-2011* (Crisis Pregnancy Agency 2007) 19; Michael Boland, Mary Favier, Michael Coughlan, *Training programme and information for General Practitioners: in response to the Termination of Pregnancy Information Act 1995* (ICGP, 1995) 15; *Conlon* (n 235) 12.
[309] Crisis Pregnancy Agency ibid 13.
[310] Quote from Olive Braiden (chairperson of the CPA, former Fianna Fáil election candidate) Joint Committee on Health and Children, 27 October 2005; Kitty Holland, 'Instructions to Cura to stop abortion advice referrals "would be a problem"' *The Irish Times* (Dublin, 10 May 2005) 7; Project manager Janice Donlon, Joint Committee on the Eighth Amendment of the Constitution debate, Wednesday 15 November 2017.
[311] *Annual Report 2006* (n 299) 43.

The first reason that the CPA continued to frame the continuation of pregnancy as the optimum outcome for a crisis pregnancy is in line with previous iterations of information regulations. As I detailed above, the statutory remit of the CPA was to reduce abortion by making the continuation of pregnancy more attractive. This was necessary due to the pernicious view of the abortion decision-making of vulnerable subjects as being insecure, crisis-driven and laden with under- or misinformation. Vulnerability scholars detailed how such designations can result in the state or private citizens enacting interventions that are oppressive, paternalistic or fail to provide 'on the ground' protections.[312] For, example Ahiska noted that using arguments related to vulnerability can be used to 'describe, analyse, and solve the problem to *help* these women' in terms aligned with the ideologies and desired results of powerful actors, rather than those of women themselves.[313] Furthermore, as Ståsett recounted, objectification, generalisations and stereotypes shape the responses to vulnerabilised subjects and these can fail to meet the nuances of people's needs and wants.[314] In the context of the CPA, the bias towards pregnancy continuations shaped the information environment. For example, Braiden said, 'the more opportunities a woman gets to talk about her crisis pregnancy…the greater the chance that she will decide to keep the baby'.[315] This sentiment was also present in government spaces as illustrated by a Minister for Health Mary Harney. She described the CPA's position on optimum counselling provision as providing 'extra time and space' whereby a person may 'come to terms with her

[312] *Munro and Scoular* (n 20) 193.
[313] *Ahiska* (n 24) 215; *MacKenzie, Rogers, and Dodds* (n 20) 9; *Munro and Scoular* (n 20).
[314] *Ståsett* (n 170).
[315] Olive Braiden (chairperson of the CPA, former Fianna Fáil election candidate) Joint Committee on Health and Children, 27 October 2005.

pregnancy'.[316] The CPA's views were compatible with those of Cura and Life/Anew. Any barriers to care created by Cura and Life/Anew's conscientious objections would create delays in which a person's assumed crisis may dissipate, or she may receive additional information that may convince her not to have an abortion. Therefore, Cura and Life/Anew's refusal to share information about abortion services abroad was acceptable enough for the CPA to continue funding, advertising, and praising them under the banner of non-directive service provision.

The power attributed to information and counselling by legislators and abortion-reduction advocates was reflected in the CPA's decision to realise their mandate by increasing the likelihood that a person would attend one of their supported services. The CPA did so by prioritising and supporting localised, accessible services rather than agency-affirming ones. Due to the *Open Door* decision, Cura and Life/Anew could operate and expand when non-directive organisations were enjoined, forced to shut, or had to curtail their counselling services. By 2000, Life/Anew had seven centres around Ireland. In 2005 Cura had 35.[317] They offered a greater range of services including drop-in and telephone appointments. In contrast, 3-option agencies often had wait lists and required pre-booking appointments. They also insisted on in-person counselling due to fears that it was illegal under the 1995 Act to provide abortion clinic details over the telephone.[318] 3-option counsellors were also primarily based in the Dublin

[316] The Minister for Health and Children Mary Harney (Progressive Democrats, previously Fianna Fáil and later Independent) Dáil Éireann debate, Tuesday 24 October 2006, vol 626, no 1; See also her contribution in Select Committee on Health and Children debate, 17 May 2006.
[317] Olive Braiden (chairperson of the CPA) Joint Committee on Health and Children, 27 October 2005; *Healy* (n 291).
[318] Mazars, *Review of Funding and Service Delivery Models of Crisis Pregnancy Counselling Services* (HSE Sexual Health and Crisis Pregnancy Programme 2017); *Mahon, Conlon and Dillon* (n 1) 184-186; *Nic Gabhainn and Batt* (n 171) 8.

area.[319] Cura had a large geographical spread, as did anti-abortion GPs.[320] The strategy for the CPA was to refer people to services based on location, rather than by service offered, to ensure that people had access to local, free-of-charge counsellors.[321] Due to the legacies of censorship and abortion stigmatisation, the infrastructure of the anti-abortion agencies made this approach possible.[322] Though this was partially a self-fulfilling practice as Cura and Life/Anew received the highest proportion of available CPA funding, even though volunteers provided Cura's counselling.[323] Maintaining this network of counsellors around Ireland was critical for the CPA, even if they offered a more limited information service due to their anti-abortion ethos.

A third reason was that CPA's inclusion of Cura and Life/Anew was a politically savvy decision. The State funding 2-option agencies was, to quote Senator David Norris during the 1995 Act debates, part of a 'political balancing act'.[324] The CPA continued this approach and many legislators and anti-abortion advocates remained supportive of these organisations. For example, Senator Gerry Buttimer argued in favour of the State

[319] The IFPA were the only nationwide three-option service and it took years to build up; *Nic Gabhainn and Batt* (n 171) 9-10, 15.
[320] For examples of anti-abortion GPs advising and trying to convince people to remain pregnant see Ailís ní Riain, Rita Galimberti, Sinead Burke, Claire Collins, Mary Dillon, *Women's Health Services in General Practice: 2004* (ICGP and the Crisis Pregnancy Agency 2006) 48; Human Rights Committee, 'Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2324/2013' (31 March 2016). CCPR/C/116/D/2324/2013. (*Mellet v Ireland*) para 2.3, p. 2; *Amnesty International* (n 125) 71.
[321] *Mazars* (n 318) 31, 34, 36.
[322] At times some urban centres only had State supported anti-abortion agencies. This included Ennis, Kilkenny, Monaghan Town, Thurles, and Wexford. See *Annual Report 2006* (n 299) 22; See the comments of Olive Braiden (chairperson of the CPA) Joint Committee on Health and Children, 27 October 2005; The Minister for Health and Children Mary Harney (Progressive Democrats, previously Fianna Fáil and later Independent) Dáil Éireann debate, Tuesday 24 October 2006, vol 626, no 1; Dáil Éireann debate, Tuesday 20 February 2007, vol 631, no 6; Kitty Holland, 'Cura's annual grant contested by CPA' *The Irish Times* (Dublin, 11 May 2005) 7.
[323] See for example in 2005 where Cura received €594,956 in core funding. In comparison the biggest non-directive agency the IFPA who employed professional counsellors received €168,225 core funding. See *Annual Report 2006* (n 299) Appendix 2, 32; In 2015 Cura received €804,048 of the €2.5 million budget for crisis pregnancy and post-abortion counselling. See Ellen Coyne, 'Counselling review calls for a national pregnancy advice line' *The Times* (London, 2 February 2018); For information about Cura and their use of volunteer counsellors see *Mazars* (n 318) section 1.3.2.1, 6.
[324] Senator David Norris (Independent) Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7.

funding Cura because 'the reduction or elimination of abortion should be on all of our political agendas'.[325] Foetal life protective imperatives were a powerful draw for those who approved of these organisations.[326] However, these supporters also maintained that abortion had harmful physical side effects or a 'post-abortion trauma' for those who underwent abortions.[327] The State was therefore protecting and caring for vulnerable subjects by resourcing and promoting Cura and Life/Anew as non-directive organisations.[328] Even legislators who were more liberal on abortion regulations viewed Cura and Life/Anew in a positive light. The debate on the Health and Social Care Professionals (Amendment) Bill 2016 evidenced this. The Bill was intended to regulate crisis pregnancy counsellors to prevent the obstructionist tactics that some anti-abortion organisations used to create barriers to abortion care. Proposing and supporting legislators differentiated Cura and Life/Anew from the 'rogue agencies' they intended to regulate. Should the Bill have passed, Cura and Life/Anew, would not have been targeted.[329] The CPA obtaining and sustaining this political buy-in was crucial as they were a State body reliant on government funding. It also funded 3-option agencies, and this was controversial among anti-abortion proponents.[330] Funding, promoting and liaising with Cura and Life/Anew facilitated the CPA to defend the provision of a plurality

[325] Senator Gerry Buttimer (Fine Gael) Seanad Éireann debate, Thursday 2 July 2009, vol 196, no 9.
[326] See the debates in Dáil Éireann debate, Tuesday, 13 November 2001, vol 543, no 5; Dáil Éireann debate, Wednesday 14 November 2001, vol 544 No 1.
[327] See for example Senator Willie Farrell (Fianna Fáil) Seanad Éireann debate, Wednesday 3 October 2001, vol 168, no 2; Breda O'Brien (anti-abortion campaigner) 'Message from the people still far from clear' *The Irish Times* (Dublin, 9 March 2002) 14; Muiris Houston, 'Call for mental health support after abortion' *The Irish Times* (Dublin, 2 December 2008) 35.
[328] See for example Deputy Séan Haughey (Fianna Fáil) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3.
[329] Deputy Joan Burton (Labour Party) Dáil Éireann debate, Thursday 17 November 2016, vol 929, no 2.
[330] See discussion p. 305-307.

of service offerings despite the privileging of the anti-abortion position in law and its founding statutory instrument.[331]

Reducing abortions during times of law reform

> I knew immediately I wanted an abortion and I spent a long time googling where to get one. I had seen MyOptions helplines several times, but it was not immediately obvious to me you had to ring them to get the numbers of participating GPs - I imagined MyOptions was going to give me different options available to me rather than an abortion, which I was not interested in. After having no luck finding any info on GPs that would give abortions online, I than rang MyOptions and was surprised that they gave me numbers immediately of GPs in my area and to say 'My Options' referred when calling the GP, as I was worried about having to say to a GP's secretary that I wanted an abortion! I really wish it had been more obvious online that you just need to call MyOptions to get a list of GPs!...I think it should be more explicit online to call MyOptions if you want an abortion[332]

The experience of this abortion seeker illustrated how different information access was after the passing of the Thirty-Sixth Amendment (the Thirty-Sixth) and the Health (Regulation of Termination of Pregnancy) Act 2018 (the 2018 Act). Abortion is now available without needing a specific reason in the first 12 weeks of pregnancy.[333] As a result, the 2018 Act repealed most of the information-based barriers to access.[334] MyOptions is a State service operated by a 3-option agency that directs people to abortion providers.[335] There is no mandatory information provision and no fears of

[331] See comments from the CPA about respecting the ethos of an organisation in Kitty Holland, 'Instructions to Cura to stop abortion advice referrals "would be a problem"' *The Irish Times* (Dublin, 10 May 2005) 7.
[332] Abortion Rights Campaign and Lorraine Grimes, *Too many barriers: experiences of abortion after repeal* (Abortion Rights Campaign) 30.
[333] Health (Regulation of Termination of Pregnancy) Act 2018, s 12
[334] Health (Regulation of Termination of Pregnancy) Act 2018, s 5.
[335] Comms, 'One Family awarded contract for National Telephone Counselling Service for Crisis Pregnancy and Post-Abortion' (4 September 2018) < https://onefamily.ie/one-family-awarded-contract-for-national-telephone-counselling-service-for-crisis-pregnancy-and-post-abortion/ > accessed 20 January 2024.

criminalisation for information sharers for straying too far into the nebulous activities of advocating or promoting abortion or failing to uphold truth or objectivity. The 2018 Act was not the first piece of legislation that provided the State with an opportunity to examine paternalistic approaches to information regulation critically. The Protection of Life During Pregnancy Act 2013 (the 2013 Act) was enacted to give effect to the *X* decision after the electorate had rejected rolling back the decision in the referendums on the Twelfth and Twenty-Fifth. Bacik observed that the failure of the Twenty-Fifth had not progressed the law in terms of abortion rights. Instead, the vote had ensured that the 'clock' was not turned 'backwards' on abortion rights.[336] Her observation applied to information-based freedoms also. The 2013 Act left most of the information regulation framework in place and much of the same dynamics in terms of arguments related to protecting vulnerable subjects were again present in the Oireachtas' scrutiny of the legislation.

The 2013 Act was created in similar circumstances that led to the Fourteenth Amendment. Legislators were forced to act when the extreme harms of restrictive Irish abortion laws were once again exposed to public scrutiny. The founding of the CPA had allowed the State to claim that abortion criminalisation was not vulnerabilising pregnant people as the CPA provided them with help and support.[337] The CPA could not be a supplement for actual needed and wanted abortion access in Ireland, however. Two cases demonstrated this. Firstly, Miss C, who was a cancer survivor, was unable to

[336] *Bacik* (n 41) 380, 392.
[337] See for example the State response in Committee on the Elimination of Discrimination against Women, 'Concluding comments (of the Committee on the Elimination of Discrimination against Women) : Ireland' (22 July 2005) CEDAW/C/IRL/CO/4-5, para. 7, p. 2.

establish if she would be entitled to an abortion in Ireland and had to travel for an abortion.[338] The ECtHR found that Ireland's lack of an abortion access framework violated her Article 8 rights to privacy. The second was the death of Savita Halappanavar from sepsis after her doctors refused to provide her with an abortion when she was suffering an inevitable miscarriage.[339] The outrage and outpouring of despair from the public that followed meant it was, like with *X*, no longer legally or politically feasible for the State to not denote the boundaries of permissibility for abortion access in Ireland in law.[340] A Fine-Gael-Labour coalition government introduced the 2013 Act to outline the legal process for abortion access in Ireland.

The 2013 Act did not change the information regulatory framework as it was a conservative, restrictive piece of legislation.[341] Only pregnant people who were at risk of dying due to their pregnancies could lawfully be provided with an abortion and doctors would decide upon this.[342] To borrow Miller's framing, pregnant people would remain classed as 'patient' rather than as agentic 'citizen'.[343] Abortion access remained framed as a dangerous, undesired intervention that necessitated the State to mitigate hardships created by criminalisation and poor service provision.[344] In terms of information regulations the 2013 Act repealed the criminalisation of abortion under the 1861 Act.[345]

[338] *A, B and C v Ireland* Application no. 25579/05 (European Court of Human Rights, 16 December 2010).
[339] For a discussion of lack of abortion and the deaths of pregnant people see p. 53-54.
[340] Joan McCarthy, Katherine O'Donnell, Louise Campbell, Dolores Dooley, 'Ethical arguments for access to abortion services in the Republic of Ireland: recent developments in the public discourse' (2018) 44 Journal of Medical Ethics 513, 515; Clare Murray, 'The Protection of Life During Pregnancy Act 2013: Suicide, dignity and the Irish discourse on abortion' (2016) 25(6) Social & Legal Studies 667.
[341] Protection of Life During Pregnancy Act 2013, s 22.
[342] Protection of Life During Pregnancy Act 2013, ss 7, 8, 9 of the 2013 Act.
[343] *Miller* (n 16) 40.
[344] *Sabsay* (n 16) 280.
[345] Protection of Life During Pregnancy Act 2013, ss 5, 7, 8 and 9; The Supreme Court confirmed that once a person met the legal threshold for an abortion in Ireland they would be entitled to 'all relevant information necessary to enable her to have the pregnancy terminated'. See *Hamilton C.J.* in *In the matter of Article 26* (n 38) 33.

As I detailed in Chapter One, the 1861 Act was used to prosecute 'referral agents' to illegal services in Ireland.[346] However, the 2013 Act left all other forms of information criminalisation in place i.e., the 1889, 1929, 1946, 1979, and 1995 Acts. Control of information remained orientated towards the anti-abortion position, and it could be instrumentalised by those wishing to affect a reduction in the number of people choosing abortion. The motivation for engaging with information in this way continued to be framed as being necessary to protect vulnerable pregnant people from their own poor or crisis decision-making. An example from this time was Dr Margaret O'Riordan, who described the choice to have an abortion as often the one of 'last resort' that those in the 'majority of cases' made with 'great distress'.[347]

Some anti-abortion advocates were opposed to the *X* case decision and the 2013 Act as it incorporated suicide as a risk to the life of the 'mother'.[348] In their view, the legislation fell short of what they believed a truly benevolently, protective anti-abortion information framework should be. Their rationale reflected that of supporters of the 2013 Act; that people often decided to have an abortion because they were under/misinformed and were in a time of heightened stress.[349] Information provision

[346] See p. 88-89 and 111-112.
[347] Dr Margaret O'Riordan (Irish College of GPs) Joint Committee on Health and Children debate, Friday 17 May 2013.
[348] For examples from the PLDPA debates see Deputy James Bannon (Fine Gael) Dáil Éireann debate, Wednesday 10 July 2013, vol 810, no 2; Senator Brian Ó Domhnaill (Fianna Fáil) Seanad Éireann debate, Tuesday 16 July 2013, vol 225, no 2; Senator Paul Bradford (Fine Gael) Seanad Éireann debate, Thursday 18 July 2013, vol 225, no 4; For discussions see Ruth Fletcher, 'Contesting the cruel treatment of abortion-seeking women' (2014) 22(44) Reproductive Health Matters 10; Fiona de Londras, 'Constitutionalizing foetal rights: a salutary tale from Ireland' (2015) 22 Michigan Journal of Gender and Law 243, 289; *Dully* (n 27) 108-111.
[349] For examples of women protective arguments see contributions in Dáil Éireann debate, Monday 1 July 2013, vol 805, no 1; Committee on Health debate, Tuesday 2 July 2013; Dáil Éireann debate, Wednesday 10 July 2013, vol 810, no 2; Seanad Éireann debate, Monday 15 July 2013, vol 225, No 1; Seanad Éireann debate, Wednesday 17 July 2013, vol 225, no 3; Seanad Éireann debate, Thursday 18 July 2013, vol 225, no 4; Seanad Éireann debate, Tuesday 23 July 2013, vol 225, no 7.

remained an essential tool for resolving these issues as it could help abortion seekers to decide against abortion and avoid claimed abortion side-effects e.g., 'regret'.[350] Furthermore, they argued that pregnancy was protective of mental health so it would be protective of pregnant people to deny them abortions.[351] As before, those who made these arguments framed them as being backed by scientific and medical evidence.[352] For example, the recorded abortion numbers for Irish residents in England and Wales fell after the establishment of the CPA from a high of 6,673 in 2001 to 3,982 in 2012.[353] While it is not clear that the CPA was the cause of this decline, these statistics provided a powerful argument for anti-abortion advocates who wanted to instrumentalise information provision to reduce abortions.[354] Foreclosing abortion, as a legal and legitimised option for pregnant people would protect them and vulnerable foetal subjects.[355] Anti-abortion and pro-pregnancy information-sharing could contribute to this and government should have used the 2013 Act to create this additional layer of abortion incentivisation and dissuasion.[356]

Anti-abortion campaigners and legislators claimed that lives could be saved if the 2013 Act was more proscriptive about information and supports applied to contexts where suicide was a risk to life. These people were not considered by anti-abortion advocates

[350] For examples of legislators who linked abortion to regret and traumatisation see contributions in Dáil Éireann debate, Wednesday 26 June 2013, vol 808, no 2; Dáil Éireann debate, Monday 1 July 2013, vol 805, no 1.
[351] Senator Brian Ó Domhnaill (Fianna Fáil) Seanad Éireann debate, Tuesday 16 July 2013, vol 225, no 2.
[352] Sadie Bergen, '"The kind of doctor who doesn't believe doctor knows best": Doctors for Choice and the medical voice in Irish abortion politics, 2002–2018' (2022) *Social Science and Medicine* 297 114817.
[353] *Irish Family Planning Association* (n 238) 36.
[354] For praise for the work of the CPA in reducing abortions see contributions in Seanad Éireann debate, Thursday 29 January 2004, vol 175, no 5; Dáil Éireann debate, Tuesday 13 December 2005, vol 612, no 2; Dáil Éireann, Thursday 2 April 2009, vol 679, no 3; Seanad Éireann debate, Thursday 2 July 2009, vol 196, no 9, Seanad Éireann debate, Wednesday 8 July 2009, vol 196, no 12.
[355] 'Abortion – the street demonstrations in pictures' *The Irish Times* (Dublin, 23 September 2016)
[356] See the arguments in Dáil Éireann debate, Wednesday 10 July 2013, vol 810, no 2; Seanad Éireann debate, Thursday 18 July 2013, vol 225, no 4.

to be capable of making a rational, informed decision.[357] They needed help, to quote Deputy Robert Troy, to 'deal' with their crisis pregnancies.[358] Specifically, these abortion seekers should be offered anti-abortion, pro-pregnancy counselling in which they could be pitched 'alternatives' to abortions.[359] Communicating what anti-abortion advocates believed to the truth about foetal pain was also raised by legislators as a way of diverting people away from choosing abortion.[360] The idea that delays were favourable to anti-abortion decision-making remained, with Deputy Michelle Mulherin suggesting that a suicidal person should be forced to wait seven to ten days for a medical assessment so she could be provided with counselling and information intended to alleviate her crisis and assist her to remain pregnant.[361] The 2013 Act should have placed such interventions on a statutory basis with medical professionals being obligated to show that they 'objectively' and reasonably attempted to convince a person not to have an abortion.[362] These advocates introduced amendments to the 2013 Act that would codify the care process for suicidal pregnant people to achieve this. The specific elements were mandatory provision or offers of therapy and counselling,[363]

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[357] *Miller* (n 16) 40.
[358] Deputy Robert Troy (Fianna Fáil) Dáil Éireann debate, Monday 1 July 2013, vol 805, no 1; See also contributions in Senator Paul Bradford (Fine Gael) Seanad Éireann debate, Thursday 18 July 2013, vol 225, no 4.
[359] Quote from Deputy Billy Kelleher (Fianna Fáil) Dáil Éireann debate, Wednesday 10 July 2013 vol, 810, no 2; For more examples of these arguments see contributions in Joint Committee on Health and Children debate, Friday 17 May 2013; Dáil Éireann debate, Thursday 20 June 2013, vol, 807, no 4; Dáil Éireann debate, Monday 1 July 2013, vol 805, no 1; Dáil Éireann debate, Wednesday 10 July 2013 vol, 810, no 2.
[360] Seanad Éireann debate, Thursday 18 July 2013, vol 225, no 4.
[361] Deputy Michelle Mulherin (Fine Gael) Select Sub-Committee on Health debate, Wednesday 3 July 2013.
[362] Quote from Senator Rónán Mullen (Independent) Seanad Éireann debate, Thursday 18 July 2013, vol 225, no 4.
[363] Amendment 58 introduced by Deputy Lucida Creighton (Fine Gael and later Independent and Renua) in Dáil Éireann, 'Protection of Life During Pregnancy Bill 2013: Report Amendments' *Houses of the Oireachtas* (Dublin, 9 July 2013) < https://data.oireachtas.ie/ie/oireachtas/bill/2013/66/dail/4/amendment/numberedList/eng/b6613d-drn.pdf > accessed 22 May 2023; Amendment 30 introduced by Senator Fidelma Healy Eames (Fine Gael) and Amendment 34 introduced by Senator Rónán Mullen (Independent) in Seanad Éireann, 'Protection of Life During Pregnancy Bill 2013: Committee Amendments' *Houses of the Oireachtas* (Dublin, 17 July 2013) < https://data.oireachtas.ie/ie/oireachtas/bill/2013/66/seanad/3/amendment/numberedList/eng/b6613d-scn.pdf > accessed 22 May 2023; Amendment 15 introduced by Senators Rónán Mullen (Independent) and Paul Bradford (Fine Gael) in Seanad Éireann, 'Protection of Life During Pregnancy Bill 2013: Report Amendments' *Houses of the Oireachtas* (Dublin, 22 July 2013) <

ultrasounds,[364] provision of information about 'alternatives' to abortion,[365] an express requirement for medical practitioners to inform abortion seekers 'of her legal right to place her unborn for adoption',[366] and to prohibit private services from providing abortions.[367] This last proposal was targeted towards counselling organisations like the IFPA which provided information about abortion services abroad. Allowing them to provide abortions would, anti-abortion advocates believed, augment the vulnerabilisation of pregnant people and foetal life by exposing them to people who were not aligned with the view that abortion was dangerous.[368] The benevolence aspect of these strategies was that these advocates believed that denying suicidal pregnant

https://data.oireachtas.ie/ie/oireachtas/bill/2013/66/seanad/4/amendment/numberedList/eng/b6613d-srn.pdf > accessed 22 May 2023.

[364] Amendment 35 introduced by Senator Jim Walsh (Fianna Fáil) and Amendment 40 introduced by Senator Paschal Mooney (Fianna Fáil) in Seanad Éireann, 'Protection of Life During Pregnancy Bill 2013: Committee Amendments' *Houses of the Oireachtas* (Dublin, 16 July 2013) < https://data.oireachtas.ie/ie/oireachtas/bill/2013/66/seanad/3/amendment/numberedList/eng/b6613d-scn.pdf > accessed 22 May 2023; Amendment 16 introduced by Senators Jim Walsh and Labhras Ó Murchú (Fianna Fáil) in Seanad Éireann, 'Protection of Life During Pregnancy Bill 2013: Report Amendments' *Houses of the Oireachtas* (Dublin, 17 July 2013) < https://data.oireachtas.ie/ie/oireachtas/bill/2013/66/seanad/4/amendment/numberedList/eng/b6613d-srn.pdf > accessed 22 May 2023.

[365] Amendments 45 and 72 introduced by Deputy Billy Kelleher (Fianna Fáil) in Dáil Éireann, 'Protection of Life During Pregnancy Bill 2013: Committee Amendments' *Houses of the Oireachtas* (Dublin, 2 July 2013) < https://data.oireachtas.ie/ie/oireachtas/bill/2013/66/dail/3/amendment/numberedList/eng/b6613d-dscn.pdf > accessed 22 May 2023; Amendment 80 introduced by Deputy Billy Kelleher (Fianna Fáil) in Dáil Éireann, 'Protection of Life During Pregnancy Bill 2013: Report Amendments' *Houses of the Oireachtas* (Dublin, 9 July 2013) < https://data.oireachtas.ie/ie/oireachtas/bill/2013/66/dail/4/amendment/numberedList/eng/b6613d-drn.pdf > accessed 22 May 2023.

[366] Amendment 34 introduced by Senator Rónán Mullen (Independent) in 'Protection of Life During Pregnancy Bill 2013: Committee Amendments' *Houses of the Oireachtas* (Dublin, 17 July 2013) < https://data.oireachtas.ie/ie/oireachtas/bill/2013/66/seanad/3/amendment/numberedList/eng/b6613d-scn.pdf > accessed 22 May 2023; Amendment 15 introduced by Senators Rónán Mullen (Independent) and Paul Bradford (Fine Gael) Seanad Éireann, 'Protection of Life During Pregnancy Bill 2013: Report Amendments' *Houses of the Oireachtas* (Dublin, 22 July 2013) < https://data.oireachtas.ie/ie/oireachtas/bill/2013/66/seanad/4/amendment/numberedList/eng/b6613d-srn.pdf > accessed 22 May 2023.

[367] See Amendment 9 introduced by Senator Jim Walsh (Fianna Fáil) Seanad Éireann, 'Protection of Life During Pregnancy Bill 2013: Committee Amendments' *Houses of the Oireachtas* (Dublin, 17 July 2013) < https://data.oireachtas.ie/ie/oireachtas/bill/2013/66/seanad/3/amendment/numberedList/eng/b6613d-scn.pdf > accessed 22 May 2023; Amendment 3 introduced by Senator Jim Walsh (Fianna Fáil) in Seanad Éireann, 'Protection of Life During Pregnancy Bill 2013: Report Amendments' *Houses of the Oireachtas* (Dublin, 22 July 2013) < https://data.oireachtas.ie/ie/oireachtas/bill/2013/66/seanad/4/amendment/numberedList/eng/b6613d-srn.pdf > accessed 22 May 2023.

[368] Senator Jim Walsh (Fianna Fáil) Seanad Éireann debate, Thursday 18 July 2013, vol 225, no 4; Seanad Éireann debate, Monday 22 July 2013, vol 225, no 6.

people access to abortion was for their own good. For example, Senator Jim Walsh claimed that creating barriers to abortion meant that in 'future years' abortion seekers could 'enjoy' their motherhoods.[369] Fidelma Healy-Eames cast these attempts as a 'wholesome, holistic and caring' and 'pro-woman' approach to ameliorate the vulnerabilisation created by abortion availability.[370] They were adhering to service or management responses to hardships as, to quote from Miller, the 'exclusive remedies for damage to a subordinated female subject' as it did not challenge anti-abortion vulnerabilisation claims.[371] They could also disavow any accusations that they were endangering pregnant people by framing their interventions as being genuinely protective ones.[372] The government accepted none of the amendments due to the risk that such barriers could pose to pregnant people's lives.[373] This failure did not cause these advocates to pause and reconsider their stance on abortion and information regulations, however. As will be seen with the Health (Regulation of Termination of Pregnancy) Act 2018 (the 2018 Act) these ideas remained an influential strategy for sustaining anti-abortion ideologies in law during times of abortion access reform.

The 2018 Act was introduced after the electorate voted in favour of the Thirty-Sixth Amendment (the Thirty-Sixth) to replace the text of Article 40.3.3° with 'provision may be

[369] Senator Jim Walsh (Fianna Fáil) Joint Committee on Health and Children debate, Thursday 10 January 2013; See also his contribution in Seanad Éireann debate, Tuesday 23 July 2013, vol 225, no 7; Also Senator Rónán Mullen (Independent) Seanad Éireann debate, Thursday 18 July 2013, vol 225, no 4.
[370] Senator Fidelma Healy-Eames (Fine Gael) Seanad Éireann debate, Tuesday 16 July 2013, vol 225, no 2; Seanad Éireann debate, Thursday 18 July 2013, vol 225, no 4.
[371] *Miller* (n 16) 28.
[372] For examples of the argument that people would not be vulnerabilised if suicide was removed as a ground for abortion access see Deputy David Stanton (Fine Gael) Dáil Éireann debate, Monday 1 July 2013, vol 805, no 1; Deputy Éamon Ó'Cuív (Fianna Fáil) Dáil Éireann debate, Wednesday 10 July 2013, vol 810, no 2; Senator Rónán Mullen (Independent), Seanad Éireann debate, Thursday 18 July 2013, vol 225, no 4.
[373] For further discussion see p. 391-392.

made by law for the regulation of termination of pregnancy.'[374] Abortion seekers can now access abortion in Ireland before 12 weeks of pregnancy, without needing a qualified reason.[375] After 12 weeks abortions can be accessed in cases of risk to life, 'serious' harm to health, and for conditions that would lead to the death of the foetus within 28 days of birth.[376] The State funds abortion care provided through GP surgeries and hospitals. These reforms meant that, once again, it was no longer politically or legally feasible to maintain the same anti-abortion information regulatory framework. The 2018 Act amended the 1889, 1929, 1946 and 1979 Acts to remove advocating abortion in publications and advertisements as an offence, and it entirely repealed the 1995 Act.[377] Furthermore, under the 1995 Act abortion information provision had already become a mainstream part of GP services according to Dr Brendan O'Shea.[378] In contrast, anti-abortion services lost their dominance in the information and counselling sector. For example, the Union of Students announced that they would no longer refer people to Cura due to Cura's refusal to refer people to abortion providers.[379] The Minister for Health, Simon Harris also reconsidered funding arrangements, doubting if he could continue to fund those who refused to engage with State-supported abortion services.[380] This corresponded with a fall in the number of people attending CPA supported services for crisis pregnancy counselling: from 4,662 people in 2010, to 2,570

[374] Thirty-Sixth Amendment of the Constitution Act 2018.
[375] Health (Regulation of Termination of Pregnancy) Act 2018, s 12.
[376] Health (Regulation of Termination of Pregnancy) Act 2018, ss 9, 10, 11.
[377] Health (Regulation of Termination of Pregnancy) Act 2018, s 5.
[378] See the comments of Brendan O'Shea (Irish College of General Practitioners) Citizens' Assembly, 'Session Two: Current Practice in Ireland – Dr Brendan O'Shea' *YouTube* (26 November 2016) < https://www.youtube.com/watch?v=57ElzLPGzuA&list=PL8jOxQOnEpsh_jtOPHxIycBF82aWxk7Q2&index=8 > accessed 22 June 2023.
[379] USI Publications, 'USI disassociates from Cura' (Dublin 18 May 2018) Available < https://usi.ie/student-life/sexual-health/usi-disassociate-from-cura/ > accessed 20 January 2023.
[380] The Minister for Health Simon Harris (Fine Gael) in Ellen Coyne, 'Funding threat to agencies that withhold abortion advice' *The Times* (London 28 September 2018) 4.

in 2016.[381] Abortion seekers either travelled directly for care or chose to take illegal abortion medications in Ireland.[382] As a result, Cura closed down in 2018 with Life/Anew ceasing to provide counselling in 2019.[383] The embeddedness of paternalistic censorship is difficult to displace in legal frameworks, however, especially in the context of interventions like abortion which were so heavily contested.

Scholars like Fletcher have identified that anti-abortion ideologies persisted in Irish law-making.[384] There is enduring political power in arguments invoking the need to protect vulnerable subjects from their assumed flawed decision-making and behaviours, and this was part of the reason why such ideologies remained influential.[385] Even in the 2018 Act, laden with transformative potential, the government created a legal framework that sustained paternalistic aspects of State control.[386] Many of those who favoured constitutional change used protective arguments to create an impetus for reforms. In

[381] For references for these figures see Janice Donlon (HSE Sexual Health and Crisis Pregnancy Programme) Joint Committee on the Eighth Amendment of the Constitution debate, Wednesday, 15 November 2017; *Mazars* (n 318) 7, 11.
[382] For drops in recorded abortion numbers of Irish residents in England and Wales see *Irish Family Planning Association* (n 238) 36; For examples of people avoiding or choosing not to engage with counselling services see *Conlon* (n 235) 10-11, 19, 40, 42, 62-64, 66-67, 74, 99; *Crisis Pregnancy Agency* (n 309) 29; *Mahon, Conlon and Dillon* (n 1) 209-210, 215-216; For information about illegal abortion medication see Mary Laffoy (Citizens' Assembly chair) Joint Committee on the Eighth Amendment of the Constitution debate, Wednesday 20 September 2017; Janice Donlon (HSE Sexual Health and Crisis Pregnancy Programme) Joint Committee on the Eighth Amendment of the Constitution debate, Wednesday 15 November 2017.
[383] Patsy McGarry, 'Cura, the Catholic Church crisis pregnancy agency, to close on Friday' *The Irish Times* (Dublin, 13 June 2018) < https://www.irishtimes.com/news/social-affairs/religion-and-beliefs/cura-the-catholic-church-crisis-pregnancy-agency-to-close-on-friday-1.3529428 > accessed 21 December 2023 ; Anew, *Annual Report 2019* (Anew 2020).
[384] Ruth Fletcher, '#RepealedThe8th: Translating Travesty, Global Conversation, and the Irish Abortion Referendum' (2018) 26(3) Feminist Legal Studies 233, 244.
[385] Sharron A. FitzGerald and Vanessa E. Munro, 'Sex Work and the Regulation of Vulnerability(ies): Introduction' (2012) 20 Feminist Legal Studies 183, 185; *Brown* (n 20); *Butler, Gambetti and Sabsay* (n 98) 5; *MacKenzie, Rogers, and Dodds* (n 20) 2; *Munro and Scoular* (n 20) 191; *Sabsay* (n 16) 280.
[386] Judith Butler, 'Rethinking Vulnerability and Resistance' (2014) 15 accessed < http://bibacc.org/wp-content/uploads/2016/07/Rethinking-Vulnerability-and-Resistance-Judith-Butler.pdf > accessed 25 June 2023; *Butler, Gambetti and Sabsay* (n 98) 1, 3; For additional discussion see p. 310-313.

particular, illegal medication abortions were cast as dangerous and vulnerabilising.[387] Unlike the issues with medication at the time of the Censorship of Publications Act 1929, these medications were often safe and accessible. However, the government retained the criminalisation of abortions outside of the scope of the 2018 Act.[388] This offence included facilitative or assistive information provision. The person who underwent the abortion would not be guilty of an offence. Despite this, criminalisation still potentially curtailed the agency of abortion seekers as the offence applied regardless of whether or not a person helped them to access an illegal abortion as a 'benevolent act' or on their request.[389]

The 'paternalistic logics' of the 1995 Act remained as the State continued to disregard the agency of abortion seekers who may choose an illegal route for ending their pregnancies.[390] Abortion medication outside of the system was framed by the government as dangerous, hence they chose to maintain a degree of information criminalisation to protect claimed vulnerable subjects.[391] To quote the Minister for

[387] For examples of this see Shona Murray, 'Simon Harris: I have to accept the reality that Irish women are having dangerous abortions' *The Irish Independent* (Dublin, 11 November 2017) < https://www.independent.ie/irish-news/politics/simon-harris-i-have-to-accept-the-reality-that-irish-women-are-having-dangerous-abortions-36310641.html > accessed 10 January 2023; Taoiseach Leo Varadkar (Fine Gael) in ''Safe, legal and rare': full text of Taoiseach's abortion speech' *The Irish Times* (Dublin, 30 January 2018) < https://www.irishtimes.com/news/social-affairs/safe-legal-and-rare-full-text-of-taoiseach-s-abortion-speech-1.3373468> accessed 10 January 2023; Pat Leahy, 'Women in Ireland should not take abortion pills, says Harris' *The Irish Times* (Dublin, 12 April 2018) < https://www.irishtimes.com/news/politics/women-in-ireland-should-not-take-abortion-pills-says-harris-1.3459882 > accessed 10 January 2023; Jennifer Bray, 'Unregulated online pills bound to kill, Varadkar says' *The Times* (London, 19 May 2018).

[388] S 23(4), (5) and (7) of the 2018 Act. For discussion see Marie O'Shea, *The Independent Review of the Operation of the Health (Regulation of Termination of Pregnancy) Act 2018* (28 February 2023) 105 < https://www.gov.ie/en/publication/13fe5-the-independent-review-of-the-operation-of-the-health-regulation-of-termination-of-pregnancy-act-2018/ > accessed 4 May 2023.

[389] Quote from the Minister for Health Simon Harris (Fine Gael) Seanad Éireann debate, Tuesday 11 December 2018 vol 262, no 3.

[390] Quote from *Butler, Gambetti and Sabsay* (n 98) 2.

[391] The Minister for Health Simon Harris (Fine Gael), Select Committee on Health debate, Tuesday 6 November 2018; Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no. 3.

Health, Simon Harris, it was not in the 'best interests' of the pregnant person to allow her to undergo an abortion outside of the system.[392] Legislators who advocated for the decriminalisation of abortion recommended other sources of law that the State could use to protect people from forced abortions e.g., section 9 of the Non-Fatal Offences Against the Persons Act 1997. Harris refused these suggestions, instead perpetuating the idea of the vulnerable abortion seeker who could be manipulated into an abortion by a 'dominant personality'.[393] Hence, the government chose to maintain a layer of criminalisation in the 2018 Act for people involved in an illegal abortion, minus the abortion seeker. Furthermore, this retention of criminal offences evidenced the continuation of decades of suspicion of those who facilitated or assisted abortion seekers. The oversight of the State, shaped by decades of anti-abortion information controls, would therefore remain as part of the 2018 Act.

In addition to the government's continued reliance on citing the need to protect vulnerable subjects from abortion, the 2018 Act also contained aspects of abortion reductionist thinking from previous iterations of anti-abortion information controls. The government hoped that by having abortion seekers use official, regulated services, fewer of them may choose abortions. Information provisions remained the crucial strategy for achieving this even after the repeal of the 1995 Act. The government intended for the 'doctor-led system' to have the same abortion reduction or minimisation

[392] The Minister for Justice Simon Harris (Fine Gael), Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3.
[393] Dáil Éireann debate, Wednesday 28 November 2018, vol 975, no 6 and Seanad Éireann debate, Thursday 13 December 2018, vol 262, no 5.

effects without mandatory information-sharing provisions.[394] The Taoiseach, Leo Varadkar outlined how this would work, stating that 'the doctor could talk to them [abortion seekers] about other options, which a website does not do. Options could be continuing the pregnancy or adoption. The doctor could offer the woman counselling…'.[395] Harris located such conversations as part of the process to 'facilitate informed consent'.[396] Varadkar's descriptions of abortion needing to be 'rare' evidenced the anti-abortion foundations of this criminalisation.[397] Abortion remained the last choice option and it would be in treated in law as such. A further implication of such framing was that abortion seekers still required a professional gatekeeper to abortion to ensure that they were making robust, informed decisions. These consultations afforded them the opportunity, to return to Fitzgerald, to internalise messages of support, build resistance, self-manage their vulnerabilities and, in this context, ideally to continue with their pregnancies.[398]

Criminalisation was not the only tool of governance carried over from the previous iterations of information controls. So, too, was the use of delays or barriers to access to create the conditions in which a person may reconsider their decision to have an abortion. In the 1995 Act, this strategy was implicit through the prohibition on

[394] Quote from the Taoiseach Leo Varadkar (Fine Gael) Dáil Éireann debate, Wednesday 23 May 2018, vol 969, no 5.
[395] The Taoiseach Leo Varadkar (Fine Gael) Dáil Éireann debate, Wednesday 23 May 2018, vol 969, no 5; See also Deputy Bernard Durkan (Fine Gael) Joint Committee on Health debate, Wednesday 19 September 2018; Dáil Éireann debate, Wednesday 17 October 2018, vol 973, no 6.
[396] Quote from the Minister for Health Simon Harris (Fine Gael) Dáil Éireann debate, Friday 9 March 2018, vol 966, no 6.
[397] Quote from the Taoiseach Leo Varadkar (Fine Gael), 'Post-Cabinet Statement by Taoiseach Leo Varadkar' (29 January 2018) < https://merrionstreet.ie/en/news-room/news/post-cabinet_statement_by_taoiseach_leo_varadkar.html > accessed 1 January 2023; See also their contributions in Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3; Seanad Éireann debate, Tuesday 27 March 2018, vol 257, no 1.
[398] *FitzGerald* (n 77) 280.

appointment-making. Arguably, the 1861 and 2013 Acts created waiting periods as people were forced to travel abroad for care or had to locate illegal providers in Ireland. The 2018 Act made a gap in care explicit and mandatory for any person requesting an abortion before 12 weeks' gestation in non-emergency circumstances.[399] That abortion seeker would have to wait at least three days between their first abortion service appointment and when they could have their abortion.[400] Varadkar's description of the delay period as a time in which the abortion seeker would 'reflect on their decision' evidenced that this was a paternalistic anti-abortion measure.[401] The abortion seeker could seek out further information about supports or counselling that may convince her not to proceed with her second appointment. Rather than abortion seekers seeing this delay as an imposition, as they did with the 1995 Act, government members instead framed it as a way to provide 'considerable reassurance' that the State would take care of them.[402] Justifications for the three-day delay period brought together so many strands of paternalistic anti-abortion thinking around abortion and information; that providers necessitated the oversight of the criminal law, that abortion seekers were crisis-driven and under/misinformed, and that gatekeeping was vital to prevent harm to vulnerable subjects. Rather than recognising the agency of abortion seekers, the delay

[399] The Minister for Health Simon Harris (Fine Gael) did speculate that a person experiencing domestic violence could have the delay period waived under the risk to health provision. This was contested by those opposing the delay period and their interpretation seems to be correct. See The Minister for Health Simon Harris (Fine Gael) Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3.
[400] Health (Regulation of Termination of Pregnancy) Act 2018, s 12; It was initially a 72-hour waiting period but was changed to three-days due to issues with the Interpretation Act 2005. See The Minister for Health Simon Harris (Fine Gael) Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3.
[401] The Taoiseach Leo Varadkar (Fine Gael) Dáil Éireann debate, Wednesday 23 May 2018, vol 969, no 5; See also Deputy Bernard Durkan (Fine Gael) Joint Committee on Health debate, Wednesday 19 September 2018; Dáil Éireann debate, Wednesday 17 October 2018, vol 973, no 6.
[402] Deputy Bernard Durkan (Fine Gael) Dáil Éireann debate, Wednesday 17 October 2018, vol 973, no 6.

period continued the legacy of seeing abortion seekers as 'subjects' who required State management and advocation, even if it was counter to their needs and wants.[403]

The boundaries of paternalism and censorship are, however, difficult to control. Ahiska observed how people advocating for regressive laws often do so using vulnerability-based arguments to appropriate feminist discourse.[404] This strategy opens up discursive and policy spaces in which stereotypes, gendered assumptions and the ideologies of those would-be protectors are cloaked in caring or liberatory language.[405] Miller recounted how the use of this language can drain human rights of their 'transformative' potential.[406] I have discussed this issue previously in the context of Irish information services and with the legal actions of SPUC.[407] Foetal protective arguments were a crucial part of anti-abortion campaigns against the Thirty-Sixth and the 2018 Act.[408] There were similar claims that abortion seekers were vulnerable subjects who made the wrong decision due to information gaps, panic and irrationality caused by pregnancy hormones.[409] Abortion prohibitions, supported and served by information restrictions, should not, according to their conclusions, be liberalised especially on the basis that they harm vulnerable abortion seekers.[410] Those anti-abortion advocates supported the

[403] Quotes from *de Londras* (n 242) 42; See also *Miller* (n 16) 40.
[404] *Ahiska* (n 24) 212.
[405] See Butler, Gambetti and Sabsay on 'objectionable ontological claims'. In *Butler, Gambetti and Sabsay* (n 98) 2.
[406] *Miller* (n 16) 2, 36.
[407] See Chapter One.
[408] For examples inside the Oireachtas see the contributions in Dáil Éireann debate, Friday 9 March 2018, vo. 966, no 6; Dáil Éireann debate, Tuesday 20 March 2018, vol 966, no 7; Seanad Éireann debate, Tuesday 27 March 2018, vol 257, no 1; Seanad Éireann debate, Wednesday 28 March 2018, vol 257, no 2; Luke Field, 'The abortion referendum of 2018 and a timeline of abortion politics in Ireland to date' (2018) 33(4) Irish Political Studies 608, 620-621.
[409] For comments about hormones see Liz McDermott (One Day More and Gianna Care) Joint Committee on the Eighth Amendment of the Constitution debate Wednesday 22 November 2017; For panicked decision-making see contributions in Dáil Éireann debate, Friday 9 March 2018, vol 966, no 6; Dáil Éireann debate, Tuesday 20 March 2018, vol 966, no 7.
[410] For examples see Clare Byrne Live debate (5 September 2016) from 4.40 < https://m.facebook.com/prolifecampaignireland/videos/claire-byrne-live-05-09/10154223832015379/ > accessed 1

mandatory 3-day delay period – which they described as a 'cooling-off period'[411] or 'safeguard'[412] as it was compatible with a paternalistic view of vulnerabilised abortion seekers.[413] Although they would have preferred, as stated by Maria Steen, a waiting period 'of approximately nine months', this use of an information-based strategy to impede or discourage abortion fit with their view of the role of information, counselling and law in the context of abortion.[414]

Outside of criminalisation and the mandatory delay period, these advocates believed that the 2018 Act did not utilise all the information-based regulatory tools possible to protect vulnerable subjects. There was more that the government could have done, to borrow a phrase from Athanasiou, create 'self-contained, self-regulating, moral' subjects who would reject abortion.[415] The solution would have been for the government to provide information to abortion seekers that emphasised claimed supports and the

February 2023; For a discussion on vulnerability and considerations of capacity see *FitzGerald and Munro* (n 385) 185.

[411] Deputy Michael Collins (Independent) Dáil Éireann debate, Thursday 18 October 2018, vol 973, no 7.

[412] Deputies Mary Butler, Eugene Murphy, Eamon Scanlon (Fianna Fáil) Dáil Éireann debate, Wednesday 17 October 2018, vol 973, no 6.

[413] For examples of expressions of support in the Oireachtas see Seanad Éireann debate, Tuesday 27 March 2018, vol 257, no 1; Seanad Éireann debate, Wednesday 28 March 2018, vol 257, no 2; Dáil Éireann debate, Wednesday 5 December 2018, vol 976, no 2; Dáil Éireann debate, Thursday 18 October 2018, vol 973, no 7; For examples of expressions of support outside of the Oireachtas see Pro-Life Campaign, 'The 8th Amendment: A Life Saving Beacon of Hope: Extracts from Submission to the Citizen's Assembly for session on Sunday March 5th 2017' (2017) < https://2016-2018.citizensassembly.ie/en/Meetings/Pro-Life-Campaign-s-Paper.pdf > accessed 1 February 2023; *Irish Catholic Bishops Conference* (31 October 2017) < https://www.catholicbishops.ie/2017/10/31/opening-address-by-bishop-alphonsus-cullinan-at-the-crisis-of-democracy-in-ireland-conference/ > accessed 10 March 2023.

[414] Maria Steen (Iona Institute) 'Study ignores the moral gravity of abortion' *The Irish Times* (Dublin, 16 July 2022) 16; Bishop Alphonsus Cullinan, 'Opening address by Bishop Alphonsus Cullinan at the 'Crisis of Democracy in Ireland' conference' *Irish Catholic Bishops Conference* (31 October 2017) < https://www.catholicbishops.ie/2017/10/31/opening-address-by-bishop-alphonsus-cullinan-at-the-crisis-of-democracy-in-ireland-conference/ > accessed 10 March 2023; Pro-Life Campaign, *Ireland's Abortion Law: End the Silence* (Pro-Life Campaign 2021); For examples of legislators objecting to the 72-hour delay period becoming a 3-day delay period see Dáil Éireann debate, Wednesday 17 October 2018, vol 973, no 6; Dáil Éireann debate, Thursday 18 October 2018, vol 973, no 7.

[415] Quote from *Athanasiou* (n 21) 271; For discussions of resilience and vulnerability see Marianne Hirsch, 'Vulnerable Times' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 76, 82; *FitzGerald* (n 77).

harms of abortion.[416] Confusingly, anti-abortion legislators called for the State to provide free crisis pregnancy counselling but as I have discussed above this was available for years, even before the founding of the CPA.[417] Most of the suggestions made by these anti-abortion proponents focused on neutralising the desirability of legalised abortion, filling assumed information gaps about abortion and foetal development, and ensuring oversight of dis/mistrusted abortion information providers.[418] The amendments that they introduced were framed as, to quote Deputy Peadar Tóibín, ensuring that people could make 'better decisions' around abortion.[419] Similarly to earlier anti-abortion actors who favoured information control, these proponents disavowed censorship. They were in favour of information provision, whereas it was their opponents who were acting in a way that was 'paternalistic and patronising' by denying abortion seekers information about the 'truth' of abortion.[420] How else, they asked, could the State ensure that abortion seekers gave their 'informed consent'?[421] Their use of this protective language

[416] For support of these amendments outside of the Oireachtas see Ellen Coyne, 'Abortion fears of Pro-Life group chief' *The Times* (London 13 June 2018) 9; Ellen Coyne, 'Abortion opponents to fight for burials in bill on terminations' *The Times* (London, 3 October 2018); For arguments about information assisting a person to decide against abortion inside the Oireachtas see Dáil Éireann debate, Thursday 29 November 2018, vol 975, no 7; Dáil Éireann debate, Wednesday 5 December 2018, vol 976, no 2; Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3; Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3; Seanad Éireann debate, Thursday 13 December 2018, vol 262, no 5.

[417] For examples of these calls see contributions in Dáil Éireann debate, Wednesday 17 October 2018, vol 973, no 6; Dáil Éireann debate, Thursday 18 October 2018, vol 973, no 7; See p. 213 for a discussion of State funding of anti-abortion organisations.

[418] For arguments about doctors not knowing about available pregnancy supports see Deputy Mattie McGrath (Independent) Select Committee on Health debate, Thursday 8 November 2018; Deputy Michael Collins (Independent) Dáil Éireann debate, Wednesday 5 December 2018, vol 976, no 2; For arguments about doctors not sufficiently counselling people against abortion in the context of fatal foetal abnormalities see Deputy Michael Collins (Independent) Dáil Éireann debate, Wednesday 5 December 2018, Vol 976, no 2; For claims that people did not know about foetal development see Deputy Peadar Tóibín (Independent, formerly Sinn Féin and later Aontú) Select Committee on Health debate, Wednesday 7 November 2018; *Kuźma-Markowska and Kelly* (n 297) 14.

[419] Deputies Peadar Tóibín (Sinn Féin and later Independent and Aontú) Dáil Éireann debate, Tuesday 4 December 2018, vol 976, no 1.

[420] Quote from Deputy Peadar Tóibín (Sinn Féin, then Aontú) Dáil Éireann debate, Wednesday 5 December 2018, Vol 976, no 2; See also contributions in Dáil Éireann debate, Wednesday 17 October 2018, vol 973, No. 6; Select Committee on Health debate, Thursday 8 November 2018; Dáil Éireann debate, Thursday 29 November 2018, vol 975, no 7; Dáil Éireann debate, Wednesday 5 December 2018, vol 976, no 2; Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3; Seanad Éireann debate, Thursday 13 December 2018, vol 262, no 5.

[421] For comments about the need to provide anti-abortion information to ensure informed consent see the comments in Dáil Éireann debate, Wednesday 17 October 2018, vol 973, No. 6; Select Committee on Health debate, Thursday

was deliberate as they sought to co-opt pro-reform arguments to provide a caring cover to their attempts to secure legal barriers to abortion access. With the government also expressing these 'paternalistic logics', it is unsurprising that advocates for continued anti-abortion information-sharing claimed that they were working towards the same goal e.g., ensuring information provision during the three-day delay period.[422]

The amendments were drafted according to what anti-abortion proponents believed that abortion seekers would need to decide against abortion. Had they passed, these amendments would have required abortion providers in non-emergency circumstances to communicate a range of mis/disinformation to the abortion seeker. Despite the supporters of these amendments claiming that they facilitated the transmission of medically and scientifically sound information, this was not the case. Instead, these amendments created barriers to access, perpetuated the framing of abortion as an injurious, unnecessary and unjust intervention and would have codified anti-abortion ideologies, removing them from the domain of the contested and the political.[423]
The benefit of this was that it would have provided a cover for these invasive and manipulative communications. The strategies contained in these amendments involved visibilising the foetus and an emphasis on foetal development to prompt an emotional

8 November 2018; Dáil Éireann debate, Thursday 29 November 2018, vol 975, no 7; Dáil Éireann debate, Wednesday 5 December 2018, vol 976, no 2; Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3; Seanad Éireann debate, Thursday 13 December 2018, vol 262, no 5.

[422] Quote from *Butler, Gambetti and Sabsay* (n 98) 2; Deputy Peter Fitzpatrick (Fine Gael, later Independent) Dáil Éireann debate, Wednesday 5 December 2018, vol 976, no 2; Senator Brian Ó'Domhnaill (Fianna Fáil) Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3.

[423] See contributions in Select Committee on Health debate, Thursday 8 November 2018; Dáil Éireann debate, Wednesday 5 December 2018, vol 976, no 2; Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3; *Fox and Murphy* (n 44) 456.

response so that the abortion seeker would decide against abortion.[424] This process would involve medical consultations, a website, a DVD, printed materials,[425] ultrasounds, and auscultations.[426] Mandated information would have included descriptions of abortions including side effects, claimed 'alternatives' to abortion, the legal and financial obligations of fathers, and mis/disinformation about abortion 'reversal' methods and foetal pain thresholds.[427] The comparison that their advocates made were to public health information initiatives. For example, Senator Rónán Mullen compared warnings about abortion to anti-smoking advice.[428] Without this information, the amendments would have deemed the consent of the abortion seeker to not be 'voluntary and informed' in law.[429] Minors would have their parent or guardian informed

[424] Deputy Rónán Mullen (Independent) Joint Committee on Health debate, Wednesday 19 September 2018; Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3; Seanad Éireann debate, Thursday 13 December 2018, vol 262, no 5.

[425] These first four information sources were included in the amendments entitled 'Information' or 'Information and informed consent'. See Amendment 146 < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/dail/3/amendment/numberedList/eng/nl-b10518d.pdf > ; Amendment 46 < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/dail/4/amendment/numberedList/eng/b105a18d-substitution-list.pdf > ; Amendment 46a < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/dail/4/amendment/numberedList/eng/b105a18d-2nd-additional-list.pdf > accessed 2 February 2023; Amendment 44 < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/seanad/3/amendment/numberedList/eng/nl-b105b18d-sc.pdf > all accessed 2 February 2023.

[426] For the 'Provision of foetal ultrasound imaging and auscultation of foetal heart tone' amendments see Amendment 100 < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/dail/3/amendment/numberedList/eng/nl-b10518d.pdf > ; Amendment 44 < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/dail/4/amendment/numberedList/eng/b105a18d-drnl.pdf > ; Amendment 44 < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/dail/4/amendment/numberedList/eng/b105a18d-substitution-list.pdf > ; Amendment 46 < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/seanad/3/amendment/numberedList/eng/nl-b105b18d-sc.pdf > ; Amendment 27 < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/seanad/4/amendment/numberedList/eng/nl-b105b18d.pdf > all accessed 3 February 2023.

[427] *'Information' or 'Information and informed consent'* (n 425); There was a list of side-effects included in amendment 146 but not in 46, 46a or 44. There was a requirement for medical practitioners to also share information about the medical risks of continuing a pregnancy but there was no prescribed statutory list.

[428] Senator Rónán Mullen (Independent) Joint Committee on Health debate, Wednesday 19 September 2018.

[429] Amendments 146, 46, and 44 in *'Information' or 'Information and informed consent'* (n 425); The foetal pain information requirement was included in amendment 146 but was adapted in 46 and 46a to be an offer. It was removed in 44. This was later changed to an offer of information due to backlash in the Oireachtas. See Amendment 46a in *'Information' or 'Information and informed consent'* (n 425); See Deputy Peadar Tóbín (Sinn Féin and later Aontú) on the change in Dáil Éireann debate, Wednesday 5 December 2018, vol 976, no 2; The ultrasound amendments 100, 44, 44, 46 and 27 also specified that the abortion seeker be offered to see or hear the foetus, but

about their abortion request unless they obtained a High Court dispensation.[430] Tóibín denied that this requirement for young people would be a barrier to access as it was not a parental consent requirement.[431] The reason why they had included this provision was that they believed that young people had a limited capacity to give 'informed consent' and would need parental assistance to navigate pregnancy and the circumstances that lead to it e.g., abuse.[432] Claims that these provisions were not intended to block access to abortions were, however, largely semantics as a parental figure could use informal pressures to obstruct a young person from choosing an abortion. Furthermore, the 'Information' or 'Information and informed consent' amendments also had a clause stating that 'Nothing in this Act shall operate to create an entitlement by a pregnant woman under the age of eighteen years to consent to medical treatment'.[433] These amendments taken together evidence a strategy of foreclosure of access to abortion for teenagers, a precarious and vulnerable class of person. All of these amendments together were considered by their proponents to use information-based strategies to

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the scanning itself would be mandatory. See *Provision of foetal ultrasound imaging and auscultation of foetal heart tone* (n 426).

[430] Amendment 145 < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/dail/3/amendment/numberedList/eng/nl-b10518d.pdf > ; Amendment 45 < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/dail/4/amendment/numberedList/eng/b105a18d-drnl.pdf > ; Amendment 45 substitution < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/dail/4/amendment/numberedList/eng/b105a18d-substitution-list.pdf > ; Amendment 45 second substitution list < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/dail/4/amendment/numberedList/eng/b105a18d-2nd-substitute-list.pdf > ; Amendment 45 < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/seanad/3/amendment/numberedList/eng/nl-b105b18d-sc.pdf > all accessed 3 February 2023.

[431] Deputy Peadar Tóibín (Sinn Féin, formerly and later Independent, and later Aontú) Select Committee on Health debate, Wednesday 7 November 2018.

[432] For examples of the argument that minors could not give informed consent without parental assistance see Dáil Éireann debate, Wednesday 17 October 2018, vol 973, no 6; Select Committee on Health debate, Wednesday 7 November 2018; Select Committee on Health debate, Thursday 8 November 2018; Dáil Éireann debate, Tuesday 4 December 2018, vol 976, no 1; Dáil Éireann debate, Wednesday 5 December 2018, vol 976, no 2; Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3; For comments on protecting children from abuse see Select Committee on Health debate, Wednesday 7 November 2018; *Abortion opponents to fight for burials in bill on terminations* (n 416).

[433] *'Information' or 'Information and informed consent'* (n 425).

protect the most vulnerable subject of all: foetal life.[434] Harris did not accept any of these amendments because they could potentially vulnerabilise abortion seekers by creating barriers and stigmatising the decision to have an abortion.[435] These anti-abortion efforts were worth considering however as I demonstrated in my conclusion chapter, as arguments relating to informed consent remain pertinent in anti-abortion campaigning today.

Conclusion

> …what I do not like about this thing was that the decision about being pregnant and living with the consequences of all of that was forced upon me and there was no access to information to get another alternative…I was totally and utterly othered by my Constitution, by the legal system, by access to information or access to progression as a human…it's about choice, it's about actually somebody trusting you and really listening to what your fears are and saying that's a really valid concern are you really sure that that's what you want to do in life okay well if that's what you want to do well I accept that decision and I'm going to support you in that choice…
>
> First Hand Experiences - 6[436]

This was the experience of 'Niamh'.[437] She attended Life/Anew in 2000 for crisis pregnancy counselling. The information that she received included mis/disinformation about foetal development and abortion law in Ireland. She did not travel for an abortion. In her account for the Citizens' Assembly, 'Niamh' outlined the harms that she experienced as a result of this anti-abortion counselling. She was not alone.[438] The

[434] For examples of foetal protection-based arguments see the contributions in Dáil Éireann debate, Wednesday 17 October 2018, vol 973, no 6; Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3; Seanad Éireann debate, Thursday 13 December 2018, vol 262, no 5.
[435] For discussion see p. 392-394.
[436] *Participant number 6* (n 302).
[437] *Coyne* (n 302).
[438] See the section 'Sites of contestation' from p. 356.

experiences of abortion seekers recounted how information regulations that were predicated on protecting vulnerable abortion seekers failed them. Information restrictions caused people additional stress, created barriers or forced them to hear information they did not need or want. Despite this, information-based interventions endured as the method of choice for the State and anti-abortion advocates who sought to reduce abortions by addressing assumed crises and information gaps among abortion seekers. Control of information was significant during moments of legal changes where absolutist abortion prohibitions were adapted or reformed. I recounted how this approach to information dissemination began with the State seeking to limit the transformative potential of the Fourteenth by qualifying the freedoms therein. This foreclosing continued under the 1995 Act, the founding of the CPA and through to the 2018 Act. Abortion minimisation or elimination justifications were compatible with paternalistic framings of the role of information as people continued to regard abortion as the least desirable, potentially harmful option for the ending of a crisis pregnancy. The power of these arguments was often so strong that pro-reform and anti-abortion advocates were aligned in their rejection of abortion. They differed where they believed lines of permissibility should be drawn in law in terms of information provision. Ambitions to ameliorate vulnerabilities through anti-abortion or pro-continuation of pregnancy information provisions have limited the legislative imagination, perpetuated negative framings of abortion and cast abortion decision-making as suspect and insecure.

Chapter Three: Control of information and protecting anti-abortion beliefs

Introduction

> Mothers who chose abortion are not bad people. They are people who are told abortion is the culturally accepted thing to do in such a situation.
>
> Declan Ganley[1]

Speaking two months before the electorate voted in favour of the Thirty-Sixth Amendment (the Thirty-Sixth), conservative campaigner Declan Ganley demonstrated another critical motivation for anti-abortion information controls: sustaining the stigmatisation and exceptionalisation of abortion. The State could ensure the dominance of anti-abortion ideologies in society by criminalising certain forms of information-sharing and counterhegemonic messages. As Butler remarked, decisions around categorising speech as unlawful or harmful often reflect the 'strategic' and political goals of the people who support and enforce those boundaries.[2] In this Chapter, I considered how anti-abortion censorship and mandated pro-pregnancy continuation information was designed and implemented by the State and anti-abortion proponents to preserve the anti-abortion *status quo*. I began with the prohibition on

[1] Declan Ganley, 'Irish people do not want a British-style abortion law' *The Irish Times* (Dublin, 12 March 2018) 2.
[2] Judith Butler, *Excitable Speech* (Routledge Classics 2021) 13, 62.

counterhegemonic publications that were deemed to have advocated abortion in the Censorship of Publications Act 1929 and 1946. These Acts were pivotal in establishing the unacceptability of non-directive or pro-choice information. Only those who the State could trust not to challenge or undermine hegemonic condemnatory framings of abortion could be trusted to have access to these publications. I next consider how the State utilised the *Open Door* and *Grogan* decisions, the Fourteenth Amendment and the Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995 to prevent the normalisation and legitimisation of abortion. Information-based strategies remained critical for ensuring the dominance of anti-abortion ideologies especially when non-directive counselling services could direct people to abortion services abroad after the Fourteenth Amendment. The adherence of anti-abortion actors to information-centred approaches to revitalise anti-abortion perspectives continued when abortion access in Ireland became more available under the Protection of Life During Pregnancy Act 2013 and the Health (Regulation of Termination of Pregnancy) Act 2018. When abortion is legal and accessible, it becomes imperative for those opposed to it to control the messaging to ensure the internalisation and perpetuation of anti-abortion ideologies within people and society. The result is that people would reject abortion, and the foundation would be laid through abortion awfulisation for a potential resurgence of anti-abortion worldviews.

Prohibiting the advocation of abortion

> We are not wedded to any word and we are not specifically wedded to the word ‘abortion’ appearing in any particular text ... it’s not so much the language that counts here, it’s the activities that are done and the

> context in which they are done that's important – the principles that underlie the activities in question.[3]
>
> William Binchy (Pro-Life Campaign (PLC))

Binchy's quote illustrated a fundamental principle in anti-abortion approaches to information regulations. Information should be controlled in law to impede abortion access and to encourage an environment in which abortion would remain condemned. Hence, the State adopted a range of approaches targeting counterhegemonic information sources intended to preserve the anti-abortion *status quo*.

The Offences Against the Persons Act 1861 criminalised abortion, providers and those who assisted them including 'referral agents'.[4] As a result abortion seemed to be already, to quote Butler 'unsaid and unsayable' when the state reviewed Irish censorship laws in the 1920s.[5] Pro-censorship campaigners were, as Pašeta detailed, focused on expanding the legal framework to combat what they saw as a growing culture of 'moral decadence' and people acting outside of social and sexual norms.[6] According to these advocates, the normalisation or legitimisation of such deviant behaviours was partially driven by messages from abroad in imported publications. These information sources posed a threat to the ideals of the insecure, developing, 'young nation'.[7] The first draft of the Censorship of Publications Act 1929 (the 1929 Act) empowered the Minister for Justice to prohibit publications on the grounds of them

[3] All-Party Oireachtas Committee on the Constitution, *Fifth Progress Report: Abortion* (Stationary Office 2000) 23.
[4] For additional discussion of prosecutions see p.111-112.
[5] *Butler* (n 2) 39; See also John Horgan, 'Saving us from Ourselves: Contraception, Censorship and the 'Evil Literature' Controversy of 1926' (1995) 5 Irish Communications Review 61, 61-62.
[6] Senia Pašeta 'Censorship and Its Critics in the Irish Free State 1922-1932' (2003) 181 Past & Present 193, 198.
[7] R.S. Devane quoted in Michael Adams, *Censorship: the Irish Experience* (University of Alabama 1968) 37-38; For comments about the dangers of imported publications see the Minister for Justice James FitzGerald-Kenney (Cumann na nGaedheal, then Fine Gael) Seanad Éireann debate, Wednesday 10 April 1929, vol 12, no 1 and Deputy J.J. Byrne (Cumann na nGaedheal) Dáil Éireann debate, Friday 19 October 1928, vol 26, no 6.

being ‘injurious or detrimental to or subversive of public morality’.[8] Opposition Oireachtas members opposed this as it was a nebulous ground on which to base a criminal offence. People have, as Butler, remarked, different interpretations of what injurious speech is.[9] For example, legislators cited gambling, suicide or minority political views as potentially falling foul of this imprecise prohibition.[10] The drafting government conceded this point as their intention was for the 1929 Act to combat the sources of most concern: ‘sexual morality’ including abortion and contraception.[11] In the 1920s, pro-*status quo* actors witnessed discourse in other European countries on the benefits of contraception. Russia and the Ukrainian Soviet Socialist Republic introduced abortion on request,[12] and the Infant Life (Preservation) Act 1929 of England and Wales confirmed that abortion would not be an offence if performed to save the life of the pregnant person.[13] The framing of abortion as a criminalised, dangerous act may be imperilled through similar debates and developments unless the State quashed pro-liberalisation views and prevented them from developing in Ireland through law. The final draft of the 1929 Act helped to achieve this suppression by replacing the ‘public morality’ clause with one specifying that the prohibitable content was the advocation of abortion or contraception.[14] To quote the Minister for Justice James FitzGerald-Kenney,

[8] Censorship of Publications Bill 1928, ss 7(1) and s 8(1).
[9] *Butler* (n 2) 20, 77.
[10] See the debate in Dáil Éireann debate, Thursday 18 October 1928, vol 26, no 5; Dáil Éireann debate, Thursday 21 February 1929, vol 28, no 2; Seanad Éireann debate, Thursday 11 April 1929, vol 12, no 2; The Committee on Evil Literature also rejected calls to expand censorship to political or economic views. *Adams* (n 7) 34.
[11] Quote Minister for Justice, James Fitzgerald-Kenney (Cumann na nGaedheal and later Fine Gael) Dáil Éireann debate, Thursday 18 October 1928, vol 26, no 5; See also of the Minister for Agriculture Patrick Hogan (Cumann na nGaedheal) Dáil Éireann debate, Wednesday 24 October 1928, vol 26, no 7.
[12] This happened in Russia in 1920 and in the Ukrainian Soviet Socialist Republic in 1921. See Susan Gross Solomon, ‘The Soviet Legalization of Abortion in German Medical Discourse: A Study of the Use of Selective Perceptions in Cross-Cultural Scientific Relations’ (1992) 22(3) Social studies of science 455; Yuliya Hilevych, ‘Abortion and gender relationships in Ukraine, 1955–1970’ (2015) 20(1) The history of the family 86.
[13] Infant Life (Preservation) Act 1929, s 1(1).
[14] See the comments about targeting works considered to violate ‘sexual morality’ and those which promoted ‘sexual perversion’ by the Minister for Justice, James Fitzgerald-Kenney (Cumann na nGaedheal and later Fine Gael) Dáil

such interventions were ‘wrong’ and a ‘special evil’ and they instrumentalised legal means to reflect and perpetuate this.[15]

Adams’ summary of those early censorship debates evidenced that criticisms of censorship focused on construction and execution rather than on principles.[16] Legislators framed curtailing general access to contested information as being a non-party-specific regulatory strategy with a range of benefits that were recognisable to all political actors.[17] Adams also noted that few people seemed to take umbrage at prohibitions related to contraception.[18] This either indicated, he claimed, that people agreed with the prohibitions or considered it ‘impolitic’ to challenge it.[19] I could not find discussions of criticism of abortion-related censorship. If Adams was correct in his judgement, this implies that those oppositional limitations applied to abortion to an even greater degree. The comments of multiple Ministers for Justice seemed to indicate that this was the case as they often framed censorship as reflecting a near-universal or majority dominant view that contraception, and by extension, abortion was wrong. That

Éireann debate, Thursday 18 October 1928, vol 26, no 5. See also the comments of the Minister for Agriculture Patrick Hogan (Cumann na nGaedheal) Dáil Éireann debate, Wednesday 24 October 1928, vol 26, no 7; For criticisms that the Board may not interpret their mandate to include these publications see Dáil Éireann debate, Thursday 18 October 1928, vol 26, no 5; Dáil Éireann debate, Friday, 19 October 1928, vol 26, no 6; Dáil Éireann debate, Wednesday 24 October 1928, vol 26, no 7; Dáil Éireann debate, Wednesday 27 February 1929, vol 28, no 4; Amendment no. 24 was created to do this and it was introduced by Deputy Michael Tierney (Cumann na nGaedheal and later Fine Gael). It was withdrawn as the Minister for Justice, James Fitzgerald-Kenney (Cumann na nGaedheal and later Fine Gael) did not like Tierney’s arguments that books should not be subject to additional restrictions under what would become section 16 of the 1929 Act and should solely be a matter for the Board. Dáil Éireann debate, Thursday, 21 February 1929, vol 28, no 2; FitzGerald-Kenney then later introduced Amendments 4 and 5 to change the wording from public morality to advocation of abortion or contraception. Dáil Éireann debate, Wednesday, 20 March 1929, vol 28, no 12.

[15] The Minister for Justice James Fitzgerald-Kenney (Cumann na nGaedheal and later Fine Gael) Dáil Éireann debate, Thursday 27 February 1929, vol 28, no 4; Seanad Éireann debate, Thursday 11 April 1929, vol 12, no 2.

[16] *Adams* (n 7) 54-55, 99-101

[17] *Adams* (n 7)112.

[18] *Adams* (n 7) 56, 139; See also Andrew Comyn, ‘Censorship in Ireland’ (1969) 58(229) Studies: An Irish Quarterly Review 45.

[19] *Adams* (n 7) 139.

the public wanted an expanded censorship infrastructure to eliminate these threats to Irish values and moral certainties.[20] For example, FitzGerald-Kenney said of birth control, 'we have made up our minds that it is wrong' and this was an 'unalterable' position.[21] As for the boundaries of impermissibility in the 1929 Act, he claimed that 'almost all persons in this country are in agreement with us'.[22] Over a decade later Minister Gerald Boland described the 'free advocacy of birth control' as being impermissible, and he maintained the restrictions created in the 1929 Act in the Censorship of Publications Act 1946 (the 1946 Act).[23] This anti-contraception – and undoubtedly anti-abortion- ideology remained with the Censorship of Publications Act 1967 (the 1967 Act) as it did not amend the prohibitions on publications deemed to have advocated abortion or contraception. Furthermore, Minister Brian Lenihan argued that censorship retained the support of 'the vast majority of the people' as the Censorship of Publications Board's (the Board) decisions reflected the 'ordinary commonsense opinion' of readers.[24] From the perspective of the State, the censorship framework was indicative of the values of the community in Ireland.[25]

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[20] R.S. Devane had lobbied for new censorship laws claiming that the public supported this. See *Pašeta* (n 6) 198.
[21] The Minister for Justice James Fitzgerald-Kenney (Cumann na nGaedheal and later Fine Gael) Dáil Éireann debate, Thursday 18 October 1928, vol 26, no 5.
[22] The Minister for Justice James Fitzgerald-Kenney (Cumann na nGaedheal and later Fine Gael), Dáil Éireann debate, Thursday 18 October 1928, vol 26, no 5.
[23] The Minister for Justice Gerald Boland (Fianna Fáil) Seanad Éireann debate, Wednesday 18 November 1942, vol 27, no 1.
[24] The Minister for Justice Brian Lenihan (Fianna Fáil) Dáil Éireann debate, Wednesday 10 May 1967, vol 228, no 6 and Seanad Éireann debate, Wednesday 14 June 1967, vol 63, no 6; See also the comments of Owen Sheehy-Skeffington who argued that contraception and abortion were seen in the same light in the 1967 Act as the 1929 Act. In 'Wither Censorship: speech to Insurance Institute of Ireland Discussion Circle' (23 October 1967) Folder no MS 40,531/44, National Library of Ireland; The comments of Very Rev. Ronald Burke Savage about censorship being necessary to protect the 'common good' shows a lack of shifting in a perception of censorship among its advocates over the decades. In 'Censorship debated at public meeting: theory and practice' *The Times* [23 April 1956] Folder no 90-102-139, National Archives of Ireland; The Board also viewed themselves as carrying out the will of the Irish people. See Runaí, 'Memo to the Secretary of the Censorship of Publications Appeal Board' (28 February 1947) Folder no 90-102-230, National Archives of Ireland; Based on the complaints received by the Board it did not seem that the public were interested or even knowledgeable about the system of censorship; Senator William Magennis (Independent and censor) Seanad Éireann debate, Wednesday 28 November 1945, vol 30, no 11.
[25] See Butler on how protected speech becomes the speech of the State. Butler (n 2) xx.

The restrictions in the 1929 and the 1946 Acts supported the preservation of anti-abortion sentiments. Discussions of abortion were not entirely prohibited as anti-abortion publications could still be lawfully created and disseminated.[26] It was only publications that were judged by the Minister, Board or courts to advocate, or 'reasonably be supposed to advocate' abortion or contraception that were limited.[27] Adams described the Acts as being 'decidedly ambiguous'.[28] Notably, neither Act included a general definition for advocate.[29] Later, Findlay described the Acts as referring to 'pro-abortion literature'.[30] I agree and believe that the absence of a specific definition indicated that the governments' responsible for the legislation felt it was evident what content-type advocation was referring to. It was clear, to borrow a phrase from Butler, what the 'common norms' around this topic were.[31] Facilitation, legitimisation, and normalisation of abortion all potentially could fall into this category of unlawful content. The Board did not seem concerned with a lack of statutory guidance. One of its chairs, Senator William Magennis, stated that it was clear to the Board when a publication advocated what he termed 'murder or…abortion or any of these things'

[26] For a discussion of the circulation of anti-contraception publications see Una Crowley and Rob Kitchin 'Producing 'decent girls': governmentality and the moral geographies of sexual conduct in Ireland (1922-1937)' (2008) 15(4) Gender, Place and Culture 355, 361.
[27] Censorship of Publications Act 1929, ss 6,7, 16; Censorship of Publications Act 1946, ss 7 and 9.
[28] *Adams* (n 7) 41, 50; For an example of criticism of the 1929 and 1946 Act's facilitation of 'expansive interpretations' that could lead to *ultra vires* decision-making see Senator Garrett Fitzgerald (Fine Gael) Seanad Éireann debate, Wednesday 7 June 1967, vol 63, no 5.
[29] s 16(3) of the 1929 Act did state that a publication that contained an advertisement of another publication that could be said to have advocated abortion or contraception shall not be deemed to be advocated abortion or contraception in its own right by this reason alone. This applied if it was a commercial advertisement and the advertisement itself could not be construed as advocacy. This applied only to s 16 advocacy so the Minister and Board could also decide differently and prohibit a publication for advocacy based on the content of an advertisement. This was confirmed by s 9(2) of the 1946 Act in relation to periodicals.
[30] M.J. Findlay, 'Criminal Liability for Complicity in Abortions Committed outside Ireland' (1980) 15(1) Irish Jurist 88.
[31] Quote from Judith Butler, 'Rethinking Vulnerability and Resistance' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 12, 21.

and ‘the extinction of life’.[32] The meaning of advocation was arguably so apparent that the Acts empowered members of public to refer publications to the Minster and the Board for adjudication.[33] They could apply their ‘common sense’ judgements that were reflective of the anti-abortion ideological dominance in the State.[34] For example, Boland said of censorship complaints and appeals generally that all an ‘ordinary’ person needed to make a judgement was ‘knowledge of the Ten Commandments’.[35] Censorship could therefore be a whole society effort where citizens would have the power to deprive each other, with the cooperation of the State, of access to counterhegemonic materials to preserve the *status quo* on issues like abortion.[36]

The omission from the 1929 and 1946 Acts was not the only way that censorship of publications assisted with the preservation of dominant anti-abortion ideologies. Butler outlined how assigning injurability in law was not always a straightforward process.[37] The context of the speech, the history of that speech and who was deciding on the dangerousness of those words all influence where law and culture draws the lines of permissibility or acceptability. An example from the 1929 Act debates was Senator

[32] Senator William Magennis (Independent) was chair of the Board between 11 February 1942 and March 1946. See *Adams* (n 7) 246. For quotes see Seanad Éireann debate, Thursday, 29 November 1945, vol 30, no 12; Under the 1929 Act the Board would only recommend to the Minister for Justice that a publication should be prohibited. The Minister, and in practice the civil servants of the Department of Justice, would then make the final decision regarding prohibition. But as they would have referred the publication to the Board for consideration in the first place, they rarely diverged in opinion. See ss 6(6) and 7(3) of the 1929 Act; For the details of this practice see Peter Martin, ‘Censorship in the Two Irelands 1922-1939’ (PhD thesis, Trinity College Dublin 2002) 138; After the passing of the 1946 Act the Board were empowered to directly prohibit publications. ss 7, 8(2), 9(1), 10 of the 1946 Act.
[33] Censorship of Publications Act 1929, ss 6 and 7; Censorship of Publications Act 1946, ss 6 and 9 of the 1946 Act.
[34] For discussion of ‘common sense’ and influence on law-making see Kate Brown, ‘‘Vulnerability’: Handle with Care’ (2011) 5(3) Ethics and Social Welfare 313; Christina Pantazis, ‘‘Fear of crime’, vulnerability and poverty: evidence from the British Crime Survey’ (2000) 40(3) The British Journal of Criminology 414, 415; For a specific discussion of common sense views, abortion and Ireland see Lisa Smyth, *Abortion and Nation: The Politics of Reproduction in Contemporary Ireland* (Routledge 2005).
[35] The Minister for Health Gerard Boland (Fianna Fáil) Seanad Éireann debate, Wednesday 28 November 1945, vol 30, no 11.
[36] See Judith Butler on the power of citizens to silence each other in *Butler* (n 2) 47.
[37] *Butler* (n 2) xx.

Michael Tierney, who raised the fact that there were two possible interpretations of the advocation of contraception: 'direct, clear, and certain' advocation (the most dangerous) and that of 'Malthusian political economy' (less harmful as could be a scholarly discussion).[38] A problem was that information control proponents wanted the law to address publications that had a more neutral or pro-choice outlook on abortion. The risk of allowing these publications to circulate freely was that they could, to use a phrase from Butler, work a 'magical efficacy' upon their readers, creating dissenters or lawbreakers who could destabilise support for criminalisation.[39] To ensure that the 1929 and the 1946 Acts were influential, it was therefore necessary for them to be flexible and responsive. Statutory definitions could not be so precise that it reduced the malleability and adaptability of the law to respond to often creative or resourceful counterhegemonic or unlawful information sharers.[40] Before the 1929 Act, postal workers would confiscate 'obscene materials' using standards-based in what they described as the 'ordinary common sense and the generally accepted meaning of the terms in Ireland'.[41] This openness of boundaries meant flexibility for law enforcers. Under the 1929 and 1946 Acts, the Minister and the Board could examine all the content of a publication, including advertisements and criticism of censorship itself, to gauge whether or not it met the threshold for advocation.[42] The Gardaí could pursue a prosecution through the courts or

[38] Senator Michael Tierney (Cumann na nGaedheal, later Fine Gael) Dáil Éireann debate, Thursday 27 February 1928, vol 28, no 4.
[39] *Butler* (n 2) 22-23, 42, 108, 110.
[40] For a discussion of coded information-sharing see p. 88-89.
[41] Term taken from the discussion of the Postal Act 1908 in the Committee on Evil Literature, *Report of the Committee on Evil Literature* (Stationary Office 1927) 6; *Martin* (n 32) 121.
[42] For more details about the criminalisation of advertisements see p. 95-98; See also the Minister for Justice James FitzGerald-Kenney (Cumann na nGaedheal later Fine Gael) confirming that if a publication reporting on prohibited publications stepped into the domain of advocation, they could be prosecuted or prohibited under the law. In Dáil Éireann debate, Wednesday 20 March 1929, vol 28, no 12.

refer a publication to the Minister or Board.[43] If any enforcers overstepped, the regulated topics were so stigmatised that some censorship supporters maintained that such an approach was worth it. To quote former censor Andrew Comyn, 'a little injustice' was excusable to save Ireland from the 'pollution' of offending publications.[44]

Having multiple layers of legal liability combined with vague terms encouraged information sharers to self-censor to avoid offending.[45] This was not incidental to censorship; it was instrumental to it. To ensure that condemnatory views relating to abortion and contraception were affirmed and protected, section 16 of the 1929 Act created an offence that included printing or publishing (or causing or procuring) a publication that advocates or could reasonably be said to advocate abortion or contraception without a permit.[46] Demonstrating how stigmatised these topics were, section 16 only applied to abortion or contraception advocation. The creation of this offence was a pragmatic one as it is harder to remove information than it is to prevent it from circulating in the first place.[47] The Committee on Evil Literature had noted this and regarded foreclosing the production of contested information as the ideal approach to information control.[48] Butler outlined how the State and other speakers can use designations of injurious speech to suppress minority viewpoints.[49] The benefit of this

[43] For the discretion offered by the 1929 Act in terms of supressing counterhegemonic publications see The Minister for Justice James FitzGerald-Kenney (Cumann na nGaedheal later Fine Gael) Seanad Éireann debate, Wednesday 15 May 1929, vol 12, no 10.
[44] *Comyn* (n 18) 47. He was a censor between 5 December 1956 to 12 February 1962.
[45] See the comments of The Minister for Justice James FitzGerald-Kenney (Cumann na nGaedheal later Fine Gael), Dáil Éireann debate, Thursday 21 February 1929, vol 21, no 2 and 'Memo to Secretary, Department of External Affairs from S.A. Roche' (25 March 1937) 90-102-12 (Folder 1 of 2) National Archives of Ireland.
[46] Censorship of Publications Act 1929, s 16(1).
[47] The Minister for Justice, James Fitzgerald-Kenney (Cumann na nGaedheal and later Fine Gael) Dáil Éireann debate, Thursday 27 February 1929, vol 28, no 4 and Seanad Éireann debate, Thursday 11 April 1929, vol 12, no 2; For further discussion of the difficulties of enforcing censorship see the section 'Censorship undermines itself' p. 329.
[48] *Committee on Evil Literature* (n 41) 9.
[49] *Butler* (n 2) 23.

approach was that it could protect the State and ideologies from criticisms relating to societal or institutional conditions.[50] The shortcomings, negative impacts and community standards are naturalised by those who do not have access to alternative information sources. Readers would become, to borrow the words of Athanasiou, 'self-contained, self-regulating, moral' subjects who did not create, disseminate, or encounter works that problematised norms or consensus claims.[51] They would be, to quote Houston, the 'ideal reader-citizen'.[52] The 1929 and 1946 Acts, by leaving the term advocation open to interpretation, rendered censorship adaptable and responsive to any undermining or subversion of condemnatory views of abortion and contraception.

Prosecutions have a vital role in censorship. As Butler outlined, it is often through prosecutions that meanings become defined and fixed in law.[53] I found one example of a section 16 prosecution, and it was unsuccessful.[54] The more common method of removing contested publications from the public domain was for the Minister or the Board to prohibit them. Despite the lack of robust legislative guidelines on the meaning of advocation, legislators praised the Board for a perceived uniformity in its decision-making. It was the courts who legislators regarded as more unpredictable or less controllable.[55] The Board did not record their deliberations, and its meetings were not open to the public, so it was difficult to assess the accuracy of this praise. All prohibited

[50] For an example of this in relation to contraception and sexual crime see the report of the Carrigan committee p. 25.
[51] Athena Athanasiou, 'Nonsovereign Agonism (or, Beyond Affirmation versus Vulnerability)' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in Resistance* (Duke Press 2016) 256, 271.
[52] Lloyd Meadhbh Houston, ''Sterilization of the mind and apotheosis of the litter': Beckett, Censorship, and Fertility' (2018) 69(290) The Review of English Studies 546, 555.
[53] *Butler* (n 2) 91.
[54] See p. 357-358.
[55] See Senator Garrett Fitzgerald (Fine Gael) who argued that the courts gave more restricted interpretations as, in his view, as they tended to give the accused the benefit of the doubt. In Seanad Éireann debate, Wednesday 7 June 1967, vol 63, no 5.

publications are listed in the *Register of Prohibited Publications*, along with the ground on which they were condemned.[56] From what I have been able to extrapolate, the Minister and Board prohibited few works for having advocated abortion. According to the *Register*, there are eight titles still prohibited on this ground.[57] Two of these works were political, pro-choice works: *Abortion Internationally* and *Abortion: Our Struggle for Control* by the British National Abortion Campaign.[58] Another prohibited book, Dorothy Thurtle's *Abortion: Right or Wrong* called for law reform to ameliorate the vulnerabilisation of women and their children through a shortage of safe contraception and abortion services.[59] The Board's decisions to prohibit these publication is aligned with my conclusion that it interpreted advocation to mean either a pro-choice ideology or those that challenged the framing of abortion being an unequivocal wrong. The Board's interpretation of advocate was less clear in two other works: *Make it Happy* by Jane Cousins and the *Book of Love* by David Delvin.[60] These were sex and relationship guidebooks, not law reform manifestos. Delvin even described abortion as a 'great shame' that could be prevented through contraceptive use.[61] Possibly the Board considered Delvin's and Cousins' acceptance of abortion as an option, even if it was a reluctant one in Delvin's case, as enough to meet the threshold for advocation. It is

[56] Censorship of Publications Act 1929, s 11; Censorship of Publications Act 1946, s 16.
[57] Censorship Board, *Register of Prohibited Publications*, (Department of Justice 31st December 2016) <https://jobs.justice.ie/en/JELR/Register_of_Prohibited_Publications_2016.pdf/Files/Register_of_Prohibited_Publications_2016.pdf> accessed 4 January 2023.
[58] Veronica Leon, Joyce Kane, Sylvia Mann, Jane Woods, Manuela Lombardo, Jeanna Saint and Rose Knight (Eds.), *Abortion Internationally* [National Abortion Campaign 1978?]. The notice of the Prohibition Order appeared in *Iris Oifigiúil* on 25 February 1983; National Abortion Campaign, *Abortion: Our Struggle for Control* (National Abortion Campaign 1980). The notice of the Prohibition Order appeared in *Iris Oifigiúil* on 30 September 1983.
[59] Dorothy Thurtle, *Abortion: Right or Wrong?* (T Werner Laurie 1940) 79. The notice of the Prohibition Order appeared in Iris Oifigiúil on 13 February 1942.
[60] David Delvin, *The Book of Love* (St. Martin's Press and Jove Publications 1976). The notice of the Prohibition Order appeared in *Iris Oifigiúil* on 16 December 1983; Jane Cousins, *Make it Happy* (Virago 1978). There is an issue with the publication order for *Make it Happy*, see p. 127 for the details.
[61] *Delvin* ibid 242.

reasonable, however, to assume that the Board regarded advocation to potentially include any work outside of scholarly publications that did not condemn or stigmatise abortion.

In Chapter One, I discussed another strategy created through the 1929 and 1946 Act for information control: the permit system.[62] Permits were intended by the founding government to support, not to challenge, hegemonic perspectives. Fitzgerald-Kenney, the Minister who established the system, stated that the government was opposed to contraception being 'freely and openly discussed' in Ireland.[63] Only those who were 'attacking' and 'scientifically' addressing contraception could be granted a permit.[64] Abortion due to its criminalised and taboo status would have been, I believe, regarded in an even more condemnatory way. The civil servants who administered the permit system abided by this limitation on information access. In the batch of permits I analysed, one civil servant stated that 'a permit...is granted only when the applicant requires it for some special reason'.[65] In that case it was private historical studies. The recipients of these permits were expected not to use this information to challenge or undermine censorship laws. Some requesters undertook to align themselves to hegemonic views of contested topics in support of their applications.[66] Pašeta gave the

[62] For additional discussions of permits see p. 98-102.
[63] The Minister for Justice James Fitzgerald-Kenney (Cumann na nGaedheal and later Fine Gael), Dáil Éireann debate, Thursday 18 October 1928, vol 26, no 5; See also his contribution in The Minister for Justice James Fitzgerald-Kenney (Cumann na nGaedheal and later Fine Gael) Dáil Éireann debate, Wednesday 27 February 1929, vol 28, no 4.
[64] The Minister for Justice James Fitzgerald-Kenney (Cumann na nGaedheal and later Fine Gael) Dáil Éireann debate, Wednesday 27 February 1929, vol 28, no 4.
[65] Letter to F.C. Hill from P.B. [Peter Berry of the Department of Justice], 29 Aibrean 1948, folder number 90-102-8, National Archives of Ireland. He had requested a publication called *Herculaneum et Pompeii* and this had not been prohibited for having advocated abortion or contraception nor had it at that time been prohibited for being indecent or obscene. It was a precautionary issuing of a permit. The note was dated 3 May 1948.
[66] See for example request for a permit from Felim O'Brien, 2 January 1954 and 14 February 1954, folder number 90-102-8, National Archives of Ireland. He wanted to access Alfred Kinsey's *Sexual Behaviour*. While this publication

example of Professor Alfred O'Rahilly, who sought access to Bertrand Russell's *Marriage and Morals*, which had been prohibited for advocation of contraception. He wanted to read the book in order to 'refute' its 'immoral theories'.[67] Limiting the potential for counterhegemonic information to circulation was also why Fitzgerald-Kenney intended the numbers of permits to be 'very small'.[68] To prevent the potential for a contagious and transformative effect, any publications that were imported under a permit were required to be kept in the 'custody and control' of the named permit holder, rendering them a type-of statutory gatekeeper.[69] Trinity College Dublin librarians were required to go a step further in their permits and all contested publications were required to be locked in a 'special press' and made accessible only with special permission from the librarians.[70] These requirements, when combined with the fact that no permits in my analysis were granted for general circulation, can be seen as part of the State's strategy to control information by limiting the readership of these publications.[71] Many members of the medical profession were conservative on the topic of abortion and contraception so were unlikely to be a readily accessible source of information for lay people.[72] The

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was not prohibited for advocating birth control or abortion, publications discussing Kinsey's work were. These were *American Sexual Behaviour and the Kinsey Report* by Morris L. Ernst and David Loth (Iris Oifigiúil 21 October 1949) and *Sexual Behaviour and the Kinsey Report* by Morris L. Ernst and David Loth (Iris Oifigiúil 19 June 1953)

[67] *Pašeta* (n 6) 214.

[68] Quote from the Minister for Justice James Fitzgerald-Kenney (Cumann na nGaedheal and later Fine Gael) Dáil Éireann debate, Wednesday 27 February 1929, vol 28, no 4; See the Minister for Justice James Fitzgerald-Kenney (Cumann na nGaedheal and later Fine Gael) who was responsible for the 1929 Act where he said that scientific libraries could be granted permits whereas 'ordinary circulating libraries' would not. In Dáil Éireann debate, Wednesday 27 February 1929, vol 28, no 4.

[69] See the permits in folder number 90-102-8, National Archive of Ireland. For sections permitting conditions to be placed on permits see s 10(3) of the 1929 Act and s 19 of the 1946 Act.

[70] See the permits in folder number 90-102-10, National Archives of Ireland.

[71] See the run of correspondence between the editor at Business and Finance Magazine and the Department of Justice when they wanted to republish the article 'Authority and the Catholic Church' by Father Arnold McMahon where he argued that contraception was not always wrong. Folder number 2006/148/14.

[72] Catholic Truth Society of Ireland (Louis Cassidy, the master of the Coombe maternity hospital was a co-author), *The problem of undesirable printed matter: suggested remedies* (Catholic Truth Society of Ireland 1926) 9-12; For a discussion of the medical establishment's discomfort with information democratisation in the late 19th century see Ann Daly, ''Veiled obscenity': contraception and the Dublin, Medical Press, 1850–1900' in Elaine Farrell (Ed.) *She was in the family way: pregnancy* (School of Advanced Study, University of London 2012) 15, 28-29; For perspectives on the conservative nature of the Irish medical profession see Michael Solomons, *Pro Life? The Irish*

confining of information access through publications in this way served *status quo* condemnatory perspectives on the areas targeted under the 1929 and 1946 Acts, allowing for the continued criminalisation and awfulisation of abortion and contraception.

Separating abortion and contraception information

> Cura is certainty doing something to combat this figure but it certainly cannot stop it by itself…[the] mushrooming of so many pro-life groups all over the country is very encouraging. It shows that resistance to abortion is still very strong and gives me hope that Ireland won't be captured…Ireland is a big prize for the pro-abortionists, because it is one of the only countries that hasn't fallen. We have a real fight on our hands.
>
> Auxiliary Bishop of Dublin, Dermot Patrick O'Mahony[73]

O'Mahony was the national coordinator of Cura, a Catholic crisis pregnancy support organisation.[74] This quote is from his 1982 statement supporting the Eighth Amendment and a constitutional foetal right to life. He and other anti-abortion campaigners believed that the 1861 Act could be vulnerable to challenge in the courts. Threats would come from pro-choice activists or services and also potentially from a shift in public opinion towards favouring abortion law reform.[75] Censorship was a strategy through which they could preserve what Butler referred to as the 'legacies of usage' in speech.[76] This would, in turn, foreclose any challenges to the 'common good' from counterhegemonic

Question (Lilliput Press 1992; Lindsay Earner-Byrne, 'Moral Prescription: The Irish Medical Profession, the Roman Catholic Church, and the Prohibition of Birth Control in Twentieth-century Ireland' in Catherine Cox and Maria Luddy (Eds.) *Cultures of Care in Irish Medical History, 1750–1970* (Palgrave Macmillan 2010) 207, 214-215.

[73] 'Bishops urge support for anti-abortion campaign' *The Irish Times* (Dublin, 4 February 1982) 8.

[74] For a more detailed discussion of Cura see p. 212-220.

[75] See Chapter Four for a further discussion of anti-censorship and pro-choice activism.

[76] *Butler* (n 2) 28.

information access.[77] Why pro-censorship advocates felt the need to act to protect information control mechanisms was due to them witnessing a shifting in the legal domain towards liberalisation for publications and advertisements in the areas of indecency, obscenity and contraception.

Effective law-making depends upon the legitimacy afforded to them by those subject to those laws. Bell recounted that laws that are contrary to public expectations are difficult to enforce.[78] Early censorship proponents like R.S. Devane recognised this and warned that legislating without community support risked the failure or frustration of censorship's goals.[79] The framework created by the 1929 and 1946 Act not only relied upon public adherence but also required public involvement in enforcement.[80] The Censorship of Publications Act 1967 (the 1967 Act) was a concession by the Fianna Fáil government that censorship was not wholly aligned with the views of the Irish people. The Minister for Justice, Brian Lenihan, was aware that attitudes around contested issues – including censorship were shifting. The 1967 Act was a government response to this change. The legislation introduced a 12-year limit on prohibition orders for books that were prohibited for indecency or obscenity.[81] The Board would have to re-examine a book after that period if they wanted to re-prohibit it. No changes were introduced for publications that were prohibited for having advocated abortion or contraception. One reason given by Lenihan was that the law in this area was more complex due to the

[77] Dermot O'Flynn (former censor) 'Four-to-one vote is needed to ban a book' *Sunday Press* (Dublin, 14 March 1965) Folder number 90-102-142 Folder 1 of 2, National Archives of Ireland.
[78] Jeannine Bell, 'The police and policing' in Austin Sarat (Ed.) *The Blackwell companion to law and society* (Blackwell publishing 2004) 132.
[79] R.S. Devane, *Indecent Literature: Some Legal Remedies* (Browne and Nolan Limited 1925) 183.
[80] For a discussion of why people may not have cooperated with censorship see p. 350-353.
[81] Censorship of Publications Act 1967, s 2.

multiple layers of prohibition that applied to publications advocating abortion and contraception e.g., section 16 of the 1929 Act and the Indecent Advertisements Act 1889 (the 1889 Act).[82] However, there was also an ideological element. Lenihan described abortion and contraception as interventions that were problematic to 'basic morality' and were 'objective' wrongs.'[83] In his view, community opinions were steady and static on these topics and did not require law reform. In contrast, books prohibited for being indecent or obscene concerned fluctuating 'standards and attitudes' so necessitated a periodic review to ensure prohibitions aligned with community values.[84] Only a formal appeal, which an ordinary reader could not action in their own right, could release publications prohibited for advocation of abortion or contraception.[85] That is if a reader could access these publications to launch an appeal as Lenihan continued to frame permits as being designed to facilitate access for 'scientific specialists and the like' rather than a general readership.[86] The 1967 Act was a reaffirmation that the anti-contraception and anti-abortion orientation of the law held firm because legislators believed it to reflect the consensus views of the Irish people, for whom censorship was designed to serve. Furthermore, by framing opinions on abortion and contraception as unmoving, the 1967 Act endured the longevity and operationality of censorship to

[82] He specifically mentioned s 17 of the Criminal Law (Amendment) Act 1935. This prohibited the advertising of contraceptives. The Minister for Justice Brian Lenihan (Fianna Fáil) Dáil Éireann debate, Wednesday 10 May 1967, vol 228, no 6; Also still active were the Offences Against the Person Act 1861, Customs Consolidation Act 1876, the Indecent Advertisements Act 1889, s 16 of the 1929 Act and the 1946 Act.
[83] The Minister for Justice Brian Lenihan (Fianna Fáil) Dáil Éireann debate, Wednesday 10 May 1967, vol 228, no 6; Dáil Éireann debate, Wednesday 24 May 1967, vol 228, no 12; Seanad Éireann debate, Wednesday 14 June 1967, vol 63, no 6.
[84] The Minister for Justice Brian Lenihan (Fianna Fáil) Dáil Éireann debate, Wednesday 10 May 1967, vol 228, no 6; Seanad Éireann debate, Wednesday 14 June 1967, vol 63, no 6.
[85] For an additional discussion of appeals see p. 107-109.
[86] The Minister for Justice Brian Lenihan (Fianna Fáil) Dáil Éireann debate, Wednesday 10 May 1967, vol 228, no 6.

confine the possibilities of information-sharing in publications and advertisements to an anti-abortion framework.

The 1967 Act, despite its limited effects, was a source of disquiet for conservative anti-abortion advocates. O'Carroll recounted that it was fears of a liberal society that motivated people with a more traditionalist viewpoint to campaign for the enshrinement of a foetal right to life (the Eighth) in the Constitution to foreclose abortion liberalisation.[87] Other authors identified the reforms of the Lemass era (1959-1966) and the removal of the 'special position' of the Catholic Church from the Constitution in 1972 as signals to these conservative proponents that the dominance of their worldview was slipping.[88] I believe the 1967 Act was another potential source of those concerns. Lenihan said during the Oireachtas scrutiny of the 1967 Act that the State should only seek to 'enforce the very minimum standard of morality that is necessary for the common good of the community'.[89] Contraception was one area that he identified as possibly requiring a reassessment of its regulatory framework due to changes in how morally acceptable it was for the electorate. The Pontifical Commission on Birth Control

[87] J.P. O'Carroll, 'Bishops, knights — and Pawns? Traditional thought and the Irish abortion referendum debate of 1983' (1991) 6(1) Irish Political Studies 53.

[88] See Brian Girvin, 'Church, State, and Society in Ireland since 1960' (2008) 41(1&2) Éire/Ireland 74, 78; Gene Kerrigan, 'The Moral civil war' *Magill* (Dublin, 31 August 1983); Sandra McAvoy, 'The Catholic Church and Fertility Control in Ireland: the making of a dystopian regime' in Aideen Quilty, Sinéad Kennedy, and Catherine Conlon (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 62, 62-64; Lisa Smyth, 'Ireland's Abortion Ban: honour, shame and the possibility of a moral revolution' in Aideen Quilty, Sinéad Kennedy, and Catherine Conlon (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 175, 175-177.

[89] The Minister for Justice Brian Lenihan (Fianna Fáil) Seanad Éireann debate, Wednesday 14 June 1967, vol 63, no 6; To see debate as to whether the law should be enforcing morals in this manner or if adherence to societal norms would be better protected through the domains of the family, school or religious instruction, see the debates in Dáil Éireann debate, Friday 19 October 1928, vol 26, no 6; Dáil Éireann debate, Wednesday 24 October 1928, vol 26, no 7; Dáil Éireann debate, Thursday 21 February 1929, vol 28, no 2; Seanad Éireann debate, Thursday 11 April 1929, vol 12, no 2; Seanad Éireann debate, Wednesday 15 May 1929, vol 12, no 10; Seanad Éireann debate, Wednesday 18 November 1942, vol 27, no 1; Seanad Éireann debate, Wednesday 9 December 1942, vol 27, no 4; Seanad Éireann debate, Wednesday, 14 November 1945, vol 30, no 10; Seanad Éireann debate, Wednesday, 28 November 1945, vol 30, no 11; Dáil Éireann debate, Wednesday 10 May 1967, vol 228, no 6; Seanad Éireann debate, Wednesday 7 June 1967, vol 63, no 5.

were reconsidering its condemnatory stance on 'artificial' birth control during this period.[90] As a result, Lenihan conceded contraception was a 'live' topic of debate. It was, therefore, possible that a government would have to review censorship and liberalise the law if the community demanded it.[91] The *McGee* decision turned Lenihan's speculations into a reality and led to the decoupling of abortion from contraception in terms of community and legal acceptability.

In Chapter One, I discussed how the Supreme Court judgment in *McGee v The Attorney General* created a corollary right to access information about contraception for those who had a right to marital privacy in their reproductive decision-making.[92] Smyth recounted that the *McGee* judgment threatened dominant patriarchal structures that law, politics and social dynamics had enforced in Ireland thus far.[93] Censorship contributed to these oppressive frameworks by silencing, suppressing and delegitimising alternative, minority viewpoints and allowing for the proliferation of dominant condemnatory perspectives.[94] Even before *McGee* there were indications that anyone claiming community values to justify restrictions on contraception information may struggle to find resonance. A government memorandum from 1970 stated that it would be 'out of the question' to enforce section 16 of the 1929 Act in relation to the advocation of contraception. Ferriter saw this as an admission that these prohibitions were 'out of date and unrealistic' in an Ireland where private contraceptive use was

[90] For a discussion of the Commission and its processes and outcome see Sidney Callahan 'Foreword' in Robert McClory, *Turning point: The inside story of the Papal Birth Control Commission, and how Humane Vitae changed the life of Patty Crowley and the Future of the Church* (Crossroads 1995) vii, viii.
[91] Quote from The Minister for Justice Brian Lenihan (Fianna Fáil) Dáil Éireann debate, Wednesday 10 May 1967, vol 228, no 6.
[92] [1973] IESC 2; [1974] IR 284; For additional discussion of *McGee v The Attorney General* see p. 115-120.
[93] *Smyth* (n 34) 9.
[94] *Butler* (n 2) 23.

becoming more apparent.[95] In addition, more people were speaking at, to borrow from Butler, the 'boundaries of legitimacy', and advocating for contraceptive law reform to reflect a newer, modern, liberalised community perspective on contraception.[96] Even those forces who could be relied upon to advocate for censorship were becoming less stringent in their positions. For example, the Catholic Church conceded in 1973 that there could be a difference between secular law and standards of morality.[97] For some people, the argument that Ireland was a 'young State' in need of protection through censorship was no longer tenable and law reform was necessary to move society onwards.[98]

The Bills that were introduced by legislators to attempt to liberalise the law on contraceptive supply and to give effect to the *McGee* decision affirmed that no legal change would apply to abortion provision, advertising, or advocation. Most legislations supported abortion criminalisation, and there were few-to-no indications that the community in Ireland felt differently. The stigmatisation around abortion was so great that some anti-abortion proponents wanted to disregard the *McGee* decision in case it led to a 'contraceptive mentality' that would, in time, give way to an 'abortion mentality'.[99] What they meant by this was that abortion would be normalised and legitimised. Sustaining the anti-contraception orientation of the law would, they believed,

[95] Diarmaid Ferriter, Occasions of Sin (Profile 2012) 199.
[96] *Butler* (n 2) 42.
[97] *McAvoy* (n 88) 67-69.
[98] Quote from Senator Augustine Martin (Independent) Seanad Éireann debate, Thursday 21 February 1974, vol 77, no 3.
[99] Senator M.J. O'Higgins (Fine Gael) Seanad Éireann debate, Thursday 16 December 1976, vol 85, no 12; For other examples see the debate in Seanad Éireann debate, Wednesday 4 July 1979, vol 92, no 9; Senator M.J. O'Higgins (Fine Gael) Seanad Éireann debate, Thursday 16 December 1976, vol 85, no 12; See also Mary E. Daly, *Sixties Ireland: Reshaping the Economy, State and Society, 1957–1973* (Cambridge University Press 2016) 185-190; Paul Loughlin, 'Debating contraception, abortion and divorce in an era of controversy and change: new agendas and RTÉ radio and television programmes 1968-2018: Volume One' (PhD Thesis, Trinity College Dublin 2020) 95-97.

prevent any shifting of community opinion towards favouring abortion law liberalisation. Those legislators who wanted to legislate to allow for contraceptive access sought to alleviate those concerns by accommodating measures to reaffirm the anti-abortion *status quo* in their Bills.[100] By continuing the illegality of abortion advocation in publications and abortion advertising, abortion would remain framed in law as a criminal, deviant act in law, now separated from contraception. Any threats posed by counterhegemonic information availability to the claimed anti-abortion consensus would be, to borrow Butler's phrasing, 'derailed' or 'defused' by these enduring prohibitions.[101] Pro-contraception opposition members introduced four bills to legalise the sale of contraception. All of them omitted any reforms to the 1861, 1889, 1929, and 1946 Acts in the context of abortion information.[102] A Fine Gael-Labour government also proposed legislation: the Control of Importation, Sale and Manufacture of Contraceptives Bill 1974. It took the same approach of preserving the condemnatory framework regulating access to publications and advertising but had one additional appeal mechanism for prohibited publications. People who the 1946 Act empowered to launch an appeal would have been able to apply directly to the Board for a review of an order.[103] If the

[100] Two of the senators who introduced Bills to legalise the sale and importation of contraception while leaving abortion information restrictions in place were Mary Robinson and John Harte. They both voted later voted vote against the Eighth Amendment and Robinson was involved in the Anti-Amendment Campaign. They did not approach the Family Planning Bills from a pro-choice in terms of abortion perspective, however. See Seanad Éireann debate, Thursday 26 May 1983, vol 100, no 12 and Tom Hesketh, *The Second Partitioning of Ireland?: the abortion referendum of 1983* (Brandsma Books 1990).
[101] *Butler* (n 2) 12.
[102] Criminal Law (Amendment) Bill 1971, ss 2 and 3 proposed by Senators Mary Robinson (Independent and later Labour Party and Independent), John Horgan (Labour Party) and Trevor West (Independent); Family Planning Bill 1973, ss 4 and 5 proposed introduced by Senator Mary T. W. Robinson (Independent and Labour Party) supported by Senators John S. Horgan (Labour Party) and Trevor West (Independent); Family Planning Bill 1974, ss 5, 6, 7 proposed by Senator Mary T. W. Robinson (Independent and Labour Party) supported by Senators John S. Horgan (Labour Party) and Trevor West (Independent); Family Planning Bill 1978, ss 5, 6, 7 proposed by Senator Mary T. W. Robinson (Independent and Labour Party) supported by Senators Justin Keating (Labour Party) and John Harte (Labour Party).
[103] Control of Importation, Sale and Manufacture of Contraceptives Bill 1974, s 11. This provision was also adopted by the opposition legislators in Family Planning Bill 1974, s 5 and the Family Planning Bill 1978.

publication did not advocate abortion, the Board could revoke the prohibition order. For advertisements, the Bill would have created penalties for advertising any products considered to be an abortifacient.[104] These legislative approaches emphasised the continued unacceptability of abortion by confirming that censorship remained lawful, operative and relevant in the area of abortion advocation and advertising. No one challenged abortion's awfulisation and exceptionalisation during this period of reform for contraception. Despite these capitulations to the anti-abortion position, none of these Bills were voted through by the Oireachtas.[105]

The Health (Family Planning) Act 1979 (the 1979 Act) was the legislation that removed the advocation of contraception as a ground for prohibition or prosecution from the 1889, 1929 and 1946 Acts.[106] To demonstrate their commitment to anti-abortion principles, the Fianna Fáil government included a 'saver' in the 1979 Act to confirm the impermissibility of advertising abortifacients and the continued applicability of the 1861 Act.[107] The State, through law, would remain steadfastly anti-abortion and the 1979 Act had not changed this. The Minister for Health, Charlie Haughey, was firm on this point and he stated that abortion reform 'would not be contemplated in any legislation which I would be introducing'.[108] Contraception would now largely be a matter for the Department of Health whereas abortion would remain the responsibility of the Department of Justice; licencing versus criminalisation. Abortion advocation and

[104] Control of Importation, Sale and Manufacture of Contraceptives Bill 1974, ss 9, 10; A Committee would be created to advise the Minister for Justice if a product was a contraceptive or an abortifacient under s 7.
[105] Even the government's own Control of Importation, Sale and Manufacture of Contraceptives Bill 1974 failed as members of the government voted against it including the Taoiseach. Brian Girvin, 'Contraception, Moral Panic and Social Change in Ireland, 1969–79' (2008) 23(4) Irish Political Studies 555, 571.
[106] Health (Family Planning) Act 1979, s 12.
[107] Health (Family Planning) Act 1979, s 10.
[108] The Minister for Health Charlie Haughey (Fianna Fáil) Dáil Éireann debate, Wednesday 28 February 1979, vol 312, no 3.

advertising was still, to return to Butler, to be 'unsaid and unsayable' in order to foreclose the transformative effect of speech and information from undermining the Irish anti-abortion consensus.[109] The government claimed that the 1979 Act was also reflective of, to quote Haughey, the 'universal wish of the people' to retain abortion criminalisation including information restrictions.[110] There was a vocal active anti-abortion lobby who were concerned that by legislating for contraception, the government would accelerate liberal social changes including, potentially, abortion legalisation.[111] Groups like the League of Decency sent Oireachtas members images of foetuses to protest the 1979 Act.[112] Deputy Oliver J. Flanagan even described the 1979 Act as risking 'the raising of the latch of the sluice gates of every kind of immorality with the ultimate result of abortion and everything that abortion stands for'.[113] The decision of the government to leave abortion information restrictions in place was intended to appease conservative legislators to encourage them to support contraception reforms. Staunch conservative legislators did not change their minds, but the 1979 Act passed through the Oireachtas and became law. Those anti-abortion proponents who viewed the 1979 Act as the first steps towards abortion liberalisation adjusted their strategy from attempting to prevent liberalising legislation to seeking out a new constitutional amendment to enshrine a right to life for foetal subjects. They hoped that this amendment would sustain the claimed universal condemnation of abortion and would foreclose the normalisation, legitimisation or legalisation of abortion.

[109] *Butler* (n 2) xvi, 28, 39, 113-115.
[110] Quote from Minister for Health Charlie Haughey (Fianna Fáil) Dáil Éireann debate, Wednesday 20 June 1979, vol 315, no 5.
[111] *Girvin* (n 105) 555-576.
[112] *Kerrigan* (n 88).
[113] Deputy Oliver Flanagan (Fine Gael) Dáil Éireann debate, Thursday 11 July 1974, vol 274, no 6.

The Eighth Amendment and preventing the normalisation of abortion

> The current use of the term 'abortion information' by the media is incorrect. The Society itself is probably the leading provider of genuine abortion information e.g., what abortion is, how it is done, that it kills a human life and often leads to psychological problems for the woman, abortion statistics et cetera. This is true abortion information.
>
> As it is used by abortion activists and media personnel, 'abortion information' really means abortion assistance - the term used by the Supreme Court. It means helping a woman to kill her child in another country, supplying her with the means of contact with specific abortion clinics, sometimes booking her in, and providing her with 'non-directive counselling.' This is not the simple provision of information but is active cooperation in the killing of a child.
>
> SPUC.[114]

SPUC's argument, published in 1991, was a succinct summary of the division of information preferred by anti-abortion campaigners. Only information that could be considered neutral or reflective of an anti-abortion worldview should be lawful to disseminate. Restraining communications that did not service that purpose could help to derail any threats to hegemonic perspectives through sustaining unspeakability and taboo.[115] The risk of legislating otherwise could be, to borrow from O'Brien's discussion on abortion, that 'what was once morally abhorrent' would become 'acceptable.'[116] After the *McGee* decision, anti-abortion proponents such as the Irish Bishops Conference stated that they were concerned about a 'chain reaction' whereby 'the first piece of

[114] The Society for the Protection of Unborn Children, 'Abortion Information' 2 < https://irishelectionliterature.com/2013/07/10/1991-anti-abortion-information-leaflet-from-spuc-with-an-unusual-graph/ > accessed 25 January 2023.
[115] *Butler* (n 2) 12, 15, 22, 29.
[116] Eoin T. O'Brien, 'Hibernian mores: hypocrisy or reality?' (1976) 1 British Medical Journal 145, 146; For an example of this argument in relation to overseas abortion liberalisation see Archbishops and bishops of Ireland, 'Yes to Life*' in Austin Flannery, *Abortion & Law* (Dominican Publications 1983) 14, 15, 19.

legislation tends to set in motion a process of change which no one can control'.[117] If prohibitions on abortion advocation, facilitation and advertising were repealed, it was possible that abortion would be destigmatised and de-exceptionalised as it became a regular facet of life. This normalisation could destroy the anti-abortion *status quo*. Those campaigners who held this view believed that enshrining a constitutional foetal right to life through the Eighth Amendment (the Eighth) would preserve counterhegemonic information restrictions and would revitalise and reaffirm anti-abortion ideologies.

Anti-abortion actors wanted to preserve the supremacy of their ideologies in law and culture, with information regulations serving this goal. Their strategies included wanting to define advocation to reflect what 'an ordinary non-legally minded person' knew it to be.[118] They wanted to preserve those 'common norms' that aligned concepts of unacceptable advocation as applying to arguments that framed abortion as necessary, justifiable or desirable.[119] As Loizidou recounted it is through language that we see, understand and interact with the world.[120] Dissent or deviance from claimed consensus views on standards can be construed by supporters and the State as being a threat to the community or the nation. Girvin recounted that after *McGee* there was a shift in how some people regarded the role of the State in regulating on 'moral' issues.[121] The *McGee* judgment and contraceptive reforms opened up a discursive space which

[117] R.S. Rose, 'An outline of fertility control, focusing on the element of abortion in the Republic of Ireland to 1976' (PhD Thesis University of Stockholm 1976) 51.
[118] *Irish Family League* in *Rose* ibid 59.
[119] Quote from *Butler* (n 2) 21; Sacred Congregation for the Declaration of the Faith, 'Declaration on Procured Abortion' in Austin Flannery (Ed.) *Abortion & Law* (Dominican Publications 1983) 1, 7.
[120] Elena Loizidou, 'Dreams and the Political Subject' in Judith Butler, Zeynep Gambetti, Leticia Sabsay (Eds.) *Vulnerability in Resistance* (2016 Duke University Press) 122, 132.
[121] *Girvin* (n 105).

facilitated people to consider and speak about abortion differently to dominant condemnatory framings.[122] A growing Irish women's involvement was central to the worries of conservative actors that domestic information providers may begin to disseminate counterhegemonic information to campaign for law reform.[123] Their concerns were not unreasonable. As Butler noted feminist movements are powerful and can destabilise and undo unjust, discriminatory, violent institutions.[124] Anti-abortion proponents saw feminists successfully campaigning for abortion law reform abroad.[125] In Ireland one campaign group, Irishwomen United, included the 'right to a free, safe and legal abortion' in their charter.[126] Students' unions debated motions considering pro-choice positions.[127] In the Oireachtas, Senator Noël Browne argued in favour of the legalisation of 'therapeutic abortion'.[128] He also spoke about how over time, openness to debate can erode taboos and replace censorious, restrictive thinking with new possibilities and alternative imagined futures.[129] The media reported on research demonstrating the existence of pluralistic views of abortion in the community.[130] As

[122] See Chapter Four for additional discussion of the role of media in challenging hegemonic perspectives.
[123] Ruth Riddick (Open Door and Line, IPCC, Well Woman, IFPA) in Colin Francome, *If you ever go across the sea to England: a study of 200 Irish women travelling for their abortions* (Middlesex Polytechnic Health Research Centre 1991) 22; *O'Brien* (n 116).
[124] Judith Butler, 'Rethinking Vulnerability and Resistance' (2014) 10 accessed < http://bibacc.org/wp-content/uploads/2016/07/Rethinking-Vulnerability-and-Resistance-Judith-Butler.pdf > accessed 25 June 2023.
[125] For an example of concern about international influence see Denis F. O'Callaghan, 'The Value of Unborn Life: Historical Perspective' in Various authors, *Abortion Now* (Life and Education Research Network (LEARN) 1983).
[126] See Irishwomen United, *Banshee: Journal of Irishwomen United* [Irishwomen United 1976] 1(2), [1] [12] [16].
[127] *Rose* (n 117); For additional discussion see p. 332-333.
[128] Senator Noël Browne (Socialist Labour Party, formerly Labour Party, National Progressive Democrats, Independent, Clann na Poblachta, later Independent and Socialist Labour Party) Seanad Éireann debate, Thursday 21 February 1974, vol 77, no 3; Seanad Éireann debate, Thursday 10 April 1975, vol 80, no 2; J.H. Whyte, *Church and State in Modern Ireland* (Gill and Macmillan 1980); Nuala O'Faolain, 'Abortion debate was not based on rights' *The Irish Times* (Dublin, 22 May 1995) 14; *Hesketh* (n 100) 77.
[129] Senator Noël Browne (Socialist Labour Party, formerly Labour Party, National Progressive Democrats, Independent, Clann na Poblachta, later Independent and Socialist Labour Party) Seanad Éireann debate, Thursday 21 February 1974, vol 77, no 3; Seanad Éireann debate, Thursday 13 February 1975, vol 79, no 7; Seanad Éireann debate, Thursday 10 April 1975, vol 80, no 2; Noël Browne, 'Does Rome still rule the Republic?' in Mavis Arnold and Peadar Kirby (Eds.) *"The Abortion Referendum" : The Case Against* (Anti-amendment campaign 1983).
[130] For examples, see the 1972 *The Week* magazine four page cover story detailing the experiences of women who had abortions. In *Rose* (n 117); See also ''These women are not selfish'' *The Irish Times* (Dublin, 10 July 1978) 12; Eimer Philbin Bowman, 'Sexual and contraceptive attitudes and behaviour of single attenders at a Dublin family

information restrictions were partially predicated on them reflecting the near universal anti-abortion sentiment in the community, the presence and dissemination of these counterhegemonic sources undermined those foundational arguments. Shifts in language use and framings were precisely what the anti-abortion movement wanted to foreclose through censorship.[131] Compounding this sense of threat the fact that Irish laws were now subject to European oversight and influence as Ireland was then a member of the Council of Europe and the European Community.[132] The existing censorship framework was not only failing to prevent the spread of counterhegemonic views on abortion, but was now endangered from those very viewpoints and alternative sources of law.

Despite their pro-choice stance, Irishwomen United chose not to push for abortion legalisation in case it impacted their campaigns for contraception.[133] The Women's

planning clinic' (1977) 9(4) Journal of Biosocial Science 429, 440; For discussions see John Horgan, *Irish media: a critical history since 1922* (Routledge 2001) 117-118; *Ferriter* (n 95) 209-210.

[131] Brian Girvin, 'Social Change and Moral Politics: The Irish Constitutional Referendum 1983' (1986) XXXIV Political Studies 61; *Ferriter* (n 95) 200-201.

[132] Ireland was a founding member of the Council of Europe in 1949. See 'Ireland // 46 States, one Europe' < https://www.coe.int/en/web/portal/ireland > accessed 20 November 2023; Ireland joined the European Community in 1972/3. See 'Ireland in the EU' < https://ireland.representation.ec.europa.eu/about-us/irelands-eu-membership_en > accessed 20 November 2023; Conor Gearty, 'The Politics of Abortion' (1992) 19(4) Journal of Law and Society 441; Irish Council for Civil Liberties, 'The Need for Abortion Law Reform in Ireland: The Case Against the Twenty-Fifth Amendment of the Constitution Bill, 2001' [2001] 19 < https://www.iccl.ie/archive/the-need-for-abortion-law-reform-in-ireland-the-case-against-the-twenty-fifth-amendment-of-the-constitution-bill-2001/ > accessed 15 June 2023; Keith S. Koegler, 'Ireland's Abortion Information Act of 1995' (1996) 29(5) Vanderbilt Journal of Transnational Law 1117; Siofra O'Leary, 'Freedom of establishment and freedom to provide services: the Court of Justice as a reluctant constitutional adjudicator: an examination of the abortion information case' (1992) European Law Review 1; Angela Thompson, 'International protection of rights an analysis of Open Door Counselling and Dublin Well Woman Centre v Ireland' (1994) 12 Boston University International Law Journal 371, 374; Jeffrey A. Weinstein, 'An Irish Solution to an Irish Problem: Ireland's Struggle with Abortion Law' (1993) 10(1) Arizona Journal of International and Comparative Law 165; *Loughlin* (n 99) 79-81.

[133] Jenny Beale, *Women in Ireland: Voices of Change* (Indiana University Press 1987) 113; Linda Connolly, *The Irish Women's Movement: from Revolution to Devolution* (Lilliput Press 2003) 114; Ruth Fletcher, 'Reproducing Irishness: Race, Gender, and Abortion Law' (2005) 17(2) Canadian Journal of Women and the Law 365; Laura Kelly, 'Irishwomen United, the Contraception Action Programme and the feminist campaign for free, safe and legal contraception in Ireland, c.1975–81' (2019) 43(164) Irish Historical Studies 269; Ailbhe Smyth, 'The contemporary women's movement in the Republic of Ireland' (1988) 11(4) Women's Studies International Forum 331, 338-339.

Right to Choose Group (WRTCG) had no such concerns as it was founded to campaign for the liberalisation of abortion laws in Ireland.[134] Its pamphlet, *Abortion: a Choice for Irish Women*, was part of this campaign work.[135] In 1980 the WRTCG established the Irish Pregnancy Counselling Centre (IPCC). The purpose of the IPCC was twofold: to provide practical non-directive counselling and facilitative information to abortion seekers and to be 'a political act of confrontation' in an anti-abortion Ireland.[136] The 1980s saw more people openly and expressly challenging hegemonic condemnatory framings of abortion. They included other non-directive crisis pregnancy counsellors and politicians.[137] The Irish feminist movement and non-directive counselling services also had connections with similar organisations abroad, exposing them to more and different pro-choice ideas.[138] The willingness of Irish residents, many of whom had been raised and educated under censorship, to contest the anti-abortion *status quo* directly and openly, rendered them an acute, existential threat to hegemonic abortion ideologies.[139] Anti-abortion advocates could no longer claim that pro-choice or anti-censorship

[134] Mary Gordon, 'Fighting for Control - the ongoing struggle for reproductive rights' (1984) The Irish Feminist Review, 7; Joan Hoff, 'Comparative analysis of abortion in Ireland, Poland and the United States' in Mary O'Dowd and Sabine Wichert (Eds.) *Chattel, servant or citizen: women's status in church state and society* (The Institute of Irish Studies, Queen's University Belfast 1995) 254. 262; Mary McAuliffe, ''Opening Pandora's Box': the anti-amendment campaign, 1979-1983' (2022) 6(1) Feminist Encounters: A journal of critical studies in culture and politics 1, 8; Rosita Sweetman, *On our backs: sexual attitudes in a changing Ireland* (Pan books 1979) 202.
[135] Sinéad Kennedy, 'A Tale of Two Referendums: A Comparative Study of the Anti-Amendment Campaign and Together for Yes' (2022) (6)(1) Feminist Encounters: A Journal of Critical Studies in Culture and Politics 4, 5.
[136] Quote from *Gordon* (n 134) 10; For further discussions see Vicky Randall, 'The politics of abortion' in Joni Lovenduski and Joyce Outshoorn (Eds.) *The new politics of abortion* (Sage publications 1986) 67, 68; Sandra Colliver, 'Ireland' in Sandra Colliver (Ed.) *The Right to Know: Human rights and access to reproductive health information* (Article 19 and University Pennsylvania Press 1995) 159.
[137] For examples of politicians see Deputy Jim Kemmy (Independent, Democratic Socialist Party and Labour Party) in Brian Girvin, 'Moral politics and the Irish abortion referendums, 1992' (1994) 47(2) Parliamentary Affairs 203; Maria Stack (vice president of Fine Gael) in *Ferriter* (n 95) 227; For additional discussions see Chapter Four.
[138] For an example see Family Life Research Centre*, The blood-dimmed tide and Ireland* (Family Life Research Centre 1983) 4; Senator Sean Fallon (Fianna Fáil) Seanad Éireann debate, Thursday 5 May 1983, vol 100, no 6; Fintan O'Toole, 'The moral monopoly : the people and the theories behind the pro-life amendment campaign' *In Dublin Magazine* (Dublin, 8 July 1982) 17; *Browne* (n 129); *Hesketh* (n 100); For discussion see Emily O'Reilly, *Masterminds of the Right* (Attic Press, 1997) 70; *Smyth* (n 34) 90.
[139] Loretto Browne, 'The Campaign to Legalise Abortion' in Various Authors, *Abortion Now* (Life and Education Research Network (LEARN) 1983) 33; *Hesketh* (n 100); 5, 90; *Loughlin* (n 99) 142; *O'Toole* ibid; *Smyth* (n 34).

ideologies were alien or antithetical to the beliefs of Irish people.[140] The existence of Irish pro-choice, or at least pro-reform, proponents were in themselves examples of the persuasiveness and contagiousness of their logics. Furthermore, having more people challenging the boundaries of social acceptability risked, to return to Butler, that 'magical efficacy' that would convince even more people to support their position.[141] An example of this argument came from Deputy Alice Glenn, who claimed that 'twenty years ago abortion was unthinkable in 75 per cent of the world's population. Now, almost 75 per cent of the world's population are living under abortion laws'.[142] With Irish people, to quote the anti-abortion Minister for Justice Michael Noonan, being 'bombarded, day in day out, with pro-abortion propaganda', the risk was there for this transformation to take place.[143] Allowing these organisations to communicate a different message on abortion through their campaign work and alternative service provision risked further eroding the dominance of anti-abortion views in Ireland.[144]

Gordon recalled that anti-abortion campaigners' reaction to the WRTCG's vocal, unapologetic dissent from hegemonic condemnations of abortion was if they had 'stirred up a hornet's nest'.[145] Lee echoed this, stating that the outspokenness of dissenters provided 'ammunition' for anti-abortion advocates 'to push for further legal restraints on

[140] See Cara Delay, 'Wrong for womankind and the nation: Anti-abortion discourses in 20th-century Ireland' (2019) (2019) 17(3) Journal of Modern European History: Special Issue: Reproductive Decision-making in Comparative Perspective 312
[141] *Butler* (n 2) 22, 81, 108, 110, 113-115, 121, 162-163.
[142] Deputy Alice Glenn (Fine Gael) Dáil Éireann debate, Tuesday 8 March 1983, vol 340, no 10.
[143] The Minister for Justice Michael Noonan (Fine Gael) Dáil Éireann debate, Wednesday 9 February 1983, vol 339, no 10.
[144] John Quinlan, 'The Right to Life of the Unborn-An Assessment of the Eighth Amendment to the Irish Constitution' (1984) 3(4) Brigham Young University Law Review 371, 402; *Smyth* (n 34) 90.
[145] *Gordon* (n 134) 12.

abortion and to protect existing prohibitory anti-abortion legal frameworks.[146] Their chosen strategy was to insert a Constitutional condemnation of abortion through the enshrinement of a foetal right to life through a referendum (the Eighth). This would affirm the State and the Irish community's commitment to anti-abortion principles.[147] As significant thee impact of dissenters speaking out against restrictions was, the fact remained that they were espousing a minority viewpoint.[148] Loughlin recounted that before the Eighth Amendment referendum, the WRTCG had 100 around members.[149] The electorate voted to pass the Eighth in 1983. This decision was a vital confirming moment for the anti-abortion movement as they were also involved in the drafting of the Eighth.[150] Following Smyth, the Irish Constitution was ideologically important as constitutions are a 'conscious formulation by a people of its fundamental law'.[151] As Hug identified, the Irish Constitution has a powerful 'symbolic' importance.[152] The anti-abortion movement were assured of the dominance of anti-abortion ideologies in Ireland. Laws, like those restricting counterhegemonic abortion information, could be said to be reflective of the wishes of the community in Ireland.[153] To quote anti-abortion campaigner Bernadette Bonar, 'this campaign has the support of the ordinary people

[146] J.J. Lee, *Ireland 1912-1985 : Politics and Society* (Cambridge University Press 2010) 653.
[147] Dolores Dooley, 'Medical Ethics in Ireland: A Decade of Change' (1991) 21(1) The Hastings Center 18, 18-21; Ruth Fletcher, 'Post-colonial Fragments: Representations of Abortion in Irish Law and Politics' (2001)) 28(4) Journal of Law and Society 568; Ruth Fletcher, '"Pro-Life" Absolutes, Feminist Challenges: The Fundamentalist Narrative of Irish Abortion Law 1986-1992' (1998) (1998) 36(1) Osgoode Hall Law Journal, 28-29; *Gearty* (n 132); *McAuliffe* (n 134) 1, 5-6; *O'Carroll* (n 87).
[148] See Therese Caherty on the lack of public support for abortion access leading up to the 1983 referendum. In 'Choosing to tell : women's accounts of the experience of abortion' (Mphil Trinity College Dublin 1994) 5.
[149] *Loughlin* (n 99) 202.
[150] *Lee* (n 146) 654.
[151] *Smyth* (n 34) 74.
[152] Chrystel Hug, *The politics of sexual morality in Ireland* (Macmillan 1998) 145.
[153] See Deputy Willie O'Dea (Fianna Fáil) describing the Eighth Amendment as an expression of the 'ideals, aspirations and beliefs' of the Irish people in Dáil Éireann debate, Tuesday 8 March 1983, vol 340, no 10; For discussions see Máiréad Enright, 'four pieces on Repeal: notes on art, aesthetics and the struggle against Ireland's abortion law' (2020) 124 Feminist Review 104; Evelyn Mahon, 'Women's Rights and Catholicism in Ireland' (1987) 1 New Left Review 166; Sean McGraw, 'Multi-dimensional Party Competition: Abortion Politics in Ireland' (2018) 53(4) Government and Opposition 682, 689.

down the boreens, in the alleyways, and down the back streets'.[154] Any concerns that the WRTCG or non-directive counselling agencies were indications of a more considerable sway away from the anti-abortion position were not borne out by the almost two-to-one votes in favour of the Amendment.[155] Even anti-amendment campaigners felt that the referendum would pass, hence the mainstream campaign focused their strategy on contesting the claim that the Eighth was needed to protect abortion criminalisation from a constitutional challenge.[156] Pro-choice arguments were the outliers with prominent anti-amendment campaigners emphasising that they were ideologically still anti-abortion.[157] The Eighth referendum was, therefore, an event that reconfirmed and revitalised the *status quo*. It was intended to send a message to anyone acting against to use Butler's analysis, the 'common norms' of their communities.[158] For example, Deputy Pádraig Flynn said he hoped the Eighth would be a 'magnificent, massive deterrent' to anyone seeking to change the law counter to the

[154] Bernadette Bonar (PLAC, Responsible Society and the Eastern Health Board) in *O'Toole* (n 138).
[155] Department of Housing, Planning and Local Government, *Referendum results 1937-2019* [Department of Housing, Planning and Local Government 2019] 36-37.
[156] Anti-Amendment Campaign, 'It's life that needs amending not the Constitution' (1983) < https://irishelectionliterature.com/2018/05/07/1982-leaflet-from-the-anti-amendment-campaign/ > accessed 17 April 2023; 'No more chains!' (March/April 2013) 2 History Ireland 21; Labour Party speeches archived in Folder no 49,494/925, 3, National Library of Ireland; Alan MacSimóin, 'A history of the struggle for abortion rights in Ireland' (25 April 2009) *Workers Solidarity Movement* < http://www.wsm.ie/c/abortion-rights-ireland-history > accessed 4 April 2023; For discussion see Pauline Conroy Jackson, 'Women's movement and abortion: the criminalization of Irish women' in Drude Dahlerup (Ed.) *The new women's movement: feminism and political power in Europe and the USA* (Sage publications 1986) 48, 55-56; Hilary Dully, Balance, binary debate and missing women: a discourse analysis and creative response to 30 years of the abortion debate on RTÉ current affairs television, 1983-2013' (PhD thesis, National University of Ireland, Galway 2016) 92; Evelyn Mahon, 'Abortion Debates in Ireland: An Ongoing Issue' in Dorothy McBride Stetson (Ed.) *Abortion Politics, Women's Movements, and the Democratic State: A Comparative Study of State Feminism* (Oxford University Press 2001) 157, 162-164; Mary Muldowney, 'Breaking the silence on abortion: the 1983 referendum campaign' (2013) 21(2) History Ireland < https://www.historyireland.com/breaking-the-silence-on-abortionthe-1983-referendum-campaign-2/ > accessed 30 April 2023; *Beale* (n 133) 116; *Gordon* (n 134); *Hesketh* (n 100) 73-74; *Hug* (n 152) 141; *McAuliffe* (n 134) 1, 5-6, 9; *O'Reilly* (n 138) 85-86; *Randall* (n 136) 75; *Smyth* (n 34) 69, 339.
[157] See Dick Spring (Labour Party leader) quoted in Paolo M. Falcone where he argued that Labour would change social conditions that lead people to choose abortion in 'Note for attention of the socialist group' (20 September 1983) Folder no 49,494-925(2), National Library of Ireland; Also, Andrew Rynne, *Abortion: the Irish question* (Ward River Press 1982).
[158] *Butler* (n 2) 21.

'minds and the wishes of the majority of our people'.[159] The result of the referendum did have this effect. The pro-choice movement went through a period of demoralisation.[160] Rather than lobbying to reverse the referendum, activists instead focused on providing non-directive or pro-choice information services to allow abortion seekers to circumvent criminalisation and censorship.[161]

Lee, however, described the passing of the Eighth as a 'pyrrhic victory' for anti-abortion campaigners.[162] Only 53.67% of eligible people voted, and five constituencies in Dublin voted no.[163] Mahon recounted that of the political parties, only Fianna Fáil held a 'unified pro-amendment position'.[164] Inglis argued that the fact that people believed constitutional change was necessary, was a sign that they felt they were losing their grip on controlling social legislation.[165] Outside of the referendum, McGraw detailed how when PLAC ran election candidates they were not successful despite the anti-abortion movement claiming to have thousands of members.[166] Anti-abortion campaigners responded to this uncertainty by attempting to reclaim the discursive space around

[159] Deputy Pádraig Flynn (Fianna Fáil) Dáil Éireann debate, Wednesday 2 March 1983, vol 340, no 8; See also Deputy Oliver J. Flanagan (Fine Gael, formerly Independent) who argued that the passing of the Amendment would result in 'liberal intellectuals' being 'silenced forever' in *Kerrigan* (n 88); Marc Coleman (Students for Life), 'Information on abortion' *The Irish Times* (Dublin, 7 August 1989) 11.
[160] Elizabeth Porter, 'Culture, community and responsibilities: abortion in Ireland' (1996) 30(2) Sociology 279, 283; *Conroy Jackson* (n 156) 59-61; *Hug* (n 152) 146, 166; *Quinlan* (n 144) 402.
[161] *Smyth* (n 34) 69; See Chapter Four of additional discussion of resistance.
[162] *Lee* (n 146) 654.
[163] They were Dublin North-East, Dublin South, Dublin South-East, Dublin South-West and Dún Laoghaire. See Department of Planning, Housing and Local Government, 'Referendum Results 1937-2019' 37 < https://www.gov.ie/en/publication/32ea7-1937-2019-referendum-results/ > accessed 23 April 2023; For a discussion of non-voters see *Girvin* (n 131) 76-80.
[164] *Mahon* (n 156) 164; See also Girvin who highlighted a Market Research Bureau of Ireland poll that found that 61% of surveyed Fine Gael supporters were intending to vote in favour of the Eighth Amendment and the majority of Labour supporters opposed it. In *Girvin* (n 131) 79.
[165] Tom Inglis, *The moral monopoly: the rise and fall of the Catholic Church in modern Ireland* (University College Dublin Press 1998) 84, 87.
[166] *McGraw* (n 153) 700; SPUC, for example, claimed to have over 4,000 members in 40 branches in 1983. See Pat Brennan, 'Backlash and blackmail' *Magill* (Dublin, July 1982) 20; Deaglán de Bréadún, 'Campaigning to maintain the status quo' *The Irish Times* (Dublin, 22 February 1992) 5.

abortion to amplify and ensure the dominance of their own messages. They wanted the State to combat counterhegemonic information with additional anti-abortion information and education campaigns.[167] The censorship created by the 1929 and 1946 Acts remained part of the anti-abortion strategies to educate the public about what they regarded as the 'facts' of abortion.[168] In 1983, four publications were prohibited for having advocated abortion, perhaps signalling a slight resurgence of support for anti-abortion book censorship around the campaign for the Eighth.[169] Publications remained a legitimate target due to the potentially transformative effect that they had when disseminating counterhegemonic information, especially if they originated from countries where abortion was legal e.g., Britain.

By far a more significant threat for effecting the normalisation and legitimisation of abortion was the work of non-directive crisis pregnancy counsellors.[170] These organisations were possessed of that 'magical efficacy' to effect change upon their listeners.[171] These organisations were accused of making, to quote Deputy Pádraig Flynn, abortion seem 'acceptable and fashionable' by assisting people to access abortion services abroad.[172] As I detailed in Chapter One the organisations who were considered by anti-abortion campaigners to be most impactful were Open Door and

[167] Various Authors, *Abortion Now* (Life and Education Research Network (LEARN) 1983) 6.
[168] Eilish O'Leary (Mater Hospital Social Worker) 'Management of Problem Pregnancies' Various authors, *Abortion Now* (Life Education and Research Network (LEARN) 1983) 91; *Browne* (n 139) 22.
[169] These publications were *Delvin* (n 60); *National Abortion Campaign* (n 58) and Paul Redfern, *The Love Diseases* (The Macmillan Press Limited). Redfern's prohibition order appeared in Iris Oifigiúil on 30 September 1983. I was unable to find a single notice for a prohibition order issued on the grounds of a publication advocating abortion published in Iris Oifigiúil between 1974 and 1982.
[170] *Family Life Research Centre* (n 138); 'Advice 'oriented' to abortion' *The Irish Times* (Dublin, 14 March 1980) 6.
[171] *Butler* (n 2) 22-23, 108, 110.
[172] Deputy Pádraig Flynn (Fianna Fáil) Dáil Eireann debate, Wednesday 2 March 1983, vol 340, no 8.

Well Woman.[173] These services were seen by anti-abortion campaigners as posing a political threat to the anti-abortion *status quo* because Open Door regarded its work as sending a message that the pro-choice movement would not be intimidated by a hostile, anti-abortion climate.[174] Open Door had staff who previously worked in the WRTCG's IPCC.[175] Well Woman described its work as a 'sisterhood -feminism in practice',[176] and had strong links to the Anti-Amendment Campaign.[177] Anti-abortion opposition to non-directive counselling was therefore, as Riddick of Open Door recounted, 'ideological and rooted in patriarchal philosophy'.[178] The desired response to these sources of chaos and destabilisation of the anti-abortion consensus was for the State to take action to silence counterhegemonic information providers and speakers.[179]

SPUC based their decision to seek an injunction against these two organisations in the High Court using Eighth Amendment foetal rights to life arguments and by taking the stance that they were carrying out the will of the people.[180] To quote Marie Vernon, providing facilitative abortion information services was 'incompatible with the expressed

[173] For additional discussion see p. 123-124.
[174] Ruth Riddick, *The Right to choose : questions of feminist morality* (Attic Press 1990); Ruth Riddick, *Towards a Feminist Morality of Choice* (1990 Attic Press), 192; The name changed to Open Line in 1984. For the sake of clarity, I will continue to refer to them as Open Door. See 'Open Door Counselling Ltd.' *The Irish Times* (Dublin, 1 August 1984) 18.
[175] *Gordon* (n 134).
[176] Noreen Byrne (Well Woman former director) in Ann Rossiter, *Ireland's Hidden Diaspora: The Abortion Trail and the Making of a London-Irish Underground* (IASC Publishing 2009) Location 1700.
[177] The national steering committee for the Anti-Amendment Campaign was located in Well Woman's headquarters. Anne Connolly, the director of Well Woman, was also part of the Anti-Amendment Campaign. See Ray Kavanagh (Anti-amendment Campaign), 'Reflections' in The Cork Women's Political Association, *Vow: voices of women* (2003) 8th Amendment Special Edition, 10.
[178] *The Right to choose* (n 174) 23.
[179] See Butler on chaos and destabilisation on *Butler* (n 2) xvi; See also Muintir na Tíre calling for the 'silencing' of those who supported changing the conservative *status quo* in *Kerrigan* (n 88).
[180] *Attorney General (at the relation of The Society for the Protection of Unborn Children) v Open Door Counselling Limited and Dublin Wellwoman Centre Limited* (1986) WJSC-HC 1783; *Attorney General (at the relation of The Society for the Protection of Unborn Children) v Open Door Counselling Limited and Dublin Wellwoman Centre Limited* [1988] IR 593; For additional discussion see p. 130-140.

declaration of the people' hence they acted 'to validate the constitutional position'.[181] To realise the full potential of the Eighth for sustaining hegemonic anti-abortion ideologies, anti-abortion campaigners and State actors needed to control lawful information dissemination. The involvement of the Attorney General (AG) in the case against the counsellors sent a strong signal that the interests of the State were aligned with SPUC as would-be anti-abortion citizen censors and he would work with them to preserve the anti-abortion orientation of law enforcement. It was vital for SPUC and the AG to force a cessation of the work of these organisations before they furthered eroded the claimed anti-abortion consensus by framing abortion as a possible, acceptable or necessary option for the ending pregnancy.[182] Pro-choice or non-directive information provision could normalise abortion, laying the 'groundwork' for the legalisation of abortion.[183] In the case, counsel for SPUC focused primarily on arguments related to foetal protective grounds. They were, however, cognisant of what Smyth described as language's 'literal and literally frightening power…to constitute social reality.'[184] Counsel stated that in their view, counsellors should not raise or advise upon abortion, unless of course, they wanted to condemn it.[185] SPUC wanted to 'stigmatise' the telling of people about how and where to access an abortion abroad to foreclose this speech.[186] The judges focused primarily on foetal protective imperatives. Hamilton P. did state that he considered the information-sharing of the counsellors to imply an 'assent to, approval of

[181] Marie Vernon (SPUC), 'The case against abortion information' *The Irish Times* (Dublin, 25 September 1992) 12.
[182] For an example of this argument around the Eighth Amendment campaign see *O'Leary* (n 168) 86.
[183] *Coleman* (n 159); For a criticism of this position see Conrad J.C. Hughes, 'Information on Abortion' *The Irish Times* (Dublin, 30 December 1989) 9.
[184] Ailbhe Smyth, 'Contexts: A Sadistic Farce Women and *abortion* in the Republic of Ireland, 1992' in Ailbhe Smyth (Ed.) *The Abortion Papers* (Attic Press 1992) 7, 8.
[185] 'Abortion option should not be mentioned' *The Irish Times* (Dublin, 9 October 1986) 5; 'Action opens to overturn ban on abortion counselling and assistance' *The Irish Times* (Dublin, 10 February 1988) 8; Nell McCafferty, 'As far as practicable' in Ailbhe Smyth (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 157, 159-160.
[186] Quote from counsel for SPUC in *Action opens to overturn ban on abortion counselling and assistance* ibid.

and encouragement' of abortion, regardless of the counsellors' intentions.[187] Rendering this information unsayable served both paternalistic barriers to abortion access, but also the maintenance of hegemonic condemnations of abortion as expressed through the passing of the Eighth Amendment.[188]

These two anti-abortion criticisms of pro-choice and non-directive abortion information services – that they were an affront to the public good and that they legitimised abortion – were developed further by SPUC and the judgments in the *Grogan*.[189] The contested information sources were students' union guidebooks. The fact that the information source was not in-person professional crisis pregnancy counselling sessions did not matter to anti-abortion critics of the unions.[190] Returning to Butler, those who speak at the margins of acceptability or who push boundaries in speech can undermine or undo the dominance of ideologies that are protected through law and culture.[191] The unions' decision to include abortion as a possible option for a pregnancy alongside parenting and adoption was seen by anti-abortion proponents as communicating an approval and acceptance of abortion.[192] The intended audience for the guidebooks was also a source of concern for anti-abortion proponents like SPUC who regarded the education of young people in anti-abortion principles as vital for the perpetuation and protection of anti-

[187] *Open Door (1986)* (n 180) 206.
[188] See the comments of Mary Lucey (SPUC) in Gerry Reynolds, 'Court Rules Against Abortion Advice' *RTÉ Archives* (Dublin, 19 December 1986) < https://www.rte.ie/archives/collections/news/21235631-court-rules-against-abortion-advice/ > accessed 17 June 2023.
[189] *The Society for the Protection of Unborn Children (Ireland) Limited v Stephen Grogan and others* [1989] IR 753; For further discussion see p. 143-151.
[190] For an example of a letter writing criticising the students unions for sharing information that had these effects see Jack Fitzpatrick, 'Abortion information' *The Irish Times* (Dublin, 29 August 1989) 9.
[191] *Butler* (n 2) 42, 89, 139, 145.
[192] Declan Matthews and Mark Hamilton (Eds.) *SUSS* (The SUSS 1989).

abortion *status quo*.[193] Similar to *Open Door*, the judges in *Grogan* were primarily focused on foetal rights' to life. Concerns that facilitative information-sharing would normalise and legitimise abortion did feature in the *Grogan* judgments, in particular in Walsh J.'s *obiter* comments. He was of the view that abortion should not be included in pregnant advice resources as featuring it beside the continuation of pregnancy would give the impression that it was morally or legally equivalent.[194] Instead, the unions should have condemned or excluded abortion to uphold the values of the Eighth. His comments evidenced that the injunctions were intended not only to impede practical assistance but were to continue the privileging of the anti-abortion orientation of the law by categorising assistive information-sharing as unlawful and necessitating suppression.

The Fourteenth Amendment and reaffirming an anti-abortion *status quo*

> [The 1995 Act] facilitates the abortion and makes it more likely. The provision of those details conveys an approval of abortion as a means of dealing with the undoubted anguish of an unanticipated or crisis pregnancy.
>
> Berry Kiely (PLC)[195]

Kiely's statement evidenced the anti-abortion movement's persistent view that assistive information provision communicated an approval of abortion. In Chapter Two, I argued that this was not the case as many pro-information reform advocates were anti-abortion.[196] However, following Butler, the speech that the State protects or permits can

[193] *Browne* (n 139).
[194] *The Society for the Protection of Unborn Children (Ireland) Limited v Stephen Grogan and others* [1989] IR 753.
[195] Carol Coulter, 'Pro-Life Campaign to lobby politicians against Bill' *The Irish Times* (Dublin, 25 February 1995) 4.
[196] See for example p. 175-177 and 195-196.

become regarded to be the State's speech.[197] The law has a potentiality for normalising or legitimising certain practices as they can be framed as having State assent. Foreclosing such an effect was why anti-abortion advocates campaigned against the Fourteenth Amendment (the Fourteenth) and the Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995 (the 1995 Act). They believed that these legal developments undermined the Eighth and destabilised the claimed anti-abortion Irish consensus.[198] The State should have sought to reaffirm the dominance of anti-abortion ideologies by approaching information through the absolutist foetocentric lens seen in *Open Door* and *Grogan*. Butler also remarked that autonomy in speech can be grounded in the histories of im/permissibility.[199] From a pro-choice or non-directive perspective, the Fourteenth and the 1995 Act privileged anti-abortion ideologies and communicated the State's continued disapproval of abortion. This duality of the State attempting to facilitate abortion but also to condemn it resulted in legislation that required medical practitioners, to quote Mark Murphy (Doctors for Choice), to engage in a form of 'double speak'.[200]

Why legal concessions on facilitative information-sharing may have alarmed anti-abortion campaigners was that often they were, to quote Caherty, the ones setting the 'reproductive agenda'.[201] Control was a vital part of sustaining ideologies as Drinan

[197] *Butler* (n 2) 71-72, 78-79, 101.
[198] Fiona de Londras, ''a hope raised and then defeated'? the continuing harms of Irish abortion law' (2020) 124 Feminist Review, 36; Fiona de Londras and Máiréad Enright, '"The only lawyer on the panel": anti-choice lawfare in the battle for abortion law reform' in Kath Browne and Sydney Calkin (Eds.) *After Repeal: Rethinking Abortion Politics* (Bloomsbury Academic 2020) 53.
[199] *Butler* (n 2) 29.
[200] Amnesty International, *She is Not a Criminal* (Amnesty International 2005) 69.
[201] *Caherty* (n 148) 5; See also Mary Favier (Doctors for Choice) 'Repressing Abortion in Ireland - a doctor speaks out' (1 June 2003) < http://www.wsm.ie/c/pro-choice-doctor-ireland-abortion > accessed 9 June 2023.

recounted those who set the questions have already half-won any following debate.[202] Allowing contested information to be shared lawfully could, anti-abortion advocates feared, lead people to question the logic and fairness of abortion criminalisation, potentially leading to demands for the legalisation of abortion in Ireland.[203] The *X* case's displacement of the dominant narratives undermined any certainties that censorship could provide for the longevity of a claimed anti-abortion consensus. Girvin described *X* as putting Irish anti-abortion advocates on the defensive.[204] Evidence for the erosion of the privileged position of anti-abortion law-making was the ratification of the Maastricht Treaty (Treaty on European Union). Scholars have described the passing of the Eleventh Amendment as the first public defeat for anti-abortion campaigners.[205] Groups like the Pro-Life Campaign (PLC) campaigned for a no vote on the basis that 'the 'legitimisation of abortion' may be 'imposed' on Ireland by the European Union or the European Court of Justice through political or legal means.[206] 'European norms' needed to be resisted to protect anti-abortion, Irish norms.[207] The Protocol to Maastricht offered them little reassurance as, in their view, the use of the term 'in Ireland' to denote the

[202] Robert Drinan (American pro-choice campaigner) quoted in *Hesketh* (n 100) 98; See also Suzanna Chan, 'Speaking of silence, speaking of art, abortion and Ireland' (2019) 27(1) Irish Studies Review 73, 75-76.
[203] For an example see *Coleman* (n 156).
[204] *Girvin* (n 137) 206.
[205] *Girvin* (n 137); See also *Hug* (n 152) *Smyth* (n 34); For a discussion of the development of the Eleventh Amendment see p. 157-168.
[206] Quote from William Binchy (PLAC and PLC) in Christine Newman, 'Bonner denies wanting to stop travel' *The Irish Times* (Dublin, 27 February 1992) 4; See also The Support Life Group, Family Solidarity, Irish Right to Life, 'Why the vote on the Maastricht E.C. treaty is a vote on abortion' [The Support Life Group, Family Solidarity, Irish Right to Life 1992] < https://irishelectionliterature.com/2013/01/17/why-the-irish-vote-on-the-maastricht-treaty-is-a-vote-on-abortion/ > accessed 16 March 2023; The National Platform, 'The Maastricht Referendum: seven good reasons for voting no' [The National Platform 1992] < https://irishelectionliterature.com/2009/09/17/the-national-platform-no-to-maastricht-seven-good-reasons-for-voting-no/ > accessed 16 March 2023; Geraldine Kennedy, 'Protocol has created legal morass for campaigners' *The Irish Times* (Dublin, 15 June 1992) 4; Deaglán de Bréadún, 'The Maastricht debate' *The Irish Times* (Dublin, 5 May 1992) 5; For further discussion of anti-abortion campaigners and the Maastricht campaign see Laury Oaks, 'Irishness, eurocitizens, and reproductive rights' in Sarah Franklin (Ed.) *Reproducing reproduction: kinship, power and technological innovation* (University of Pennsylvania Press 1998) 132.
[207] Quote from Joseph McCarroll (Family Solidarity) in Andy Pollak, 'Anti-abortion groups condemn wording' *The Irish Times* (Dublin, 27 March 1992) 4.

boundaries of its effect limited its potential applicability.[208] Also, the Protocol might apply to the *X* case and many anti-abortion campaigners opposed the decision. Furthermore, the government decision to proceed with Maastricht despite anti-abortion criticisms and demands for the reversal of the *X* decision first.[209] It also was reported, for example, that the AG had refused anti-abortion offers of assistance with drafting the wording of the Protocol.[210] There were economic and diplomatic issues at stake with Maastricht which drove political commitment to its ratification.[211] There may have been pragmatic aspects to this lack of cooperation as to quote one government source there was 'no placating' anti-abortion campaign groups who wanted an absolutist anti-abortion legal framework.[212] These departures still hinted at a degree of ideological severing of the State from the strategies and legal manoeuvrings of the mainstream anti-abortion movement.[213] The government would not be beholden to the precise demands of anti-abortion campaigners.[214] Evidence for this came from reports that detailed how initially information was to be excluded from the Solemn Declaration, but was later added due

[208] Sean Flynn, 'Anti-abortion lobby says EC protocol insufficient' *The Irish Times* (Dublin, 20 February 1992) 5; *Mahon* (n 156) 168.
[209] Denis Coghlan, 'Reynolds will confront FF dissidents over referendum' *The Irish Times* (Dublin, 28 March 1992) 1; Wendy Holden, *Unlawful carnal knowledge: the true story of the Irish 'X' case* (Harper Collins 1994) 185; *Girvin* (n 137) 208; Anti-abortion advocate and former judge of the High Court, Rory O'Hanlon, was also removed from the Law Reform Commission for calling for another anti-abortion referendum. See *Hug* (n 152) 176.
[210] Geraldine Kennedy, 'EC law may rule out new vote on abortion' *The Irish Times* (Dublin, 2 April 1992) 1; *'Anti-abortion lobby says EC protocol insufficient'* (n 208).
[211] Brendan Kennelly and Eilis Ward, 'The abortion referendums' in Michael Gallagher and Michael Laver (Eds.) *How Ireland voted 1992* (Folens and PSAI Press 1993) 115, 118; *Girvin* (n 137) 212; *Weinstein* (n 132).
[212] Quote from Denis Coghlan, 'Abortion referendum to be held' *The Irish Times* (Dublin, 8 April 1992) 1; See also the comments of anti-abortion campaigners in Denis Coghlan, 'New abortion poll is sought' *The Irish Times* (Dublin, 23 March 1992) 1; Denis Coghlan and Sean Flynn, 'Cabinet split on revision to EC Protocol' *The Irish Times* (Dublin, 25 March 1992) 1; *Kennedy* (n 210).
[213] Fianna Fáil expelled one of their Senators, anti-abortion campaigner Des Hanafin, temporarily for voting against Maastricht. See *Hug* (n 152) 176.
[214] The Eighth Amendment wording received the assent of the Catholic Church and anti-abortion campaigners. See 'Chronology of long campaign' *The Irish Times* (7 September 1983) 10; Theresa Reidy, 'Abortion referendums in Ireland' in Stanley D. Brunn and Roland Kehrein (Eds.) *Handbook of the changing world language map* (Springer International Publishing, 2020) 2311.

calls from opposition members and influential organisations.[215] Barry described these events as the State reasserting its competence and legitimacy in the area of abortion regulation, after having ceded the discursive platform and law-formation agenda to the anti-abortion movement in the years previously.[216] The State remained committed to an abortion reduction or elimination position but how they chose to realise these goals diverged somewhat from the favoured prohibitory strategies of anti-abortion campaigners.

Displacement of anti-abortion arguments continued with the electorate voting in favour of the Thirteenth (freedom to travel) and Fourteenth Amendments (freedom to share information) in 1992.[217] Girvin recounted that the government also rejected anti-abortion organisations' attempts to influence the wording of the Twelfth Amendment (removal of suicide as a risk to life of the 'mother').[218] Anti-abortion campaigners campaigned for no votes on the Thirteenth and Fourteenth on the basis that they opposed linking these freedoms to abortion specifically rather than to travel and information generally. Their criticisms remained related to concerns that doing so would lead to the normalisation and legitimisation of abortion. As de Londras and Enright stated, constitutions are living documents that are shaped by unpredictable judicial interpretations.[219] Hence, anti-abortion advocates pushed for the law, to borrow a phrase from Butler, to sustain the

[215] Denis Coghlan, 'Abortion information ruling due' *The Irish Times* (Dublin, 20 March 1992) 1; Second Commission on the Status of Women, 'Report to the Government' (Stationary Office 1993) 336, 453, 516-517.
[216] Ursula Barry, 'Movement, Change and Reaction: The Struggle over Reproductive Rights in Ireland' in Ailbhe Smyth (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 107, 109.
[217] See Chapter Two for another discussion of *X* and the Maastricht Treaty.
[218] *Girvin* (n 137) 214-216; *Girvin* (n 88) 89-90.
[219] Fiona de Londras and Máiréad Enright, *Repealing the 8th: Reforming Irish abortion law* (Policy Press 2018) 19.

existing ‘boundaries of the social’ around speakability.[220] To concede on the legality of referral services and the inclusion of abortion as an option for the ending of a crisis pregnancy could prompt people to reconsider the entire framework of criminalisation.[221] An example of such logic came from Cardinal Cahal Daly who argued that ‘what is legally permissible rapidly comes to be seen as morally acceptable’.[222] Their concerns were not unfounded as some people were beginning to question the hypocrisy of the lawful facilitation of abortion, as long as it was abroad. To quote legislator Mary Harney, ‘if its [abortion] morally right in London, I can’t see why it is morally wrong in Dublin’.[223] If people continued to diverge from anti-abortion positions, it would become more difficult for those with of anti-abortion ideologies to justify law making orientated against abortion on the basis that it was reflective of the majority views of people in Ireland, including information restrictions.

Councillor Niamh Bhreathnach said of those referendums that the government were ‘throwing this issue [abortion] into the lap of the people’.[224] The advantage of them doing so was that legislators could see that the electorate did not ascribe to the absolutist foetal protective position of anti-abortion campaigners. Taoiseach Albert Reynolds was reported to want a consensus affirmed before introducing any abortion

[220] *Butler* (n 2) 121.
[221] See the comments of Norrie Comer-Buckley (Doctor) in Deaglán de Bréadún, ‘Kerry Abortion Opponents organise’ *The Irish Times* (Dublin, 29 April 1992) 4.
[222] ‘Cardinal stresses law’s moral role’ *The Irish Times* (Dublin, 6 October 1992) 2; See also the comments of Bishop of Ferns Dr Brendan Comiskey in Joe Carroll, ‘Church in an age of ‘seeking consensus’’ *The Irish Times* (Dublin, 2 July 1992) 9.
[223] Mary Harney (Progressive Democrats) quoted in *Ferriter* (n 95) 229.
[224] Councillor Niamh Bhreathnach (Labour Party) ‘Press release’ (17 October 1992) Folder no 49,494-925(9), National Library of Ireland.

legislation.[225] While the existence of any such consensus was doubtful, a majority of those who voted - 59.9% - voted in favour of enshrining a freedom to access or share information about legal abortion services abroad.[226] When considered alongside the electorate passing the Thirteenth and rejecting the Twelfth it was, to quote Riddick, apparent that 'unprecedented change' had taken place since 1983.[227] Kennelly and Ward viewed these results as signs of a developing liberalising position among the electorate on abortion.[228] There was dissonance between the claimed anti-abortion consensus and the reality of the diverse of views held by the voters. Additional evidence came from opinion polls where the majority of respondents favoured a more liberal position on abortion and information regulations.[229] Examples included 72% of respondents agreeing that newspapers containing abortion information should remain available,[230] and that abortion should be available when the life or health of the pregnant person was at risk,[231] or in cases of 'special circumstances' like rape or incest.[232] The plurality of opinions on abortion and information saw people openly holding anti-abortion views but they were sometimes also opposed to censorship and

[225] Joe Carroll, 'Anti-abortion group may oppose information, travel referendum' *The Irish Times* (Dublin, 25 June 1992) 5.
[226] *Department of Housing, Planning and Local Government* (n 155) 50-52.
[227] Ruth Riddick, 'Abortion and law in the Republic of Ireland' (1993) 2 Inter Alia 36.
[228] *Kennelly and Ward* (n 211); See also *Smyth* (n 33).
[229] See the poll where the majority of respondents opposed the Costello judgement in the *X* case and favoured abortion law reform. In 'Ireland: Battle of Maastricht' *The Economist* (London, 29 February 1992) 55.
[230] Jack Jones, 'Opinion poll shows that satisfaction with the Government's performance has risen two points in four weeks' *The Irish Times* (Dublin, 11 June 1992) 4.
[231] See the 1990 study referenced by Mahon and Conlon where they described 65% of respondents approving of abortion if the health of the pregnant person was at risk. In Evelyn Mahon and Catherine Conlon 'Legal abortions carried out in England on women normally resident in the Republic of Ireland' in Constitution Review Group, *Report of the Constitution Review Group* (Stationary Office 1996) 599, 604; Brian Girvin cited the same poll and said that it was 65% who said abortion would be acceptable if the pregnant person's life was at risk. *Girvin* (n 137) 205; *Girvin* (n 88) 89; See Margaret Fine-Davis' study where 55.7% though abortion was permissible when the pregnant person's life was at risk. In David Hanly, 'The role of women in Ireland' *RTÉ Archive* (Dublin, 28 July 1988) < https://www.rte.ie/archives/2018/0728/980516-attitudes-to-abortion-and-divorce/ > accessed 17 June 2023.
[232] Quote from *Hoff* (n 134) 264; See also Madeleine Reid, 'Abortion Law in Ireland After the Maastricht Referendum' in Ailbhe Smyth (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 25, 38; *Hug* (n 152) 178.

supported non-directive information provision and counselling including referrals to abortion services.[233] These beliefs were not incompatible and this formed a challenge to the ideological foundation of information restrictions as being reflective of the universal, or at least by the majority, outlook and wishes of the community.[234] More legislators were speaking out against censorship, now framing information suppression as antithetical to societal values. An example was Deputy Nuala Fennell, who asked, 'how can information be alien to the values of the country?'[235] This position would have earned their predecessors backlash, stigmatisation and abuse.[236] The 'thin end of the wedge' strategy of contesting anti-abortion justifications for criminalisation resonated with more people and, to the concern of anti-abortion proponents, threatened to loosen legal barriers to abortion access, such as anti-abortion information controls.[237]

Deputy Pronsias de Rossa described one reason why the electorate voted differently in 1983 than they did in 1992: people knew more about abortion. It was easier for them to question and reject simplistic, condemnatory framings that previously dominated

[233] See for example The Irish Housewives Association in Sheila Kennedy (chair) and Hilda Tweedy (honorary secretary), 'Abortion information ruling' *The Irish Times* (Dublin, 4 March 1987) 9; Michael Foley, 'Information on abortion planned' *The Irish Times* (Dublin, 6 July 1989) 7; Billy Stamp, 'Abortion information' 'Abortion information' *The Irish Times* (Dublin, 5 October 1989) 11; Pam Moloney and Jim Loughran (Campaign to Separate Church and State. Jim Loughran was also a founding member of the IFPA) 'Information on abortion' *The Irish Times* (Dublin, 11 October 1991) 11; The National Youth Council including the Catholic Girl and Boy Scouts of Ireland in John Walshe, 'Youth Council Disagreement on Pregnancy Vote' *The Irish Times* (Dublin, 18 November 1991) 4; The Church of Ireland in Michael Foley, 'Dr Eames encouraged by level of debate' *The Irish Times* (Dublin, 22 May 1992) 5; The Methodist Church in Edward O'Loughlin, 'Methodists to oppose referendum on abortion' *Irish Times* (Dublin, 23 October 1992) 7; Geraldine Kennedy, 'Who says what' *Irish Times* (Dublin, 24 October 1992) 7.
[234] For another example of nuance in anti-abortion ideologies see Margaret Fine Davis' 1988 study where people said they would vote the same way on the Eighth Amendment if asked today but 58% supported abortion being an option in 'certain circumstances'. *Hanly* (n 231).
[235] Deputy Nuala Fennell (Fine Gael) Dáil Éireann debate, Wednesday 13 May 1992, vol 419, no 6.
[236] For examples of criticisms of censorship see the debates in Dáil Éireann debate, Tuesday 12 May 1992, vol 419, no 5; Dáil Éireann debate, Thursday 22 October 1992, vol 424, no 2.
[237] Aileen O'Carroll, 'Background to 1992 referendum - Anti-Abortionists told to SPUC OFF!' *WSM.ie* (1 April 1993) < http://www.wsm.ie/c/ireland-1992-anti-abortionists-spuc-referendum > accessed 10 May 2023.

discourse around abortion regulations.[238] Anti-abortion ideologies remained influential among the political establishment and in the electorate, however. Polls still showed that a pro-choice position – abortion on the request of the pregnant person - was a minority view among respondents.[239] The government's senior party was the generally anti-abortion Fianna Fáil.[240] They intended to continue exceptionalising abortion through legal controls on facilitative abortion information.[241] Hence, the Fourteenth Amendment and the legislation planned to follow was, to quote O'Faolain, 'as grudging as possible'.[242] To prevent the entrenchment of abortion acceptability, the government intended to prohibit the promotion of abortion in consultations, counselling sessions, on billboards, wallposters or leaflets delivered to homes.[243] These restrictions seemed reasonable in medical or counselling contexts. If a service was truly non-directive the information provider should not promote a particular pregnancy outcome.[244] Hence, some pro-reform advocates welcomed these intentions as no one believed in promoting abortion. Rather it should be treated as the option of last resort.[245] The restrictions on

[238] Deputy Pronsias de Rossa (Democratic Left, formerly the Workers Party, Sinn Féin the Workers Party, and the Labour Party) Dáil Éireann debate, Wednesday 13 May 1992, vol 419, no 6.
[239] See *Fletcher* (n 147) 569-570.
[240] Denis Coghlan, 'Pressure on for 'advice' reference in the Protocol' *The Irish Times* (Dublin, 12 March 1992) 4; 'Fianna Fail MEPs abstain in Strasbourg abortion vote' *The Irish Times* (Dublin, 13 March 1992) 6; Denis Coghlan and Sean Flynn, 'Cabinet split on revision of EC Protocol' *The Irish Times* (Dublin, 25 March 1995) 1; *Girvin* (n 137) 209, 213.
[241] Denis Coghlan, 'Pressure on for 'advice' reference in the Protocol' *The Irish Times* (Dublin, 12 March 1992) 4; 'Fianna Fail MEPs abstain in Strasbourg abortion vote' *The Irish Times* (Dublin, 13 March 1992) 6; Denis Coghlan and Sean Flynn, 'Cabinet split on revision of EC Protocol' *The Irish Times* (Dublin, 25 March 1995) 1; *Girvin* (n 137) 209, 213.
[242] Nuala O'Faolain, 'Information, empowerment: crucial words in a republic' *The Irish Times* (Dublin, 19 October 1992) 12
[243] Government of Ireland, *The referendums on the right to life, travel and information key questions and answers: an information publication from the Government* (Government of Ireland 1992) 13.
[244] For descriptions of non-directive counselling as seeking to facilitate a person to process their own thoughts and emotions and to come to their own decision. See *Open Door Counselling [1988]* (n 180) 621; Rita Burtenshaw (Well Woman) in Cathy Halloran, 'Life Pregnancy Care Service' < https://www.rte.ie/archives/collections/news/21369391-life-pregnancy-care-service/ > accessed 1 December 2023; Irish Family Planning Association, *Annual report 1994* (Irish Family Planning Association 1995) 20.
[245] See comments in Edward O'Loughlin, ''We actually think they've got it right this time'' *The Irish Times* (Dublin, 22 October 1992) 7.

advertising were more dubious as they were directed against abortion becoming normalised in a more general sense. Further evidencing the government's plans to prevent the normalisation of abortion was that no such legal restrictions would apply to anti-abortion services or advertising. They remained free to encourage and promote the continuation of pregnancy and to refer people directly to parenting, adoption or fostering services. Anti-abortion information providers were afforded a privileged legal position and cast their ideologies as those that were approved of by the State and supported in law.[246] Their information-sharing aligned with the State's preferred view that the continuation of pregnancy was the preferred outcome and those who espoused this view would remain unburdened by regulatory oversight to the same extent as abortion information.[247]

To support the continued othering of abortion the government planned to restrain State employees from providing lawful information about abortion services abroad. The citational norms, to draw from Butler, would continue to be condemnatory.[248] Meanings could be locked in place by preventing resignification or recontextualisation.[249] The Minister for Health, John O'Connell, equated a State actor providing information about abortion services abroad with an abortion seeker as advocating abortion.[250] This was unacceptable, he claimed, because abortion was illegal in Ireland. To avoid the potential

[246] See Judith Butler on how the speech the State protects becomes the State's speech in *Butler* (n 2) 71-72, 78-79, 101.
[247] The Minister for Justice Pádraig Flynn (Fianna Fáil) Dáil Éireann debate, Thursday 22 October 1992, vol 424, no 2; Seanad Éireann debate, Wednesday 28 October 1992 vol 134, no 6.
[248] *Butler* (n 2) 13-14, 18.
[249] *Butler* (n 2) 39.
[250] The Minister for Health John O'Connell (Fianna Fáil) Dáil Éireann debate, Thursday 22 October 1992, vol 424, no 2; *Government of Ireland* (n 243) 13.

transformative effect that having a State actor speaking in such ways could have, those communications would not be permitted. As the Eighth was still active, the government claimed that these intended boundaries were reflective of the wishes of the Irish people.[251] Therefore, to protect and maintain an anti-abortion legal framework, State actors would remain as censors, not information creators or sharers. The obligation to provide information to abortion seekers would fall upon voluntary organisations, further delegitimising and exceptionalising abortion. Abortion would remain a contested and unsupported intervention as abortion seekers would have to seek out assistance private services, not those in their local public health service.

The distancing of the State from abortion provision was almost realised in the Bill drafted by the next Minister for Health, Labour's Brendan Howlin. It was reported that due to the demands of conservative legislators (Fianna Fáil were the senior coalition partner) for legislation that would a tightly control assistive information access, the government experienced 'horrendous difficulties' drafting this Bill.[252] The electorate's support of the Fourteenth did not prompt the government to adopt a Bill that would treat abortion information provision as part of routine or normalised healthcare. Howlin was clear that any government support for accurate and compassionate information and counselling provision should not be construed as an 'endorsement' of abortion.[253] To

[251] *Government of Ireland Government of Ireland* (n 243) 13; *Hug* (n 152) 189.
[252] Denis Coghlan, 'Charity can become scarce when seats and power are at stake' *The Irish Times* (Dublin, 10 March 1994) 12; Joe Carroll, 'Spring rules out major changes in programme' *The Irish Times* (Dublin, 26 November 1994) 6; Deaglán de Bréadún, 'Five-day week for Dáil in Labour, FF package' *The Irish Times* (Dublin, 5 December 1994), 1; Deaglán de Bréadún, 'FF-Labour agreement to speed pace of change' *The Irish Times* (Dublin, 5 December 1994) 7.
[253] The Minister for Health Brendan Howlin (Labour) made these comments at the UN's Cairo Conference on the Programme of Action. See Colm Boland, 'Cairo accord reached on world population' *The Irish Times* (Dublin, 14 September 1994) 1; *Five-day week for Dáil in Labour, FF package* ibid.

adhere to this anti-abortion *status quo,* his Bill would not have permitted State bodies or actors to provide information about how and where abortion could be accessed.[254] One of the alleged reported reasons for this limitation was that there was still no legislation giving effect to the *X* case. Without these guidelines, State actors could not operate according to express abortion restricting legal requirements.[255] Reflecting this caution around liberalising abortion information, sharing abortion services information would remain a discretionary, opt-in service conducted behind a private consultation room door, as intended by the government who introduced the Fourteenth.[256] Though there would be some leeway for the media to publish this information. These were the measures through which the government sought to facilitate abortion access according to the Fourteenth but to continue the stigmatised, condemnatory framing of abortion in law. As I discussed in Chapter Two, the Bill did not progress as the government collapsed.[257]

The Rainbow Coalition (Fine Gael, Labour, and Democratic Left) passed the Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995 (the 1995 Act) to denote the 'conditions' for lawful information-sharing abortion information abroad.[258] All of these parties had advocated for reform of censorship previously and Labour and Democratic Left had even endorsed limited abortion

[254] *Coghlan* (n 252).
[255] Maol Muire Tynan, 'Planned Bill will Allow for Abortion Details' *The Irish Times* (Dublin, 3 May 1993) 1.
[256] *Tynan* ibid.
[257] p. 186.
[258] The full text of the Fourteenth Amendment was: 'This subsection shall not limit freedom to obtain or make available, in the State, subject to such conditions as may be laid down by law, information relating to services lawfully available in another state.'

legalisation.[259] Finlay CJ. in *Open Door* stated that it was open to the Oireachtas to legislate in 'wider' terms when vindicating constitutional rights.[260] This statement, combined with the electorate's approval of the Fourteenth, meant that the opportunity was there for these parties to reimagine information regulations.[261] During the Oireachtas scrutiny of the 1995 Act, many legislators supported making it lawful to make appointments on behalf of clients/patients and the decriminalisation of most forms of solicited information-sharing.[262] Not only did legislators acknowledge the harms created by information restrictions, but they also criticised the outdated and embarrassing practice of censorship in Ireland. For example, Deputy Michael McDowell stated that while he was not 'a pro-choice person', he believed that controls in media spaces were 'sad', 'impracticable' and may impinge on people's freedoms to access information.[263] The government partially accepted these arguments and did not criminalise the sharing of information about abortion services abroad in the public domain or in private pregnancy consultations once information sharers met certain conditions.[264] Anti-

[259] For comments from legislators see Geraldine Kennedy, 'Who says what' *The Irish Times* (Dublin, 24 October 1992) 7; Dáil Éireann debate, Thursday 2 March 1995, vol 450 no 1; Deputy Alan Dukes (Fine Gael) Dáil Éireann debate, Tuesday 7 March 1995, vol 450, no 2; Dáil Éireann debate, Thursday, 9 March 1995, vol 450, no 4; Deputy Jim Kemmy (Labour) in Alison O'Connor, 'Bill on abortion information watered down' *The Irish Times* (Dublin, 23 February 1995) 4; For another example outside of the Oireachtas see Fiachra O'Ceilleachair, 'Letters to the editor' *The Irish Times* (Dublin, 14 March 1995) 13.
[260] *Open Door [1988]* (n 180) 625.
[261] For an example of a debate on the electorate, the Fourteenth Amendment and a rejection of information restrictions see Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3.
[262] See amendment 3 to prevent further censorship of publications, and amendment 15 to remove most criminal sanctions apart from those on unsolicited information provision. Both were introduced by Deputy Liz O'Donnell (Progressive Democrats) Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4; Amendment no 1 would have permitted providing advice and assistance to a person who met the *X* case criteria. It was also introduced by Deputy Liz O'Donnell (Progressive Democrats) Dáil Éireann debate, Friday 10 March 1995, vol 450, no 5. Senator Cathy Honan (Progressive Democrats) later introduced the same amendment (no 2) in Seanad Éireann debate, 14 March 1995, vol 142, no 8; For additional expressions of regret that the legislation was so restrictive see debates on the 1995 Act, especially Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Seanad Éireann debate, Monday 13 March 1995, vol 142, No. 7; 'McGennis splits with Fianna Fail on abortion Bill' *The Irish Times* (Dublin, 14 March 1995) 6.
[263] Deputy Michael McDowell (Progressive Democrats, later Independent) Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4.
[264] Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995, ss 3 and 5.

abortion ideologies requiring or claiming that there was a consensus around the desirability of abortion information limitations endured, however. The result was a limited 1995 Act that fell short of its transformative potential. As Girvin recounted, Democratic Left and Labour accepted the more circumscribed legislation to appease their colleagues in the larger Fine Gael Party.[265] Labour chair Deputy Jim Kemmy said, 'it is an altered Bill and does not meet with Labour criteria but we are in government with two other parties now. The Bill reflects the reality of the attitudes in the Dail'.[266] Fine Gael and Labour were, after all, the two parties in government who launched the Eighth Amendment referendum.

The influence of consensus and compromise impacted the opposition to the 1995 Act. Some members of Fine Gael would have supported a more permissive 1995 Act. Still, they voted to pass it based on what they felt was, to quote the editor of *The Irish Times*, 'politically possible' at that time.[267] This belief also impacted liberal opposition members who criticised the 1995 Act but ultimately voted in favour of it as they wanted to restore lawful non-directive counselling services.[268] If the 1995 Act was all that they could achieve, so be it. The governments' legislative timidity was a result of the decades of anti-abortion proactive law-making and abortion awfulisation and exceptionalism. Having an assumed consensus position on abortion and censorship in the Oireachtas

[265] *Girvin* (n 88) 91.
[266] Deputy Jim Kemmy (Labour, formerly Democratic Socialist Party and Independent) in *O'Connor* (n 259).
[267] Quote from 'Judge and Bishop speak' *The Irish Times* (Dublin, 2 March 1995) 15; For an example of Fine Gael legislator stating that the 1995 Act should have been more liberal see Deputy Alan Shatter (Fine Gael) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3.
[268] Deputy Mary Harney (Progressive Democrats) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Deputy Des O'Malley (Progressive Democrats, formerly Fianna Fáil) Dáil Éireann debate, Tuesday 7 March 1995, vol 450, no 2.

and among the electorate provided cover for a legislating government. As Oaks remarked, no government wanted to be seen as the party who 'opened the door' to abortion in Ireland.[269] To be the ones who anti-abortion campaigners would see as having betrayed claimed firmly held anti-abortion beliefs as expressed in decades of information suppression was potentially politically risky. Evidencing this strategy of political preservation was the Minister for Health, Michael Noonan, who emphasised that the 1995 Act reflected the promises made by the Fianna Fáil - Progressive Democrat government during the Fourteenth's referendum campaign.[270] Both parties were in opposition in 1995. The Progressive Democrats attempted to liberalise the 1995 Act, but the majority of Fianna Fáil members espoused a more absolutist anti-abortion stance that reflected the views of anti-abortion campaigners outside of the Oireachtas. Such criticisms of the 1995 Act allowed opponents of lawful facilitative abortion information to claim, as Ruth Cullen (Life Interest) did, that the 1995 Act was based on an 'imaginary consensus'.[271] Government adherence to ideas around almost universal or majority support may therefore be predicated on avoiding or countering claims of them unilaterally imposing a degree of information freedom that the Irish people opposed.

[269] Laury Oaks, '"Abortion is part of the Irish experience, it is part of what we are": the transformation of public discourses on Irish abortion policy' 2002) 25(3) Women's Studies International Forum 315, 317.
[270] The Minister for Health Michael Noonan (Fine Gael) Seanad Éireann debate, Monday 13 March 1995, vol 142, No. 7, Seanad Éireann debate, 14 March 1995, vol 142, no 8; See also Deputy Alan Dukes (Fine Gael) Dáil Éireann debate, Tuesday 7 March 1995, vol 450, no 2; Geraldine Kennedy and Maol Muire Tynan, 'Government to press ahead with Bill on abortion information' *The Irish Times* (Dublin, 2 March 1995) 1.
[271] Ruth Cullen (Life Interest) in 'Oireachtas urged to reject Bill' *The Irish Times* (Dublin, 1 March 1995) 3.

Why anti-abortion proponents opposed the 1995 Act was that they believed it would create 'an abortion culture'.[272] It would transform abortion in the collection consciousness from an abhorrent, condemned intervention to a normalised, acceptable one.[273] According to this view, sharing of information about how and where to access an abortion abroad undermined the principles of the Eighth which received the popular ascent of the people through a referendum in 1983.[274] These concerns continued to be grounded in fears of foreign influence. The 1995 Act permitted the transmission and publishing of abortion service information once it did not advocate or promote abortion, and more information than ever was coming from abroad through magazines, broadcast television and radio.[275] Suspicion of the alien was so present that Deputy Brendan Kenneally even so far as to claim that it was foreign women giving Irish addresses in British abortion clinics.[276] His implication was that abortion remained antithetical to the values and practices of Irish people and no information reforms were required. The risk that these anti-abortion proponents believed that the 1995 Act posed was that by allowing people to be assisted in accessing abortion through lawful information-sharing, abortion would be legitimised or normalised.[277] Censorship signalled that abortion was

[272] See Trish Hegarty, 'Group seeks withdrawal of information on abortion Bill' *The Irish Times* (Dublin, 27 February 1995) 4; Deputy Michael Ahern (Fianna Fáil) Wednesday 8 March 1995, vol 450, no 3; Daire Scally (Letterkenny GP) in Carol Coulter, 'Noonan's Bill: Safety net or path to an abortion culture?' *The Irish Times* (Dublin, 4 March 1995) 9; Pro-Life Campaign in *O'Connor* (n 259).
[273] See *Butler* on 'magical efficacy' (n 2) 22, 110, 113-115.
[274] For examples of criticisms inside the Oireachtas see Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1, Dáil Éireann debate, Tuesday 7 March 1995, vol 450, no 2; Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; *Kennedy and Tynan* (n 270); For examples of criticisms outside of the Oireachtas see Andy Pollak, 'Abortion opponents to continue lobby of FG' *The Irish Times* (Dublin, 6 March 1995) 4.
[275] Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995, s 3; For an example of these criticisms see Senator Donie Cassidy (Fianna Fáil) Seanad Éireann debate, Monday 13 March 1995, vol 142, No. 7; Senator Michael O'Kennedy (Fianna Fáil) Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8; For later examples see Joe Humphreys, 'Group demands legalised abortion' *The Irish Times* (Dublin, 9 March 1998) 11; Andy Pollak, '5,300 had abortions in Britain in 1997' *The Irish Times* (Dublin, 26 May 1998) 3.
[276] Deputy Brendan Kenneally (Fianna Fáil) Dáil Éireann debate, Tuesday 7 March 1995, vol 450, no 2.
[277] For an example see Damian O'Maonaigh, 'Abortion and Two Kinds of Law' *The Irish Times* (Dublin, 19 May 1995) 15.

wrong and something that the State and society should strive against. Examples were Brendan Shortall (PLC) who described the 1995 Act as communicating that abortion was 'legally and socially acceptable'.[278] In the Oireachtas, Deputy Noel Ahern stated that the 1995 Act gave abortion 'a cloak of respectability'.[279] Furthermore, these opponents believed that providing a person with the details of abortion services, to quote Máirtín Ó'Droma (Limerick Pro-Life) 'condoned, facilitates and promotes abortion'.[280] Specific ways through which such a culture could develop could be through pregnant people shifting their concepts of responsive care as they would expect their healthcare providers to share information about abortion services with them.[281] The State may also come to accept abortion travel and cease to devise or implement strategies intended to reduce or eliminate it.[282] Pro-choice campaigners - one anti-abortion advocate described them as 'internal aggressors' - could push for further

[278] Brendan Shortall (PLC advisor), 'Abortion law conflicts with established medical ethics' *The Irish Times* (Dublin, 23 May 1995) 14; Michael O'Regan 'Leading judge condemns Abortion Information Act' *The Irish Times* (Dublin, 10 July 1995) 4; *Coulter* (n 272).

[279] Quote from Deputy Noel Ahern (Fianna Fáil) Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; See also the comments of Deputy Michael Ahern (Fianna Fáil) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; See also Carol Coulter, 'Divorce referendum is another milestone to secular state, says Judge' *The Irish Times* (Dublin, 25 September 1995) 4; For comments about the legitimisation of abortion see Trish Hegarty, 'GPs to get information pack on abortions services' *The Irish Times* (Dublin, 15 May 1995) 1.

[280] Máirtín Ó'Droma (chairman of the Limerick Pro-Life group), 'Bill is said to promote abortion' *The Irish Times* (Dublin, 2 March 1995) 7; For more examples of this argument from outside of the Oireachtas see 'Bill would assist in procuring abortions – Hanafin' *The Irish Times* (Dublin, 8 March 1995) 6; For those in the Oireachtas opposing the 1995 Act on the basis that it allowed for the promotion of abortion see Dáil Éireann debate, Thursday 2 March 1995, vol 450 no 1; Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Seanad Éireann debate, 14 March 1995, vol 142, no 8.

[281] For examples of this argument outside of the Oireachtas see 'Group condemns Bill' *The Irish Times* (Dublin, 4 March 1995) 9; 'Noonan to draft opt-out clause for doctors' *The Irish Times* (Dublin, 10 March 1995) 6; Michael O'Regan, 'GPs' group fails to advise on abortion information' *The Irish Times* (Dublin, 13 March 1995) 4; 'Health board members condemn Bill but no formal vote taken' *The Irish Times* (Dublin, 14 March 1995) 6; *Coulter* (n 272); *O'Regan* (n 278); *Shortall* (n 278); For examples of this argument in the Oireachtas see Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3.

[282] Maol Muire Tynan 'FG members urged to seek withdrawal of Bill', *The Irish Times* (Dublin, 3 March 1995) 7; Dermot Kelly and Michael O'Regan, 'Ahern warns of danger of "abortion culture"' *The Irish Times* (Dublin, 3 March 1995) 6; Denis Coghlan, 'Opponents of abortion turn the heat on Fine Gael' *The Irish Times* (Dublin, 4 March 1995) 9; *Coulter* (n 272); See anti-abortion proponents and 1995 Act critics in Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1, Dáil Éireann debate, Tuesday 7 March 1995, vol 450 no 2, Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3, Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4, and Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7.

liberalisation of the law on the basis that it was hypocritical to provide information about abortion services, but not provide those services in Ireland.[283] All of these potential outcomes were, anti-abortion advocates claimed, against the 'expressed wishes of the electorate' as expressed through the Eighth and the misguided people who voted for the Fourteenth.[284] The Pro-Life Campaign described the 1995 Act as 'an abortion bill, pure and simple'.[285] To prevent 1995 Act being a catalyst for the development of an abortion culture, they argued that the government should retain a restrictive legal and Constitutional framework that reaffirmed and reflected the existing anti-abortion consensus and orientation of the law.

Senator Des Hanafin described the government as having passed the 'Rubicon' through the 1995 Act.[286] In contrast those who favoured reforms saw that the 1995 Act had regressive anti-abortion elements that rendered it, to quote Coyne, an 'anti-information law'.[287] The 1995 Act sustained the approach of previous iterations of information controls by framing regulations, to use the words of Deputy Liz O'Donnell, from the

[283] Quote from Stan Cosgrove, 'Abortion and Two Kinds of Law' *The Irish Times* (Dublin, 19 May 1995) 15; For examples of this argument in the Oireachtas see Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; For examples of this argument outside of the Oireachtas see Catherine Foley, 'Youth Defence marchers refer to comparisons with Hitler' *The Irish Times* (Dublin, 6 March 1995) 4; Deaglán de Bréadún, 'TD backs petition to seek abortion plebiscite', *The Irish Times* (Dublin, 10 March 1995) 7; John Clerkin (Children's Protection Society chair) 'Supreme Court Judgement' *The Irish Times* (Dublin, 18 May 1995) 15; Joseph F Foyle, 'Supreme Court Judgement' *The Irish Times* (Dublin, 18 May 1995) 15; *Health board members* (n 281); *O'Regan* (n 278); For analysis see David Cole, 'Going to England: Irish Abortion Law and the European Community' (1993) 17(1) Hastings International and Comparative Law Review 113, 117.

[284] Quote from Paul O'Neill, 'Abortion and two kinds of law' *The Irish Times* (Dublin, 19 May 1995) 15; For examples outside of the Oireachtas see Des Hanafin (Senator and Pro-Life Campaign), 'Abortion assistance is the same as referral' *The Irish Times* (Dublin, 28 October 1994), 12; 'Oireachtas urged to reject Bill' *The Irish Times* (Dublin, 1 March 1995) 3; Irish Times Reporters, 'Hierarchy says judgment does not allay fears' *The Irish Times* (Dublin, 13 May 1995) 7; Colm Simms, 'Abortion and divorce' *The Irish Times* (Dublin, 23 May 1995) 15; 'Bishops see Supreme Court ruling in the X case to be a corruption of the law' *The Irish Times* (Dublin, 1 July 1995) 8; *O'Connor* (n 259); Roderick O'Hanlon in *All-Party Oireachtas Committee on the Constitution* (n 3) A552; For examples in the Oireachtas see Dáil Éireann debate, Tuesday 7 March 1995, vol 450 no 2; Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3.

[285] Pro-Life Campaign in Coghlan (n 282); For comments from opposition legislators see Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3.

[286] *Hanafin* (n 284).

[287] Ellen Coyne, 'New guidelines for abortion information' *The Times* (London, 12 August 2016).

'negative rather than the positive end of the spectrum'.[288] It was not meant to be an 'enabling' piece of legislation.[289] Section 14 declared the 1995 Act to be the primary piece of legislation governing the dissemination of information about abortion services abroad, but it did not repeal the criminalisation in the 1861, 1876, 1889, 1929 or 1946 Acts, nor did it amend the broadcasting codes.[290] Noonan described the purpose of the 1995 Act as being to 'impose conditions' upon information-sharing, not to protect or facilitate it.[291] Those conditions reflected the 1929 and 1946 Acts as the 1995 Act also prohibited the advocation or promotion of abortion when clinic information was being shared in the public domain or in a pregnancy consultation.[292] Information was also required by the 1995 Act to be truthful and objective and financial links between counsellors and abortion clinics were prohibited. According to Noonan, these requirements were implemented so that the 1995 Act would be 'seen' to be 'objective' by the public.[293] In addition, the government had permitted abortion service information to be shared in the public domain so that it would be regulated and subject to these requirements.[294] Like the 1929 and 1946 Acts, there were no definitions of what key terms like advocate, promote, truthful or objective meant in the 1995 Act.[295] The

[288] Deputy Liz O'Donnell (Progressive Democrats) Dáil Éireann debate, 9 March 1995, vol 450, no 4.
[289] Quote from the Minister for Health Michael Noonan (Fine Gael) Seanad Éireann debate, 14 March 1995, vol 142, no 8.
[290] Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995, s 14. This section was inserted through amendment no 17 that was introduced by the Minister for Health Michael Noonan (Fine Gael) in Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4.
[291] See the comments of the Minister for Health Michael Noonan (Fine Gael) Dáil Éireann debate, Thursday, 9 March 1995, vol 450, no 4; See also Deputy Jim O'Keeffe (Fine Gael) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3.
[292] Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995, ss 3 and 5.
[293] Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995, s 7; Quote from the Minister for Health Michael Noonan (Fine Gael) Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7.
[294] He did so in response to Deputy Máire Geoghegan-Quinn's (Fianna Fáil) amendment no 4 which sought to remove s 3 of the 1995 Act. She accepted this rationale and withdrew the amendment. See the Minister for Health Michael Noonan (Fine Gael) Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4; Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Seanad Éireann debate, 14 March 1995, vol 142, no 8.
[295] Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995, s 1.

Department of Health and the government claimed that the 'self-explanatory' or 'colloquial' meanings would apply.[296] However, as Deputy Liz O'Donnell pointed out, 'if people could agree on what is "truth" about abortion, we would not be having this debate, it would no longer be controversial.'[297] The idea that there was a joint or widespread community understanding of what these terms meant remained influential and was enshrined once again in the 1995 Act. Instead of using the 1995 Act to correct decades of the proliferation of abortion mis/disinformation, they were continuing the anti-abortion orientation and bias of the previous iterations of information control. There remained a perceived need and support for criminalising forms of abortion advocation, referrals and advertisement.

These requirements reaffirmed the framing of abortion as being, to quote Noonan, a 'fundamental' and 'immense' decision. Abortion, in his view, was no more 'moral' in 1995 than in 1983 when the electorate voted yes to the Eighth. The government constructed the 1995 Act to reflect this stigmatisation and exceptionalisation.[298] This approach would ensure the perpetuation of anti-abortion ideological dominance and might convince more conservative anti-abortion legislators and advocates to support the legislation. It communicated that the State's suspicions around abortion decision-making had not

[296] 'Self-explanatory' comes from the An Roinn Sláinte, 'Explanatory Memo' (Feabhra 1995) < https://data.oireachtas.ie/ie/oireachtas/bill/1995/8/eng/memo/bills1995-10882-02.pdf > accessed 28 January 2023; 'Colloquial' comes from The Minister for Health Michael Noonan (Fine Gael) Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Seanad Éireann debate, 14 March 1995, vol 142, no 8.
[297] Deputy Liz O'Donnell (Progressive Democrats) Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4; For examples of people raising the differences between concepts of truth and objectivity see debates in Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4; Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8.
[298] Quotes from The Minister for Health, Michael Noonan (Fine Gael), Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4; Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8.

been displaced by the Fourteenth. Restrictions on advocation and promotion, when combined with prohibitions on pregnancy service providers from making appointments for abortion seekers, signalled that the government did not fully trust pro-choice or non-directive services.[299] The creation of the delay period was also intended to differentiate abortion from other medical interventions to perpetuate the State's disapproval of abortion as an option.[300] As Noonan said, the State would not countenance a situation whereby a pregnant person could ask for abortion like 'telling a dentist she has a toothache and him telling her she should have the tooth extracted'.[301] Both parties would be placed under limitations and restrictions to emphasise the gravity with which the State viewed the decision to have an abortion. Prosecutions under the 1995 Act would be one of the means through which assistive communications would be categorised as posing a threat and necessitating legal oversight.[302] The decisions of *Open Door* and *Grogan* were partially preserved by the 1995 Act restraining aspects of unspeakability to ensure that it did not wholly upend or challenge the anti-abortion *status quo*.[303]

Another way that the 1995 Act sustained the anti-abortion bias in information regulations was through its express permission for conscientious objection. Anti-abortion advocates

[299] Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995, s 8.
[300] See Ruth Fletcher, 'Peripheral governance: administering transnational health-care flows' (2013) 9(2) International Journal in Law in Context 160, 171.
[301] The Minister for Health Michael Noonan (Fine Gael) Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4.
[302] *Butler* (n 2) 91.
[303] See how when juridical and state power decides upon categorisations of harmful speech, they risk these institutions making decisions that will have regressive and paternalistic outcomes in terms of speakability. See Judith Butler, Zeynep Gambetti and Leticia Sabsay, 'Introduction' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 1; Catriona MacKenzie, Wendy Rogers, and Susan Dodds, 'What is Vulnerability, and Why Does It Matter for Moral Theory?' in Catriona Mackenzie, Wendy Rogers, and Susan Dodds (Eds.) *Vulnerability: New Essays in Ethics and Feminist Philosophy* (Oxford University Press 2014) 2, 15-16; *Butler* (n 2) 24.

regarded providing information about abortion services as part of the abortion process. Information sharers, they believed, were not only culpable or complicit in abortions but undermined the dominant condemnatory views of abortion.[304] An example of this framing came from the Irish Bishops Conference, who asked service providers to reflect upon whether their communications would contribute to the impression that abortion was 'a reasonable and proper choice that is a normal part of therapeutic healthcare.'[305] This problem with information giving such an impression was that anti-abortion advocates wanted abortion to remain an issue of morality and criminality. They did not want abortion to become part of medical discourse, which may normalise or legitimise it. Brendan Shortall (PLC) was one such person who stated that most abortions had 'nothing to do with medicine'.[306] Doctors should not, in his view, tolerate any consideration of abortion as an option for the ending of a pregnancy and absolutely should not assist a person in obtaining an abortion by providing clinic information. The 1995 Act was implemented by a Minister for Health rather than a Minister for Justice. To ensure that abortion remained classified as an othered and exceptionalised aspect of a medical or counselling consultation, conscientious objection was expressly permitted. Initially, Noonan was reluctant to include such a clause, stating that it was self-evident that no person would be required to facilitate abortions under the anti-abortion Irish legal framework and the strong conscientious objection freedoms outlined in professional

[304] For an early example see Tom Ingoldsby, 'Information on Abortion' *The Irish Times* (Dublin, 11 October 1991) 11; For examples from 1995 see John Magee (Bishop of Cloyne) in 'This week they said' *The Irish Times* (Dublin, 4 March 1995) 12; Andy Pollack, 'Bishops declare Bill would aid in obtaining abortions' *The Irish Times* (Dublin, 9 March 1995) 1; *Coulter* (n 272).
[305] ''Information' means aiding abortion' *The Irish Times* (Dublin, 9 March 1995) 8.
[306] Brendan Shortall (Pro-Life Campaign), 'Abortion law conflicts with established medical ethics' *The Irish Times* (Dublin, 23 May 1995) 14; *Coulter* (n 272).

guidelines.[307] Fianna Fáil deputies still introduced an amendment to include an express permission for conscientious objectors to protect them from legal consequences and social pressures.[308] As opposition to regressive aspects of the 1995 Act came from legislators who were also pro-abortion reduction or minimisation, they also supported allowances for conscientious objectors.[309] Noonan later introduced an amendment to affirm that no person would be required by law to provide information about abortion services abroad.[310] He did not create a mandatory legal duty to disclose a conscientious objection or to refer an abortion seeker to a provider.[311] This inclusion and omission further evidenced the privileging of the anti-abortion ideologies in Irish law. Taking Butler's perspective, if protected speech forms part of the speech of the State it is evident that the 1995 Act was created to preserve – or at least not to challenge - the 'bias' towards anti-abortion legal and cultural framings.[312] Conscientious objections were compatible with the framing of information as an integral part of the abortion process

[307] The Minister for Health Michael Noonan (Fine Gael) Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Deputy Jim O'Keeffe, Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; For the original Bill with no express conscious clause see Regulation of Information (Services outside the State for Termination of Pregnancies) Bill 1995: As initiated (22 February 1995) < https://data.oireachtas.ie/ie/oireachtas/bill/1995/8/eng/initiated/bills1995-10882-01.pdf > accessed 30 January 2023.

[308] Amendment 11 (introduced by Máire Geoghegan-Quinn (Fianna Fáil)) Dáil Éireann debate, 9 March 1995, vol 450, no 4; See supporters in Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4.

[309] See contributions in Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Dáil Éireann debate, Friday 10 March 1995, vol 450, no 5.

[310] Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995, s 13; Amendment no 3 introduced by the Minister for Health Michael Noonan (Fine Gael) Dáil Éireann debate, Friday 10 March 1995, vol 450, no 5; For discussions see 'Owen accuses FF of "hypocrisy" in its attitude to abortion Bill' *The Irish Times* (Dublin, 6 March 1995) 4; The Minister for Health Michael Noonan (Fine Gael) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3.

[311] Democratic Left later conceded that conscientious objection was a barrier due to the lack of referral requirements. In *Crisis Pregnancy: prevention and termination*, (Democratic Left 1998); For opposition of a duty to refer see Trish Hegarty, 'GP who objects to prescribing pill will not refer patients' *The Irish Times* (Dublin, 17 July 1995) 3; For further discussion of a lack of obligation to refer see Michael Boland, Mary Favier, Michael Coughlan, *Training programme and information for General Practitioners: in response to the Termination of Pregnancy Information Act 1995* (ICGP, 1995) 15, 19, 40-41; *O'Regan* (n 281); *Smyth* (n 34) 128.

[312] *Butler* (n 2) 71-72; The 'Bias' quote is from the Minister for Health Michael Noonan (Fine Gael) Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8.

and necessitating of legal restraint, condemnation and caution. It was therefore a concession that fit with enduing anti-abortion ideologies within information regulations.

Counselling and preserving an anti-abortion *status quo*

> Clients of ours [Gianna Care] have told us exactly what every single one of you here today knew would happen. These women are being pressured to choose abortion, they are not being given full information, no alternatives to abortion are being offered or even mentioned. The only choice for them is abortion.
>
> Carolyn O'Meara.[313]

This quote from Gianna Care founder Carolyn O'Meara could have come from any point in time during the decades of anti-abortion information control. O'Meara spoke as part of the Rally for Life in 2022. The rally was held four years after the electorate voted in favour of the Thirty-Sixth Amendment to remove the Eighth, Thirteenth and Fourteenth Amendments from the Constitution.[314] The persistence of this framing –it is under/misinformed people who are choosing abortion due to suspect information sharers – evidenced that how even when abortion is legal, information control remains a crucial strategy for anti-abortion campaigners. The use of information and law can revitalise and sustain anti-abortion ideologies, as well as create barriers to access. As Butler recounted, there is power in citational norms, especially if initiated or reiterated by 'medical, legal, and psychiatric institutions'.[315] Information provision can be regulated

[313] Carolyn O'Meara is a founder of Gianna Care and a former member of Youth Defence. Here, she is speaking at the Rally for Life 2022 < https://www.youtube.com/watch?v=iOiu3GrbPCo&t=41s > accessed 31 January 2022; For her links with Youth Defence see Ellen Coyne, 'Rogue anti-abortion agency Gianna Care planning new site in Galway' *The Times* (London, 23 November 2018); For additional discussions of rogue agencies see p. 52 and 415-418.
[314] Thirty-sixth Amendment of the Constitution Act 2018.
[315] *Butler* (n 124) 2.

and framed to cast abortion as an unnecessary or the least desirable outcome for a crisis pregnancy. The law can create information-based barriers to access and maintain anti-abortion cultural beliefs, even if abortion itself was legal. After the passing of the 1995 Act, the dominance of anti-abortion narratives continued to slip as it became clear that adherence to, and demands for, absolutist condemnatory approaches were losing their majority status.[316]

Information restrictions had long been justified by the State and anti-abortion supporters on the basis that they reflected the sincere, foundational anti-abortion beliefs of people in Ireland. Evidence that there was nuance and the existence of plurality of opinions among the public and legal actors about prohibitions on abortion problematised information regulations that were based on the claim that there was a consensus or dominant approval of a condemnatory legal framework. The law had changed as a result of the Fourteenth and the 1995 Act, as State actors could no longer fully align their engagement with information regulations with the demands of anti-abortion campaigners. In the Supreme Court review of the 1995 Act, the judges and the AG rejected the claims of counsel for the 'unborn' that people did not understand the implications of the Fourteenth when they voted yes.[317] This argument went that had people known that the Fourteenth would allow for the sharing of facilitative information they would have rejected it. This argument failed to find traction, even with anti-abortion

[316] For a discussion of absolutist approaches to foetal rights protections see *Ruth Fletcher* in *"Pro-Life" Absolutes* (n 147); Sandra McAvoy, 'Vindicating women's rights in a foetocentric state: the longest Irish journey' in Noreen Giffney and Margrit Shildrick (Eds.) *Theory on the edge: Irish studies and the politics of sexual difference* (Palgrave Macmillan 2013) 39.
[317] *In the matter of Article 26 of the Constitution and in the matter of the Regulation of Information (Services out-side the State for Termination of Pregnancies) Bill 1995* [1995] 1 IR 1, Para. 6, p. 4; *Attorney General* 16-17; *Hamilton C.J* 45, 51.

allies like Fianna Fáil. Voters also wrote to newspapers stating they knew what they were voting for, rejecting these attempts to delegitimise their decision.[318] The will of the people, in this regard at least, was expressly and undeniably different from what anti-abortion campaigners claimed. This divergence also called into question the Eighth itself. People who previously supported it – including the Taoiseach at the time of the referendum, Garrett Fitzgerald – now disavowed it for being too extreme.[319] Two judges in the Supreme Court review of the *Grogan* decision after the *X* case noted that foetal rights to life was not absolute. They criticised the initial *Open Door* decision for not considering the rights of the 'mother'.[320] Furthermore, it was of 'fundamental importance in every democratic society' to allow people to access information to vindicate their rights.[321] Voters also continued to demonstrate pluralistic views on information and abortion regulations. One poll in 1997 found that 77% of respondents supported the legalisation of abortion in 'limited circumstances'.[322] The electorate also voted against the Twenty-Fifth Amendment despite the Taoiseach Bertie Ahern and anti-abortion campaigners claiming that the public was in favour of removing suicide as a ground for a risk to the life of the 'mother' within Article 40.3.3° and rolling back the law to pre-*X*

[318] For examples in the Oireachtas see the debates in Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4; Seanad Éireann debate, Monday 13 March 1995, vol 142, No. 7; *Owen accuses FF of "hypocrisy"* (n **Error! Bookmark not defined.**); For an example outside of the Oireachtas see 'Bill's objective is to clarify legal entitlements' *The Irish Times* (Dublin, 24 February 1995) 7; James Jack, 'Abortion Information' *The Irish Times* (Dublin, 18 March 1995) 1;

[319] Stephanie Lord, 'The Eighth Amendment: planting a legal timebomb' in Aideen Quilty, Sinéad Kennedy, and Catherine Conlon (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 104, 115-116.

[320] *The Society for the Protection of Unborn Children (Ireland) Limited v Stephen Grogan and* others [1998] 4 IR 343, [1997] 3 JIC 0601; Denham J. criticised the 'absolutism' of previous foetal rights to life framings Denham J. 372-373. Keane J. stated that the right to life not absolute in 388-389.

[321] Quote from *Keane J.* ibid 393.

[322] Geraldine Kennedy, '77% say limited abortion right should be provided' *The Irish Times* (Dublin, 11 December 1997) 1; *Girvin* (n 88) 93; See also Diarmaid Ferriter describing a 2006 ESRI survey where 64% of respondents said they supported the legalisation of abortion at least in some circumstances. *Ferriter* (n 95) 259-260; For some pro-legalisation on grounds like risk to health and life, in cases of fatal foetal anomaly and after sexual violence see *Democratic Left* (n 311) 21; See witness statements in *All-Party Oireachtas Committee on the Constitution* (n 3).

boundaries.[323] A reason for this misalignment was that people were more aware of the safety of abortion as a procedure and the hardships that were caused by abortion and information restrictions.[324] Persistent and growing calls from pro-choice campaigners and non-directive pregnancy service providers for the removal of censorship also exposed people to counterhegemonic ideas and evidence. An example of a practical anti-censorship intervention was the Labour Party's mass appeal of prohibition orders in 2000. Their actions released hundreds of publications that had been prohibited under the 1929 and 1946 Acts for advocating contraception from their bans.[325] These voices and actions rendered consensus-based anti-abortion and pro-censorship arguments increasingly untenable.[326]

I detailed in Chapters One and Two how non-directive counselling was the target of anti-abortion legal action. Those providers were targeted due to their ability to assist people

[323] Taoiseach Bertie Ahern (Fianna Fáil) in *Smyth* (n 34) 124; For a discussion on the Twenty-Fifth Amendment and attitudes towards abortion in 2001 see Louise Fuller, 'Religion, politics and socio-cultural change in twentieth-century Ireland' (2005) 10(1) The European Legacy 41, 52; *Irish Council for Civil Liberties* (n 132) 14-15; For additional discussion of the Twenty-Fifth see p. 208-211 and 221.

[324] For examples of Irish literature that rejected arguments that abortion was harmful to pregnant people see Margaret Fine-Davis, *Psychological effects of abortion on women: a review of the literature* (Crisis Pregnancy Agency 2007) Report no 20; Ailís ní Riain, Miriam Daly, Sonya Ryan, Mark Murphy, *Crisis Pregnancy: A Management Guide for General Practice* (Irish College of General Practitioners, 2013) 7; For more discussions on this point see p. 379-381.

[325] See all the works released back onto the market in Government of Ireland, *Irish Oifigiúil* (Stationary Office 7 March 2000) 287-307; Health (Family Planning) Act 1979, ss 12 and 13; Censorship of Publications Act 1967, s 2; Joe Humphreys, 'Did Old Moore foresee the lifting of the ban on his Almanac in 2000?' *The Irish Times* (Dublin, 15 March 2000).

[326] Examples of pro-choice organising include the founding of the Dublin Abortion Rights Group (came from the Dublin Abortion Information Campaign). See Aileen O'Carroll, 'New abortion rights campaign formed' *Workers Solidarity Movement* (Dublin, January 1998) < http://www.wsm.ie/c/new-abortion-rights-campaign-formed > accessed 16 May 2023; The Irish Choice Network and the Abortion Rights Campaign in Cathie Doherty and Sinéad Redmond, 'The Radicalisation of a New Generation of Abortion Rights Activists' in Aideen Quilty, Sinéad Kennedy and Catherine Conlon (Eds.) *The Abortion Papers: Volume 2* (Cork University Press 2015) 271, 271-274; Coalition to Repeal the Eighth Amendment in Sinéad Kennedy, 'Ireland's handmaid's tale' in Aideen Quilty, Sinéad Kennedy, and Catherine Conlon (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 276, 280-282; For examples of people advocating for information liberation see Cabinet Committee, *Green Paper on Abortion* (Department of the Taoiseach 1999) para. 5.65, p. 43; For an example of a discussion of changing attitudes to abortion see Steve Clements, and Roger Ingham, *Improving knowledge regarding abortion performed on Irish women in the UK*, (Crisis Pregnancy Agency, August 2007) Report no 19, 14.

to bypass abortion restrictions but also because they threatened to normalise abortion by treating it as a legitimate and possible option. Anti-abortion proponents instead believed that non-directive counselling should exclude abortion unless information providers condemned it. To not do so was, to quote Patrick Davey (Life/Anew) , to promote the idea that abortion was 'a wise or simple course of action'.[327] SPUC even described the 1995 Act as permitting the circulation of 'promotional propaganda' about abortion.[328] Anti-abortion campaigners' claimed that their definition of non-directive, non-advocating, non-promotional information provision was based in, and would protect, the anti-abortion *status quo* as supported by the electorate. However, this practice was not adopted by State or medical bodies. The Crisis Pregnancy Agency (CPA) funded and promoted 3-option agencies i.e., those who shared information about legal abortion services abroad with abortion seekers.[329] This included formerly enjoined Well Woman and the often criticised IFPA. Anti-abortion proponents argued that this ran counter to 'life-affirming' approaches that would, they believed, reduce abortions.[330] As an example Breda O'Brien said of the CPA's decision, 'Much more radical action is required… What it does not mean is spending public money on a Positive Options campaign, and including in it some agencies that believe that abortion is sometimes, or often, a positive

[327] Comments of Patrick Davey (Chair) in Cathal Barry, 'Crisis pregnancy agency rejects claims it's no longer pro-life' *The Irish Catholic* (Dublin, 30 June 2016).
[328] *All-Party Oireachtas Committee* (n 3) A466.
[329] For additional discussion of the work of the Crisis Pregnancy Agency/Programme see p. 208 and 389-391.
[330] For examples of the use of 'life-affirming' language see The Life Institute, 'Counselling' *The Life Institute* < https://thelifeinstitute.net/learning-centre/women/crisis-pregnancy/counselling > accessed 18 December 2023; Love Both, 'A New Vision for Ireland: Supports for women and unborn children in pregnancy and beyond' *LoveBoth* < https://loveboth.ie/supports-for-women-and-unborn-children/ > accessed 18 December 2023; For examples of criticisms see Des Hanafin (Fianna Fáil) Seanad Éireann debate, Friday 7 December 2001; D.J. Moore, 'Cura and abortion advice referrals' *Irish Times* (Dublin, 12 May 2005) < https://www.irishtimes.com/opinion/letters/cura-and-abortion-advice-referrals-1.441103 > accessed 10 March 2023; Mary Stewart, 'Crisis Pregnancy Agency' *The Irish Times* (Dublin, 24 May 2005) 17.

option.'[331] Despite these criticisms, the CPA did not cease funding and promoting non-directive counselling services. In medical contexts, the Irish Council of General Practitioners issued guidance for members on providing abortion seekers with information about legal services abroad including locations, prices and abortion aftercare.[332] Professional guidelines allowed for conscientious objection. Still, objectors were required to refer abortion seekers to a providing colleague and were not to allow their personal beliefs to impact the information, counselling or medical care that they delivered.[333] Anti-abortion concerns that integrating abortion clinic information provision into routine medical practice would lead to the normalisation of abortion seemed to be borne out in later studies of doctors' attitudes to abortion.[334] In a 2012 survey of GPs and GP trainees, for example, 51% of respondents supported abortion being made available to 'all women'.[335] The anti-abortion movement could, therefore, not rely upon claims that there was a consensus view among medical professionals as to the undesirability of abortion that would support continued regressive abortion information controls.

[331] Breda O'Brien, 'Wrong to present abortion as positive option' *The Irish Times* (Dublin, 14 May 2005) < https://www.irishtimes.com/opinion/wrong-to-present-abortion-as-positive-option-1.442230 > accessed 10 March 2023.
[332] *Boland, Favier and Coghlan* (n 311); *Hegarty* (n 279); For discussions see Jo Murphy-Lawless and James McCarthy, 'Social policy and fertility change in Ireland: The push to legislate in favour of women's agency' (1999) 6 The European Journal of Women's Studies 69, 86.
[333] Irish Family Planning Association, *The IFPA report 1997: Making a difference* (Irish Family Planning Association 1997) 6-7; Evelyn Mahon, Catherine Conlon, and Lucy Dillon, *Women and Crisis Pregnancy: A Report Presented to the Department of Health and Children* (Stationary Office 1998) 183; *Fletcher* (n 300)171.
[334] See for example Mark Murphy, Akke Vellinga, Scott Walkin & Maeve MacDermott, 'Termination of pregnancy: Attitudes and clinical experiences of Irish GPs and GPs-in-training' (2012) 18(3) European Journal of General Practice 136.
[335] Mark Murphy, Akke Vellinga, Scott Walkin & Maeve MacDermott, 'Termination of pregnancy: Attitudes and clinical experiences of Irish GPs and GPs-in-training' (2012) 18(3) European Journal of General Practice 136.

Anti-abortion actors continued to be afforded access to privileged spaces by the State in consultations about the ideal legal framework for abortion and information regulations. An example that I discussed in Chapter Four was the *Fifth Progress Report* hearings. No abortion seekers were consulted as part of the Oireachtas hearings. In contrast, many anti-abortion advocates were.[336] So while key anti-abortion actors announced that they would either not be campaigning directly on abortion-related issues or telling politicians how to vote on legislation like the 1995 Act, they did take the space afforded to them to advocate for abortion criminalisation and information controls in influential legislative arenas.[337] However, as legislators now recognised that there was not a consensus view on abortion, those who were supportive of non-directive or pro-choice counselling and information provision were also granted access to this discursive space. Policy makers heard their contributions through written submissions from the general public,[338] and when organisations like the IFPA, Well Woman and Abortion Reform were invited by legislators to contribute in-person to the *Fifth Progress Report*.[339] Their inclusion evidenced that anti-abortion actors did not have sole or exclusive access to spaces reserved for expertise or advocates. It was, therefore, more difficult for them to claim that there was a dominant or almost universal anti-abortion perspective in the public and among service providers as other witnesses were present in the same spaces and could contradict them.

[336] For additional discussion see p. 376-378.
[337] Denis Coghlan, 'Setbacks for anti-abortion organisations' *The Irish Times* (Dublin, 27 February 1995) 1; See also the Pro-Life Campaign said they would not tell politicians how to vote on the 1995 Act. In *Pollak* (n 274).
[338] *Green Paper on Abortion* (n 326) para. 5.02-5.04, 34, paras. 5.64-5.65, p. 43. *All-Party Oireachtas Committee* (n 3) 12-13, 14-18, A65-A587.
[339] *All-Party Oireachtas Committee* (n 3) 14-15.

When a Fine-Gael Labour government was afforded another legislative opportunity to reconsider information regulations, they chose to reaffirm the anti-abortion orientation of law, not to challenge it. The anti-abortion ideologies that were preserved and reproduced through information regulations remained influential. The Protection of Life During Pregnancy Act 2013 (the 2013 Act) made no changes to the information legal framework. The government could have engaged in questioning the role of information control and criminalisation in the context of abortion seeking and service provision. Opinion polls yet again indicated that the claimed absolutist anti-abortion *status quo* was not reflective of the nuanced, pluralistic and more liberal attitudes of respondents. One 2013 poll showed that 89% of respondents supported abortion legalisation when a pregnant person's life was at risk, 78% when her health was, 83% for fatal foetal anomalies and 81% in cases of rape or incest.[340] Yet, as Murray recalled, conversations around 'choice, dignity or reproductive rights' were largely absent from discussions around the 2013 Act.[341] Abortion remained an option of last resort.[342] Therefore, there was no impetus to adapt the information framework in a way that regarded abortion in

[340] Described in Orla O'Connor, 'Abortion as a Women's Health and Human Rights Issue: National Women's Council (NWCI) activism on reproductive rights over the decades' in Aideen Quilty, Sinéad Kennedy and Catherine Conlon (Eds.), *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 258, 260-262; See also the studies in Kay Rundle, Collette Leigh, Hannah McGee, and Richard Layte, *Irish contraception and crisis pregnancy [ICCP] study: a survey of the general population summary* (Crisis Pregnancy Agency September 2004) Report no 7 summary, 16; Richard Layte, Hannah McGee, Amanda Quail, Kay Rundle, Gráinne Cousins, Claire Donnelly. Fiona Mulcahy and Ronán Conroy, *The Irish study of sexual health and relationships* (Crisis Pregnancy Agency 2006) 15; Orla McBride, Karen Morgan, Hannah McGee, *Irish contraception and crisis pregnancy study 2010: a survey of the general population*, (Crisis Pregnancy Programme, 2012) Report no 24, 26, 130-131; National Women's Council of Ireland, *NWCI Policy Position Paper on Abortion* (National Women's Council of Ireland 2013) 24-25; James M Fitzgerald, Katherine E Krause, Darya Yermak, Suzanne Dunne, Ailish Hannigan, Walter Cullen, David Meagher, Deirdre McGrath, Paul Finucane, Calvin Coffey, Colum Dunne, 'The first survey of attitudes of medical students in Ireland towards termination of pregnancy' (2014) 40 Journal of Medical Ethics 710, 711; *McGraw* (n 153) 688.
[341] Clare Murray, 'The Protection of Life During Pregnancy Act 2013: Suicide, dignity and the Irish discourse on abortion' (2016) 25(6) Social & Legal Studies 667, 1-2; See also Joan McCarthy, Katherine O'Donnell, Louise Campbell, Dolores Dooley, 'Ethical arguments for access to abortion services in the Republic of Ireland: recent developments in the public discourse' (2018) 44 Journal of Medical Ethics 513, 515.
[342] Taoiseach Enda Kenny (Fine Gael) Dáil Éireann debate, Monday 1 July 2013, vol 805, no 1; See also Deputy Joe McHugh (Fine Gael) Joint Committee on Health and Children debate, Friday 17 May 2013; ss 7, 8 and 9 of the 2013 Act.

the same exceptionalising manner. Part of the rationale for limiting the 2013 Act was to prevent the normalisation or routinisation of abortion. Otherwise, 'floodgates' could open in terms of abortion access and demands for further liberalisation of the law.[343] Following Butler, it was therefore crucial for those who favoured a restrictive legal regime to fix the boundaries of impermissibility in speech.[344] As prosecutions are one method for doing so, the 2013 Act only repealed sections 58 and 59 of the 1861 Act.[345] The information control framework created by the 1889, 1929, 1946, 1979 and 1995 Acts remained in place, perpetuating the existing condemnatory approach to facilitative information provision and failing to extend regulations to anti-abortion information providers or sources.

The transformative potential of counterhegemonic perspectives reached its zenith around the referendum on the Thirty-Sixth Amendment in 2018. In the preceding years, anti-abortion proponents called upon governments to facilitate a national conversation about abortion in response to pro-choice campaigners. Anti-abortion advocates believed that the anti-abortion majority held firm, and the outcomes of that dialogue would reflect this.[346] In 2016, the coalition Fine Gael-Independents government refused to hold a referendum to remove the Eighth stating that they were unsure if the electorate wanted such a change.[347] Those anti-abortion narratives claiming ideological dominance

[343] For examples of this type of argument used previously see *Green Paper on Abortion* (n 326); For analysis see Fiona de Londras and Laura Graham, 'Impossible floodgates and unworkable analogies in the Irish abortion debate' (2013) 3(3) Irish journal of legal studies; Maeve Taylor, 'Women's right to health and Ireland's abortion laws' (2015) 130(1) International Journal of Gynecology and Obstetrics 93, 94; *Murray* (n 341).
[344] *Butler* (n 2) 113-115.
[345] *Butler* (n 2) 29, 91.
[346] For examples see Yes to Life, *Have you got a question about abortion?* (Yes to Life 2016); *Humphreys* (n 275).
[347] Thirty-fifth Amendment of the Constitution (Repeal of the Eighth Amendment) Bill 2016. The Fine Gael-Independents government of 2016 also refused to support the Bill with one of their arguments being that the public did not support a liberalisation of the law. The Minister for Health Simon Harris (Fine Gael) introduced amendment no

remained influential. To establish any such demand, the government launched the Citizens Assembly to examine the question of abortion liberalisation. The outcome of that process, and the debate that surrounded it, confirmed that there was no universal, or even dominant, anti-abortion ideology in Ireland. For example, 64% of the Citizens believed abortion should be accessible without restriction.[348] The referendum on the Thirty-Sixth proposed to replace the Eighth, Thirteenth and Fourteenth Amendments in Article 40.3.3° with the text 'provision may be made by law for the regulation of termination of pregnancy'.[349] 66% of those who voted, voted yes.[350] As I discussed in Chapter Four, many paternalistic, condemnatory approaches to information regulation were rejected, or made obsolete, during the referendum process.[351] Enright et al. described that referendum result as the electorate sending a powerful message to the government about how the State should treat pregnant people.[352] Their agency should be acknowledged, respected and realised through access to services. The success of the referendum demonstrated that, to quote Kennedy, people were 'moveable' on abortion.[353] This adaptability was what the State and pro-censorship proponents designed censorship to foreclose. The fact that the referendum passed is evidence of

1 intended to deny the Bill a second reading so that Citizens' Assembly could take place. See the debate in Dáil Éireann debate, Tuesday 25 October 2016, vol 926, no 1 and the vote in Dáil Éireann debate, Thursday 27 October 2016, vol 926, no 3.

[348] Citizens' Assembly, 'Recommendations on the Eighth Amendment of the Constitution' < https://2016-2018.citizensassembly.ie/en/The-Eighth-Amendment-of-the-Constitution/Recommendations/ > accessed 11 March 2023; Mary Laffoy (chair of Citizens' Assembly) 'Opening Speech for Chair for Joint Oireachtas Committee on the Eighth Amendment' (20 September 2017) < https://2016-2018.citizensassembly.ie/en/The-Eighth-Amendment-of-the-Constitution/Address-given-by-the-Chair-Justice-Laffoy-Meeting-of-the-Joint-Committee-on-Eighth-Amendment-of-the-Constitution.pdf > accessed 15 June 2023.

[349] Thirty-sixth Amendment of the Constitution Act 2018.

[350] *Department of Housing, Planning and Local Government* (n 155) 96-98.

[351] For a discussion of the power of counternarratives see p. 376-381.

[352] Máiréad Enright, Vicky Conway, Fiona de Londras, Mary Donnelly, Ruth Fletcher, Natalie McDonnell, Sheelagh McGuinness, Claire Murray, Sinéad Ring, Sorcha uí Chonnachtaigh, 'Abortion Law Reform in Ireland: A Model for Change' (2015) 5(1) *feminists@law* 2105.

[353] *Kennedy* (n 135) 10.

censorship failing to achieve its goal of suppressing counterhegemonic thought. However, there are legacies of those decades of anti-abortion information control in the legislation that followed: the Health (Regulation of Termination of Pregnancy) Act 2018 (the 2018 Act). This shortcoming was due to the perpetuation of abortion exceptionalisation and awfulisation that was, in part, created and sustained through previous iterations of anti-abortion information regulations.

As de Londras and Markicevic noted, the extent of the pro-reform views of the Citizens' Assembly shocked some legislators. The government sought to 'water down' those recommendations through the parliamentary process.[354] While the government claimed that they introduced measures like the mandatory the 3-day delay period to protect vulnerable subjects, they were instituted to placate conservative and reluctant government members who felt that the 2018 Act may be too liberal.[355] There was no evidence, however, that these barriers have a protective effect. The government partially acknowledged this when attempting to convince their conservative colleagues to support the 2018 Act. For example, Deputy Bernard Durkan said, 'this [2018 Act] is not abortion on demand. There are restrictions such that it does not happen.'[356] To attempt to rationalise those political concessions and obvious artificial barriers to access

[354] Fiona de Londras and Mima Markicevic, 'Reforming abortion law in Ireland: Reflections on the public submissions to the Citizens' Assembly' (2018) 70 Women's Studies International Forum 89, 95; *de Londras* (n 198) 39.
[355] Reports identify the Tánaiste Simon Coveney as the person who needed convincing and he supported a mandatory delay period. See his comments in Simon Coveney, 'Here's how my thinking shifted on the Eighth Amendment' *Independent.ie* (Cork, 26 March 2018) < https://www.independent.ie/irish-news/simon-coveney-heres-how-my-thinking-shifted-on-the-eighth-amendment-36743798.html > accessed 1 February 2023; See also the contributions of Senator James Reilly (Fine Gael) Seanad Éireann debate, Tuesday 27 March 2018, vol 257, no 1; Senator Ivana Bacik (Labour) Seanad Éireann debate, Wednesday 28 March 2018, vol 257, no 2; Ellen Coyne, 'Three-day wait for abortions must go, rights chief demands' *The Times* (London, 15 December 2018); Anna Carnegie and Rachel Roth, 'From the Grassroots to the Oireachtas' (2019) 21(2) Health and Human Rights 109; National Women's Council of Ireland, *Every woman: towards reproductive health choice and care for all* (National Women's Council of Ireland 2022) 6; *de Londras* (n 198) 39.
[356] Deputy Bernard Durkan (Fine Gael) Dáil Éireann debate, Wednesday 17 October 2018, vol 973, no 6.

the government raised the defence that had been used by previous governments to justify decades of censorship: the Irish people supported these interventions. The government published the General Scheme for the 2018 Act before the referendum, and it included the delay period. The Minister for Health, Simon Harris, claimed that the electorate by voting in favour of the Thirty-Sixth had signalled their support for the General Scheme.[357] This was despite there being no way for people to indicate if they favoured the General Scheme or would have preferred a more liberal framework as per the recommendations of the Citizens' Assembly or the Joint Oireachtas Committee on the Eighth Amendment of the Constitution.[358] The government adherence to what they claimed to believe was the majority or consensus view of the electorate squandered, to an extent, the liberatory potential of the movement to repeal the Eighth. Pernicious ideas that had previously limited counterhegemonic and facilitative information access had once more resulted in political concessions and legislative timidity. As Butler said, the histories of speech impact how power and law are conceptualised and realised.[359] In this context, the 2018 Act had removed so much of the censorship framework. Still, it kept a spark of it alive through measures like the delay period, criminalisation, and

[357] The Minister for Health Simon Harris (Fine Gael) Dáil Éireann debate, Thursday 4 October 2018, vol 973, no 1, Dáil Éireann debate, Thursday 18 October 2018, vol 973, no 7, Seanad Éireann debate, Thursday 6 December 2018, vol 262, no 1; Deputy Bernard Durkan (Fine Gael) Joint Committee on Health debate, Wednesday 19 September 2018; See also the comments of Bernard Durkan (Fine Gael) Select Committee on Health debate, Thursday 8 November 2018; Máiréad Enright, '"The Enemy of the Good": Reflections on Ireland's New Abortion Legislation.' (2018) 8(2) *feminists@law*, 1-12; Mary Donnelly and Claire Murray, 'Abortion care in Ireland: Developing legal and ethical frameworks for conscientious provision' (2020) 148 International Federation of Gynecology and Obstetrics, 128-129; *de Londras* (n 198) 40.

[358] Citizen's Assembly, 'First Report and Recommendations of the Citizens' Assembly' (29 June 2017) < https://2016-2018.citizensassembly.ie/en/The-Eighth-Amendment-of-the-Constitution/Final-Report-on-the-Eighth-Amendment-of-the-Constitution/Final-Report-incl-Appendix-A-D.pdf > accessed 2 February 2023. Joint Committee on the Eighth Amendment of the Constitution, 'Report of the Joint Committee on the Eighth Amendment of the Constitution' (Houses of the Oireachtas, December 2017) < https://www.oireachtas.ie/en/committees/32/eighth-amendment-constitution/ > accessed 2 February 2023.

[359] *Butler* (n 2) 25, 28-29; *Butler* (n 31) 25.

refusing to diverge from legislative strategies to discourage people from choosing abortion.

There were two responses of anti-abortion campaigners to the Thirty-Sixth Amendment. Firstly, several anti-abortion proponents recognised that the *status quo* had changed.[360] While they endeavoured to continue working to ensure that people would be 'culturally supported' to decide against abortion, they no longer expected State assent or material support for their work.[361] Secondly, for other anti-abortion proponents, a legacy of information controls in the 2018 Act was not enough now that abortion was legal. Information restrictions had thus far failed as anti-abortion campaigners attributed the passing of the Thirty-Sixth to a general under/misunderstanding among legislators and the electorate about what abortions involved,[362] and foetal development.[363] This was

[360] Kevin Doran (Bishop of Elphin) 'Pro-life supporters gave an extraordinary public service' *The Irish Catholic* (Dublin, 31 May 2018) < https://www.irishcatholic.com/pro-life-supporters-gave-an-extraordinary-public-service/ > accessed 10 March 2023; Gráinne Ní Aodha, 'Catholic Church crisis pregnancy agency to close due to drop in demand' *The Journal* (Dublin, 13 June 2018) < https://www.thejournal.ie/cura-ending-services-4069628-Jun2018/ > accessed 20 January 2023; Patsy McGarry, 'Cura, the Catholic Church crisis pregnancy agency, to close on Friday' *The Irish Times* (Dublin, 13 June 2018) < https://www.irishtimes.com/news/social-affairs/religion-and-beliefs/cura-the-catholic-church-crisis-pregnancy-agency-to-close-on-friday-1.3529428 > accessed 11 June 2023.

[361] Alphonsus Cullinan (Bishop of Waterford and Lismore) 'Opening address by Bishop Alphonsus Cullinan at the 'Crisis of Democracy in Ireland' conference' *Irish Catholic Bishops Conference* (31 October 2017) < https://www.catholicbishops.ie/2017/10/31/opening-address-by-bishop-alphonsus-cullinan-at-the-crisis-of-democracy-in-ireland-conference/ > accessed 10 March 2023; See also the contribution from Every Life Counts in Citizens' Assembly, *Papers and presentations from Citizens' Assembly speakers: from meetings November 2016 to April 2017* [Citizens' Assembly, 2017] Appendix E, volume 2, E680.

[362] For an example see Senator Rónán Mullen (Independent) Joint Committee on the Eighth Amendment of the Constitution debate, Wednesday 20 September 2017; LoveBoth, 'If you saw an abortion you would vote no', photo taken by Brendan Donnelly, Image ID MNWDMF (19 May 2018) < https://www.alamy.com/image-of-a-campaign-poster-for-the-yes-side-in-the-irish-8th-amendment-referendum-the-yes-side-campaigns-to-remove-the-8th-amendment-to-the-irish-constitution-which-stipulates-rights-for-the-unborn-as-part-of-a-move-to-liberalise-the-republic-of-irelands-abortion-laws-image185571023.html > accessed 30 June 2022; Catherine Sanz, 'Doubts grow over 'nurse' by anti-abortion campaign' *The Times* (London, 14 March 2018).

[363] LoveBoth, 'I am 9 weeks old, I can yawn & kick, Don't repeal me', photo taken by Brendan Donnelly, Image ID MNWDJ0, (19 May 2018) < https://www.alamy.com/image-of-a-campaign-poster-for-the-no-side-in-the-irish-8th-amendment-referendum-the-no-side-campaigns-to-maintain-the-8th-amendment-to-the-irish-constitution-which-stipulates-rights-for-the-unborn-as-part-of-a-move-to-maintain-the-republic-of-irelands-current-abortion-laws-image185570952.html > accessed 30 June 2022; LoveBoth, 'My hear starting beating at 22 days' photo by Brendan Donnelly, Image ID MNWDKJ (19 May 2018) < https://www.alamy.com/image-of-a-campaign-poster-for-the-no-side-in-the-irish-8th-amendment-referendum-the-no-side-campaigns-to-maintain-the-8th-amendment-to-the-irish-constitution-which-stipulates-rights-for-the-unborn-as-part-of-a-move-to-maintain-the-republic-of-irelands-current-abortion-laws-image185570998.html > accessed 30 June 2022; LoveBoth, 'A baby's heartbeat starts at 22 days.

due to, a claimed pro-choice media,[364] or, to quote Maria Steen, 'blissful ignorance'.[365] To regain control of the narrative around abortion, anti-abortion legislators proposed several information-based amendments, some which I discussed in Chapter Two. A key part of these legislators' abortion limitation strategies was that they sought to maintain the boundaries of permissibility and social norms around information provision to ensure as much as possible that anti-abortion ideologies would be codified, reaffirmed, and potentially reproduced in law.[366] Supporters of these amendments justified them once more as being reflective of the democratic will of the people who may have wanted abortion legalised, but rare.[367] The amendments - had they been accepted - would have practical impacts. They also had important symbolic aspects through ensuring a form of recognition for foetal life protections in measures like mandatory delay periods, scanning and information provision.[368] Anti-abortion legislators wanted conscientious objectors - from doctors to ancillary workers - to be able to refuse to facilitate transfers of care in non-emergency situations.[369] Information-sharing and referrals would

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Please don't stop it. *Dr Siobhán Crowley, GP*' (28 April 2018) < https://twitter.com/lovebothireland/status/989929207806550016 > accessed 2 February 2023; Digital Desk, 'LoveBoth Project launch poster and slam lack of debate around development of baby in the womb' *The Irish Examiner* (Cork, 5 April 2018) < irishexaminer.com/news/arid-30835942.html > accessed 29 June 2022; *Loughlin* (n 99) 350-351.

[364] For an example see Deputy Peter Fitzpatrick (Independent) Joint Committee on the Eighth Amendment of the Constitution debate, Wednesday 20 September 2017.

[365] Iona Institute, 'The abortion referendum and its aftermath: A talk by Maria Steen' (22 September 2018) < https://www.youtube.com/watch?v=YHFDqK_6Wy0&t=868s > accessed 6 June 2023.

[366] *Butler* (n 2) 121.

[367] Senator Rónán Mullen (Independent) Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3; Senator Noel Grelish (Independent, formerly Progressive Democrats) Dáil Éireann debate, Wednesday 17 October 2018, vol 973, no 6.

[368] For examples of these arguments see Deputy Carol Nolan (Sinn Féin and later Independent) Dáil Éireann debate, Wednesday 5 December 2018, vol 976, no 2; Senator Rónán Mullen (Independent) Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3.

[369] Amendments 147, 148, 149, 159, 160 and 163 < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/dail/3/amendment/numberedList/eng/nl-b10518d.pdf > ; Amendment 47 < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/dail/4/amendment/numberedList/eng/b105a18d-drnl.pdf > ; Amendment 47 < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/dail/4/amendment/numberedList/eng/b105a18d-substitution-list.pdf > all accessed 3 February 2023.

therefore remain regarded in law as being complicit and morally culpable for any abortions that followed.[370] Such measures would have continued to exceptionalise abortion as, to quote Deputy Michael Healy-Rae, they would emphaise the 'gravity of the decision'.[371] They communicated that the State viewed abortion as a legal, but unnecessary, undesired and dangerous intervention that people should be dissuaded against.[372] It would codify that abortion was not a routine or legitimate form of healthcare.[373] Butler acknowledged that there was power in how speech is used in medical and legal domains.[374] In this context, these amendments were designed to prevent the further normalisation, legitimisation and entrenchment of abortion.[375] They also held the potential for a resurgence of popular support for anti-abortion ideologies if they mandated and received State approval for what these proponents regarded as the truth of abortion. None of these proposed amendments were accepted by the Minister for Health, but as I examine in the Conclusion chapter, the ideas behind them continue in post-2018 Act anti-abortion campaigning.

[370] For arguments of supporters for conscientious objectors to be able to refuse transfer involvement inside the Oireachtas see Dáil Éireann debate, Tuesday 16 October 2018, vol 973, no 5; Dáil Éireann debate, Wednesday 17 October 2018 vol 973, no 6; Dáil Éireann debate, Thursday 18 October 2018, vol 973, no 7; Select Committee on Health debate, Thursday 8 Nov 2018; Dáil Éireann debate, Wednesday 5 December 2018, vol 976, no 2; Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3; Seanad Éireann debate, Thursday 13 December 2018, vol 262, no 5; For arguments of supporters for conscientious objectors to be able to refuse transfer involvement outside the Oireachtas see Doctors for Life, 'Letter to the public from Irish Doctors for Life' *Doctors for Life* (Naas 10 May 2018) < https://www.irishdoctorsforlife.com/letter-to-the-public-from-irish-doctors-for-life/ > accessed 6 June 2023; *Iona Institute* (n 365).

[371] Deputy Michael Healy-Rae (Independent) Dáil Éireann debate, Wednesday 17 October 2018, vol 973, no 6; See also the contributions from Senator Brian Ó'Domhnaill (Fianna Fáil) Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3.

[372] For using law to fix meanings and for speech to become the State's speech see *Butler* (n 2) 91.

[373] For comments about abortion not being healthcare see debates in Select Committee on Health debate, Thursday 8 November 2018; Dáil Éireann debate, Wednesday 5 December 2018, vol 976, no 2.

[374] *Butler* (n 2) 18.

[375] For examples of these arguments outside of the Oireachtas see Caroline Simmons (LoveBoth) in 'Estimates of a vote for repeal on Ireland's abortion rate' (17 May 2018) < https://loveboth.ie/estimates-of-a-vote-for-repeal/ > accessed 1 February 2023; For examples of these arguments inside the Oireachtas see contributions in Dáil Éireann debate, Tuesday 20 March 2018, vol 966, no 7; Seanad Éireann debate, Tuesday 27 March 2018, vol 257, no 1.

Conclusion

> Hamilton C.J: But even if one assumes that the information is factual, is not the very act of providing it assisting in the destruction of the life of the unborn? Is it not the first step?
>
> Attorney General: If one looks for the "first step" that must surely be the very fact of informing someone about abortion.[376]

This exchange from the Supreme Court review of the 1995 Act exposed one of the fundamental issues with information control; mentioning that which people want to suppress alerts people to its existence. People can then inform themselves about contested topics, which may undermine those very restrictions. In this Chapter, I outlined how the Irish censorship system allowed for information access. The requirement was that this information needed to be reflective of abortion's taboo, criminalised and delegitimised status as a way for the State to create, reaffirm, and reproduce dominant anti-abortion ideologies. I began by discussing the 1929 and 1946 Acts' attempts to gatekeep counterhegemonic information and to hamper the circulation of more liberal views on abortion. I identified and outlined how anti-abortion actors and the State privileged anti-abortion ideologies in law and this limited the transformative potential of moments of reform. This dynamic was apparent in the drafting of the Fourteenth Amendment and the 1995 Act. While both pieces of law allowed for clinic information-sharing and access, they still sought to communicate the State's disapproval of abortion and abortion's exceptionalised status. I concluded by considering how anti-abortion advocates attempted to use information control strategies to limit the effectiveness of the increased abortion access created through the 2013 and

[376] *In the matter of Article 26 of the Constitution* (n 317) 17 S.C.

2018 Acts. Ultimately, however, as the majority of the community in Ireland rejected absolutist abortion prohibitions, information regulations that were justified by the State on the basis that there was consensus support for their anti-abortion orientation became unacceptable. Most of the censorship framework was abolished through the 2018 Act. Still, remnants continue as the desire for the State to retain control of abortion access using information-based strategies remains a pernicious and attractive aspect of abortion regulations.

Chapter Four: Resistance, vulnerability and the paradox of censorship

Introduction

One of the stated purposes for information restrictions was to reduce abortion numbers. While information prohibitions were impactful, they did not prevent thousands of people from accessing abortion care in Britain. See, for example, the period of time with arguably the most stringent information restrictions:

Year	Restriction	Recorded numbers of Irish residents who accessed abortion care in Britain
1983	The Eighth Amendment added a foetal right to life to the Constitution	3,677
1986	The High Court enjoined Well Woman and Open Door from sharing information about how and where to access abortions abroad	3,918
1988	The Supreme Court confirmed the injunction	3,839
1989	The Supreme Courts granted an interlocutory injunction, preventing the Union of Students in Ireland (USI), University College Dublin students' union (UCDSU) and Trinity College Dublin students' union (TCDSU) from publishing details of how and where to access abortions abroad	3,721
1991	The European Court of Justice confirmed that enjoining the students' unions was not contrary to European Community law	4,154
1992	The High Court granted a permanent injunction against USI, UCDSU and TCDSU to prevent them from publishing details of how and where to access abortions abroad	4,254

1995	The Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995 criminalised a range of information-sharing, including pregnant service providers making appointments with abortion services for their client/patient	4,532

Table 4.1 Snapshot of significant legal interventions hampering legal information-sharing and the numbers of Irish residents who accessed abortions in Britain in those years.[1]

Abortion seekers made it to abortion clinics abroad, whereas countless others accessed illegal abortions in Ireland. They were able to do so as, to quote O'Faolain, 'information of every kind, welcome and unwelcome, is bouncing around….', despite censorship.[2] In

[1] Figures from Irish Family Planning Association, 'Submission to the Citizens' Assembly: A health and rights approach to abortion in Ireland' (16 December 2016) 36; These numbers were likely underestimates as some people used British addresses to obtain subsidised or free abortions on the NHS. See Catherine Conlon, Joan O'Connor, Siobhan Ní Chatháin, *Attitudes to fertility, sexual health and motherhood amongst a sample of Non-Irish national minority ethnic women living in Ireland* (Crisis Pregnancy Agency 2012) Report no 25, 117; Abortion seekers also travelled to other countries e.g., Spain. See Marie O'Shea, *The Independent Review of the Operation of the Health (Regulation of Termination of Pregnancy) Act 2018* (28 February 2023) 33 < https://www.gov.ie/en/publication/13fe5-the-independent-review-of-the-operation-of-the-health-regulation-of-termination-of-pregnancy-act-2018/ > accessed 4 May 2023.

[2] Quote from Nuala O'Faolain, 'Canute had more hope than SPUC of stopping the waves' *The Irish Times* (Dublin, 10 August 1992) 10; For examples of people seeking illegal abortions see R.S. Rose, 'Induced abortion in the Republic of Ireland' (1978) 18(3) The British Journal of Criminology 245; 'Desperate Fear Of Being Pregnant' *RTÉ Archives* (Dublin, 1978) < https://www.rte.ie/archives/2018/0124/935701-back-street-abortions-in-dublin/ > accessed 8 February 2023; Sandra Burke, *Profile of first 202 women to attend Open Door Counselling (July - September 1983)* (Open Door Counselling 1983); Caroline Walsh, 'Thousands face abortion without advice' *The Irish Times* (Dublin, 25 September 1985) 19; Greta Jones, 'Marie Stopes in Ireland – The Mother's Clinic in Belfast, 1936-47' (1992) 5(2) Social history of medicine: the journal of the Society for the Social History of Medicine 255, 259-260; Jim Dunne, 'Woman alleges Dublin abortion' *The Irish Times* (Dublin, 28 February 1997) 1; Conor Lally, 'Government will not review abortion laws' *The Irish Times* (Dublin, 9 July 2004) 3; Human Rights Watch, *A State of isolation: access to abortion for women in Ireland* (Human Rights Watch 2010) 37; Orla McBride, Karen Morgan, Hannah McGee, *Irish contraception and crisis pregnancy study 2010: a survey of the general population*, (Crisis Pregnancy Agency, 2012) Report no 24, 130-133, 141-143; Ruth Fletcher, 'Peripheral governance: administering transnational health-care flows' (2013) 9 International Journal in Law in Context 2 160, 176; Cara Delay, ''Poisons or other Noxious Things': Women's Illegal Abortion Strategies in Twentieth-Century Ireland' *UCD Centre for the History of Medicine in Ireland* (9 May 2014) < http://historyofmedicineinireland.blogspot.com/2014/05/poisons-or-other-noxious-things-womens.html > accessed 17 April 2023; Fiona Bloomer and Kellie O'Dowd, 'Restricted access to abortion in the Republic of Ireland and Northern Ireland: exploring abortion tourism and barriers to legal reform' (2014) 16(4) Culture, Health & Sexuality 366, 372; Sally Sheldon, 'How can a state control swallowing? The home use of abortion pills in Ireland' (2016) 24(48) Reproductive Health Matters 90; Abortion Rights Campaign, *Submission to the Citizens Assembly* (23 December 2016) < https://issuu.com/abortionrightscampaign/docs/citizens_assembly_front > accessed 8 May 2023; Christina Quinlan, 'Policing Women's Bodies in an Illiberal Society: The Case of Ireland' (2017) 27(1) Women & Criminal Justice 51, 65-66; Abigail Aiken, 'Opening Statement to the Joint Oireachtas Committee on the Eighth Amendment to the Constitution' (11 October 2017) < https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_the_eighth_amendment_of_the_constitution/submissions/2017/2017-10-11_opening-statement-professor-abigail-aiken-university-of-texas_en.pdf > accessed 13 March 2023; Janice Donlon (HSE Crisis Pregnancy Agency) Joint Committee on the Eighth Amendment of the Constitution debate, Wednesday 15 November 2017; Abigail R. Aiken, Rebecca Gomperts, James Trussell, 'Experiences and characteristics of women seeking and completing at-home medical termination of pregnancy through online telemedicine in Ireland and Northern Ireland: a population-based analysis' (2017) 124 BJOG 1208; Abigail RA Aiken, Dana M Johnson, Kathleen Broussard, Elisa Padron, 'Experiences of women in Ireland who

addition, anti-abortion information regulations did not sustain the foundational absolutist anti-abortion ideologies behind information controls. The electorate voted in favour of the more liberal abortion Amendments – Thirteen, Fourteen and Thirty-Six – and rejected the most regressive abortion Amendments – Twelve and Twenty-Five.[3] The failure of censorship to reduce abortions or to ensure the dominance of anti-abortion ideologies reflected Butler's argument that the regulation of speech 'only permits the attempt' to exert control.[4] In this Chapter, I analyse how this idea was reflected in the Irish context and applied to other information sources like publications. Culture, history, and the perceived boundaries of linguistic freedoms all influenced these laws' effectiveness. Significantly, when information controls were misaligned with what abortion seekers wanted and needed. Cross-border travel, technological advancements and the establishment of alternative counselling and information infrastructures allowed counterhegemonic and facilitative information about abortion to circulate in Ireland. Ultimately, censorship undermines itself as its construction and enforcement visibilises and publicises the information that the State wants to suppress.[5] Opponents of information controls could then reappropriate and recontextualise prohibited speech in other forms and formats to circumvent or undermine legal and cultural impediments to speaking. Challenges to censorship involved sharing information from the margins of acceptability, formal legal challenges, and law-breaking. These strategies exposed the

accessed abortion by travelling abroad or by using abortion medication at home: a qualitative study' (2018) 44 BMJ Sexual and Reproductive Health 181; Cara Delay, 'Kitchens and Kettles: Domestic Spaces, Ordinary Things, and Female Networks in Irish Abortion History, 1922–1949' (2018) 30(4) Journal of Women's History 11; Sally Sheldon, 'Empowerment and Privacy? Home Use of Abortion Pills in the Republic of Ireland' (2018) 43(4) Signs 823; Peter Boylan, *In the shadow of the Eighth: my forty years working for Women's Health in Ireland* (Penguin Random House 2019) 117-118; *Conlon et al* ibid 33, 162; *Irish Family Planning Association* ibid.

[3] For previous discussions see p. 181, 211, 220, 283, 204, 311.

[4] Judith Butler, *Excitable Speech* (Routledge Classics 2021) xx.

[5] For previous discussions see p. 47-48.

folly of censorship, especially that predicated on there being a community consensus supporting those measures. As, I showed in this Chapter, facilitated information access and destabilised and delegitimised information controls.

A porous border

> …each woman's experience has proved difficult and traumatic in some way or another. It was in recognition of such a state of affairs that IWASG was formed in the early 1980s. Abortion seekers frequently found themselves in straitened financial circumstances after raising money for clinic fees and travel. Consequently, they depended on being put up by relatives, friends, and friends of friends…In essence the IWASG's formation was based on a long-standing tradition of Irish women, and sometimes men, whether living in Ireland or Britain, helping out in difficult circumstances
>
> Ann Rossiter, Irish Women's Abortion Support Group (IWASG)[6]

Rossiter's statement demonstrated why Ireland's domestically focused censorship law could not succeed. Founded in 1980/1, the IWASG was a diaspora network that assisted people to travel to England for abortions.[7] Their activities included providing information, making appointments with abortion services and making travel arrangements for abortion seekers.[8] These were the activities that the *Open Door* counsellors were forbidden from providing.[9] As the IWASG were based in England, the

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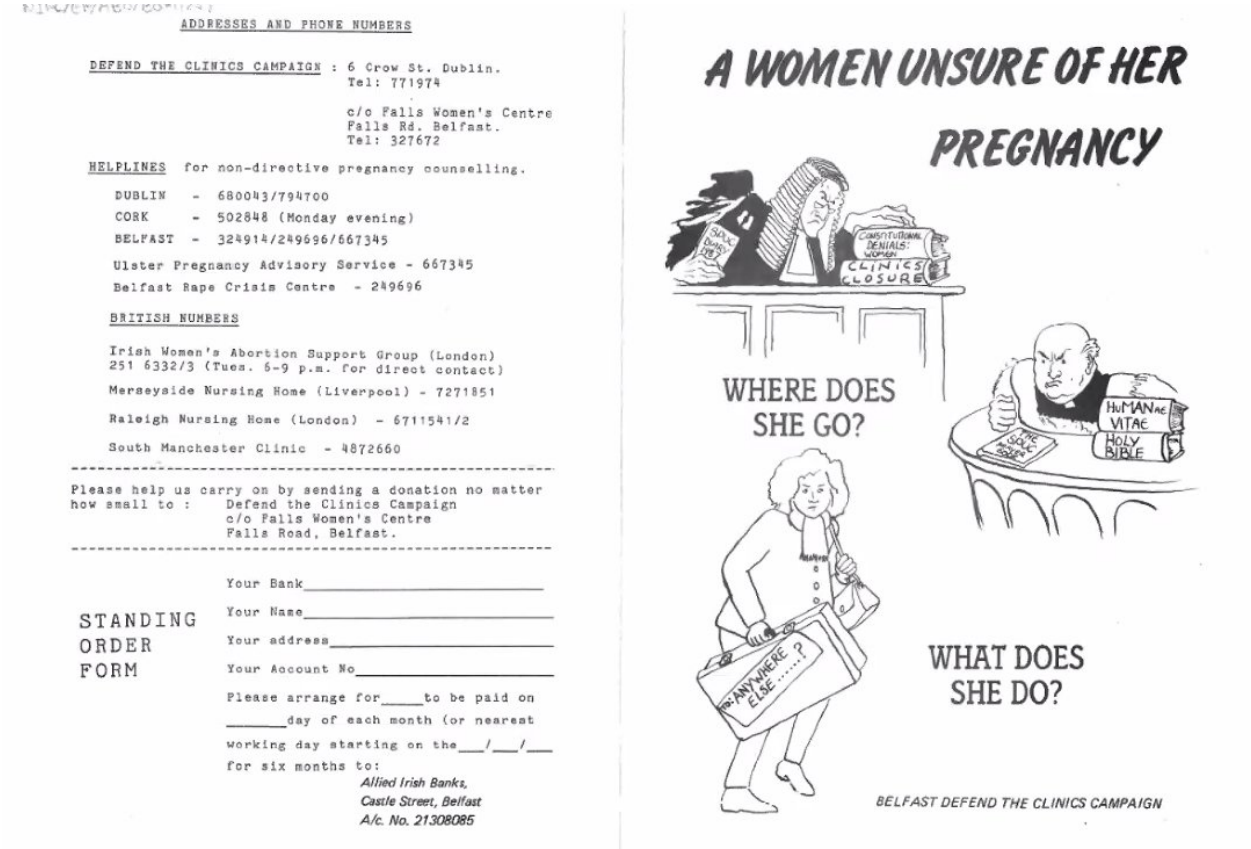
[6] Ann Rossiter, *Ireland's Hidden Diaspora: The Abortion Trail and the Making of a London-Irish Underground* (IASC Publishing 2009) Location 1368.

[7] *Rossiter* Ibid Location 294; Breda Gray, 'From 'Ethnicity' to 'Diaspora': 1980s Emigration and 'Multicultural' London' in Andy Bielenberg (Ed.) *The Irish Diaspora* (Pearson Education 2000) 65, 73, 86; Ruth Fletcher, 'Negotiating strangeness on the abortion trail' in Rosie Harding, Ruth Fletcher, and Chris Beasley (Ed.) *ReValuing Care in Theory, Law and Policy : Cycles and Connections* (Taylor & Francis Group 2016) 29; Chrystel Hug, *The politics of sexual morality in Ireland* (Macmillan 1998) 164-165; See Christina Quinlan on how emigration from Ireland was, at times, 'a particularly female phenomenon' in 'Policing Women's Bodies in an Illiberal Society: The Case of Ireland' (2017) 27(1) Women & Criminal Justice 51, 57-59.

[8] *Rossiter* (n 6) Locations 1432 and 1594; Margaret Gillan (IWASG) in London Irish Women's Conference, *Irish women our lives our identity: report of the 1987 London Irish Women's Conference* (London Irish Women's Conference 1987) 20-21; Irish Women's Abortion Support Group, 'Across the Water' (Summer 1998) 29 Feminist Review 64; Marella Buckley, 'Sitting on your politics: the Irish among the British and the Women among the Irish' in Jim Mac Laughlin (Ed.) *Location and dislocation in contemporary Irish society: emigration and Irish identities* (Notre Dame 1997) 94, 125.

[9] For a discussion of the *Open Door* case see p. 130-140.

Irish courts and Censorship of Publications Board were powerless to stop them as people could contact them directly for help.[10] They were not the only cross-border sources of information, however. The close proximity of the United Kingdom, advancing technology and the knowledge of previous abortion service users and specialist crisis pregnancy services all rendered Irish censorship laws ineffectual and impossible to enforce.



ADDRESSES AND PHONE NUMBERS

DEFEND THE CLINICS CAMPAIGN : 6 Crow St. Dublin. Tel: 771974

c/o Falls Women's Centre
Falls Rd. Belfast.
Tel: 327672

HELPLINES for non-directive pregnancy counselling.

DUBLIN - 680043/794700
CORK - 502848 (Monday evening)
BELFAST - 324914/249696/667345

Ulster Pregnancy Advisory Service - 667345
Belfast Rape Crisis Centre - 249696

BRITISH NUMBERS

Irish Women's Abortion Support Group (London)
251 6332/3 (Tues. 6-9 p.m. for direct contact)
Merseyside Nursing Home (Liverpool) - 7271851
Raleigh Nursing Home (London) - 6711541/2
South Manchester Clinic - 4872660

Please help us carry on by sending a donation no matter how small to : Defend the Clinics Campaign
c/o Falls Women's Centre
Falls Road, Belfast.

STANDING ORDER FORM

Your Bank_____
Your Name_____
Your address_____
Your Account No_____
Please arrange for_____to be paid on _____day of each month (or nearest working day starting on the___/___/___ for six months to:
Allied Irish Banks,
Castle Street, Belfast
A/c. No. 21308085

A WOMEN UNSURE OF HER PREGNANCY

CONSTITUTIONAL DENIALS: WOMEN CLINICS CLOSURE

WHERE DOES SHE GO?

HUMANAE VITAE HOLY BIBLE

WHAT DOES SHE DO?

BELFAST DEFEND THE CLINICS CAMPAIGN

Image 4.2 Leaflet from Belfast Defend the Clinics Campaign[11]

The risk of international sources spreading counterhegemonic information was a long-standing justification for censorship in Ireland.[12] England's geographical closeness was

[10] Katie Binns, 'The secret network that helped women secure safe abortions' *The Times* (London, 19 May 2018).
[11] Image taken from Archiving the 8th Project, 'Collection of abortion campaigning ephemera from Linen Hall Library' *Twitter* (16 June 2021). Reproduced with permission from Linen Hall Library.
[12] See the discussion p. 89-90.

a significant issue of concern due to the country's more liberal abortion laws. I found 471 publications prohibited for advocating contraception or abortion, and the majority were published in the UK.[13] The fears of censorship proponents were not unwarranted. As demonstrated by the IWASG above, people did access and share information about abortion, taking it over borders. Due to the volume of intercountry travelling, people exercised their 'smuggling skills' and secreted prohibited publications in their pocket or luggage.[14] Or they arranged for personal connections, family planning clinics, or illicit abortifacient providers to post information or products to them.[15] Service providers knew to send information in plain packaging to evade customs and postal service inspectors.[16] Counterhegemonic information did not even need to be transported

[13] I found these numbers by looking through the indexes of *Iris Oifigiúil* between 1930 and 2001. I then checked the entry to see which publications were prohibited for having advocated abortion and contraception. For the later years I checked the *Register of Prohibited Publications.* For the years that did not have indexes included in the library copies of *Iris Oifigiúil*, I checked the *Register of Prohibited Publications* if it was available for that year. I also checked each individual page of *Iris Oifigiúil* to attempt to find all the entries.

[14] Quote from Tribune Special Correspondence, 'The Bad Books that Still Come In' *Connaught Tribune* (Galway, 2 February 1966) Folder no 90-102-142, 1 of 2, National Archives of Ireland; Hanna Sheehy Skeffington, 'Censorship in Eire' [*The Saturday Review*, New York, 18 March 1939, 14]; Michael Adams, *Censorship: the Irish Experience* (University of Alabama 1968) 71; Julia Carlson, *Banned in Ireland: Censorship and the Irish Writer* (University of Georgia Press 1990) 28, 45-46, 512; Michael Solomons, *Pro Life? The Irish Question* (Lilliput Press 1992); Kathleen O'Meara, 'Abortion Advertisement in The Guardian' (RTÉ, 23 May 1992) < https://www.rte.ie/archives/2017/0517/875936-guardian-newspaper-and-abortion-information/ > accessed 5 February 2023; Donal Ó'Drisceoil, 'A Dark Chapter: Censorship and the Irish Writer' in Clare Hutton (Ed.) *The Oxford History of the Irish Book, Volume V: The Irish Book in English, 1891-2000* (Oxford University Press 2011) 285, 294, 299.

[15] 'Influx of Evil Literature: Offaly V.E.C. Protest - And Want Action Taken' *Offaly Chronicle* (Birr, 8 January 1958) Folder no 90-102-142, 2 of 2, National Archives of Ireland; Deputy Noël Browne (Clann na Poblachta, Independent, Labour Party, National Progressive Democrats, Socialist Labour Party) Dáil Éireann debate, Wednesday 9 May 1979, vol 314, no 2; Donal Ó'Drisceoil, ''The best banned in the land': Censorship and Irish Writing since 1950' (2005) 35 The Yearbook of English Studies 139, 154; Peter Martin, 'Irish censorship in context' (2006) 95(379) Studies: An Irish Quarterly Review 261, 266; Mary E. Daly, 'Marriage, Fertility and Women's Lives in Twentieth-Century Ireland (*c.* 1900- *c.* 1970)' (2006) 15(4) Women's History Review 571, 574; Brian Girvin, 'Contraception, Moral Panic and Social Change in Ireland, 1969–79' (2008) 23(4) Irish Political Studies 555, 556; Una Crowley and Rob Kitchin 'Producing 'decent girls': governmentality and the moral geographies of sexual conduct in Ireland (1922-1937)' (2008) 15(4) Gender, Place and Culture 355, 360; Sandra McAvoy, 'Its effect on public morality is vicious in the extreme': defining birth control as obscene and unethical, 1926–32' in Elaine Farrell (Ed.) *She was in the Family Way* (School of Advanced Study, University of London 2012) 35, 39; Cara Delay, 'Pills, potions, and purgatives: women and abortion methods in Ireland, 1900–1950' (2019) 28(3) Women's History Review 479, 491; *Adams* ibid 71, 173, 186; *Bloomer and O'Dowd* (n 2) 372-373; *Sheldon* (n 2) 840; *Solomons* ibid [8].

[16] Irish Times Reporter, 'Long list of banned books predicted' *The Irish Times* (Dublin, 12 December 1956) Folder no 90-102-140, 1 of 4, National Archives of Ireland; Irish Times Reporter, 'Papers seized, woman claims' *The Irish Times* (Dublin, 23 May 1992) 1; *Adams* (n 14) 145, 172; *Jones* (n 2) 270; *Ó'Drisceoil* ibid.

through airports or ferry terminals as Northern Ireland was governed by UK law.[17] Despite the land border, pro-choice or anti-censorship campaigners viewed their movement as having all-island solidarity. At the 1979 USI conference, Trinity College Dublin and Northern Ireland Polytechnic introduced a motion in favour of abortion decriminalisation and the delegates passed it.[18] This ensured channels for information dissemination remained open. When the Irish courts enjoined three students' unions from sharing information about abortion services in *Grogan*, the unions could still publish the unlawful information through printers in Northern Ireland.[19] Students' unions from Northern Ireland brought copies of their own *Student Union News* that also contained this information to Dublin for circulation on university campuses.[20] The security of being based in Northern Ireland provided the unions with protection and, to quote union activist Damien O'Donnell, made it clear, 'to SPUC that they are dealing with a national students union which operates north of the Border, as well as south, and is prepared to utilise its resources outside of the state to the fullest'.[21]

[17] Cork Abortion Information Campaign, *Censored: Ireland's Abortion Reality* [Cork Abortion Information Campaign, 1991].
[18] Northern Ireland Polytechnic is now Ulster University. See Pat Langan, 'Abortion should not be a criminal act, says USI' *The Irish Times* (Dublin, 15 January 1979) 4.
[19] The unions who did this were USI and Trinity College Dublin. See Brian O'Connell, 'TCD Provide Abortion Advice' *RTÉ Archives* (Dublin, 2 October 1988) < https://www.rte.ie/archives/collections/news/21291012-tcd-provide-abortion-advice/ > accessed 16 February 2023; Carol Coulter, 'Abortion leaflets to be distributed' *The Irish Times* Dublin, 13 October 1989) 8; 'Abortion information distributed' *The Irish Times* (Dublin, 10 October 1990) 2; Christine Newman, 'USI magazine contains abortion referral numbers' *The Irish Times* (Dublin, 8 October 1991) 3; For additional discussion of *Grogan* see p. 141-150.
[20] Kathy Sheridan, 'NI students bring abortion material south' *The Irish Times* (Dublin, 9 March 1990) 8.
[21] Damien O'Donnell (College of Commerce student union president) in *Sheridan* ibid; Another example of cross-border collaboration was the National Union of Students (UK) providing funding to ESCORT. See Ruth Fletcher, 'Civic feminism and voluntary abortion care: A story of ESCORT's contribution to reproductive justice' in Aideen Quilty, Sinéad Kennedy and Catherine Conlon (Eds.) *The Abortion Papers: Volume 2* (Cork University Press 2015) 137, 152-153.

The permeability of the border was not limited to the secretability of publications. Patterns of migration between Ireland and Britain meant that some people knew about abortion providers - including illegal ones operating before the passing of the Abortion Act 1967 – and they could share that information in Ireland.[22] After 1967, travellers could consult phone books or ask for help from taxi drivers upon arrival in Britain.[23] I mentioned the IWASG who aided abortion seekers over the telephone and through publications. They were joined in their work by the Liverpool Ireland Support Service and ESCORT.[24] If information seekers could not find their contact details, they could seek out the details of other sympathetic organisations in phonebooks, international directory enquiries and in the media. Examples from the literature included the Ulster Pregnancy Advisory Association,[25] the Northern Irish Family Planning Association,[26] the

[22] Keith S. Koegler, 'Ireland's Abortion Information Act of 1995' (1996) 29(5) Vanderbilt Journal of Transnational Law 1117; Sandra Larmour, *Aspects of the State and Female Sexuality in the Irish Free State* (PhD thesis University College Cork 1998); Sandra McAvoy, 'Before Cadden: Abortion in Mid-Twentieth Century Ireland' in Dermot Keogh, Finbarr O'Shea and Carmel Quinlan (Eds.) *The Lost Decade: Ireland in the 1950s* (Mercier 2004) 147, 153-154; Louise Ryan, 'A decent girl well worth helping: women, migration and unwanted pregnancy' in Liam Harte and Yvonne Whelan (Eds.) *Ireland beyond boundaries: mapping Irish studies in the twenty-first century* (Pluto 2007) 135; Diarmaid Ferriter, *Occasions of Sin* (Profile 2012) 100-101; Diarmaid Ferriter, 'The Irish abortion question has always been linked to class, secrecy and moral judgment' *The Irish Times* (Dublin, 23 August 2014).
[23] Mary McAleese, 'English Abortion Services' *RTÉ Archives* (Dublin, 15 January 1980) < https://www.rte.ie/archives/2015/0115/672554-mary-mcaleese-investigates-english-abortion-services-1980/ > accessed 17 February 2023; Katherine Holmquist, 'She is everywoman' *The Irish Times* (Dublin, 3 May 1993) 10; Deputy Moosajee Bhamjee (Labour Party) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3.
[24] For an example of a publication see ESCORT, *Travelling to Liverpool* < https://wellcomecollection.org/works/dzy4dx4m > accessed 14 June 2023; For examples of people referring people to these organisations see Defend the Clinics Campaign, *Fact pack for women on abortion* (Defend the Clinics Campaign 1987); Michael Boland, Mary Favier, Michael Coughlan, *Training programme and information for General Practitioners: in response to the Termination of Pregnancy Information Act 1995* (ICGP, 1995) 27; *Cork Abortion Information Campaign* (n 17); For discussions in the literature see Colin Francome, *If you ever go across the sea to England: a study of 200 Irish women travelling for their abortions* (Middlesex Polytechnic Health Research Centre 1991); Claire Pierson, 'Irish Abortion Trails and Informal Care Networks: Facilitating Continuities in Care' (29 March 2017) Nursing Cleo < https://nursingclio.org/2017/03/29/irish-abortion-trails-and-informal-care-networks-facilitating-continuities-in-care/ > accessed 5 February 2023; Deirdre Niamh Duffy, 'from feminist anarchy to decolonisation: understanding abortion health activism before and after the repeal of the 8th Amendment' (2020) 124 feminist review 69; *Fletcher* (n 7) 29; *Fletcher* (n 21) 147-157; *Hug* (n 7) 165.
[25] Belfast Women's Collective, *Scarlet Women II* (Socialist Feminist Current of the Women's Liberation Movement, June 1980); 'Service arranged 100 abortions' *The Irish Times* (Dublin, 19 March 1982) 6; Helen Shaw, 'Women look North for abortion advice' *The Irish Times* (Dublin, 8 October 1987) 5; *Cork Abortion Information Campaign* (n 17); *Ferriter* (n 22) 149-150; *Hug* (n 7) 146 163; *Rossiter* (n 6) Location 1610
[26] *Rossiter* (n 6) Location 1610.

Abortion Law Reform Association,[27] and even the Samaritans.[28] The transmissibility of this information meant that the approach of confiscating imported published materials and suppressing domestic sources was not enough to prevent the circulation of facilitative or counterhegemonic abortion information. Even anti-abortion campaigners recognised this, with David Quinn citing the observation of Pope Benedict that Ireland was an island geographically but not culturally.[29] The closeness and accessibility of the border ensured this. People obtained information that allowed them to travel abroad for abortions, to order medication to their own homes, and finally to question and contest the prohibitory, condemnatory approach to information and abortion regulations in Ireland.[30]

The movement of people and information was contingent on infrastructures facilitating those journeys. As Butler remarked, 'no one moves without a supportive environment and set of technologies'.[31] Anti-abortion or pro-censorship advocates targeted the source of immediate concern to deconstruct or impede the development of those infrastructures. For example, in the 1920s, these proponents focused on publications

[27] *Francome* (n 24) 20.
[28] Fionnuala O'Connor, 'Over 1,000 NI women had abortions last year' *The Irish Times* (Dublin, 8 February 1984) 7; Evelyn Mahon, Catherine Conlon, and Lucy Dillon, *Women and Crisis Pregnancy: A Report Presented to the Department of Health and Children* (Stationary Office 1998) 522; *Francome* (n 24) 14.
[29] Life Institute, 'Ireland's fall: the abortion deception - how elites killed the right to life' (22 September 2021) at 3.00 < https://www.youtube.com/watch?v=eCsOE7HHe9Y&t=367s > accessed 5 February 2023; For an earlier example of this argument see Archbishop John Charles McQuaid speaking about censorship generally in 'Censorship' *Carlow Nationalist* (Carlow, 26 January 1965) Folder 90-102-142, 2 of 2, National Archives of Ireland.
[30] For discussions on how migration brought cultural change to Ireland see J.P. O'Carroll, 'Bishops, knights — and Pawns? Traditional thought and the Irish abortion referendum debate of 1983' (1991) 6(1) Irish Political Studies 53; Louise Fuller, 'Religion, Politics and Socio-Cultural Change in Twentieth-Century Ireland' (2005) 10(1) The European Legacy 41.
[31] Judith Butler, 'Rethinking Vulnerability and Resistance' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 12, 14-15; Judith Butler, 'Rethinking Vulnerability and Resistance' (2014) 3 accessed < http://bibacc.org/wp-content/uploads/2016/07/Rethinking-Vulnerability-and-Resistance-Judith-Butler.pdf > accessed 25 June 2023.

and films.[32] In 1992, when the Irish electorate was voting on Fourteenth Amendment freedoms to access and share information about abortion, the channels available for disseminating of counterhegemonic information had grown exponentially. Fay described the years between 1979 and 1999 as being 'the period of greatest change to the telecommunications network in the country's history'.[33] People could use freephone numbers, fax machines, satellite television, and pirate radio stations to share information.[34] Abortion seekers could contact abortion clinics directly, bypassing anti-abortion crisis pregnancy services.[35] Post-*Open Door* international directory enquires and phone books remained available, including through public services like libraries.[36] Censorship opponents and pro-choice campaigners made use of these technological advancements. In one act of creative solidarity, international feminists spammed the Irish fax network with sheets containing the telephone numbers for abortion services.[37] Legal frameworks of information control were essentially rendered obsolete by the

[32] See 'Dangerous information…' section starting p. 88.
[33] Deryck Fay, 'Where's my bloody phone?! Connecting a nation: The story of telecommunications in Ireland -Part II' (28 March 2022) < https://www.engineersireland.ie/Brexit/wheres-my-bloody-phone-connecting-a-nation-the-story-of-telecommunications-in-ireland-part-ii > accessed 7 February 2023.
[34] For an example of a freephone number see 'Telecom rejects claim' *The Irish Times* (Dublin, 17 December 1994) 9; For fax machines see 'Abortion numbers sent by fax' *The Irish Times* (Dublin, 18 June 1992) 5; Joe Carroll, 'Church in an age of 'seeking consensus'' *The Irish Times* (Dublin, 2 July 1992) 9; Colin Francome, 'Irish Women Who Seek Abortions in England' (1992) 24(6) Family Planning Perspectives 265, 268; *Rossiter* (n 6) Location 2750; Maxine Brady (USI) 'Publish and be banned' in Patrick Smyth and Ellen Hazelkorn (Eds.) *Let in the Light: censorship, secrecy and democracy* (Brandon Books, 1993) 92, 93-94; For pirate radio see Margaretta D'Arcy, *Galway's Pirate Women: a global trawl* (Women's Pirate Press 1996); For television see Rosita Sweetman, *On our backs: sexual attitudes in a changing Ireland* (Pan books 1979) 10; Peter Feeney, 'Censorship and RTÉ' (1984) 8(2) The Crane Bag 61; Wendy Holden, *Unlawful carnal knowledge: the true story of the Irish 'X' case* (Harper Collins 1994) 87; *O'Carroll* (n 30).
[35] Technology rendering censorship obsolete was raised by sceptics even earlier. See 'Banned books' *Irish Press* (5 January 1970) Folder no 90-102-142, 1 of 2, National Archives of Ireland; Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7.
[36] Mark Brennock, 'The Saturday Column' *The Irish Times* (Dublin, 28 October 1989) 32; Kathryn Holmquist, 'Irish abortions increase despite abortion ban' *The Irish Times* (Dublin, 21 September 1990) 5; Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8; Michael Goldhaber, *A People's History of the European Court of Human Rights : A People's History of the European Court of Human Rights* (Rutgers University Press 2007) 27; *Carroll* ibid; *Mahon, Conlon and Dillon* (n 28) 187, 193, 239, 520; *Hug* (n 7) 165.
[37] Nuala O'Faolain, 'Why abortion referendum doesn't matter' *The Irish Times* (Dublin, 22 June 1992) 10; Francome (n 34); *O'Faolain* (n 2).

introduction and spread of the Internet.[38] Legislators who supported the unsuccessful Censorship of Publications Board Repeal Bill 2013 did cite this as a reason for abolishing the Censorship of Publications Board.[39] The availability of safe, online medication abortion services who would post medication to Ireland meant that for some abortion seekers, they did not even have to leave Ireland to have an abortion.[40] These technologies reduced demands for diaspora network assistance and the IWASG shut-down in 2000.[41] The ubiquitousness and effectiveness of these technologies was one of the decisive factors in the motivating the 2018 government to hold, and campaign in favour of, a referendum that would allow them to legislate to gain control of abortion provision once more.[42] When this referendum (Thirty-Sixth Amendment) passed, the government introduced legislation that lifted most of the remaining information restrictions.[43] Controlling facilitative or counterhegemonic information in a paternalistic, exceptionalising way was essentially no longer legally, practically or politically feasible.

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[38] The Internet was brought to Ireland in 1992. See Niall Murphy, '25 years of internet in Ireland marked' *RTÉ* (Dublin, 17 June 2016) < https://www.rte.ie/news/technology/2016/0617/796241-25-years-of-internet-in-ireland-marked/ > accessed 7 February 2023; *Martin* (n 15) 267.

[39] See Dáil Éireann debate, Friday 24 January 2014, vol 827, no 4; The Bill was defeated by a vote. See Houses of the Oireachtas, 'History of this Bill' < https://www.oireachtas.ie/en/bills/bill/2013/104/ > accessed 28 December 2023.

[40] For discussions of how the Internet facilitated people bypassing abortion criminalisation and the 1995 Act see Catherine Conlon, *Mixed Methods Research of Crisis Pregnancy Counselling and Support Services* (Crisis Pregnancy Agency, January 2005) Report no 12, 63-64; Steve Clements and Roger Ingham, *Improving knowledge regarding abortion performed on Irish women in the UK*, (Crisis Pregnancy Agency, 2007) Report no 19, 13; Crisis Pregnancy Programme, *National Strategy 2012-2016* (HSE 2012); Janice Donlon (Sexual Health and Crisis Pregnancy Programme) at the Citizen's Assembly in 'Session Two: Current Practice in Ireland' (27 November 2016) < https://www.youtube.com/watch?v=-H2bD1_y0es&list=PL8jOxQOnEpsh_jtOPHxIycBF82aWxk7Q2&index=7 > accessed 7 February 2023; Abigail Aiken, 'Opening Statement to the Joint Oireachtas Committee on the Eighth Amendment to the Constitution' (11 October 2017) < https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_the_eighth_amendment_of_the_constitution/submissions/2017/2017-10-11_opening-statement-professor-abigail-aiken-university-of-texas_en.pdf > accessed 13 March 2023; Janice Donlon (Sexual Health and Crisis Pregnancy Programme) Joint Committee on the Eighth Amendment of the Constitution debate, Wednesday 15 November 2017; Giulia Zanini, Joanna Mishtal, Silvia De Zordo, Ann-Kathrin Ziegler, Caitlin Gerdts, 'Abortion information governance and women's travels across European borders' (2021) 87 Women's Studies International Forum 102496.

[41] *Binns* (n 10).

[42] For examples of legislators arguing that abortion needed to be made available as people were ordering medication online and taking it at home see Dáil Éireann debate, Friday 9 March 2018, vol 966, no 6; Dáil Éireann debate, Tuesday 20 March 2018, vol 966, no 7; Seanad Éireann debate, Tuesday 27 March 2018, vol 257, no 1; Seanad Éireann debate, Wednesday 28 March 2018, vol 257, no 2; See section discussing these concerns p. 231.

[43] See discussions on p. 228-229 and 311.

Censorship undermines itself



Image 4.3 Martyn Turner's A Truth About Abortion Information[44]

The *Irish Times* published this cartoon the day after the Supreme Court declared the Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995 (the 1995 Act) constitutional.[45] Turner, the artist, was making a similar argument to that which censorship sceptics like Butler also made; censorship can rarely succeed as it brings attention to the very speech it seeks to supress.[46] Censorship preserves speech through the speaking of the prohibition.[47] Post-1995 Act, anti-abortion campaigners claimed that the rise in abortions among Irish residents in Britain was due

[44] Reproduced with permission obtained via email with Martyn Turner. Martyn Turner, 'A truth about abortion information' *The Irish Times* (Dublin, 13 May 1995) 8.
[45] *In the matter of Article 26 of the Constitution and in the matter of the Regulation of Information (Services outside the State for Termination of Pregnancies) Bill 1995* [1995] 1 IR 1.
[46] *Butler* (n 4) 128-130.
[47] *Butler* (n 4) 117.

to the legislation's facilitation and normalisation of abortion travel.[48] Considering the point made by Turner and Butler however, increasing abortion numbers can arguably be linked to anti-abortion and pro-censorship campaigns. Attempts to create a hostile environment for assistive or counterhegemonic information may have exposed more people to contested information sources.

Despite pro-censorship and anti-abortion supporters framing these interventions as reflecting the consensus or universal views in society, there were always diverse opinions present in the community in Ireland.[49] Even if people did not state their divergent views in public.[50] As D'Arcy argued, legal interventions would not have been needed to preserve and protect the *status quo*, if there were not people who held, or who were curious about, counterhegemonic perspectives.[51] By prohibiting the advocation of abortion and contraception, the Censorship of Publications Act 1929 (the 1929 Act) indicated that at least some form of dissent existed at that time. While censorship campaigners emphasised that such views originated primarily outside of Ireland, there was evidence that some people in Ireland knew about, and used, family planning including contraception.[52] Hence, the Minister for Justice who established the Committee on Evil Literature, Kevin O'Higgins, was initially reticent to do so as he

[48] See discussion on p. 202-203.
[49] For an example of the Department of Justice being aware of general censorship opposition see 'Memo from the Department of Justice' (13 November 1948) Folder no 90-102-233, National Archives of Ireland; For a description of general opposition to censorship and the Censorship of Publications Act 1929 see Senia Pašeta, 'Censorship and Its Critics in the Irish Free State 1922-1932' (2003) 181 Past & Present 193.
[50] *Adams* (n 14) 138-139.
[51] *D'Arcy* (n 34) 23.
[52] R.S. Devane, 'Indecent Literature: Some Legal Remedies' (1925) XXV Irish Ecclesiastical Record 182; Jo Murphy-Lawless and James McCarthy, 'Social policy and fertility change in Ireland: The push to legislate in favour of women's agency' (1999) 6 The European Journal of Women's Studies 69; *Daly* (n 15) *Ferriter* (n 22) 146; *Jones* (n 2); *Pašeta* (n 49) 204, 207, 213.

recognised that minority religions did not view contraception in a wholly condemnatory way.[53] The existence of pluralistic views on censorship related to contraception were acknowledged and stated in censorship deliberations, first at the Committee and then during the Oireachtas scrutiny of the 1929 Act.[54] Senator John Phillip Bagwell, for example, argued that once people were over the 'great shock' of new technologies or ideas, they may be glad that information about them was not supressed.[55] Especially as contraception in particular was increasingly being linked to health protection in overseas discussions.[56] The 1929 Act was created to affirm in law that the anti-contraception viewpoint was the dominant, State supported conclusion. This could quash any potential expansion of the acceptability of fertility control methods.[57]

It was harder to locate earlier divergent views on abortion due to its criminalised and taboo status. The existence of illegal abortion services in Ireland indicated that at least

[53] For discussions of Kevin O'Higgins, minority dissent on contraception and censorship see C.J. Gore-Grimes, 'Letter to the Minister for Justice' (28 June 1956) Folder no 90-102-26, 1 of 2, National Archives of Ireland; SF Allan (Criterion Protestant Social and Cultural Club) 'Letter requesting a protestant member be appointed to the Censorship of Publications Board' (8 November 1956) Folder no 90-102-140, 1 of 4, National Archives of Ireland; Peter Martin, 'Censorship in the Two Irelands 1922-1939' (PhD thesis, Trinity College Dublin 2002) 108; Anthony Keating, 'The Uses and Abuses of Censorship: God, Ireland and the Battle to Extend Censorship Post 1929' (2014) 9 Estudios Irlandeses 67; For descriptions of minority faiths and contraception see Sandra McAvoy, ''Bring forth abundantly in the earth, and multiply therein' (Genesis 9:7): Aspects of Irish discourse on contraception (1837-1908)' in Máire Leane and Elizabeth Kiely (Eds.) *Sexualities and Irish society: a reader* (Orpen Press 1837-1908) 3, 13-16; *Adams* (n 14) 118; *McAvoy* (n 15) 43; Ó'Drisceoil (n 15) 147, 150-151.

[54] Committee on Evil Literature, *Report of the Committee on Evil Literature* (Stationary Office 1927) 13-15; See for example Senator John Keane (Independent) who raised the possibility of allowing publications about family planning for personal use in Seanad Éireann debate, Thursday 11 April 1929, vol 12, no 2; For additional discussions of dissent see John Horgan, 'Saving us from Ourselves: Contraception, Censorship and the 'Evil Literature' Controversy of 1926' (1995) 5 Irish Communications Review 61, 65; Anthony Keating, 'Censorship: The Cornerstone of Catholic Ireland' (2013) 57(2) Journal of Church and State 289, 299; *Adams* (n 14) 25-26, 30; *Martin* ibid 120; *McAvoy* (n 15) 43; *McAvoy* ibid; *Pašeta* (n 49) 208.

[55] Senator John Phillip Bagwell (Independent) Seanad Éireann debate, Thursday 11 April 1929, vol 12, no 2; See also the contributions of Senator John Keane (Independent) Seanad Éireann debate, Thursday 11 April 1929, vol 12, no 2; Senator William Stanford (Independent) Seanad Éireann debate, Wednesday 14 June 1967, vol 63, no 6.

[56] Lindsey Earner-Byrne, 'Moral Prescription: The Irish Medical Profession, the Roman Catholic Church and the Prohibition of Birth Control in Twentieth-century Ireland' in Catherine Cox and Maria Luddy (Eds.) *Cultures of Care in Irish Medical History, 1750-1970* (Palgrave Macmillan 2010) 207, 210; For Irish examples see Senator John Keane (Independent) Seanad Éireann debate, Thursday 11 April 1929, vol 12, no 2; Senator John Phillip Bagwell (Independent) Seanad Éireann debate, Wednesday 6 February 1935, vol 19, no 15.

[57] See the section 'Prohibiting the advocation of abortion' p. 243.

some people did not regard it as an unequivocal wrong.[58] This was reflected in abortion's inclusion in the 1929 Act prohibitions and also in the 'saver' of the Health (Family Planning) Act 1979 (the 1979 Act) that reaffirmed the illegality of abortifacient advertisements.[59] In the case of the 'saver', the government included it in legislation concerned with contraception to reassure anti-abortion advocates. Instead, those advocates construed the mere mention of abortion as having the power to undermine the very restrictions that it sought to bolster. By making abortion a topic of discussion, its speakability threatened to reconfigure existing boundaries of impermissibility by framing it as a live issue rather than a settled one.[60] For example, Deputy Oliver Flanagan argued:

> The very fact that abortion and murder are mentioned in a section of this Bill will give new energies to the motivation of intellectuals who have been pressing for this legislation. These people will next be pressing for abortion. They will be examining, with all their modern intelligence and the best possible materialistic and pagan medical opinion that can be gathered, in what way they get around this legislation, like the tax dodgers under the Finance Bill.[61]

Flanagan's argument seemed hyperbolic, but it was not wholly inaccurate as there were people in Ireland publicly advocating for abortion law liberalisation. Deputy Noël Browne

[58] For discussions of illegal abortions see p. 88, 92 and 231.
[59] Health (Family Planning) Act 1979, s 10.
[60] See Ailbhe Smyth who discussed the power of words in 'A Sadistic Farce Women and abortion in the Republic of Ireland, 1992' in Ailbhe Smyth (Ed.) *The Abortion Papers Ireland* (Attic Press 1992) 7, 8; *Butler* (n 4) xv.
[61] Deputy Oliver J. Flanagan (Fine Gael, formerly Independent) Dáil Éireann debate, Wednesday 20 June 1979, vol 315, no 5.

was one such person as he supported legalising 'therapeutic' abortion.[62] Delegates also introduced and passed motions against abortion criminalisation at students' unions and National Union of Journalists' conferences.[63] The Irish Women's Right to Choose Group (IWRTCG) was also founded in 1979 to campaign for the legalisation of abortion.[64] There were people available to take the opportunities afforded by the legislative process to disseminate counterhegemonic information. To quote Browne in the 1979 Act debates, '…eventually abortion will be discussed in as rational a way as contraception is being discussed in here anyway…'.[65] This is precisely what information controls sought to foreclose and by providing the space for such speaking to take place, law-making threatened to undermine the awfulisation, exceptionalisation and criminalisation of abortion.

Butler attributed this effect to censors having to engage in acts of public denouncement, resulting in them being 'compelled to repeat the speech' that they seek to suppress.[66] Codification of prohibited speech also requires lawmakers to repeat said speech and this renders it accessible for others to resignify or recirculate it. Hence, censorship subverts or nullifies its purposes through its functioning. Legislators in Ireland were aware of this effect as far back as the drafting of the 1929 Act, as were the civil servants

[62] Senator Noël Browne (former TD and Senator for Clann na Poblachta, Independent, National Progressive Democrats, Labour Party and Socialist Labour Party) Seanad Éireann debate, Thursday 10 April 1975, vol 80, no 2.
[63] John Horgan, *Irish Media: a Critical History Since 1922* (Routledge 2001) 117-118; For additional discussion see p. 268.
[64] Linda Connolly, 'The Women's Movement in Ireland, 1970-1995: A Social Movements Analysis' (1996) 1(1) Irish Journal of Feminist Studies 45.
[65] Senator Noël Browne (former TD and Senator for Clann na Poblachta, Independent, National Progressive Democrats, Labour Party and Socialist Labour Party) Seanad Éireann debate, Thursday 21 February 1974, vol 77, no 3.
[66] *Butler* (n 4) 37-38.

and the Board charged with enforcing these laws.[67] The *Register of Prohibited Publications* and the notices of prohibition in *Iris Oifigiúil* were seen by critics as potentially drawing more attention to contested publications as they were public documents.[68] These documents were viewed by pro-censorship advocates as providing 'free advertisements' for the very publications that the State wanted removed from the public domain.[69] Deputy Patrick Little described – in a tongue-in-cheek manner – the 1929 as, 'An Act for the Advertising of Lists of Obscene Books'.[70] To counter these effects, critics proposed that access to the *Register* should be limited.[71] This was not possible, however. As multiple Ministers for Justice and the Board stated, for people to obey the law, they needed to know which publications to avoid.[72] This was also the

[67] For other legislators making similar arguments see debates in Dáil Éireann debate, Thursday 18 October 1928, vol 26, no 5; Dáil Éireann debate, Wednesday 27 February 1929, vol 28, no 4; Dáil Éireann debate, Wednesday 20 March 1929, vol 28, no 12; Seanad Éireann debate, Thursday 11 April 1929, vol 12, no 2; Seanad Éireann debate, Thursday 25 April 1929, vol 12, no 5; Seanad Éireann debate, Thursday 29 November 1945, vol 30, no 12; For the Board and the Department of Justice see Letter to the Minister for Justice from Stephen A. Roche (Rúnaí for the Board), 'Observations on suggestions made (November 1930) by the Censorship Board for amendments of the Act' (29 September 1931) Folder number 90/102/135, National Archives of Ireland; Discussion of the *Freethinker* magazine and its advocation of contraception see the correspondence in Folder no 90-102-13, 1 of 2, National Archives of Ireland; For a general discussion see *Keating* (n 53).

[68] *Iris Oifigiúil* is the State gazette and can be purchased via the stationary office or accessed in libraries. Now it can be accessed online. See < https://www.irisoifigiuil.ie/ > accessed 30 December 2023; The *Register of Prohibited Publications* was to be made available by the Minister for Justice at a place and in a format that he believed to be 'proper' (s 11 of the 1929 Act) or by the Board according to the directions of the Minister (s 16 of the 1946 Act). It is now available online see < https://www.gov.ie/en/policy-information/09d62-censorshipclassification/#censorship-and-classification-backgroundhttps://www.gov.ie/en/policy-information/09d62-censorshipclassification/#censorship-and-classification-background > accessed 30 December 2023.

[69] Quote from Senator John Keane (Independent) Seanad Éireann debate, Thursday 25 April 1929, vol 12, no 5 and Seanad Éireann debate, Thursday 11 April 1929, vol 12, no 2; Sean O'Faolain, 'The dangers of censorship' in Brad Kent (Ed.) *Selected essays of Sean O'Faolain* (McGill-Queen's University Press 2016) 90, 92; *Martin* (n 53) 274.

[70] Deputy Patrick J. Little (Fianna Fáil) Dáil Éireann debate, Wednesday 20 March 1929, vol 28, no 12; See also the comments of *The Star* (magazine of Cumann na nGaedheal) in *Adams* (n 14) 66.

[71] See Amendments 8 and 9 introduced by Deputy Patrick Joseph Ruttledge (Fianna Fáil). If passed, anyone viewing the *Register* would have to satisfy the Minister for Justice of their *bona fide* reason for doing so. It would have also made it an offence for a person to publish any information from the *Register* without permission from the Minister for Justice. In Dáil Éireann debate, Wednesday 20 March 1929, vol 28, no 12.

[72] For Ministers for Justice see James FitzGerald-Kenney (Cumann na nGaedheal, then Fine Gael) Dáil Éireann debate, Thursday 18 October 1928, vol 26, no 5; Dáil Éireann debate, Wednesday 20 March 1929, vol 28, no 12; Gerald Boland (Fianna Fáil, previously Republican) Seanad Éireann debate, Thursday 29 November 1945, vol 30, no 12; Seanad Éireann debate, Thursday 13 December 1945, vol 30, no 14; Brian Lenihan (Fianna Fáil) Dáil Éireann debate, Wednesday, 2 March 1966, vol 221, no 5; For the Board see 'Extract from the annual report of Censorship of Publications Board dated 8th May 1931' Folder no 90/102/135, National Archives of Ireland; Letter to the Minister for Justice from Stephen A. Roche (Rúnaí for the Board), 'Observations on suggestions made (November 1930) by the Censorship Board for amendments of the Act' (29 September 1931) Folder number 90/102/135, National Archives of Ireland.

reason given by Ministers as to why they did not prohibit the media from publishing the details of prohibited publications.[73] Official sources like *Iris Oifigiúil* and the *Register* were costly and not always accessible outside of Dublin. Hence, the media was a key channel of communication for public legal adherence.[74] Drawing publicity to prohibited publications was a necessary cost of informing people how to avoid committing an offence and to prevent an even more repressive, unjust or ineffectual system of information control.

Public lists of prohibited publications were not the only way censorship frameworks exposed banned information sources. Returning to Butler, when the State attempts to categorise speech as being un/lawful in law, the speech becomes part of discourse. It can acquire new contexts and energies.[75] This effect also applied to pro-censorship campaigning as they needed to specify which forms of speech or the sources that they wanted the law to intervene against.[76] For example Tom Ingoldsby wrote to the *Irish Times* to criticise Dublin City University's student union for including information about

[73] The Board and pro-censorship campaigners did request that media reporting of the specifics of prohibited publications be made illegal. See Letter from S.A. Roche (Stephen Roche secretary of the Board) to the Minister for Justice, 'Observations on suggestions made (November 1930) by the Censorship Board for amendments of the Act' (29 September 1931) 2, Folder no 90-102-135, National Archives in Ireland; 'Extract from annual report of Censorship of Publications Board' (8 May 1931) Folder no 90-102-135, National Archives of Ireland; P[eter] Boylan, W[illiam] Thrift, P.J. Keawell, W[illiam] B. Joyce, William O'Reilly (Censorship of Publications Board) 'Number recommended for prohibition on the charges of being usually and frequently indecent and of advocating the unnatural prevention of conception' (Undated) Folder no 90-102-231, 1 of 3, National Archives of Ireland; *Adams* (n 14) 67.
[74] For additional examples of this argument see Deputy Bryan Ricco Cooper (military censor and Cumann na nGaedheal, former Independent TD) Dáil Éireann debate, Wednesday 20 March 1929, vol 28, no 12; *Martin* (n 53) 137; Minister for Justice from Brian MacMahon (Rúnaí for the Board) (1 August 1931) Folder no 90-102-231 no 01 of 3, National Archive of Ireland; 'Letter regarding *Irish Times* publication of prohibited publications' (18 March 1943) Folder no 90-102-07, 02, National Archives of Ireland.
[75] *Butler* (n 4) 14, 86, 104, 130.
[76] See for example the lists of disapproved of publications that discussed and advertised contraception in Catholic Truth Society of Ireland, *The problem of undesirable printed matter: suggested remedies* (Catholic Truth Society 1926); Deputy J.J. Byrne (Cumann na nGaedheal) referenced a number of works he would like censored, including those of Marie Stopes in Dáil Éireann debate, Friday 19 October 1928, vol 26, no 6; Jenny Beale, *Women in Ireland: Voices of Change* (Indiana University Press 1987).

abortion in their handbook, helpfully directing anyone who needed this information to a pro-information provision grpup.[77] Butler also identified the media as being a critical piece of infrastructure for challenging injustice and building networks of solidarity.[78] In Ireland, the media reported on censorship and its controversies, drawing the public's attention to contested speech and materials.[79] *The Observer* newspaper and the novel *Laura* by Alan Shatter were examples of this effect. Both publications were made subject to complaints for advocating abortion and contraception, but neither were prohibited. Instead, the media reported that the publications increased their circulation due to the publicity generated by the complaints.[80] The debate over the prohibition of the *Royal Commission on Population Report* for having advocated contraception and abortion gave rise to two months of debate from over 50 contributors in the letters pages of *The Irish Times* alone.[81] Its prohibition order was later revoked.[82] For the State, this was a foreseen effect that had some benefits so governments did not attempt to foreclose such critical examination. When people learned about prohibitions through

[77] Reverend Tom Ingoldsby, 'Information on abortion' *The Irish Times* (Dublin, 11 October 1991) 11; See also the listing of abortion services in an anti-abortion book *Closed: 99 Ways to Stop Abortion* in Paul O'Neill, 'Challenge to Veritas anti-abortion book' *The Irish Times* (Dublin, 17 February 1992) 4.
[78] *Butler* (n 31) 14.
[79] For examples of media coverage of censorship – both formal and informal – decisions see an example of an article publishing the titles, authors and the grounds for prohibition in 'Banned publications' *The Irish Times* (Dublin, 8 June 1946) 7; *Adams* (n 14) 187; For the removal of *Abortion Now* from *Company* magazine in Mike Burns, 'Abortion Articles Removed' *RTÉ Archives* (Dublin, 5 February 1990) < https://www.rte.ie/archives/collections/news/21391002-abortion-articles-removed/ > accessed 19 June 2023; For *Our Bodies Ourselves* and *Everywoman's Guide* being removed from Dublin Public Libraries see Victoria White, 'Will the British phone books be next?' *The Irish Times* (Dublin, 17 February 1992) 11; For *The Guardian Marie Stopes'* advertisement incident see *O'Meara* (n 14).
[80] For *The Observer* complaints and circulation boost see 'Censorship debated at public meeting: theory and practice' *Times* [23 April 1956), Folder no 90-102-139 Folder 2 of 3; *Laura* was reprinted after being reported to the Board. The complaint was mostly likely a joke as the author was the contemporary Minister for Justice Alan Shatter (Fine Gael). Liz Bury, 'Irish book censor could be silenced' *The Guardian* (London, 28 October 2013) < http://www.theguardian.com/books/2013/oct/28/irish-book-censor-fianna-fail-republic > accessed 17 May 2023; Kevin Doyle, 'Shatter's novel is cleared by the censor' *Independent* (Dublin, 8 May 2014) < https://www.independent.ie/irish-news/politics/shatters-novel-is-cleared-by-the-censor-30258684.html > accessed 11 February 2023.
[81] *The Liberal Ethic* (The Irish Times, 1950).
[82] The *Royal Commission on Population Report* was prohibited for advocating contraception or abortion (published in *Iris Oifigiúil* on 21 October 1949). The order was revoked a months later (published in *Iris Oifigiúil* on 10 January 1950).

media reporting, it allowed them to appeal or object to those decisions.[83] This was a necessary failsafe against censorship falling into disrepute for no longer reflecting community values. The fact that more people became aware of that speech was an unfortunate, inevitable, but acceptable aspect of the Irish censorship framework.

Butler's focused primarily on speech and its dynamic of being, 'in some ways always out of our control'.[84] Permissible boundaries around speech can foreclose actions, and these efforts may also enable additional speech.[85] Prohibited or suppressed speech can be resignfied, restaged, and it can acquire new meanings.[86] These perspectives are spread through channels like the media to create that momentum and joint action for political change.[87] This brought further attention to facilitative information or counterhegemonic arguments, and those who were willing to share them. For example, Deputy John F. O'Connell, warned that people 'shouting abortion' whenever contraception was mentioned could desensitise the anti-abortion movement, rendering them ineffectual against any pro-choice campaigning.[88] What was apparent was that anti-abortion efforts to expand the law to create ever more absolutist abortion prohibitions did result in more counterhegemonic information being shared and circulated.[89] The campaign around the Eighth Amendment referendum was a good

[83] The Minister for Justice James FitzGerald-Kenney (Cumann na nGaedheal, then Fine Gael) Dáil Éireann debate, Wednesday 20 March 1929, vol 28, no 12.
[84] *Butler* (n 4) 15-16, 86.
[85] *Butler* (n 4) 1.
[86] *Butler* (n 4) 14, 42.
[87] *Butler* (n 31) 14.
[88] Deputy John F. O'Connell (Fianna Fáil, previously Labour Party) Dáil Éireann debate, Wednesday 28 February 1979, vol 312, no 3; See also the comments of Senator Brian Mullooly (Fianna Fáil) about people, including 'young children' knowing about abortion, in Seanad Éireann debate, Tuesday 10 May 1983, vol 100, no 7.
[89] The anti-abortion movement were aware of this potential effect and regarded it a potential positive as it could force the State and society to introduce measures to reduce the number of people choosing abortion. 'Preface' in *Abortion Now* (Life Education and Research Network (LEARN) 1983).

example of this. Anti-amendment campaigners had warned that should the referendum pass, future debates about abortion would be hindered.[90] Barry however, recounted how pro-choice activists could take anti-abortion talking points and adapt them to disseminate counterhegemonic perspectives that framed abortion as legitimate and necessary.[91] The referendum was also the first time that many people spoke about their pro-choice views or their opposition absolutist anti-abortion laws in public.[92] O'Reilly recounted that the Attorney General had even described arguments centring the potential risks that the Eighth Amendment would pose for pregnant people as 'propaganda campaign', indicating that he was concerned about the effectiveness of their messaging.[93] Despite the margin of yes votes cast in favour of the Eighth, as Moore stated, it was 'encouraging' that some people voted against it, at all.[94]

Duke identified the debates generated by the *Open Door* and *Grogan* as having the effect of cementing the idea of abortion as a possible option for the ending of a crisis

[90] Mary Maher, 'Five reasons against an amendment' in Mavis Arnold and Peadar Kirby (Eds.) *"The Abortion Referendum" : The Case Against* (Anti-amendment campaign 1983) 9, 11; The comments of the Church of Ireland and the Methodist Church in 'Protestant Church's' Statements' in Mavis Arnold and Peadar Kirby (Eds.) *"The Abortion Referendum" : The Case Against* (Anti-amendment campaign 1983) 62-63; Anti-Amendment Campaign, 'It's life that needs amending not the Constitution' (1983) < https://irishelectionliterature.com/2018/05/07/1982-leaflet-from-the-anti-amendment-campaign/ > accessed 2 May 2023.
[91] Ursula Barry, 'Movement, Change and Reaction: The Struggle over Reproductive Rights in Ireland' in Ailbhe Smyth (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 107, 111; See for example the pamphlet *No more chains!* that was produced around the time of the Eighth Amendment to spread pro-choice arguments. People's Democracy, *No more chains! Why you should oppose the Constitutional Ban on* Abortion [1982]; See also 'No more chains!' (March/April 2013) 21(2) History Ireland < https://www.historyireland.com/no-more-chains/ > accessed 30 December 2023.
[92] Linda Connolly, *The Irish Women's Movement: from Revolution to Devolution* (Lilliput Press, 2003); Pauline Conroy Jackson, 'Women's movement and abortion: the criminalization of Irish women' in Drude Dahlerup (Ed.) *The new women's movement: feminism and political power in Europe and the USA* (Sage publications 1986) 48, 54; Mary Muldowney, 'Breaking the silence on abortion: the 1983 referendum campaign' (2013) 21(2) History Ireland < https://www.historyireland.com/breaking-the-silence-on-abortionthe-1983-referendum-campaign-2/ > accessed 30 December 2023.
[93] Emily O'Reilly, *Masterminds of the Right* (Attic Press, 1997) 82.
[94] Nancy Moore, 'The Amendment: a report' in National Women's Committee of The Workers' Party, *Women's View: Ireland's current affairs quarterly* (No. 10 Winter 1983) 20; See also See also Beale (n 76) 116-117.

pregnancy among more people than before.[95] Generating publicity for their services was a strategy used by the IWASG to undermine Irish information and abortion restrictions.[96] Journalists would interview people who publicly identified themselves as being willing to share unlawful information about how and where to access abortion services, or who confessed to having possession of potentially unlawful information.[97] After incidences of censorship, staff members of British abortion clinics were interviewed by the Irish media.[98] Some reports even broadcast images of the contested publications.[99] People

[95] Kate Duke (IWASG) in *Rossiter* (n 6) Location 1610; See also the comments of one of the social workers in Commission of Investigation into Mother and Baby Homes, *Final Report of the Commission of Investigation into Mother and Baby Homes*, (Department of Children, Equality, Disability, Integration and Youth, 22 November 2021) para. 13.442, p. 107; Glenys Spray (Anti-amendment campaign) 'A Carmelite in One Hand and a Ballot Box in the other Some Personal Reflections on the 1983 Abortion Referendum' in The Cork Women's Political Association, *Vow: voices of women* (2003) 8th Amendment Special Edition 5; Caroline McCamley (formerly Dublin Well Woman and National Women's Council of Ireland) in Ronan Burtenshaw, 'The X-Files' *Rabble* (Dublin, 6 November 2013) < https://www.rabble.ie/2013/11/06/the-x-files/ > accessed 29 May 2023; Sandra McAvoy, 'From anti-amendment campaigns to demanding reproductive justice: the changing landscape of abortion rights activism in Ireland 1983-2008' in Jennifer Schweppe (Ed.) *The Unborn Child, Article 40.3.3° and Abortion in Ireland: Twenty-Five Years of Protection?* (Liffey Press 2008) 15, 28-29; Mary McAuliffe, ''Opening Pandora's Box': the anti-amendment campaign, 1979-1983' (2022) 6 Feminist Encounters: A journal of critical studies in culture and politics 1, 11; *Barry* (n 91) 115; *Hug* (n 7) 142, 200.

[96] *Irish Women's Abortion Support Group* (n 8).

[97] For examples see Michelle McCaughren, 'SPUC Takes Clinics To Court' *RTÉ Archives* (Dublin, 7 October 1986) < https://www.rte.ie/archives/collections/news/21226164-spuc-takes-clinics-to-court/ > accessed 17 June 2023; Gerry Reynolds, 'Court Rules Against Abortion Advice' *RTÉ Archives* (Dublin, 19 December 1986) < https://www.rte.ie/archives/collections/news/21235631-court-rules-against-abortion-advice/ > accessed 17 June 2023; Carol Coulter, 'Woman to defy abortion ruling' *The Irish Times* (Dublin, 30 December 1986) 1; 'This week they said' *The Irish Times* (Dublin, 3 January 1987) 26; Kieron Wood, 'Abortion Referral Demonstration' *RTÉ Archives* (Dublin, 11 January 1987) < https://www.rte.ie/archives/collections/news/21235999-abortion-referral-demonstration/ > accessed 17 June 2023; Kevin O'Connor, 'Abortion referral' *RTÉ Archives* (Dublin, 12 January 1987) < https://www.rte.ie/archives/collections/news/21236640-abortion-referral/ > accessed 17 June 2023; Linda Sherlock, 'Defend The Clinics Campaign' *RTÉ Archives* (Dublin, 17 February 1987) < https://www.rte.ie/archives/collections/news/21240550-defend-the-clinics-campaign/ > accessed 17 June 2023; 'USI 'to publish abortion advice' despite ruling' *The Irish Times* (Dublin, 29 July 1989) 1; Lorna Donlon, 'SPUC Versus USI Court Case' *RTÉ Archives* (Dublin, 10 October 1989) < https://www.rte.ie/archives/collections/news/21362727-spuc-versus-usi-court-case/ > accessed 19 June 2023; Lorna Donlon, 'SPUC win court case' *RTÉ Archives* (Dublin, 19 December 1989) < https://www.rte.ie/archives/collections/news/21377744-spuc-win-court-case/ > accessed 17 June 2023; Marnie Holborow, 'Information on Abortion' *The Irish Times* (Dublin, 20 June 1991) 11; Mary Holland, 'It's the company that she keeps' *The Irish Times* (Dublin, 14 February 1990) 12.

[98] Mark Little, 'Newspaper pulled over Abortion Services Ad 1992' *RTÉ Archives* (Dublin, 20 May 1992) < https://www.rte.ie/archives/2017/0518/876228-guardian-newspaper-withheld-from-sale/ > accessed 11 February 2023; Geraldine Kennedy, 'Clinic defends abortion ads' *The Irish Times* (Dublin, 22 May 1992) 7.

[99] Jim Fahy, 'Row Over Abortion Posters' *RTÉ Archives* (Dublin, 16 March 1987) < https://www.rte.ie/archives/collections/news/21242699-row-over-abortion-posters/ > accessed 17 June 2023; Brian O'Connell, 'Students Advise On Abortion' *RTÉ Archives* (Dublin, 14 October 1987) < https://www.rte.ie/archives/collections/news/21291012-tcd-provide-abortion-advice/ > accessed 17 June 2023; Brian O'Connell, 'Students' Union in High Court' *RTÉ Archives* (Dublin, 24 August 1988) < https://www.rte.ie/archives/collections/news/21283847-students-union-in-high-court/ > accessed 17 June 2023; Brian O'Connell, 'SPUC Fails In High Court Bid' *RTÉ Archives* (Dublin, 7 September 1988) < https://www.rte.ie/archives/collections/news/21286856-spuc-fails-in-high-court-bid/ > accessed 17 June 2023;

did find their way to abortion services because of the unlawful information featured in these publications.[100] Furthermore, these moments of censorship and the campaign work of anti-abortion campaigners created the space, opportunity and even partially the vocabulary for others to consider and share counterhegemonic viewpoints and assistive information. Those at the forefront of resisting anti-abortion censorship reported that their prominence was boosted and/or sustained through censorship. For example, by the time of the *Grogan* hearing, Ruth Riddick still received an average of five calls a day for abortion information.[101] Well Woman reported that between 13 January (the day they ceased counselling) and 29 October, they received 2,000 calls for information.[102] The students' unions recounted that they experienced an increase in information requests, including from non-student members of the public.[103] Despite pro-censorship or anti-abortion proponents framing pro-choice or anti-abortion advocates as dangerous to vulnerable subjects, many abortion seekers regarded these activists as being

Una O'Hagan, 'SPUC' *RTÉ Archives* (Dublin, 28 July 1989) < https://www.rte.ie/archives/collections/news/21346916-spuc/ > accessed 17 June 2023; Orla Guerin, 'Support For USI Abortion Information' *RTÉ Archives* (Dublin, 24 September 1989) < https://www.rte.ie/archives/collections/news/21291012-tcd-provide-abortion-advice/ > accessed 17 June 2023; Orla Guerin, 'SPUC Case Referred To European Court' *RTÉ Archives* (Dublin, 11 October 1989) < https://www.rte.ie/archives/collections/news/21362751-spuc-case-referred-to-european-court/ > accessed 19 June 2023; Bob Powell, 'Vote on abortion information' *RTÉ Archives* (Dublin, 17 January 1990) < https://www.rte.ie/archives/collections/news/21380583-vote-on-abortion-information/ > accessed 19 June 2023; George Devlin, 'TCD abortion referendum' *RTÉ Archives* (Dublin, 19 January 1990) < https://www.rte.ie/archives/collections/news/21380617-tcd-abortion-referendum/ > accessed 19 June 2023; *O'Connell* (n 19); *D'Arcy* (n 34).

[100] For an example see Sean O'Neill, 'London agencies speak of women's despair' *The Irish Times* (Dublin, 19 February 1992) 5.

[101] Padraig Yeates, 'UCD Students to fight SPUC summons on abortion' *The Irish Times* (Dublin, 25 August 1988) 10.

[102] Therese Caherty, 'Choosing to tell : women's accounts of the experience of abortion' (Mphil Trinity College Dublin 1994) 45; See also Maol Muire Tynan, 'Centre's journey through maze of the law' *The Irish Times* (Dublin, 21 July 1993) 2; Catherine Cleary, 'Number seeking abortions in UK was highest so far' *The Irish Times* (Dublin, 17 January 1995) 2.

[103] Michael Foley, 'Information on abortion planned' *The Irish Times* (Dublin, 6 July 1989) 7; Carol Coulter, 'Students may face jail on abortion issue' *The Irish Times* (Dublin, 9 October 1989) 11; 'Student unions face Garda enquiry' *The Irish Times* (Dublin, 18 November 1989) 2; Ruby Topalian, 'How House Six made Ireland pro-choice' *Trinity News* (Dublin, 25 November 2023) < https://trinitynews.ie/2023/11/how-house-six-made-ireland-pro-choice/ > accessed 6 January 2023; *Brady* (n 34) 92, 94; *Yeates* ibid.

knowledgeable, reliable and receptive sources of information.[104] The increased exposure and opportunities for sharing information ensured that legal interventions could be capitalised upon to disrupt censorship enforcement and legitimacy.

The spaces provided for contestation by censorship creation and enforcement allowed pro-choice and anti-censorship advocates to adopt creative strategies of disseminating counterhegemonic information to undermine censorship. I mentioned the use of fax machines above. Activists also used public spaces and the streets as to mobilise and come together to circulate restricted information and to build a political movement.[105] People assembled, marched, rallied and made symbolic travel journeys where they held up signs, released balloons, and chanted the telephone numbers of information and abortion providers.[106] Some students even wore t-shirts emblazoned with the number of the Women's Information Network (WIN) inside the court where the SPUC hearings against their union were ongoing.[107] Anyone passing-by could have taken note of the phone numbers, but so too could anyone who had access to the news as unredacted

[104] For an example related to censorship generally see Hanna Sheehy Skeffington's sharing of prohibited publications in the letters from Nicholas J. Teape to Hanna Sheehy Skeffington (21 September 1945, Undated, 12 November 1945) Folder number 33,607(21), National Library of Ireland; For an example related to abortion see *Zanini et al* (n 40) 5-7.
[105] *Butler* (n 31).
[106] Brian O'Connell, 'Defend the Women's Clinics' *RTÉ Archives* (Dublin, 7 February 1987) < https://www.rte.ie/archives/collections/news/21239940-defend-the-women-s-clinics/ > accessed 11 February 2023; Lorna Donlon, 'SPUC And USI In High Court' *RTÉ Archives* (Dublin, 9 October 1989) < https://www.rte.ie/archives/collections/news/21362712-spuc-and-usi-in-high-court/ > accessed 17 June 2023; Jill Nesbitt, 'Hundreds protest outside Four Courts during SPUC hearing' *The Irish Times* (Dublin, 10 October 1989) 1; Uinsionn MacDubhghaill, 'Repeal of Abortion Amendment Urged' *The Irish Times* (Dublin, 24 February 1992) 7; Lorna Donlon, 'Sistership protest highlights abortion concerns' *RTÉ Archives* (Dublin, 6 May 1992) < https://www.rte.ie/archives/2017/0503/872166-abortion-boat-to-britain/ > accessed 11 February 2023; 'Judge steps down after SPUC objections' *The Irish Times* (Dublin, 18 July 1992) 3; *Wood* (n 97); For discussions see Lisa Smyth, *Abortion and Nation: The Politics of Reproduction in Contemporary Ireland* (Routledge 2005); *Goldhaber* (n 36) 27.
[107] Jill Nesbitt, 'Hundreds protest outside Four Courts during SPUC hearing' *The Irish Times* (Dublin, 10 October 1989) 1; Charlie Bird, 'USI Abortion Information' *RTÉ Archive* (Dublin, 19 September 1989) < https://www.rte.ie/archives/collections/news/21359220-usi-abortion-information/ > accessed 17 June 2023; See *Image Conclusion.1* on p. 395.

telephone numbers were published and transmitted.[108] By engaging in these strategies, censorship opponents signalled their disapproval of the system and undermined it by making restrictions unworkable. The publicity generated by censorship enforcement threatened to unravel and make futile any enforcement attempts or claims of there being a community consensus on the anti-abortion orientation of the law.

However, this was only if the law was actually enforced. One early censorship critic described it as a 'singularly patchy and ineffective' system.[109] There was ample evidence that even in prominent cases, no legal repercussions were suffered by those who shared unlawful/contested abortion information. One example was *The Independent* newspaper's publication of an article profiling Ireland's, 'semi-clandestine…abortion support groups'.[110] Hunt – the author – ended the piece with 'the Irish Women's Abortion Support Group can be contacted on 081 519 7581.' The Editor said of their decision to do so, 'We knew we were at some risk by printing this number but it was a justifiable risk…we have to give serious information to people…'.[111] *The* Independent's publisher was not prosecuted or enjoined for doing so. The boundaries of impermissibility remained unclear and allowed for creative or brave opportunities to push and expand them. Examples from within Ireland included *The Irish Times*

[108] For examples see Una O'Hagan, 'UCD Votes Against Abortion' *RTÉ Archives* (Dublin, 18 November 1989) < https://www.rte.ie/archives/collections/news/21372387-ucd-votes-against-abortion/ > accessed 17 June 2023; Lorna Donlon, '"An Internment Camp for Pregnant Young Women"' *RTÉ Archives* (Dublin, 22 February 1992) < https://www.rte.ie/archives/exhibitions/1666-women-and-society/459005-x-case-protest-march/ > accessed 19 June 2023; *Donlon* 'SPUC win court case' (n 97); *Donlon*, 'Sistership Protest Highlights…' (n 106); *O'Meara* (n 14).
[109] Patrick Thompson, 'To the editor of the Irish Times' (Dublin, 9 April 1956), Ronald Mortished Papers, MS 50,132/2/6, National Library of Ireland.
[110] Liz Hunt, 'Abortion network is guarded closely; Liz Hunt looks at the semi-clandestine work of the republic's abortion support groups' *The Independent* (London, 18 February 1992) 3.
[111] They chose not to publish the Dublin telephone number for the group. See 'Gardai inquire into telephone number' *The Irish Times* (Dublin, 19 February 1992) 6; *Cosmopolitan* magazine did not publish the number for the IWASG but did forward cheques and volunteer contacts to them. See Kathleen Corrigan, 'The Facts of Life for Irish Women' *Cosmopolitan* (London, June 1990) 8, 10; *Rossiter* (n 6) Location 2451.

publishing an advertisement for a fundraising table quiz for the WIN in the classifieds section.[112] The text included the date and time of the quiz, but it also featured the telephone number, the hours of operation, and an undertaking to provide information about all pregnancy options to callers. Another involved former government Minister Gemma Hussey, asking why SPUC were not suing Telecom Éireann when on 'page 39' of their '1989/90' edition, they had published the telephone number for UK directory enquiries who would provide abortion clinic information to people in Ireland.[113] In these ways, anti-censorship advocates could communicate contested information, while pushing the boundaries of legality and speakability. The lack of legal consequences for such incidents signalled, to quote MacSimóin, that the State was not 'invincible' and regressive laws could be challenged and subverted.[114]

The State did not create the 1929 and 1946 Acts to deny all people access to prohibited information, and this contributed to enforcement difficulties. There was a degree of flexibility woven into the legal framework to ensure that certain approved readers could still access condemned publications. I discussed permits in Chapter One and Three and the fact that ownership of prohibited publication was not an offence.[115] Prohibited publications could also be accessed in the National Library of Ireland.[116] Civil servants

[112] 'Pub Quiz' *The Irish Times* (Dublin, 16 July 1990) 9; See also the personal notice published for the Women's Coalition under the heading 'Women have the right to know 6794799' in 'Personal', *The Irish Times* (Dublin, 8 March 1995) 30.
[113] Gemma Hussey (previously Fine Gael and Independent) 'Information on abortion' *The Irish Times* (21 October 1989) 11; For another of example of people using telephone directories to find abortion services see Kathy Sheridan, 'Stories of abortion' *The Irish Times* (Dublin, 24 March 2012) 39-40.
[114] Alan MacSimóin, 'A history of the struggle for abortion rights in Ireland' *Workers Solidarity Movement* (25 April 2009) < http://www.wsm.ie/c/abortion-rights-ireland-history > accessed 16 April 2023.
[115] *Adams* (n 14) 186; The Minister for Justice Gerald Boland (Fianna Fáil previously Republican) Dáil Éireann debate, Wednesday 7 November 1945, vol 98, no 7; See discussion of permits p. 98-102 and 254-526.
[116] *Carlson* (n 14) 28; *Ó'Drisceoil* (n 15) 153.

in the Department of Justice who were largely responsible for issuing permits on behalf of the Minister under the 1929 Act, maintained that enforcement around importation should be approached differently for publications intended for commercial or personal use.[117] This was reflected in customs or the postal services confiscating publications, rather than looking to prosecute the importer.[118] That is of course, if these State actors found these publications at all among the large volumes of goods that were imported into Ireland daily.[119] The 1946 Act partially formalised this interpretation.[120] Not making an exception for personal use was regarded as a risk by the State, who were wary of taking an overzealous approach that could alienate the public, upon who the success of censorship relied.[121] Barry recounted how an 'ideal model' of norms and behaviours is expressed in law around social or moral issues, but also an acceptance that the reality of living may require laws to be ignored in practice.[122] In the context of abortion information, this hesitancy to prosecute may be why no charges were brought against pro-choice campaigners when they imported copies of *The Guardian* containing an advertisement for Marie Stopes abortion clinics. *The Irish Times* reported that the Revenue Commissioners initially confiscated the copies but returned them once they had established that they were not for commercial purposes.[123] In this case, at least, a

[117] See correspondence between Department of Justice and the Department of Posts and Telegraphs in Folder no 90-102-135, National Archives of Ireland; *Martin* (n 53) 138.
[118] See correspondence between Department of Justice, the Chief State Solicitor and Department of Posts and Telegraphs in Folder no 90-102-135, National Archives of Ireland; The Minister for Justice Gerald Boland (Fianna Fáil) Dáil Éireann debate, Wednesday 7 November 1945, vol 98, no 7; The Minister for Justice Gerald Boland (Fianna Fáil) Dáil Éireann debate, Wednesday 24 October 1945, vol 98, no 5.
[119] Correspondence in Folder no 90-102-233, National Archives of Ireland; *Ferriter* (n 22) 96-97.
[120] For those charged under section 186 of the Customs Consolidation Act 1876 they could raise the defence that the publication was not prohibited at the time of order and it was not intended for sale or distribution under s 18(2) of the 1946 Act.
[121] 'Letter to Mr Rice' (March 1952) Folder no 90-102-238, National Archives of Ireland.
[122] *Barry* (n 91) 109.
[123] There is a discrepancy in the media reporting of the incident with *RTÉ* reporting that all copies were released and *The Irish Times* reporting only one copy was released. The *RTÉ* report does show multiple copies in the possession of the Repeal the Eighth Amendment Campaign (REAC). A former member of REAC confirmed via an email that to

lack of enforcement meant that these activists could import information containing the locations and telephone numbers of abortion clinics abroad with the express intent of sharing the information therein, with no legal consequences.

Legislators and critics acknowledged the difficulty of enforcing censorship. Part of this was because, to quote Deputy Patrick Little, the State failed to enforce the 'ordinary law' that proceeded the 1929 Act. 'If it were properly enforced', he said, it would have 'rendered to a considerable extent' these legal changes 'unnecessary'.[124] State actors – police, customs and postal workers – were hesitant to act, however, and the 1929 Act was introduced to address these concerns.[125] In terms of effectiveness, the 1929 Act included several barriers to implementation. The Gardaí were charged with investigating possible section 16 offences.[126] They also sometimes distributed lists of prohibited publications to booksellers and newsagents to facilitate adherence to the law.[127] Their fulfilment of these duties were sporadic and inconsistent.[128] I struggled to find examples of prosecutions under censorship legislation, even when there were incidents of visible law breaking and Gardaí were present or launched investigations.[129] Possible reasons

her best memory, all copies were released. See *Irish Times Reporter* 'Papers seized, woman claims' (n 16); *O'Meara* (n 14).

[124] Deputy Patrick J. Little (Fianna Fáil) Dáil Éireann debate, Thursday 18 October 1928, vol 26, no 5.

[125] *Adams* (n 14) 13-38.

[126] Section 16 of the 1929 Act created the offence of printing, publishing (or to cause or procure them) to sell, expose, offer, keep for sale, distribute, offer or keep for distribution any publication 'which advocates or which might reasonably be supposed to advocate' contraception or abortion without a permit from the Minister for Justice.

[127] See the Department of Justice and Board correspondence in Folder no 90-102-233, National Archives of Ireland; The Department of Justice also distributed lists to the Associated Booksellers of Great Britain and Ireland. See Honorary Secretary of the Associated Booksellers of Great Britain and Ireland, 'Letter regarding *Irish Times* publication of prohibited publications' (18 March 1943) Folder no 90-102-07, 02, National Archives of Ireland.

[128] For examples of calls for the Gardaí to do more enforcement of censorship see the newspaper reports in Folder 90-102-142, 2 of 2, National Archives of Ireland; Chair of the Board, Senator William Magennis (Independent) Seanad Éireann debate, Wednesday 14 November 1945, vol 30, no 10; 'Dirty Books : Query in Dáil' *Irish Independent* (Dublin, 6 February 1970) Folder no 90-102-142, 1 of 2, National Archive of Ireland; For a discussion see *Ó'Drisceoil* (n 14) 287.

[129] For examples of no prosecutions see Irishwomen United openly selling copies of *Spare Rib* (prohibited for being indecent or obscene in 1977) Irish Women United, *Banshee*, (1977) 1, 4-5; 'Banned paper sold in public' *The Irish*

for this include workload, a lack of complaints or evidence and a hesitancy due to uncertainties around their powers in the 1929 Act.[130] Deciding if communication sources or publications met the threshold for unlawfulness was a difficult exercise and Gardaí were not full-time, expert censorship enforcers. One early example concerned a Dublin newsagent who sold six copies of the magazine *Everywoman* despite its pro-contraception content. The investigating Superintendent described a section 16 of the 1929 Act offence as being too 'difficult to prove', so they took no further action.[131] All a person in the publication trade had to argue for a defence to a section 16 charge was that they took 'reasonable care' and could not have known the publication contained advocation.[132] Martin described section 16 as being essentially 'unworkable'.[133] These enforcement concerns were not limited to the early decades of censorship. A later example was when the Gardaí attended Dublin airport as an edition of *The Guardian* containing the telephone numbers of Marie Stopes clinics arrived from England. Despite this, they did not seize the newspapers or arrest anyone, claiming to be only there to protect the peace in case of protests.[134] Based on this reticence it seems that section

Times (Dublin, 1 March 1977) 1; Lee Dunne gave away signed copies of his prohibited novel on the street in *Carlson* (n 14) 88; *Ó'Drisceoil* (n 15) 156; For the sistership protest see *Donlon*, 'Sistership Protest Highlights…' (n 106); Keating described a successful prosecution under the 1929 Act but it was for reporting sexual crimes. See Anthony Keating, 'Setting the agenda for the press: the 1929 case against the *Waterford Standard*' (2012) 16 New Hibernia Review 2, 17-32; For *Doctors Answers* see Maurice Walsh, 'Ryan wants ban on medical magazine' *The Irish Times* (Dublin, 10 January 1981) 6; The IFPA were also prosecuted for sharing a publication advocating contraception but this was overturned.

[130] 'Letter to Assistant Secretary Regarding the 1947 Report' (12 April 1948) Folder no 90-102-231, 1 of 3, National Archives of Ireland; 'Newspaper clipping from the Enniscorthy Echo' (Enniscorthy, 8 March 1958) Folder no 90-102-230, National Archives of Ireland; The newspaper reports in Folder no 90-102-142, 2 of 2, National Archives of Ireland; See Jeannine Bell on the difficulties in enforcing laws when they are obsolete, unclear or contrary to public expectations in 'The police and policing' in Austin Sarat (Ed.) *The Blackwell companion to law and society* (Blackwell publishing 2004) 114, 132-133.

[131] J. Doody (Superintendent) in Memo from Garda DE McCarthy (1 May 1942) folder no 90-102-137, National Archives of Ireland.

[132] Censorship of Publications Act 1929, s 16(4).

[133] *Martin* (n 53) 279.

[134] Geraldine Kennedy and Maol Muire Tynan, ''Guardian' held on legal advice – Easons' *The Irish Times* (Dublin, 22 May 1992) 1; *Little* (n 98).

16, with its criminalisation of a wide range of vaguely defined activities, was more of a warning or an inducement to self-censor due to fears of prosecution.[135] Deciding whether or not to self- or informally censor communications or information sources was a matter of tolerance of risk for potential information sharers.

Without prosecutions, much of the work of censorship was contingent on the Board, despite legislators intending them to be the 'second line of defence' in law.[136] Under the 1929 Act, the Board could only recommend that a publication be prohibited.[137] The civil servants who advised the Minister for Justice on prohibitions were aware of some of the pitfalls of censorship and tailored their advice accordingly. This included recommending that the Minister not prohibit certain publications to avoid antagonising any 'friendly' British media who reported favourably on Saorstát issues and, as I discussed above, avoiding generating additional publicity for niche publications.[138] Once the Board was empowered to directly prohibit publications, censorship proponents considered them to be underperforming due to a lack of resourcing.[139] The Minister for Justice did struggle to find qualified people to be censors.[140] Especially for the one space reserved for who

[135] For comments about the State's reliance on those in the publishing, distribution and retail trades to self-censor see D[aniel] C[ostigan] (Department of Justice) 'Letter to assistant secretary regarding the enforcement of the Censorship of Publications Acts' (14 May 1948) Folder no 90-102-233, National Archives of Ireland; J[ohn] E D[uff], 'Letter to secretary Censorship of Publications Board' (26 May 1948) Folder no 90-102-233, National Archives of Ireland.
[136] Quote from *Adams* (n 14) 181; See also 'Memorandum' (20 September 1938) [2], Folder no 90-102-233, National Archives of Ireland.
[137] Censorship of Publications Act 1929, ss 6 and 7.
[138] See Department of Justice correspondence in 90-102-135; *Adams* (n 14) 101; *Keating* (n 53) 277.
[139] See the comments of the CTSI who considered the 1929 Act to have failed in 'Memorandum of an interview accorded a deputation from the Censorship of Publications Board by the Minister for Justice as a sequel to certain representations previously made to the Minister in writing regarding the Act of 1929 and difficulties attending its operation' (1 August 1940) 3, Folder no 90-102-135, National Archives in Ireland; See the correspondence from the Catholic Truth Society if Ireland in Folder no 90-102-135; For a discussion see *Ferriter* (n 22) 151-152.
[140] See the comments of government members in Dáil Éireann debate, Wednesday 24 October 1928, vol 26, no 7; 'Memorandum regarding suggestions for the amendment of the censorship of publications act, 1929, made by the Catholic Truth Society of Ireland', 1, Folder no 90-102-135, National Archives of Ireland; S[tephen] A R[oche], 'Memorandum for the government' (June 1939) Folder no 90-102-233, National Archives of Ireland; The Minister for Justice Gerald Boland (Fianna Fáil, previously Republican) Dáil Éireann debate Wednesday 24 October 1945, vol 98,

Ó'Drisceoil described as the 'token Protestant'.[141] On occasion, the Board did not have enough members to fill a quorum so could not function.[142] Once appointed, Board members were unpaid and part-time only,[143] with a perceived low status among State bodies and in certain sections of society.[144] They were required to undertake the 'onerous' task of examining the exponentially growing volumes of materials referred to them.[145] The result was that contested publications remained on the market for years

no 5; Correspondence from members of the Board in Folder no 90-102-25, 90-102-26, 1 of 2 and 90-102-141, 1 of 3, National Archives of Ireland.

[141] Quote from *Ó'Drisceoil* (n 14) 290 and *Ó'Drisceoil* (n 15) 147; See the correspondence around the difficulties the Department of Justice had in appointing a member of the Board from Trinity College Dublin in Folders no 90-102-25 and 90-102-26, National Archives of Ireland.

[142] Discussions in Folders no 90-102-215, 90-102-230, 90-102-233, 90-102-142, 2 of 2, National Archives of Ireland; Dáil Éireann debate, Friday 24 January 2014, vol 827, no 4; The Minister for Justice Charlie Flanagan (Fine Gael) Written answers, Thursday 1 February 2018; The Minister for Justice Helen McEntee (Fine Gael) Written answers, Thursday 16 December 2021; Mary Kelly, 'Censorship and the Media' in Alpha Connelly (Ed.) *Gender and the law in Ireland* (Oak Tress Press 1993) 185, 200; Kieran Woodman, *Media control in Ireland 1923-1983* (Southern Illinois University Press 1985) 155-158; *Adams* (n 14) 120; *Ferriter* (n 22) 150-152.

[143] Initially censors were not paid expenses but ss 21 of the 1929 Act and s 22 of the 1946 Act, did allow the Minister for Justice to provide expenses for the administration of the act. Later board members were paid expenses, see Rónán Duffy, 'New Censorship Board being put together...solely to deal with Alan Shatter's 'Laura'' *The Journal* (Dublin, 18 March 2014) < https://www.thejournal.ie/shatter-laura-censorship-1368286-Mar2014/ > accessed 13 February 2023; For examples of criticism of the lack of Board funding see Senator William Magennis, Seanad Éireann debate, Wednesday 14 November 1945, vol 30, no 10; For discussions see Dublin Correspondent, 'Irish ban on 'The Observer'' *The Observer* (London, 8 April 1952) Ronald Mortished Papers, Folder no MS 50,132/5, National Library of Ireland;

[144] For comments about the stigmatised aspect of censors' work see 'Memorandum of an interview accorded a deputation from the Censorship of Publications Board by the Minister for Justice as a sequel to certain representations previously made to the Minister in writing regarding the Act of 1929 and difficulties attending its operation' (1 August 1940) 3, Folder no 90-102-135, National Archives of Ireland; The Minister for Justice Gerald Boland (Fianna Fáil, previously Republican) Seanad Éireann debate, Wednesday 14 June 1967, vol 63, no 6; For examples of criticism of censorship work generally see Letter from Daniel D. Maloney to Eamonn de Valera (1 August 1931) Folder no MS 41,178/73, National Library of Ireland; 'Patrick Joseph Crawthumper' 8 April 1956) Folder no 90-102-135, 2 of 3, National Archives of Ireland; Owen Sheehy-Skeffington, 'Letter to the Minster for Finance' (28 February 1957) Folder no MS 40, 515/1, National Library of Ireland; Sean O'Casey, 'Letter regarding censorship in Ireland' *Times* extract (18 May 1957]) Folder no 90-102-26, 1 of 2, National Library of Ireland; Irish Times Reporter, 'Censorship Reform Society Founded' *The Irish Times* (6 December 1966) Folder no 90-102-142, Folder 1 of 2, National Archives of Ireland; Owen Sheehy-Skeffington, 'Speech to Insurance Institute of Ireland Discussion Circle' (23 October 1967) Folder no MS 40,531/44, National Library of Ireland; *The Liberal Ethic* (n 81); *Brady* (n 103).

[145] Quote from the Minister for Justice Gerald Boland (Fianna Fáil, previously Republican) Seanad Éireann debate, Wednesday 28 November 1945, vol 30, no 11; The Minister for Posts and Telegraphs Patrick J. Little (Fianna Fáil) and chair of the Board Senator William Magennis (Independent) Seanad Éireann debate, Wednesday 14 November 1945, vol 30, no 10; See also the comments of censors and civil servants see Correspondence in Folders no 90-102-26, 1 of 2 and 2 of 2, Folder no 90-102-233, Folder no 90-102-246, National Archives of Ireland; See news reports in 90-102-142, 2 of 2, National Archives of Ireland; 'Censorship debated at public meeting: theory and practice' *The Times* [23 April 1956] Folder no 90-102-139, 2 of 3, National Archives of Ireland; For discussion see James Kelly, 'The Operation of the Censorship of Publications Board: The Notebooks of C. J. O'Reilly, 1951-55' (2004) 38 Analecta Hibernica 223; *Adams* (n 14) 71, 116-119, 123, 163 ,179-180, 186; *Ó'Drisceoil* (n 14) 297.

before being prohibited.[146] Other publications that could have met the threshold for advocating abortion or contraception were never prohibited.[147] Board members recognised these limitations, with one set of members writing to the Minister for Justice lamenting that the 1929 Act was 'to a great extent, a failure'.[148] The Department of Justice disagreed with them, believing that censorship had been successful in curtailing the circulation of publications of most concern - those that advocated contraception - due to the vigilance of importers, retailers and publishers.[149] There was a political aspect to this conclusion as any changes to the censorship infrastructure would have required additional resources or amending legislation and the State was unwilling to commit to this.[150] The Department of Justice had conceded that censorship would never achieve full compliance with regards to books.[151] The effectiveness of the over-burdened, under-resourced Board was hampered as a result.

[146] See for example the IFPA's *Family Planning – A Guide for Parents and Prospective Parents*. It had been on sale for three years before being prohibited for being indecent or obscene. *The Irish Family Planning Association and Wilson v Ryan and others* [1979] IR 295, 314-5; For other examples of discussions about these gaps see Senator John Keane (Independent) Seanad Éireann debate, Wednesday 18 November 1942, vol 27, no 1; Senator Owen Sheehy Skeffington (Independent) Seanad Éireann debate, Wednesday 7 June 1967, vol 63, no 5; Kevin Boyle and Marie McGonagle, 'Censorship of Publications - Irish Style' (1999) 10 Journal of Media Law and Practice 87, 90; *Adams* (n 14) 188; *Ó'Drisceoil* (n 14) 294.
[147] For possible examples see Janet Martin, *The Essential Guide for Women* (Arlen House 1977); Irish Women's Right to Choose Group, *Abortion: a choice for Irish women*, [2nd edition, Irish Women's Right to Choose Group 1981]; People's Democracy, *No more chains! Why you should oppose the Constitutional Ban on Abortion* [People's Democracy 1982]; The IWASG's guidebook described in *Rossiter* (n 6) Location 2534-47; Ruth Riddick, *Making Choices: The Abortion Experience of Irish Women* (O.D.C. Ltd 1988); *Cork Abortion Information Campaign* (n 17); *Defend the Clinics Campaign* (n 24); Workers' Solidarity publications described in *MacSimóin* (n 114).
[148] Quote from chair of the Board Senator William Magennis (Independent) Seanad Éireann debate, Wednesday 14 November 1945, vol 30, no 10; 'Memorandum of an interview accorded a deputation from the Censorship of Publications Board by the Minister for Justice as a sequel to certain representations previously made to the Minister in writing regarding the Act of 1929 and difficulties attending its operation' (1 August 1940) 1, Folder no 90-102-135, National Archives of Ireland; Correspondence from the Board and Department of Justice in Folder no 90-102-233; For discussion see Dermot Keogh, *Twentieth Century Ireland* (New Gill History of Ireland 2005) 246.
[149] Correspondence in Folder no 90-102-233, National Archives of Ireland; The Minister for Justice Gerard Boland (Fianna Fáil, previously Republican) Seanad Éireann debate, Thursday 29 November 1945, vol 30, no 12.
[150] See correspondence from the Department of Justice in Folders no 90-102-137, 90-102-233 and no 90-102-249; *Adams* (n 14) 170.
[151] See correspondence from the Department of Justice in Folder no 90-102-233.

Dublin Corporation, when asked why they had removed *Our Bodies Ourselves* and *Everywoman's Life Guide* from their libraries but not UK phonebooks, gave an answer that indicated another major impediment to censorship enforcement in Ireland: no one had complained about the phonebooks.[152] The legislative and constitutional frameworks that sought to limit access to abortion information were largely contingent on the cooperation of the public.[153] Individuals were empowered to make complaints to the Minister for Justice, the Board and the Gardaí under the 1929 and 1946 Acts.[154] There seemed to be a disconnect, however, between what pro-censorship advocates believed the wider public wanted, and the reality. Horgan described the campaign for expanded censorship as being carefully 'stage-managed' to cast an indifferent public as being invested in additional information restrictions.[155] This resulted in few private citizens initiating formal complaints.[156] Instead, it was left up to Customs, the Board and its staff, or pro-censorship lobby groups like the Catholic Truth Society of Ireland to identify works for examination and prohibition.[157] The Department of Justice conceded this

[152] Noel Carroll (public relations officer) in *White* (n 79); Mary Freehill, 'Women's health books back in Dublin public libraries' *The Irish Times* (Dublin, 18 February 1993) 13.
[153] Initially the 1929 Act had limited the power to make a complaint to approved associations as the Minister for Justice James FitzGerald-Kenney (Cumann na nGaedheal, then Fine Gael) was concerned that otherwise there would be few complaints. This provision was removed to allow for anyone to make a complaint once in line with regulations; *Adams* (n 14) 46. For discussions of "recognised associations" see Dáil Éireann debate, Thursday 18 October 1928, vol 26, no 5; Dáil Éireann debate, Friday 19 October 1928, vol 26, no 6; Dáil Éireann debate, Wednesday 20 February 1929, vol 28, no 1; Dáil Éireann debate, Thursday 21 February 1929, vol 28, no 2; Dáil Éireann debate, Wednesday 27 February 1929, vol 28, no 4.
[154] Censorship of Publications Act 1929, ss 6 and 7; Censorship of Publications Act 1946, ss 7 and 9.
[155] *Horgan* (n 54) 61.
[156] Correspondence in Folder no 90-102-233, National Archives of Ireland; John Byrne, 'What a shocker: no more books to ban' *The Irish Times* (Dublin, 18 December 2010) *Martin* (n 53) 137, 139, 274-277; *Ferriter* (n 22) 187-188; *Adams* (n 14) 47, 101, 171; Terence Brown, *Ireland: a social and cultural history 1922-1979* (Fontana 1981) 76.
[157] The Board could examine books in their own initiative through s 6(5) of the 1929 Act. For further details and discussions see the Minister for Justice James FitzGerald-Kenney (Cumann na nGaedheal later Fine Gael) Dáil Éireann debate, Wednesday 20 March 1929, vol 28, no 12; Department of Justice correspondence in Folders no 90-102-135 and 90-102-233, National Archives of Ireland; 'Memorandum' (20 September 1938) [2], Folder no 90-102-233, National Archives of Ireland; Newspaper reports in Folder no 90-102-142, 2 of 2, National Archives of Ireland; 'Newspaper clipping from the Enniscorthy Echo' (8 March 1958) Folder no 90-102-230, National Archives of Ireland; P[eter] Boylan, W[illiam] Thrift, P.J. Keawell, W[illiam] B. Joyce, William O'Reilly (Censorship of Publications Board) 'Number recommended for prohibition on the charges of being usually and frequently indecent and of advocating the unnatural prevention of conception' (Undated) Folder no 90-102-231, 1 of 3, National Archives of Ireland; Senator

barrier to implementation at one point, ascribing the perceived failure of the 1929 Act to the 'apparent indifference' of these disinterested citizen censors.[158]

The reasons for this lack of engagement were varied. It was possible that many people were not aware that they could make a complaint or how to go about it.[159] Others may have wanted to submit a complaint but considered the process to be too burdensome.[160] Instead, people may have engaged in strategies of applying pressure to local suppliers to self- or informally censor to avoid associated costs and publicity.[161] That is, if a person encountered a publication to complain about at all.[162] Even if people and companies had wanted to act as citizen censors and to curtail the circulation of counterhegemonic or facilitative information, it was not always feasible for them to do so. A lack of knowledge about prohibited publications meant that information remained available in sources such as the back issues of magazines in doctors' offices, in shops

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William Magennis, Seanad Éireann debate, Wednesday 14 November 1945, vol 30, no 10; Thomas J. Coyne (Department of Justice) 'Memo for the Minister regarding *The Observer* incident' (6 April 1956) Folder no 90-102-139, 2 of 3, National Archives of Ireland; *Adams* (n 14) 102, 127, 171-176; *Ó'Drisceoil* (n 14) 290-292.

[158] Department of Justice, 'Memo for the government' (June 1939) 3, Folder no 90-102-135, National Archives of Ireland; For similar sentiments see S[tephen] A Roche, 'Copy of prohibition order' (9 December 1941) Folder no 90-102-06, 2, National Archives of Ireland; 'Letter to the Secretary of the Censorship of Publications Board' (20 July 1939) Folder no 90-102-233, National Archives of Ireland; 'Letter to Assistant Secretary Regarding the 1947 Report' (12 April 1948) Folder no 90-102-231, 1 of 3, National Archives of Ireland; 'Letter to secretary' (4 February 1958) Folder no 90-102-246, National Archives of Ireland; For discussions see *Keating* (n 53) 69, 73.

[159] For legislator comments indicating that the wider public did not know about the Board see Senator Robert James Rowlette (Independent) Seanad Éireann debate, Wednesday 2 December 1942, vol 27, no 2; Senator James Green Doughlas (Independent), Seanad Éireann, Wednesday 9 December 1942, vol 27, no 4.

[160] Catholic Truth Society of Ireland, 'Question of Amending the Censorship of Publications Act 1929' Folder no 90-102-135, National Archive of Ireland; 'Views of the Censorship of Publications Board on the Comparative Failure of its work, with suggested remedy' [Undated] 1, Folder no 90-102-233, National Archives of Ireland; P[eter] Boylan, W[illiam] Thrift, P.J. Keawell, W[illiam] B. Joyce, William O'Reilly (Censorship of Publications Board) 'Number recommended for prohibition on the charges of being usually and frequently indecent and of advocating the unnatural prevention of conception' (Undated) Folder no 90-102-231, 1 of 3, National Archives of Ireland; See Correspondence in Folder no 90-102-228, National Archives of Ireland; *Adams* (n 14) 63, 66, 78, 113; *Martin* (n 53) 275, 278.

[161] See comments of D[aniel] C[ostigan] (Department of Justice) on how censorship relied upon booksellers refusing to stock books in 'Letter to assistant secretary regarding the enforcement of the Censorship of Publications Acts' (14 May 1948) Folder no 90-102-233, National Archives of Ireland.

[162] D[aniel] C[ostigan] (Department of Justice) 'Letter to assistant secretary regarding the enforcement of the Censorship of Publications Acts' (14 May 1948) Folder no 90-102-233, National Archives of Ireland; *Adams* (n 14) 71; Senator Michael D. Higgins (Labour Party) Seanad Éireann debate, Thursday 21 February 1974, vol 77, no 3; *Martin* (n 53).

or in libraries.[163] State bodies such as Telecom Éireann (telephone service) and An Post (postal service) received criticism from anti-abortion campaigners for allowing people to use their services to disseminate unlawful information. They responded that they did not have the technological availability or the capacity to enable them to monitor the large volume of communications that they processed daily.[164] This hoped for cooperation from the general public to identify, refer and remove publications that offended the law did not materialise. Arguably this impacted the enforcement of censorship laws.

Another factor that accounted for why information remained available was that some people did not want to remove or curtail information sources or channels as they were ideologically opposed to censorship. As Fitzgerald-Kenney conceded when creating the 1929 Act, those who were most likely to have read contested publications were unlikely to act as 'literary informers'.[165] In the context of abortion information, thousands of people continued to travel for abortion care and to access illegal abortions in Ireland.[166] They were examples of what the IWASG described as people, 'finding ways to do what they need to do', including subverting and bypassing information restrictions.[167] Each person who managed to obtain an abortion then became a source of counterhegemonic

[163] For people finding information in back issues of magazines see Therese Caherty, 'Choosing to tell : women's accounts of the experience of abortion' (Mphil Trinity College Dublin 1994); *Francome* (n 24) 10, 18; *Holmquist* (n 36); For complaints about the delays between publishing and prohibition generally see correspondence in Folders no 40,551/10, no 90-102-135, no 90-102-140, 1 of 4, no 90-102-142, 2 of 2, no 90-102-231, 1 of 3, and no 90-102-233, National Archives of Ireland.
[164] Jim Dunne, 'In the post' *The Irish Times* (Dublin, 30 November 1991) 30; 'Telecom rejects claim' (n 34).
[165] Quote from *Adams* (n 14) 68; See also *Brown* (n 156) 76; *Kent* (n 69) 92; 'Views of the Censorship of Publications Board on the Comparative Failure of its work, with suggested remedy' [Undated] Folder no 90-102-233, 2, National Archives of Ireland.
[166] *Irish Family Planning Association* (n 1); *D'Arcy* (n 34) 23; *Ferriter* (n 22) 128.
[167] *Hug* (n 7) 163; *Irish Women's Abortion Support Group* (n 8).

or facilitative information.[168] As did any people supporting them.[169] As potential information sharers they could spark, to use Butler's phrasing, a 'contagious circuit' by passing this information to others.[170] It was not in their interest to report information sources due to criminalisation, stigmatisation and solidarity with abortion seekers. To take a quote from anti-censorship campaigner Hanna Sheehy-Skeffington, these people would not 'play an informer's thankless role' by informing authorities where prohibited information was available.[171] Furthermore, had State actors wanted to launch legal interventions against people acting in a private capacity, it would have been extremely difficult to do so. As Ruth Riddick remarked, how could the State police what people said to each other in private conversations?[172] All of these factors reflected Gerard Boland's comments about censorship; 'you cannot enforce it. It just cannot be done and, therefore, it is humbug to try to enforce it.'[173]

Aside from personal connections, there were also organisations in Ireland that were willing to share facilitative or counterhegemonic information. Apart from the five years between the Supreme Court *Open Door* and the European Court of Justice's *Grogan* decisions, abortion seekers could access information from a number of non-directive

[168] See Meltem Ahiska on the political power of memories in 'Violence Against Women in Turkey: Vulnerability, Sexuality and Eros' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 211, 229; For further discussions see *Conlon* (n 40) 64; *Mahon, Conlon, and Dillon* (n 28) 200-201, 216; *Zanini et al* (n 40) 102496.
[169] R.S. Rose, An outline of fertility control, focusing on the element of abortion in the Republic of Ireland to 1976' (PhD Thesis University of Stockholm 1976); Mary Muldowney, 'Breaking the silence: pro-choice activism in Ireland since 1983' in Jennifer Redmond, Sonja Tiernan, Sandra McAvoy, Mary McAuliffe (Eds.) *Sexual politics in modern Ireland* (Irish Academic Press 2015) 127, 131; *Larmour* (n 22); *Mahon, Conlon, and Dillon* (n 28) 192, 194-197, 202-203, 213-214, 244; Muldowney (n 92); *Zanini et al* (n 40) 102496.
[170] *Butler* (n 4) 121.
[171] *Sheehy Skeffington* (n 14).
[172] *O'Connor* (n 97).
[173] The Minister for Justice Gerald Bolan (Fianna Fáil, formerly Republican) Seanad Éireann debate, Wednesday 14 June 1967, vol 63, no 6.

providers in Ireland.[174] Some of the people within this alternative information infrastructure had trained or worked abroad in environments where abortion was accepted and was accessible.[175] Others, having seen the pathogenic vulnerabilities created for people in Ireland by contraception and abortion restrictions, were motivated to provide services, including sharing information.[176] Connolly recounted that the 'demoralised' pro-choice movement turned to focus on information-sharing as something practical and tangible that they could do to assist abortion seekers.[177] Examples included Trinity College Dublin students' union (shared information from at least the mid-1970s),[178] some IFPA staff members (founded as the Fertility Guidance Clinic in 1969),[179] Well Woman (founded in 1978),[180] the Irish Pregnancy Counselling

[174] *Attorney General (at the relation of The Society for the Protection of Unborn Children) v Open Door Counselling Limited and Dublin Wellwoman Centre Limited* [1988] IR 593; Case C-159/90, *The Society for the Protection of Unborn Children Ireland Ltd v Stephen Grogan and others* (1991).
[175] Examples from the family planning sector were Michael Solomons (England), Jim Loughran (England), David Nowlan (Jamaica) Edgar Ritchie (Africa). See *Solomons* (n 14) [6, 8, 11, 12, 15, 18]; Paddy Leahy (England) in Liam Fay, 'Abortion: the plain truth' *Hot Press* (Dublin, 7 October 1992) 6 and Christine Newman, 'Doctor who fought for euthanasia and contraceptives dies ages 81' *The Irish Times* (Dublin, 18 December 1998); Fiona Bradley (England), 'Doctors are handed wrong prescription' *Irish Times* (Dublin, 24 October 1992) 7.
[176] For a discussion of how vulnerability can create spaces for connection, responsiveness and resistance see Marianne Hirsch, 'Vulnerable Times' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 76, 80; For examples see Tanya Saroj Bakhru, 'Reproductive Health and Human Rights: Lessons from Ireland' (2017) 18(2) Journal of International Women's Studies 27; Paul Loughlin, 'Debating contraception, abortion and divorce in an era of controversy and change: new agendas and RTÉ radio and television programmes 1968-2018: Volume One' (PhD Thesis, Trinity College Dublin 2020) 97-99; Nuala O'Faolain, 'Abortion debate was not based on rights' *The Irish Times* (Dublin, 22 May 1995) 14; *Carlson* (n 14) 77; *Fay* ibid; *Irish Family Planning Association* (n 1); *Solomons* (n 14).
[177] *Connolly* (n 92) 168-9, 173; *Ryan* (n 22).
[178] Vicky Randall, 'The politics of abortion' in Joni Lovenduski and Joyce Outshoorn (Eds.) *The new politics of abortion* (Sage publications 1986) 67, 68; *Rose* (n 169).
[179] Sources differed on whether or not IFPA staff members did refer people for abortions before 1991. One of their doctors, Michael Solomons visited BPAS and would make appointments for some of his patients via telephone so it seems that it may have been a matter of discretion for the doctors or counsellors. See Irish Times Reporter, 'Biggest family planning body seeks consent of Minister' *The Irish Times* 26 August 1980, 11; Andrew Rynne, *Abortion: the Irish question* (Ward River Press 1982) 52; Irish Family Planning Association, *IFPA annual report 2013: access choice and advocacy* (IFPA 2014) 2; Irish Family Planning Association, '50 years' [2019] < https://www.ifpa.ie/app/uploads/2019/11/IFPA_50Years_Accordian_WEB.pdf > accessed 9 February 2023; *Rossiter* (n 6) Location 1610; *Solomons* (n 14) [29].
[180] Dublin Well Woman, 'About' < https://wellwomancentre.ie/about-us/ > accessed 8 February 2023; Mary Gordon, 'Fighting for Control - the ongoing struggle for reproductive rights' (1984) The Irish Feminist Review 7; Alison Begas (Chief executive) in All-Party Oireachtas Committee on the Constitution, *Fifth Progress Report: Abortion* (Stationary Office 2000) A253; *Randall* (n 178) 69.

Centre (founded in 1980),[181] and Open Door/Line Counselling (founded 1983).[182] Doctors also shared information on an individual basis.[183] This was not unusual, Ireland had a long practice of private or charity provided services in the areas of health and education.[184] What was different was that these organisations adopted non-directive and/or pro-choice feminist 'self-help' approaches to care.[185] The information that they shared with pregnant people did not dissipate once prohibitions were established by the *Open Door* decision. As Yeats said of retrospective censorship, 'you cannot unscramble eggs'.[186] Alongside abortion seekers and those who supported them in a personal capacity, these organisations had the potential to create and sustain that 'contagious circuit' of information dissemination.[187] This remained even after non-directive counselling and referrals were rendered unlawful by the *Open Door* decision. The information was too ingrained to be controllable or rendered wholly inaccessible. People did, as Paddy Leahy recalled, refer others to sympathetic information sharers through

[181] It was founded by the Irish Women's Right to Choose Group. The Irish Pregnancy Counselling Centre closed in 1983 due to financial issues. See Linda Connolly, 'Explaining Repeal: a long term view' in Kath Browne and Sydney Calkin (Eds.) *After Repeal: Rethinking Abortion Politics* (Bloomsbury Academic 2020) 36, 46; *Connolly* (n 92); *Gordon* ibid; *McAvoy* (n 95).
[182] Open Door Counselling, *An Unexpected Pregnancy: and how we can help!* [Open Door Counselling, 1983]; Ruth Riddick, 'Abortion and law in the Republic of Ireland' (1992) 2 Inter Alia 36; *Burke* (n 2); Open Door became Open Line in 1984, see their notice in the classified section of *The Irish Times* (Dublin, 1 August 1984) 18. Open Line closed in 1987 due to the *Open Door* injunction. See Lorna Siggins, 'Closed Line' *The Irish Times* (Dublin, 9 January 1987) 11.
[183] For examples see Andy Pollak, 'Doctors say they give information on abortion' *The Irish Times* (Dublin, 6 March 1992) 12; Jim McDaid, 'Minister for Fun finds success the best medicine' *The Irish Times* (Dublin, 5 June 1999) 2; Anthea McTeirnan, 'Guide to the pressure groups' *The Irish Times* (Dublin, 19 September 1992) 4; Mary Cummins, 'Dáil picket, reception mark world women's day' *The Irish Times* (Dublin, 7 March 1995) 6; *Adams* (n 14) 145; *Fay* (n 175); *Holden* (n 34) 100-101.
[184] Kathleen Lynch, 'Equality as rhetoric: the careless state of Ireland' [2013] < https://www.macgillsummerschool.com/equality-as-rhetoric-the-careless-state-of-ireland/ > accessed 26 April 2023; Patrick Heavey, 'The Irish Healthcare System: A Morality Tale' (2019) 28 Cambridge Quarterly of Healthcare Ethics 276.
[185] Quote from Ruth Riddick, Towards a Feminist Morality of Choice' in Ailbhe Smyth (Ed.) *The Abortion Papers : Ireland* (Attic Press 1992) 186, 191.
[186] William Butler Yeats, *The Collected Works of W.B. Yeats Vol X: Later Article Uncollected Articles, Reviews, and Radio Broadcast*, (Scribner, 1 May 2010) 365.
[187] *Butler* (n 4) 121.

word-of-mouth.[188] To quote Riddick, this was why no 'blanket ban' could ever succeed in Ireland.[189] The persistence of these organisations was also a form of challenge that problematised the foundational claims of censorship. By transgressing against the norms of anti-abortion service provision, these information sharers modelled an alternative model of care that was more respectful and facilitative of the agency of abortion seekers. They also visibilised abortion seekers rejecting anti-abortion services and demands for non-directive or pro-choice information infrastructures.[190] Sharing information in this way contributed to the normalisation of abortion and non-directive counselling, exposed the naturalised harms of restrictions, and challenged the paternalistic logics of censorship.

Sites of contestation

> Certain members of our staff will continue to give out information. I will. My number is in the phone book, and I'll talk to anyone who wants to ring me up.
>
> Ruth Riddick, Open Door/Line Counselling[191]

Riddick and her colleagues undertook to continue to share information about abortion services abroad despite being enjoined. Their decision to do so was only one part of a diverse range of strategies adopted by censorship opponents to resist restrictions. Launching challenges in a multitude of forums made these actors, to use Sabsay's

[188] *Fay* (n 175).
[189] Ruth Riddick, *The Right to choose : questions of feminist morality* (Attic Press 1990) 7-8.
[190] Research found that abortion seekers did prefer to attend specialist 3-option crisis pregnancy services or activist supports for help. See *Conlon* (n 40) *Zanini et al* (n 40); These 3-option services were always popular see *Gordon* (n 180); *Rynne* (n 179) 39; Counselling sessions in Well Woman and Open Line were booked up right until they ceased providing this service. See *Siggins* (n 182); The crisis 'Help Line' service set up after the *Open Door* decision by Open Door/Line volunteers was also popular. See Siobhan Lennon (Defend the Clinics Campaign) in *London Irish Women's Conference* (n 8) 18; *Riddick* (n 147).
[191] *Coulter* (n 97).

framing, an 'object of political discourse' and this facilitated collective action and contestations.[192] Pro-censorship and anti-abortion proponents used legal action to suppress non-directive and pro-choice information sources. Such actions were also open to people like Riddick to launch, allowing them to generate and sustain their own sites of contestation. Attempts to limit abortion and information access instead allowed resistors to take actions that undermined, subverted and largely overturned censorship.[193]

While it was open for anyone to challenge censorship in Ireland, it was difficult to do so in practice. Freedom of speech or expression rights in the Constitution are 'subject to public order and morality', so they were unlikely to succeed in challenging censorship targeted at an intervention considered to be immoral, i.e., abortion.[194] Especially during the time of the Eighth Amendment and foetal right to life protections. It was not impossible, however. There was one case where the High and Supreme courts overturned a prohibition order issued by the Board. The publication was the IFPA's *Family Planning: A Guide for Parents and Prospective Parents*, and the Board prohibited it for being indecent or obscene. A district court had refused to prosecute the IFPA for producing and distributing *Family Planning* under section 16 of the 1929 Act. Still, the prohibition order remained in place.[195] The Appeal Board was not functioning

[192] Leticia Sabsay, 'Permeable bodies: vulnerability, affective powers, hegemony' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 278, 291; See also Ewa Plonowska Ziarek, 'Feminist Reflections on Vulnerability: Disrespect, Obligation, Action' (2013) 42(3) SubStance 67, 80.
[193] David Cole, 'Going to England: Irish Abortion Law and the European Community' (1993) 17(1) Hastings International and Comparative Law Review 113.
[194] Article 40.6.1°(i).
[195] 'Charges against two family planning groups dismissed' *The Irish Times* (Dublin, 20 February 1974) 17; Don Buckley, 'Family Planning Booklet to be sold in defiance of ban' *The Irish Times* (Dublin, 8 December 1976) 6; Don Buckley, 'Gardai seize family planning booklet' *The Irish Times* (Dublin, 9 December 1976) 1, 4.

due to a lack of chairman and a quorum. Hence, the IFPA launched a formal legal appeal.[196] Both the High Court and the Supreme Court ruled in their favour.[197] The Supreme Court judgment emphasised the professional qualifications of the authors and the cautious, medicalised nature of the content. *Family Planning* could not, therefore, be considered an indecent or obscene publication, and the order was *ultra vires.*[198] The decision was narrow as it was limited to the facts of this case, rather than general constitutional principles. Despite this, the case was a slight victory for anti-censorship actors as it instilled a degree of caution in the Board as they would be answerable to the courts and the Appeal Board. Commentators described this case as having left the Board infrastructure as 'dead' and its days 'numbered'.[199] Looking at official prohibition numbers, they did seem to reduce after this case.[200] This demonstrated that even narrow victories create spaces in which the mechanisms of censorship are scrutinised and found wanting, generating more opportunities to resist, undermine subvert censorship.

In addition to the Irish courts, censorship opponents could also seek redress in the European Court of Justice (ECJ), the European Court of Human Rights (ECtHR) or through various UN bodies. The students' unions applied to the ECJ to challenge the *Grogan* injunction.[201] They were not successful in the sense that the ECJ did not declare that the injunction violated EC law on the ground that the unions did not have a

[196] *Woodman* (n 142) 155-156.
[197] *Irish Family Planning Association* (n 147).
[198] *O'Higgins CJ* 313-5 and *Kenny J* 320 in *Irish Family Planning Association* (n 147).
[199] Ann Bristow, 'Dublin's book banners' (1981) 2 Index on Censorship 28, 31; *Boyle and McGonagle* (n 146).
[200] See the discussion of prohibited publications on p. 25.
[201] *Grogan* (n 174).

commercial relationship with abortion services abroad, so were not protected information providers.[202] The unions remained enjoined as the decision focused on abortion as a matter of consumer, rather than fundamental, rights.[203] Where the decision was successful, however, was that the judgment created another space in which those who opposed censorship could adopt legally sound, creative methods to subvert censorship. The ECJ confirmed that when abortion was legal and provided for remuneration, it was a protected service under EC law. Information sharers who had a commercial relationship with abortion clinics could benefit from this interpretation. After this judgment, the IFPA, who were not enjoined, entered into a commercial agreement with BPAS for a nominal fee of £1.[204] They began to offer non-directive crisis pregnancy counselling, referrals and appointment assistance secure in the knowledge that they had a legal precedent to dissuade anti-abortion challengers.[205] Those who were enjoined or who did not have such a relationship with services abroad could direct abortion seekers to the IFPA.[206] Taking this application was therefore a powerful moment of resistance as the unions not only exposed Ireland's information regulations to international scrutiny but secured a judgment that created an avenue for non-directive

[202] Cathleen Colvin, 'Society for the Protection of Unborn Children (Ireland) Ltd. v. Grogan: Irish Abortion Law and the Free Movement of Services in the European Community' (1991) 15 Fordham International Law Journal, 476; Kathryn Conrad, 'Fetal Ireland: National Bodies and Political Agency' (2001) 36(3&4) Éire-Ireland 153, 166.
[203] Siofra O'Leary, 'Freedom of establishment and freedom to provide services: the Court of Justice as a reluctant constitutional adjudicator: an examination of the abortion information case' (1992) European Law Review 1; Catherine Barnard, 'An Irish solution' (1992) 142(6548) New Law Journal 1; Ruth Fletcher, 'National crisis, supranational opportunity: the Irish construction of abortion as a European service' (2000) 8(16) Reproductive health matters 35; *Colvin* ibid; *Conrad* ibid.
[204] 'Group claims new abortion counselling service is legal' *The Irish Times* (Dublin, 9 October 1992) 5; Alan Murdock, 'Irish Government Words Abortion Referendum' *BMJ* (London, 17 October 1992) 906; Nuala O'Faolain 'Information, empowerment: crucial words in a republic' *The Irish Times* (Dublin, 19 October 1992) 12; Irish Family Planning Association, *Annual Report 1994* (Irish Family Planning Association 1995) 8, 20-25; *Caherty* (n 163) 46-47; *Holden* (n 34) 215; *Hug* (n 7) 160; *Riddick* (n 182) 38-39;
[205] The IFPA also studied the *X* case for the protection that it offered for the legal reestablishment of non-directive counselling and referrals. See 'Counselling implications studied', *The Irish Times* (Dublin, 12 August 1992) 2.
[206] Ruth Riddick, 'Women on abortion' *The Irish Times* (Dublin, 17 January 1995) 13.

counselling and information services to be re-established in Ireland for those who the domestic courts did not enjoin.

In the Introduction, I described how exposing vulnerabilities to power can be an impactful strategy for political resistance.[207] In particular, when such exposures demonstrate the unequal distribution of vulnerabilities. Well Woman sought relief in the ECtHR. They were joined in their action by two women in their capacity as potential information seekers: Deirdre Dowling and Maeve Geraghty.[208] The logic behind doing so was to highlight how preventing the counsellors from sharing information negatively impacted and vulnerabilised potential abortion seekers. Unlike the ECJ, the ECtHR found against Ireland. The majority concluded that the overbroad nature of the injunction had resulted in a violation of Article 10 – freedom of expression – rights of the counsellors and their clients. The hearings conducted as part of this case afforded the counsellors space in which they could undermine the foundational claims of censorship; the injunction offered no protective effect for either foetal rights to life or abortion seekers as people chose to continue to travel for abortion care in the same, or even higher, numbers as before the courts enjoined the counsellors.[209] In fact, the injunction created pathogenic vulnerabilities for vulnerabilised abortion seekers. In the leading judgment, the majority acknowledged these arguments and agreed that it may be crucial for the 'health and well-being' of abortion seekers to have access to trusted and

[207] For discussion see the section 'How and why did people reject…' p. 44.
[208] *Open Door and Well Woman v Ireland* Application no. 14234/88; 14235/88 (European Court of Human Rights, 29 October 1992); Deirdre Dowling ('Mrs X') and Maeve Geraghty were chosen because both had experience of crisis pregnancy counselling and had personal connections to Well Woman. Deirdre Dowling had chosen to complete her pregnancy despite being a single mother of two children and Maeve Geraghty had accessed an abortion when she became pregnant at 18. In *Goldhaber* (n 36) 27.
[209] See the submission of J.R. Ashton, *Open Door* ibid, para 26, p. 10-11.

reliable abortion information sources.[210] The State was forced to respond to these claims and their counsel had to concede that there was a class of person in Ireland who would be entitled to information to vindicate their right to life.[211] By taking this challenge, Well Woman had called the State to account for the harms created by restrictions and obtained a legal confirmation that information provision was compatible with rights protection, not solely rights' violations. This latter aspect was impactful as it supported the claims that many pro-choice, pro-reform activists were making in terms of access to information being a 'basic human right'.[212] The conclusion of this case established that there was international political and legal pressures on the Irish government to address a source of injustice: restrictive information regulations. The timing of the decision was also important as it was issued just under a month before the referendum on the Fourteenth Amendment.[213] The Amendment passed, and as per Irish law, it was self-executing.[214] This provided non-enjoined actors with a more robust legal basis on which they could rely should they be challenged by anti-abortion actors. Examples of works

[210] *Open Door* (n 208) para. 72, p. 24.
[211] For a discussion of *Attorney General v X* see p. 159-163; See also Zeynep Gambetti on 'objective' reality and the need for the State to respond or reckon with claims around it in 'Risking Oneself and One's Identity: Agonism Revisited' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in Resistance* (Duke Press 2016) 28, 34.
[212] Quote from Alliance for Choice, '1992 referendum leaflet' [Alliance for Choice 1992] < https://irishelectionliterature.com/2012/11/16/1992-abortion-referendums-leaflet-from-the-alliance-for-choice/ > accessed 14 February 2023; Democratic Left, *Don't gamble with their lives* [Democratic Life 1992] < https://irishelectionliterature.com/2009/09/29/democratic-left-1992-abortion-referendum/ > accessed 15 March 2023.
[213] For the dates of the Oireachtas votes and the referendum see Houses of the Oireachtas, 'Fourteenth Amendment of the Constitution Act, 1992' < https://www.oireachtas.ie/en/bills/bill/1992/26/ > accessed 14 February 2023; Padraig Yeates and Ed O'Loughlin, 'Government ban breaches human rights convention' *The Irish Times* (Dublin, 30 October 1992) 1.
[214] For a discussion of Constitutional rights being self-executing and not reliant on legislation see *Attorney General (at the relation of The Society for the Protection of Unborn Children) v Open Door Counselling Limited and Dublin Wellwoman Centre Limited* 1986 WJSC-HC 1783, 103; *Open Door* (n 174) 624-5;
The Society for the Protection of Unborn Children v Diarmuid Coogan and Others [1989] IR 734, 746;
Denham J.'s dissent in *Attorney General (at the relation of The Society for the Protection of Unborn Children) v Open Door Counselling Limited and Dublin Wellwoman Centre Limited (No. 2)* [1994] 2 IR 333, 354-5.

published during this period include *Choosing Abortion*,[215] *Choices*,[216] and an advertisement for Marie Stopes published by *The Sunday Tribune*.[217] All of these sources included information about how and where to access an abortion abroad demonstrating the growing security afforded to information sharers and how censorship creates opportunities for challenge and discourse that can ultimately, destabilise it and render it unworkable.[218]

The use of legal contestations to expose how information regulations created and exacerbated pathogenic vulnerabilities remained an vital strategy for challenging the 1995 Act. The legislating government and Attorney General claimed that the limitations and requirements in the 1995 Act were clear and unambiguous.[219] Those information seekers impacted by the 1995 Act could use the courts to highlight how these claims were not congruent with actual protections. What people needed was legal change to address disadvantage and injustice, not just tweaks to existing service provision. The three cases that were influential in the information domain were *A, B and C v Ireland*[220] in the ECtHR and *Mellet v Ireland* and *Whelan v Ireland* at the UN Human Rights Committee (UNHRC). Oaks described how cases sparked a 'new consciousness' among people in Ireland by emphasising how law fell short of providing claimed protection for those already experiencing precarity and stressful medical

[215] Women's Information Network, *Choosing abortion: a practical guide to abortion and other options for Irish women with problem pregnancies* [Women's Information Network 1993].
[216] Noreen Byrne, *Choices in a crisis pregnancy* (Attic Press 1992).
[217] Marie Stopes, 'Unplanned pregnancy?' *Sunday Tribune* (Dublin, 20 November 1994) 41. The last example that I could find was from an edition dated 7 October 2001.
[218] *Butler* (n 4) 130.
[219] For the claims of the State and the Attorney General see *In the matter of Article 26* (n 45) 16 S.C.
[220] *A, B and C v Ireland* Application no. 25579/05 (European Court of Human Rights, 16 December 2010).

circumstances.[221] C's case was the first to establish that neither the 1995 Act or the Crisis Pregnancy Agency (CPA) provided sufficient information to allow a person to establish if they were entitled to an abortion in Ireland. The ECtHR did not declare 1995 Act or the CPA to be repugnant to any rights, rather the judgment focused on how the lack of information available to C - a cancer survivor from Lithuania - did cause her, 'considerable anxiety and suffering'.[222] The 1995 Act, along with the decades of abortion criminalisation and stigmatisation had a 'chilling factor' whereby doctors were reluctant to advise her on her options or to provide referrals, despite it being legal for them to do so.[223] This violated C's Article 8 - respect for privacy and family life - rights.[224] As strategic litigation, this decision was instrumental in forcing a government to begin the process of legislating for *X*, 21 years after the case was decided.[225] About information access, the case illuminated that the foundational protective claims of the 1995 Act government were either misguided or false. The legislation hindered access to care rather than protecting decisional certainty.

[221] Laury Oaks, '"Abortion is part of the Irish experience, it is part of what we are": the transformation of public discourses on Irish abortion policy' 2002) 25(3) Women's Studies International Forum 315, 321; Ciara Staunton, 'As Easy as A, B and C: Will A, B and C v. Ireland Be Ireland's Wake-up Call for Abortion Rights?' (2011) 18(2) European Journal of Health Law 205, 211.
[222] *A, B and C* (n 220) quote from para 279, p.77; See also para 250, p. 70; para. 259-261, p. 73; para 279, p.77.
[223] *A, B and C* (n 220) para 254, p. 71.
[224] *A, B and C* (n 220) para 268, p. 75 ; For analysis see Daniel Fenwick, 'The modern abortion jurisprudence under Article 8 of the European Convention on Human Rights' (2013) 12(3-4) Medical Law International 249; For criticism of the limited nature of the decision see Johanna Westeson, 'Reproductive health information and abortion services: Standards developed by the European Court of Human Rights' (2013) 122(2) International Journal of Gynecology & Obstetrics 173.
[225] The legislation was the Protection of Life During Pregnancy Act 2013. The death of Savita Halappanavar was also a major driver for the law to confirm the process through which a pregnant person's life could be saved through terminating her pregnancy. See the debate in Dáil Éireann debate, Thursday 20 June 2013, vol 807, no 4; *A, B and C v Ireland* was strategic litigation intended to challenge Ireland's restrictive laws and the applicants were supported by the IFPA. See Irish Family Planning Association, 'Delay to implementation of ABC judgment shows disregard for women's human rights' (31 May 2011) < https://www.ifpa.ie/delay-to-implementation-of-abc-judgment-shows-disregard-for-womens-human-rights-2/ > accessed 19 June 2023; Maeve Taylor (IFPA), 'Abortion Stigma: a health service provider's perspective' in Aideen Quilty, Sinéad Kennedy, and Catherine Conlon (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 223; Máiréad Enright, 'Abortion Law in Ireland : Reflecting on Reform' in Lynsey Black and Peter Dunne (Eds.) *Law* and *Gender in Modern Ireland: Critique and Reform*, (Hart Publishing 2019) 55.

The negative impact of the 1995 Act was further illustrated by the *Mellet*[226] and *Whelan*[227] cases. Multiple U.N. bodies had previously criticised Irish abortion information regulations for being 'unduly restrictive' and potentially being counter to the human rights of pregnant people.[228] This is why, for example, the Special Rapporteur on the Situation of Human Rights Defenders recommended that abortion-related prohibitions, including the 1995 Act, be liberalised or repealed.[229] *Mellet* was an influential case as detailed by de Londras, the UNHRC found that ICCPR rights could be violated by abortion criminalisation.[230] This is why the UNHRC found that the State had violated the applicant's Article 7 – prohibition on cruel, inhuman or degrading

[226] Human Rights Committee, 'Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2324/2013' (31 March 2016) CCPR/C/116/D/2324/2013.
[227] Human Rights Committee, 'Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2425/2014' (17 March 2017) CCPR/C/119/D/2425/2014.
[228] Human Rights Committee, 'Consideration of reports submitted by States parties under article 40 of the Covenant : International Covenant on Civil and Political Rights : comments of the Human Rights Committee : Ireland' (3 August 1993) CCPR/C/79/Add.21, para. 15, p. 3; Human Rights Committee, 'Report of the Human Rights Committee' (7 October 1993) A/48/40(Part I) para. 607, p. 125; Ireland, 'Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All forms of Discrimination against Women : combined 4th and 5th periodic reports of States parties : Ireland' (10 June 2003) CEDAW/C/IRL/4-5, para. 12.12, p. 95; Committee on the Elimination of Discrimination against Women, 'Concluding comments [of the Committee on the Elimination of Discrimination against Women] : Ireland' (22 July 2005) CEDAW/C/IRL/CO/4-5, para. 38, p. 7; Committee against Torture, 'Report of the Committee against Torture, 45th session (1-19 November 2010), 46th session (9 May-3 June 2011)' (2011) A/66/44, para. 26, p. 97-98; Committee Against Torture, 'Concluding observations of the Committee against Torture : Ireland' (17 June 2011) CAT/C/IRL/CO/1, para. 26, pp. 7-8; Human Rights Committee, 'Consideration of reports submitted by States parties under article 40 of the Covenant: Fourth periodic reports of States parties: Ireland' (12 November 2012) CCPR/C/IRL/4, para. 97, p. 16, para. 4(b) p.33-34; Ireland, 'Consideration of reports submitted by States parties under article 40 of the Covenant : International Covenant on Civil and Political Rights : 3rd periodic reports of States parties : Ireland' (4 September 2007) CCPR/C/IRL/3, para. 140-143, p. 30-31; Margaret Sekaggya, 'Report of the Special Rapporteur on the Situation of Human Rights Defenders: addendum' (Human Rights Council 26 February 2013) A/HRC/22/47/Add.3, Section B, pp. 15-17; Human Rights Committee, 'Concluding observations on the 4th periodic report of Ireland : Human Rights Committee' (19 August 2014) CCPR/C/IRL/CO/4, para. 9, pp. 3-4; Committee on Economic, Social and Cultural Rights, 'Concluding observations on the 3rd periodic report of Ireland : Committee on Economic, Social and Cultural Rights' (8 July 2015) E/C.12/IRL/CO/3, para. 30, p. 9; Committee on the Rights of the Child, 'Concluding observations on the combined 3rd and 4th periodic reports of Ireland : Committee on the Rights of the Child' (1 March 2016) CRC/C/IRL/CO/3-4, para. 57, p. 13; Lorna Siggins, 'Emergency legislation criticised by UN report' *The Irish Times* (Dublin, 16 August 1993) 2; Deputy Alex White (Labour Party) Dáil Éireann debate, Monday 1 July 2013, vol 805, no 1; Taoiseach Enda Kenny (Fine Gael) Dáil Éireann debate, Tuesday 14 June 2016, vol 913, no 1; The Minister for Health Simon Harris (Fine Gael) Written answers Tuesday 24 October 2017; Dáil Éireann debate, Thursday 30 June 2016, vol 916, no 1.
[229] *Sekaggya* ibid para. 111(l)(m), p. 21.
[230] Fiona de Londras, 'Fatal foetal abnormality, Irish Constitutional Law and Mellet v Ireland' (2016) 24(4) Medical Law Review 591, 603.

treatment – 17 – unlawful interference in privacy and family life - and Article 26 – prohibition on discrimination - rights.[231] Both *Mellet* and *Whelan* arose after the women received diagnoses of fatal foetal anomalies. The 1995 Act was an aggravating factor to them not receiving the specialist, compassionate information that they wanted and needed from their medical teams. The criminalisation therein sustained a hostile, stigmatised environment where information was subject, to quote from *Mellet*, 'strict State control'.[232] As a result, the women were further vulnerabilised by having to navigate information vacuums and prohibitions on appointment making and assistance. To call the State to account, the UNHRC recommended that Irish government amended information regulations so that healthcare providers could provide 'full information on safe abortion services' after a diagnosis of a fatal foetal anomaly without fearing criminal sanctions.[233] While not binding, these decisions were powerful moments of resistance by the women and their supporters as they demonstrated that the foundational claims of the 1995 Act – to be protective of vulnerable subjects – were false. It aggravated hardships in already difficult situations. These cases allowed for the women who experienced these shortcomings in care to contest the framing in law of vulnerability as the site of passivity and victimisation and to show that it could also encompass political agency and resistance.[234] The outcome created additional pressure – both domestically and internationally - for the State to proceed with its considerations of abortion law

[231] *Mellet* (n 226) paras. 8-9, p. 18; *Whelan* (n 227) paras. 8-7, p. 17.
[232] *Mellet* (n 226) para. 5.8-5.11, p. 13-14; See also *Whelan* (n 227) para. 5.9-5.11, p. 12-13; Irish Council for Civil Liberties, 'Her suffering was aggravated by obstacles in getting information' [Undated] < https://www.iccl.ie/her-rights/information/ > accessed 29 May 2023.
[233] *Mellet* (n 226) para. 9, p. 18; *Whelan* (n 227) para. 9, p. 17.
[234] See the discussion in the 'How and why did people reject…' from p. 44.

reform, and the government did establish a Citizens' Assembly to do this.[235] The result of these contestations, and the others heard at the Assembly, was that the Citizens' concluded that the Eighth Amendment should be repealed and that abortion be made available upon request.[236]

Butler recounted that opposition movements could become 'galvanised' through the visibilisation of injustice and failing infrastructures.[237] Restrictions can have an enabling response.[238] As I discussed above about counselling organisations, when people come together to provide alternative infrastructures, they challengedx care deficit maintained by the anti-abortion, pro-information suppression State. Shared vulnerabilities can create a reforming momentum that inspires or promotes legal changes. When this was combined with, to quote Sheehy-Skeffington, the 'long and honourable tradition in law-breaking and law-flouting' in response to oppression and injustice in Ireland, it was unsurprising that alternative service provision continued even when it was unlawful.[239] Underground volunteer networks in Ireland encapsulated these strategies and attributes. By using serendipitous advertising and personal referrals, groups such as the

[235] The Taoiseach Enda Kenny (Fine Gael) Dáil Éireann debate, Tuesday 14 June 2016, vol 913, no 1; Simon Harris, 'Statement from Minister for Health, Simon Harris, TD, regarding the United Nations Human Rights Committee in the case of Ms Amanda Mellet', *Merrion Street* (Dublin, 30 November 2016) < https://merrionstreet.ie/en/news-room/releases/statement_from_minister_for_health_simon_harris_td_regarding_the_united_nations_human_rights_committee_in_the_case_of_ms_amanda_mellet_.html > accessed 18 February 2023; For a discussion of the persuasive nature of the *Mellet* (n 226) and *Whelan* (n 227) cases see Fiona de Londras, 'Introduction note to Mellet v. Ireland (H.R. Comm.) (2017) 56(2) The American Society of International Law 217, 217-219; *de Londras* (n 230).
[236] The Citizens' Assembly, 'Recommendations on the Eighth Amendment of the Constitution' < https://2016-2018.citizensassembly.ie/en/The-Eighth-Amendment-of-the-Constitution/Recommendations/ > accessed 18 February 2023.
[237] Quote from *Butler* in *Vulnerability in resistance* (n 31) 12-14; See also Judith Butler, Zeynep Gambetti and Leticia Sabsay, 'Introduction' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016)1, 2.
[238] *Butler* (n 4) 1.
[239] Quote Hanna Sheehy-Skeffington, 'Censorship in Éire' *The Saturday Review* (New York, 19 March 1939) 14, folder no 33,626 (2), National Library of Ireland.

WIN (founded in 1987) and Open Line assisted abortion seekers by providing information about abortion services abroad. The WIN was founded after *Open Door* by members of the Defend the Clinics Campaign.[240] Its members also did pro-choice public outreach and spoke at events.[241] Open Line was operated by volunteers from the Open Door/Line counselling service after they decided to close in protest at the *Open Door* decision.[242] These underground networks viewed their work as being practical and political. They sought to undermine and subvert censorship by providing information, visibilising a demand for abortion information, advocating for a caring, non-directive, non-judgmental information provision and challenging the claimed anti-abortion consensus.[243] Their actions contributed to the environment that rendered censorship largely unworkable and helped to counter the protective foundational claims of the legal framework. One abortion provider even said that due to the 'phenomenal information network', the *Open Door* judgment had not impacted their clients.[244] Furthermore, this network was hard to counter as by operating more illicitly, volunteers could avoid potential legal, personal or professional backlash. There was after all protection in silences, as Fletcher recounted.[245] Those quiet, private spaces for conversation ensured a flow of information that endured, despite anti-abortion or pro-censorship legal actions. This effect extended beyond the work of the WIN and Open Line as others – including doctors and family planning workers – used more hidden spaces like

[240] Willy Clingan, 'Telephone help-line service on abortion opened' *The Irish Times* (Dublin, 25 November 1987) 22; *Caherty* (n 163); *Connolly* (n 181) 46; *MacDubhghaill* (n 106); *McAvoy* (n 95); *McTeirnan* (n 183).
[241] Uinsionn MacDubhghaill, 'Repeal of Abortion Amendment Urged' *The Irish Times* (Dublin, 24 February 1992) 7.
[242] Ruth Riddick interviewed by *O'Connor* (n 97); *Coulter* (n 97).
[243] *Riddick* (n 185) 192.
[244] *Holmquist* (n 36).
[245] Ruth Fletcher, 'Silences : Irish Women and Abortion' (1995) 50 Feminist Review 44.

consultation rooms to direct people to abortion services.[246] An example of this involved Well Woman who, after they were enjoined in *Open Door*, kept a British phone book in their lobby accessible to the public with 'a nod and a wink'.[247] The law could only do so much to establish and maintain unspeakability when people were willing to speak at the margins of permissibility and to break the law in full view of, or hidden from, authorities.

Confrontation and using public contestation to expose the limits and limitations of censorship enforcement was a crucial anti-censorship strategy, particularly in the years between *Open Door* and the 1995 Act. As Butler argued, there is transformative potential in exposing oneself to imprisonment by acting against 'illegitimate constraints' that create injustice or inequalities.[248] People can come together to form collective movements through solidarity and to push the boundaries of speakability through open transgression.[249] Anti-censorship and pro-choice activists did so by reclaiming public spaces – such as the street - by reinserting condemned information back into the public domain.[250] This instability created opportunities for serendipitous discovery, but also was a provocation to law enforcers to either defend the law and follow-through on penalties or to admit defeat and reform the law.[251] For example, USI and Trinity College students' unions, in the words of Walsh J., 'boldly assert[ed]' their intentions to continue

[246] *Binns* (n 10).
[247] *Goldhaber* (n 36) 27.
[248] Quote from *Butler* in *Vulnerability in resistance* (n 31) 20; See also *Butler* in < http://bibacc.org/wp-content/uploads/2016/07/Rethinking-Vulnerability-and-Resistance-Judith-Butler.pdf > (n 31) 9, 11.
[249] *Butler* (n 237) 6-7; *Gambetti* (n 211) 37.
[250] Quote from Judith Butler, 'Rethinking Vulnerability and Resistance' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 13.
[251] See Nükhet Sirman on how vulnerabilities can create instabilities that can be used to reconfigure power relations in 'When Antigone is a man: feminist "trouble" in the Late Colony' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 191, 205.

sharing information despite the *Grogan* injunction.[252] They even recruited other Irish unions to act with them.[253] While the unions maintained that one of their primary motivations for doing so was to ensure that information remained available for abortion seekers, they also wanted to subvert and disrupt censorship as part of a symbolic battle against conservative campaigners and law-making.[254] The unions were joined by groups established specifically to oppose censorship: the Right to Information Action Group, the Dublin/Cork/Belfast Abortion Information Campaign, and the Defend the Clinics Campaign.[255] Their slogans spoke of 'choice' and 'a woman's right to know', emphasising the link between rights, freedom, agency and information access.[256] Fletcher described their activism as involving 'creative strategies' for information

[252] *Coogan* (n 214) 743; For examples of the comments of union leaders see Ivana Bacik, Grainne Murphy, Eoin Lonergan, Jim Davis, 'Information on Abortion' *The Irish Times* (Dublin, 28 February 1990) 11; Sean Flynn and John Walshe, 'Court upholds abortion ruling' *The Irish Times* (Dublin, 5 October 1991, 1; 'Leader prepared to go to jail' *The Irish Times* (Dublin, 8 August 1992) 4; *Coulter* (n 19); UCD distributed their 1988-9 welfare guide but removed abortion information after a vote in 1989. See 'Students agree to hand out UCD guide' *The Irish Times* (Dublin, 22 October 1988) 6; Michael Foley, 'UCD Students oppose abortion materials' *The Irish Times* (Dublin, 18 November 1989) 1; Anon, 'Abortion rights in Ireland - the story so far' < https://www.wsm.ie/c/story-so-far > accessed 23 April 2023; *O'Hagan* (n 99); *O'Hagan* (n 108).

[253] For the National College of Art and Design see *Students' Union in High Court* (n 99) and *Yeates* (n 101); For St. Patrick's College, University of Limerick, and Tralee Regional Training College see *Foley* (n 103); For Waterford Regional Technical College (now South East Technological University) see Eddy Scully (student union president) 'Abortion Information' *The Irish Times* (Dublin, 12 July 1989) 9; For College of Commerce Rathmines, the College of Technology Kevin Street, and Dublin Institute of Technology (now Technological University Dublin) see Deaglán de Bréadún, 'USI defiance triggers calls for change' *The Irish Times* (Dublin, 8 August 1992) 4, *Foley* (n 103) and *Sheridan* (n 20); For Dublin City University see 'University Staff Support Abortion Campaign by USI' *The Irish Times* (Dublin, 28 November 1989) 9, *Ingoldsby* (n 77) and *Foley* (n 103); For Carlow Regional Technical College (now South East Technological University) see 'Carlow students to give abortion information' *The Irish Times* (Dublin, 28 September 1989) 8; For University College Cork and Regional Technical College Cork (now Cork Institute of Technology) see *Coulter* (n 19).

[254] Kevin Keane, 'From SPUC v Grogan to Students4Choice: The History of Abortion Law in Ireland, and the case for student activism' in Conor O'Riordan (Ed.) *Debating the Eighth: Repeal or Retain?* (Orpen Press, 2018) 128, 133.

[255] For Right to Information Action Group (founded by Trinity College Dublin students) see Lorna Siggins, 'TCD pregnancy group launched' *The Irish Times* (Dublin, 28 September 1989) 8, *Coulter* (n 19); For Defend the Clinics Campaigns see *Archiving the 8th Project* (n 11), *Defend the Clinics Campaign* (n 24), *Fahy* (n 99); For the Dublin Abortion Information Campaign see Folder no 45,999-25, National Library of Ireland, Aileen O'Carroll, 'Background to 1992 referendum - Anti-Abortionists told to SPUC OFF!' *WSM.ie* (1 April 1993) < http://www.wsm.ie/c/ireland-1992-anti-abortionists-spuc-referendum > accessed 10 May 2023, 'Abortion information campaign' *RTÉ Archives* (Dublin, 24 November 1987) < https://www.rte.ie/archives/collections/news/21262098-abortion-information-campaign/ > accessed 17 June 2023, *Anon* (n 252), *de Bréadún* (n 253), *London Irish Women's Conference* (n 8) 18-20 and *MacSimóin* (n 114).

[256] Mary Flanagan (Defend the Clinics Campaign) in *London Irish Women's Conference* (n 8) 19.

dissemination.[257] Street spaces were integral to this as they used fly postering,[258] leafleting,[259] protest banners and placards,[260] stickering and graffiti,[261] balloon releases,[262] song or chants,[263] and telephone numbers printed on clothing.[264] A pirate radio station also broadcast information.[265] The Defend the Clinics Campaign published a list of over 100 individuals stating that they had abortion information and were willing to share it.[266] While these efforts could not wholly replace consistent information-sharing offered by a non-directive, non-judgmental organisations, it did allow some abortion seekers to find out about abortion or information services, especially when their protests attracted media attention. The protests also problematised the foundational claims of censorship of their being an anti-abortion or pro-information control consensus.[267] Under the 1995 Act, these strategies were continued to oppose individual acts of

[257] *Fletcher* (n 203) 42.
[258] For examples see 'Printer faces prosecution' *The Irish Times* (Dublin, 22 May 1992) 7; Dick Hogan, 'Members of lobby group fined over posters' *The Irish Times* (Dublin, 18 February 1994) 6; Socialist Workers' Movement, *SPUC: a threat to Irish Women* (Socialist Workers' Movement 1989); *Fahy* (n 99); *Francome* (n 24) 14.
[259] For examples see *MacSimóin* (n 114); *McAvoy* (n 95); *Muldowney* (n 169) 133; *'Sistership Protest Highlights Abortion Concerns'* (n 106); *'USI to 'publish abortion advice' despite ruling'* (n 97).
[260] For examples see Irish Family Planning Association, *The IFPA report 1997: Making a difference* (Irish Family Planning Association 1997) 22; Anthea McTiernan, 'Retrieving 40 years of women's struggle in Ireland' *The Irish Times* (Dublin, 6 November 2014) < https://www.irishtimes.com/news/social-affairs/retrieving-40-years-of-women-s-struggle-in-ireland-1.1989660 > accessed 11 June 2023; 'Abortion – the street demonstrations in pictures' *The Irish Times* (Dublin, 23 September 2016); *O'Connell* (n 106); *'Sistership Protest Highlights Abortion Concerns'* (n 106).
[261] For examples see Suzanna Chan, 'Speaking of silence, speaking of art, abortion and Ireland' (2019) 27(1) Irish Studies Review 73, 84; *Caherty* (n 163); *Fletcher* (n 203) 37-38; *Francome* (n 24) 14; *Goldhaber* (n 36) 27; *Holmquist* (n 36); *Hug* (n 7) 165; *MacSimóin* (n 114); *Rossiter* (n 6) Location 2534; *Ryan* (n 22); *'USI to 'publish abortion advice' despite ruling'* (n 97); For a discussion of stickering during the Repeal the Eighth Campaign see Niamh NicGhabhann, 'City walls, bathroom stalls and tweeting the Taoiseach: the aesthetics of protest and the campaign for abortion rights in the Republic of Ireland' (2018) 32(5) Continuum 553, 562-564.
[262] *'Sistership Protest Highlights Abortion Concerns'* (n 106).
[263] For Zrazy see '6794700' [1992] *YouTube* (22 September 2016) < https://www.youtube.com/watch?v=FFfHF4i_B_U > 18 March 2023; Kevin Courtney, 'Zrazy Whelan's' *The Irish Times* (11 March 1993) 12; For Birmingham 6 see '6794700' [1994] *YouTube* (1 April 2010) < https://www.youtube.com/watch?v=rALMZoi8UV4 > accessed 18 March 2023; For discussion see Sinéad Kennedy, 'The right to know: gender, power, reproduction and knowledge, regulation in Ireland' in Mary Corcoran and Pauline Cullen (Eds.) *Producing Knowledge, Reproducing Gender Power, Production and Practice in Contemporary Ireland* (UCD Press 2020) 110, 121.
[264] *Bird* (n 107); *'SPUC'* (n 99).
[265] *D'Arcy* (n 34)
[266] *Clingan* (n 240).
[267] Ivana Bacik referenced one Dublin Abortion Rights Group protest that drew a crowd of 10,000 marchers. See Ivana Bacik, 'The Irish Constitution and Gender Politics: Developments in the Law on Abortion' (2013) 28(3) Irish Political Studies 380, 387.

censorship. A notable example concerned the decision of the UCD students' union president in 2017, Katie Ascough, to remove abortion pill information from the welfare guide.[268] To signal their disapproval of this decision, students postered UCD's campus with copies of the removed page and shared the information online. Ascough was later impeached, with her fellow union officers describing the result as 'vindicating the uncensored print'.[269] These sites of contestation illustrated how information-sharing was both practical and political, being intended to send a message to would-be censors that they would be resisted.

Those who committed to continual law-breaking until the law was reformed, received support from people in influential positions such as campaign groups,[270] consultation groups,[271] (former) legislators,[272] academics,[273] and doctors.[274] Some also gave the undertaking to engage in – or to continue – sharing information themselves. For example, Doctor Paddy Leahy said, 'I can stand a little jail rather than be guilty' of refusing his patients help to access abortions abroad.[275] Others criticised law-breaking but also objected to the anti-abortion, pro-information suppression orientation of the

[268] Carl O'Brien, 'Decision to drop information on abortion defended' *The Irish Times* (Dublin, 21 September 2017) 3.
[269] Quote from UCD Students Unions, 'Copy of page from Winging It 2.0 that included the contested information about how and where to access abortions abroad or online in Ireland' (*Twitter* 4 May 2018) < https://twitter.com/UCDSU/status/999725246054830080 > accessed 17 July 2023; Aoife Hardesty, 'Impeachment of Katie Ascough: what led us here?' *The University Observer* (Dublin, 1 November 2017) < https://universityobserver.ie/impeachment-of-katie-ascough-what-led-us-here/ > accessed 24 February 2023.
[270] Mary Fanning, 'Council for the Status of Women Conference' *RTÉ Archives* (Dublin, 11 April 1987) < https://www.rte.ie/archives/collections/news/21244776-council-for-status-of-women-conference/ > accessed 17 June 2023;
[271] Second Commission on the Status of Women, *Report to the Government* (Stationary Office 1993).
[272] For examples see 'SPUC judgment flawed – Asmal' *The Irish Times* (Dublin, 13 January 1987) 7; *'SPUC And USI In High Court'* (n 106); *'Support For USI Abortion Information'* (n 99).
[273] For an example see *'University Staff Support Abortion Campaign by USI'* (n 253).
[274] See p. 353-356.
[275] *Fay* (n 175).

law.[276] Their social and professional standings made it harder for anti-abortion advocates to dismiss them as misinformed young people or as ungrateful outsiders who posed a threat to the common good or community values.[277] As a result, these interventions eroded claims that there was an anti-abortion consensus among professionals with abortion knowledge in Ireland. They countered arguments that favoured censorship and opened up additional, impactful spaces for reconsideration of where the appropriate lines of permissibility should be e.g., Oireachtas debates. Regarding the contagious dynamic of information-sharing, the privileged position of these censorship opponents provided cover for other information sharers without the same legal protections or access to communication infrastructures. One example concerned Deputy Proinsias de Rossa, who read out the text of an advertisement for Marie Stopes into the Dáil record, including the locations and telephone numbers of its clinics.[278] The distributors – Easons - had refused to disseminate the advertisement because it may be unlawful to do so. De Rossa's speech resulted in abortion clinic information being recorded as part of the official, verbatim parliamentary record. This information was not only accessible to the public, but it meant that others could share that speech using the defence that they were quoting an official State record.[279] *The Irish Times* reported that this is precisely what happened when Gardaí visited the radio

[276] An example was former TD, and then member of the Council of State, Gemma Hussey (Independent and Fine Gael). See John Walshe, 'SPUC seeking £100,000 legal costs from student leaders' *The Irish Times* (Dublin, 11 June 1990) 2; See also the comments of Michael D. Higgins (Labour) who supported the campaign but did not want to be a point for referrals in *Clingan* (n 240).
[277] For an example of anti-censorship proponents being described as misguided see *'Leader prepared to go to jail'* (n 252).
[278] *Little* (n 98); Proinsias De Rossa (Democratic Left, formerly Sinn Féin the workers party and the Workers Party, later the Labour Party) Dáil Éireann debate, Thursday 21 May 1992, vol 420, no 1; *Kennedy and Boland* (n 280).
[279] For examples of the speech being shared without redaction see 'Confiscation criticised' in *The Irish Times* (Dublin, 22 May 1992) 6; Anthea McTeirnan, ''Disobedience Day' on abortion information' *The Irish Times,* (Dublin, 3 October 1992) 4; *Holden* (n 34) 168; *Hug* (n 7) 165; *Kennedy and Tynan* (n 134); For contagious discussion see *Butler* (n 4) 121.

station 98FM after they broadcast De Rossa's speech.[280] Following Butler, the attempts of anti-abortion law-making to render this information unspeakable had instead made it a legitimate subject for discourse through restaging and resignification.[281] Those who opposed the restrictions were able to take this information and to speak it in new contexts and to different audiences. These individuals were particularly impactful when doing so both in terms of reach and low odds of them facing legal repercussions.

Dispelling the myths around information provision and causation that anti-abortion advocates used to support anti-abortion information controls, destabilised the foundations of censorship. Statistics were particularly impactful in this regard.[282] To quote Anne Taylor, 'if the intention is to reduce the incidence of abortion, then censorship has been shown not to be an effective approach.'[283] Such reports publicised

[280] Geraldine Kennedy and Colm Boland, 'De Rossa pledges to repeat phone numbers of clinics' *The Irish Times* (Dublin, 23 May 1992) 1.
[281] *Butler* (n 4) 14; See the comments of Anne Taylor (Council for the Status of Women) on why information restrictions cannot succeed as condemned information was now on the Oireachtas record. In *de Bréadún* (n 253).
[282] See for example the Family Life Research Centre who claimed that abortion statistics were being used to force the liberalisation of abortion laws through framing Ireland as hypocritical in *The blood-dimmed tide and Ireland* (Family Life Research Centre 1983) 22; For discussions of statistics see Dermot Walsh, 'Medical and social characteristics of Irish residents whose pregnancies were terminated under the 1967 Abortion Act in 1971 and 1972' (1975) 68(6) Journal of the Irish Medical Association 143; Deputy Barry Desmond (Labour Party) Dáil Éireann debate, Thursday 17 February 1983, vol 340, no 3; Geoffrey Dean, *Termination of pregnancy: England 1983: Women from the Republic of Ireland* (Medico-Social Research Board 1984); G. Dean, D. Walsh, A. O'Hare and H. McLoughlin, *Termination of pregnancy, England, 1984, women from the Republic of Ireland* (Medico-Social Research Board 1985); George Devlin, '4,000 Travel For UK Abortions' *RTÉ Archive* (Dublin, 25 September 1985) < https://www.rte.ie/archives/collections/news/21199681-4-000-travel-for-uk-abortions/ > accessed 17 June 2023; Mary Maher, 'Why Irish Abortions in Britain are Down' *The Irish Times* (Dublin, 8 August 1988) 13; Caroline Erskine, 'One In Ten Births Outside Marriage' *RTÉ Archives* (Dublin, 18 January 1989) < https://www.rte.ie/archives/collections/news/21303188-one-in-ten-births-outside-marriage/ > accessed 17 June 2023; Democratic Left, *Crisis Pregnancy: prevention and termination*, (Democratic Left 1998) 4; Mary Favier (Doctors for Choice) 'Repressing Abortion in Ireland - a doctor speaks out' (1 June 2003) < http://www.wsm.ie/c/pro-choice-doctor-ireland-abortion > accessed 9 June 2023; Hannah McGee, Kay Rundle, Richard Layte, and Claire Donnelly, *The Irish study of sexual health and relationships sub-report 2: sexual health challenges and related service provision* (Crisis Pregnancy Agency and the Department of Health and Children 2008) 124; Hilary Dully, 'Balance, binary debate and missing women: a discourse analysis and creative response to 30 years of the abortion debate on RTÉ current affairs television, 1983-2013' (PhD thesis, National University of Ireland, Galway 2016) 89, 105-106; *London Irish Women's Conference* (n 8) 21; *Loughlin* (n 176) 90-91.
[283] Quote in *de Bréadún* (n 253); For additional examples of this argument see Richard Downes, 'Information on abortion' *The Irish Times* (Dublin, 20 October 1989) 13; Karl B.W. O'Connor, 'Information on abortion' *The Irish Times* (Dublin, 24 October 1989) 11; John Walshe and Sean Flynn, 'SPUC to press for legal costs' *The Irish Times* (Dublin, 12 June 1991) 1; Caroline McCamley, 'Censoring newspapers will not prevent women having abortions' *The Irish*

that people were choosing to travel for abortions, and were able to do so, despite the anti-abortion orientation of the in law.[284] How could a legal framework predicated on a link between information provision and the vindication of foetal life be maintained or retain legitimacy when the number of people accessing abortions were rising?[285] This evidence bolstered arguments in favour of information provision rather than information restriction.[286] I discussed in Chapter Two how this argument could be used as part of anti-abortion 'paternalistic logics' but it also was influential in supporting the reestablishment of non-directive information provision and counselling services. The ECtHR even referenced the failure of censorship to achieve a reduction in abortions in the *Open Door* case as a point against the proportionality of the injunction.[287] As well as demonstrating censorship's ineffectiveness, statistics countered anti-abortion claims that people did not want or need abortions.[288] As most people who accessed abortions in Britain did so under the liberally interpreted Ground C of the Abortion Act 1967, it was undeniable that abortion was an in-demand service.[289] This point was strengthened

Times (Dublin, 22 May 1992) 7; Editor of *The Irish Times*, 'Morality and the law' Law' *The Irish Times* (Dublin, 9 March 1995) 15; Andy Pollak, '5,300 had abortions in Britain in 1997' *The Irish Times* (Dublin, 26 May 1998) 3; *Cleary* (n 102); *Sherlock* (n 97).

[284] Anne Speed, 'The Struggle for Reproductive Rights: A Brief History in its Political Context' in Ailbhe Smyth (Ed.) *The Abortion Papers Ireland* (Attic Press 1992) 85, 96; Pauline Conroy Jackson identified 1937 as the year that abortion travel to England picked up. See Pauline Conroy Jackson, in 'Outside the jurisdiction: Irish women seeking abortion' in Ailbhe Smyth (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 119, 127.

[285] For a discussion on the Eighth Amendment and it's lack of legitimacy among those who travelled for abortions see *O'Carroll* (n 30) 69.

[286] See for example the Labour Party arguing for a yes vote to the Fourteenth Amendment in 'Leaflet - Labour and the Referenda' in Folder 49,494-925(9), National Library of Ireland.

[287] *Open Door* (n 208) 76.

[288] For discussions of how silences support anti-abortion narratives, stereotyping or assumptions see Deputy Kathleen Lynch (Labour Party) Dáil Éireann debate, Tuesday 7 March 1995, vol 450, no 2; Minister for Children and Youth Affairs Frances Fitzgerald (Fine Gael) Dáil Éireann debate, Monday 17 December 2012, vol 787, no 2; Anne Quesney, 'Speaking Up! Speaking Out! Abortion in Ireland, exploring women's voices and contemporary abortion rights activism' in Aideen Quilty, Sinéad Kennedy, and Catherine Conlon (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 158, 166-168; Joanna Mishtal, Giulia Zanini, Silvia de Zordo, Derek Clougher, Caitilin Gerdts, ''To be vigilant to leave no trace': secrecy, invisibility and abortion travel from the Republic of Ireland' (2022) Culture, Health and Sexuality; *Gordon* (n 180); *Sheldon* (n 2).

[289] Section 1(1)(c) of the Abortion Act 1967. The ground is if '…the continuance of the pregnancy would involve risk to the life of the pregnant woman, greater than if the pregnancy were terminated…'.; For discussion see *Fletcher* (n 2) 177.

even further once the popularity of safe, illicit abortion medication became known. It was increasingly untenable for those who favoured information restrictions to claim that they were dissuading anyone or preventing abortions on a large scale. To follow Barry's observations, when the contradictions between how people chose to live and the law are 'overwhelming', the need for reform becomes imperative.[290] This applied to abortion information provision as these statistics were a tangible example of this disconnection between the needs of people and claimed protections in law.

The fact that thousands of people travelled for abortions or ended their pregnancies with illegal medication abortions proved that, to quote Caherty, 'regardless of the law' abortion seekers would work to 'solve the dilemma' of an unwanted pregnancy. Information restrictions were, for most, little to no impediment.[291] These displays of certainty and agency stood in contrast to the anti-abortion framing of abortion seekers as being often driven by crisis, prone to influence and misguided due mis/disinformation, or a lack of information. It was easier to cast anti-abortion interventions as caring when decontextualised statistics were the main, available information about abortion seekers.[292] When abortion seekers themselves contested such paternalistic framings, they were able to counter assumptions, address mis/disinformation, and dispel the naturalisation of harms. This included deliberate ignorance of abortion needs and the foundational claims invoking benevolent protection made to support anti-abortion information regulations.[293] Abortion seekers created, to

[290] *Barry* (n 91) 110.
[291] *Caherty* (n 163) 55; See also *Fletcher* (n 21) 149-150.
[292] For comments about education and statistics see *Riddick* (n 189); *Carlson* (n 14) 78.
[293] See Sally Sheldon on State ignorance around the realities of abortion in *Sheldon* (n 2).

borrow the phrasing of Athanasiou, an alternative 'archive' from which people could draw from to advocate for change.[294] Those with direct experience of abortion, and information criminalisation and stigmatisation, reclaimed the language of rights and justice to foreground their needs, wants and experiences, including in spaces where they had been excluded from previously.[295] This facilitated others who had not been impacted by the law to consider information restrictions in a critical manner in order to question if a reliance on the 'resilience' of abortion seekers was just.[296] The wider public, once exposed to these counternarratives, could question how patriarchy, politics, science, and culture drove information regulations and could reimagine different configurations of regulations that would service the actual needs and wants of abortion seekers. Such discussions reversed trajectories of shame away from those who chose abortion and towards the State which denied them information and assistance.[297] There was power in what Gibbons termed 'the voice from below' when contesting censorship.[298] It was those who supported restrictions that were required to defend these continued legal impositions. A notable example of this change was the parliamentary consultation process for the Protection of Life During Pregnancy Act 2013. Previously professional, religious, or political contributors were consulted as experts and afforded speaking space and influence.[299] Now, people who had

[294] Athena Athanasiou, 'Nonsovereign Agonism (or, Beyond Affirmation versus Vulnerability' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in Resistance* (Duke Press 2016) 256, 273.
[295] See Judith Butler on appropriation and reappropriation in *Butler* (n 4) 92.
[296] This was particularly important in cases relating to teenagers. See for example Ivana Bacik (Abortion Reform) on the *X* and *C* cases in *All-Party Oireachtas Committee on the Constitution* (n 180) A235, A240; See also discussions on resilience at pp. 150 and 193.
[297] Lisa M. Kelly, 'Reckoning with narratives on innocent suffering in transitional abortion litigation' in Rebecca J. Cook, Joanna N. Erdman, and Bernard M. Dickens (Eds.) *Abortion Law in Transnational Perspective : Cases and Controversies* (University of Pennsylvania Press 2014) 303, 324-325;
[298] Luke Gibbons, 'Censorship and the Arts' in Patrick Smyth and Ellen Hazelkorn (Eds.) *Let in the light : censorship, secrecy and democracy* (Brandon Books 1993) 122.
[299] See for example the witnesses at the *Fifth Progress Report: Abortion* in *All-Party Oireachtas Committee* (n 180); The *Green Paper* authors held a public consultation but it does not seem like personal experiences were present in

experienced diagnoses of fatal foetal anomalies also visited the Oireachtas to recount their experiences so that legislators could hear how the law harmed them and their proposals for agentic, respectful law reform.[300] This practice continued at the Citizen's Assembly and the Joint Oireachtas Committee on the Eighth Amendment of the Constitution with the stories and opinions of more abortion seekers forming a key part of the evidentiary basis.[301] Their claims were then backed-up by professionals like doctors who were particularly influential and had the social capital to advocate for change.[302] All of these hearings were broadcast to the public so they were also exposed to these counternarratives.[303] As Favier said of the Eighth Amendment, it had let 'the genie out of the bottle' as abortion seekers and their supporters now refused to remain silent about the harms caused by criminalisation, including censorship.[304] Personal testimonies were

any meaningful or central way in the final draft. The authors also relied on the *Women and Crisis Pregnancy* report for much of the social context content. See Cabinet Committee, *Green Paper on Abortion* (Department of the Taoiseach 1999); The panel of The *Expert Group* report into the *A,B and C v Ireland* case had no one appointed based on their experiences of navigating the system in a personal capacity. See Expert Group on the Judgement in A, B and C v Ireland, *Report of the Expert Group on the Judgement in A, B and C v Ireland* (Department of Health, November 2012) < https://www.ifpa.ie/sites/default/files/judgment_abc.pdf > accessed 17 February 2023; See also *Kennedy* (n 263) 118, 120.

[300] The group Termination for Medical Reasons spoke to members of the Oireachtas about their plans for legislating for the *X* case. This was not recorded verbatim and made public like with the witnesses at the *Fifth Progress Report* and in later consultations. See Kathy Sheridan and Carl O'Brien, 'System 'ignores and stigmatises' women who travel for abortion' *The Irish Times* (Dublin, 17 April 2012) 1.

[301] These interviews were played in the 4 March 2017 and can be accessed through the Citizens' Assembly official YouTube channel < https://www.youtube.com/@thecitizensassembly6084/videos > accessed 17 February 2023; Termination for Medical Reasons spoke to the Joint Oireachtas Committee on the Eighth Amendment of the Constitution on the 25 October 2017. See Joint Oireachtas Committee on the Eighth Amendment of the Constitution, *Report of the Joint Committee on the Eighth Amendment of the Constitution* (Houses of the Oireachtas, December 2017) 18; For a discussion on the impact of stories the Citizens' Assembly see Joan McCarthy, Katherine O'Donnell, Louise Campbell, Dolores Dooley, 'Ethical arguments for access to abortion services in the Republic of Ireland: recent developments in the public discourse' (2018) 44 Journal of Medical Ethics 513, 515.

[302] For discussions of the limitations of care due to the 1995 Act see Peter McPartland (National Maternity Hospital), 'Second Meeting of the Citizens' Assembly' (*YouTube,* 7 January 2017) < https://www.youtube.com/watch?v=GC1c3ETy8Jo > accessed 30 April 2023; Brendan O'Shea (Irish College of General Practitioners) on the Joint Committee on the Eighth Amendment of the Constitution debate, Thursday 12 October 2017.

[303] The Citizens' Assembly was a mostly open process and people could watch the sessions to hear the experts and the lived experiences of abortion seekers. See Luke Field, 'The abortion referendum of 2018 and a timeline of abortion politics in Ireland to date' (2018) 33(4) Irish Political Studies 608, 615.

[304] *Favier* (n 282).

powerful tools for countering anti-abortion and pro-censorship claims, boosting widespread public and legislative support for reforms.[305]

I highlighted the important role of the media in circulating facilitative and counterhegemonic information and helping audiences/readers identify information sources. The press was also an important space for those who had or who were denied abortions. Reports recounting the harms experienced by those with direct lived experience of abortion and information criminalisation were a key conduit through which people could challenge regressive and intrusive laws. Initially, the bias towards professional expertise was also present in media reporting.[306] This was perhaps due to stigma and the framing of abortion as a legal or religious issue. Scholars recounted that from the 1950s, the media began to question consensus claims on many topics – including censorship – as they covered pluralistic viewpoints.[307] In the context of abortion, *Abortion: The Lonely Crisis* and *50,000 Secret Journeys* were early examples of programming that centred experiences of people who travelled for abortions. As a result, they were far more nuanced in their framings of than previous polarised coverage.[308] Journalists like Sheridan were clear that their aim in creating spaces for

[305] Anne-Mari Mustonen, Tommi Paakkonen, Esko Ryökäs and Petteri Nieminen, 'Abortion debates in Finland and the Republic of Ireland: textual analysis of experiential thinking and argumentation in parliamentary and layperson discussions' (2017) 14(1) Reproductive Health 163.
[306] Organisations like the IWASG did sometimes find it difficult to access media spaces. See Irish Women's Abortion Support Group (n 8).
[307] Gene Kerrigan, 'The Moral civil war' *Magill* (Dublin, 31 August 1983); Tom Inglis, 'Foucault, Bourdieu and the Field of Irish Sexuality' (1997) 7(1) Irish Journal of Sociology 5; *Dully* (n 282); *Gibbons* (n 298); *Fuller* (n 30) 41, 45-46; *Keating* (n 54) 299.
[308] For examples of media coverage of the stories of abortion seekers see Women's Programme, 'The Abortion Trail Ireland to England and Back' *RTÉ Archives* (Dublin, 29 November 1985) < https://www.rte.ie/archives/2015/1127/749702-abortion-trail/ > accessed 17 February 2023; Catherine Cleary, 'Covering up about the London experience' *The Irish Times* (Dublin, 11 March 1995) 7; Ellen Coyne, 'Pregnant women feel abandoned by the law' *The Times* (London, 20 January 2016); Clare Cullen-Delsol (Termination for Medical Reasons), 'My options were to feel my unborn child die, or watch her die' *The Times* (London, 5 May 2018); For discussions of these programmes and reports see Sandra McAvoy, 'Vindicating women's rights in a foetocentric

such counternarratives was that they wanted to provide a 'forum' for those who had felt silenced in the hostile and stigmatising atmosphere around abortion.[309] Later, social media provided platforms for people to share their counternarratives, or those of others, to normalise abortion and to challenge restrictive laws.[310] The information disseminated through media infrastructures could, as with testimonies provided through consultations, challenge mis/disinformation, correct myths about abortion and abortion seekers, contesting the foundational claims of paternalistic censorship, create solidarity, and build and sustain political movements seeking reform and change.[311]

Another avenue through which people with lived experience could contest the protective claims of censorship was through published research. Before the founding of the CPA, this was conducted primarily by academics and non-directive crisis pregnancy services.[312] They aimed to fill a knowledge gap created by stigmatisation,

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state: the longest Irish journey' in Noreen Giffney and Margrit Shildrick (Eds.) *Theory on edge: Irish Studies and the politics of sexual difference* (Palgrave Macmillan 2013) 39, 44-45; Lorna Siggins, ''RTÉ told us our abortion film lacked balance'' *The Irish Times* (Dublin, 11 April 2016); Eric Olund, 'Repealing a 'legacy of shame': press coverage of emotional geographies of secrecy and shame in Ireland's abortion debate' in Kath Browne and Sydney Calkin (Eds.) *After Repeal: Rethinking Abortion Politics* (Bloomsbury Academic 2020) 174; *Dully* (n 282); *Ferriter* (n 22)) 227-228; *Holden* (n 34) 83, 248; *Loughlin* (n 176) 383, 385; *McAuliffe* (n 95) 3; *Riddick* (n 189) .

[309] Kathy Sheridan, 'Stories of Abortion' *The Irish Times* (Dublin, 24 March 2012) 39-40.

[310] See for example Everyday Stories, 'Draft mission statements' (*Twitter* 14 December 2018) < https://twitter.com/es_irl/status/1073590988671717376 > accessed 26 May 2023; For discussions see Sarah Bodelsson, 'Transforming space for reproductive rights: Unequally supported action and resistance in everyday space for reproductive rights and justice in Ireland' (MSc thesis Lund University 2018) 35-36, 38, 40-41; *Enright* (n 225) 64; *Fuller* (n 30).

[311] See the discussion in the section 'How and why did people reject…' from p. 44.

[312] For examples of research see *Walsh* (n 282); Eimer Philbin Bowman, 'Sexual and contraceptive attitudes and behaviour of single attenders at a Dublin family planning clinic' (1977) 9(4) Journal of Biosocial Science 429; *Irish Women's Right to Choose Group* (n 147); *Burke* (n 2); BPAS report described in Kathryn Holmquist, 'Report on abortion urges non-directive counselling in Ireland' *The Irish Times* (Dublin, 28 September 1990) 4; Open Line's report described in *Riddick* (n 189); Deborah Jane Quinney, 'Abortion and Irish women: a descriptive study (by in-depth interview) exploring the experiences of 53 women from the Republic of Ireland having abortions in England' (Master's in Public Health, University of Liverpool, 1991); *Francome* (n 24); The Women's Information Network and the Repeal the Eighth Amendment Campaign's 1992 discussion paper described in *McAvoy* (n 95); IFPA's client report described in *Holmquist* (n 23) and *Holden* (n 34) 215-216; *Caherty* (n 163); Catherine Conlon's 1994 M.A. thesis focused on 231 IFPA clients described in *Irish Family Planning Association* (n 204) 21-25 and Tony O'Brien, Sherie de Burgh, Karen Kiernan, *Assessing the impact of the 1995 abortion information legislation for women who seek pregnancy counselling in Ireland* (Irish Family Planning Association 30 October 1998).

criminalisation, a lack of State funding for research and fears that their statements could be recontextualised by the anti-abortion movement for regressive means.[313] Non-directive services could provide reassurance for potential participants due to the levels of trust in their services and the fact that they intended to disseminate these counternarratives to inform policy.[314] Riddick described such research as an 'intervention into the silence'.[315] These studies established that censorship did not prevent people from accessing abortions. Instead, people would persist until they found the needed information.[316] One notable non-academic publication was the IFPA's *The Irish Journey*. It was written by people who had accessed abortion, and it was specifically targeted at a general audience so that readers could relate to the stories.[317] At its launch, the IFPA also held a seminar where activists and legislators read the stories to 'challenge public perceptions' of abortion.[318] After the *A, B and C* case, human rights organisations published work recounting the harms created by abortion and information restrictions. The 1995 Act was criticised in these reports for vulnerabilising already vulnerable pregnant people - e.g., those with complex medical needs - and for being paternalistic and misogynistic.[319] Through these studies, those impacted by

[313] For examples of some State-funded reports before the CPA see *Dean et. al.* (n 282); Geoffrey Dean, *The characteristics of Irish women who terminated their pregnancy in England in 1983* (Medico-Social Research Board 1984); *Mahon, Conlon and Dillon* (n 28); For examples of comments about the lack of research available about abortion in Ireland see Democratic Left, *Lifting the Veil: Crisis Pregnancies and the Need for Research* (Democratic Left 1995); Margaret Fine-Davis, *Psychological Effects of Abortion on Women: A Review of the Literature* (Crisis Pregnancy Agency, December 2007) Report no 20, 3; *Conlon* (n 40) 14.
[314] For examples of comments about how abortion seekers wanted to attend three-option services see *All-Party Oireachtas Committee* (n 180) A96; *Conlon* (n 40); *Holden* (n 34) 216; *Riddick* (n 147) 11.
[315] *Riddick* (n 189) 4.
[316] *Mahon, Conlon and Dillon* (n 28) 520.
[317] Irish Family Planning Association, *The Irish Journey: Women's Stories of Abortion* (IFPA 2000); Catherine Forde (IFPA), 'Abortion and the referendum in Ireland' (15 January 2019) < https://www.ippf.org/abortion-and-referendum-ireland-6 > accessed 20 June 2023.
[318] Irish Family Planning Association, 'Irish Women Speak Out About Their Abortions. – Unique Seminar to be held in Dublin' (22 October 2000) < https://www.ifpa.ie/irish-women-speak-out-about-their-abortions-unique-seminar-to-be-held-in-dublin/ > accessed 17 February 2023.
[319] Ruth Fletcher, Richie Keane, Mark Murphy, Veronica O'Keane, *Doctors for Choice Ireland: Submission to the United Nations Human Rights Committee for Ireland's review under the International Covenant on Civil and Political*

restrictive laws could call the State to account for claiming to have provided them with protection and necessary services.[320] They could reclaim their voices as political actors by calling for law reform in a way that assured that their privacy was protected.[321] Having these channels to contest anti-abortion claims was important for censorship resistance, as research found that the public had the highest level of trust in those who had direct experience of abortion.[322] As those people criticised information controls, the persuasiveness of protective narratives waned, with some anti-abortion advocates even accepting that people regarded them as being intrusive and belittling.[323] To quote Gerry Edwards of Terminations for Medical Reasons, the 1995 Act was 'unnecessary and pretty malicious piece of legislation which seems to be designed for no other reason than to punish people who the state feels have made the wrong decision'.[324]

Influencing law-making

> I sat on the Joint Committee on the Eighth Amendment of the Constitution and have spoken of my personal beliefs growing up and where I got them. People often learn certain principles from their parents and my parents were pro-life and opposed to abortion in all circumstances. Growing up, as I have said previously, I shared those views. As a 46 year old man looking back at the 20 year old person I was, I know now from the information I have gathered as a legislator, from meeting advocacy and support groups and medical professionals, from sitting on the Joint Committee on the Eighth Amendment of the Constitution and from the debates in the House on the protection of life during pregnancy legislation that the beliefs I held strongly then, having been taught them through my parents, were ill informed. I did not have

Rights (12 June 2014) 24; Amnesty International, *She is Not a Criminal* (Amnesty International 2015) 71; *Human Rights Watch* (n 2); *Irish Family Planning Association* (n 1) 17, 26.
[320] See Therese Caherty on how these studies aimed to give abortion seekers a voice in *Caherty* (n 163) 7-8.
[321] For examples of calling for law reform see *Caherty* (n 163) 79-80; *Francome* (n 24) 2-16.
[322] Sadie Bergen, '"The kind of doctor who doesn't believe doctor knows best": Doctors for Choice and the medical voice in Irish abortion politics, 2002–2018' (2022) 297 Social Science and Medicine 114817, 5; Gretchen E. Ely, Travis W. Hales, and D. Lynn Jackson, 'A cross-cultural exploration of abortion fund patients in the USA and the Republic of Ireland, Northern Ireland and the Isle of Man' (2018) 20(5) Culture, Health & Sexuality 560.
[323] For examples see Joe Humphreys, 'Abortion conference told images of adoption need to be changed' *The Irish Times* (Dublin, 22 September 1998) 5; *All-Party Oireachtas Committee* (n 180) 105-106.
[324] *Coyne* (n 308).

> all of the information and my views and beliefs were not based on fact. Many people have said to me that I have been on a bit of a journey. I remember what I said in reply to a woman I met in the course of the campaign when she said that. I met her at her door and she was one of those women who had once had to travel to England to secure a termination. She had followed the proceedings of the Oireachtas committee very closely and had known my personal position going back a number of years and how my views had changed. She said to me, "You have been on a journey and I thank you for that." In reply, I told her that the journey I had been on was as nothing compared with the journeys undertaken by hundreds of thousands of women who were forced to travel by the eighth amendment. I did not state that flippantly and I meant it genuinely. If the journey I have been on ensures that no other woman has to take that journey, I have no regrets in supporting the legislation.
>
> Deputy Jonathan O'Brien[325]

O'Brien's quote encapsulated the power that counterhegemonic information had in challenging dominant anti-abortion narratives. It became evident through the sources that I have discussed above that many abortion seekers did not want counselling before choosing abortion.[326] For those who did want assistance, they wanted non-directive

[325] Deputy Jonathan O'Brien (Sinn Féin) Dáil Éireann debate, Wednesday 17 October 2018, vol 973, no 6.
[326] For comments about people either not seeking out counselling, travelling directly for abortions and feeling confident in decision-making or wanting to access non-directive abortion and information services in Ireland see Dermot Kelly and Michael O'Regan, 'Minister says few referred for abortions by professionals' *The Irish Times* (Dublin, 2 March 1995) 9; The Minister for Health Michael Noonan (Fine Gael) Dáil Éireann debate, 9 March 1995, vol 450, no 4 and Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8; Senator Mary Henry (Independent, and Cherish) Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Saoirse Nic Gabhainn and Vivienne Batt, *Crisis Pregnancy Counselling in Ireland*, prepared by Maureen Gilbert (Crisis Pregnancy Agency, July 2004) Report no 4, 5, 14-15, 18, 25; Crisis Pregnancy Agency, *Summary Report of the Consultation for the Strategy to Address the Issue of Crisis Pregnancy* (July 2004) sections 4.1 and 4.4, 18-19, 30; Kay Rundle, Collette Leigh, Hannah McGee, and Richard Layte, *Irish contraception and crisis pregnancy [ICCP] study: a survey of the general population summary* (Crisis Pregnancy Agency September 2004) Report no 7 summary, 25; Hilda Loughran and Valerie Richardson, *Mixed method adoption research*, (June 2005) Research report no 13, 66; Ailís ní Riain, Rita Galimberti, Sinead Burke, Claire Collins, Mary Dillon, *Women's Health Services in General Practice: 2004* (ICGP and the Crisis Pregnancy Agency 2006) 59; Alison Healy, ''Too few' pregnant women in crisis seek help' *The Irish Times* (Dublin, 12 July 2007) 9; Crisis Pregnancy Agency, *Strategy 2007 - 2011: Leading an integrated approach to reducing crisis pregnancy* (Crisis Pregnancy Agency 2007) 28-29; Crisis Pregnancy Agency, *Annual Report 2006* (Crisis Pregnancy Agency 2007) 5; Well Woman, 'Submission by the Dublin Well Woman Centre to the Citizen's Assembly, December 2016' (December 2016) 3 < http://wellwomancentre.ie/wp-content/uploads/2016/12/Submission-to-Citizens-Assembly-Dec-2016.pdf > accessed 25 May 2023; Niall Behan (IFPA) Joint Committee on the Eighth Amendment of the Constitution debate, Wednesday 15 November 2017; Clíona Murphy (Institute of Obstetricians and Gynaecologists and the Royal College of Physicians of Ireland) Joint Committee on Health debate, Wednesday 19 September 2018; Deirdre Niamh Duffy, Claire Pierson, Caroline Myerscough, Diane Urquhart, Lindsay Earner-Byrne, 'Abortion, emotions, and health provision: Explaining health care professionals' willingness to provide abortion care using affect theory' (2018) 71 Women's Studies International Forum 12, 16; *All-Party Oireachtas Committee on the Constitution* (n 180) A255; *Burke* (n 2); *Cleary* (n 308);

information providers who were free to respond to their specific information requests, such as assistance with appointment-making, telephone consolations and abortion in Ireland itself. Abortion seekers also avoided counselling for fear of encountering directive services.[327] Recognition of this, and the fact that restrictions vulnerabilised abortion seekers, led people like O'Brien to reassess their anti-abortion position and the role that they believed the law should play in regulating abortion.[328] He, along with the majority of the Joint Oireachtas Committee on the Eighth Amendment, recommended that Article 40.3.3° be replaced with a confirmation that the Oireachtas could legislate for abortion.[329] To borrow from Butler, what was needed from law to create the conditions for a 'liveable life'.[330] When the electorate voted in 2018 to remove the Eighth, Thirteenth and Fourteenth Amendments, 43% of respondents polled by RTÉ stated that the stories of abortion seekers in the media influenced their vote.[331] 34% said the stories of people they knew were influential. This effect was not confined to the 2018 Act, however. Upon examination, the previous anti-abortion information regulation

Clements and Ingham (n 40) 13; *Conlon* (n 40) 9-10, 37-38, 52, 55, 70, 76, 78-79; *Fletcher et. al.* (n 319) 24; *Francome* (n 24) 14; *Holmquist* (n 23); *Irish Family Planning Association* (n 1) 17; *Mahon, Conlon and Dillon* (n 28) 18, 197-199, 209, 230-231, 520; *McBride et. al.* (n 1) 108; *Riddick* (n 189) 9; *Walsh* (n 2).

[327] Meg Ryan, Ann Nolan, Frédérique Vallières, 'Lifting the cloak of secrecy: Experiences of providing crisis pregnancy counselling in a changing legislative context in Ireland' (2022) 22 Counselling and Psychotherapy Research 22, 26-27; Mazars, *Review of Funding and Service Delivery Models of Crisis Pregnancy Counselling Services* (HSE Sexual Health and Crisis Pregnancy Programme 2017); Caitriona Henchion (IFPA) Joint Committee on the Eighth Amendment of the Constitution debate, Wednesday 15 November 2017; *Conlon* (n 40) 10, 40, 44, 58, 66, 99; *Mahon, Conlon and Dillon* (n 28) 197-199; *Mishtal et. al.* (n 288) 7; *Nic Gabhainn and Batt* ibid 24.

[328] For other examples of people changing their minds about law and abortion see Senator Paschal Mooney (Fianna Fáil) who withdrew his mandatory ultrasound amendment to the Protection of Life During Pregnancy Act 2013 after being contacted by women who said this would be upsetting and burdensome in Seanad Éireann debate, Thursday 18 July 2013, vol 225, no 4; See also Isobel Hamilton, 'The hashtag campaign saying 'Hear Me Out' about Ireland's abortion laws' *Mashable* (New York, 21 May 2018) < https://mashable.com/article/hearmeout-campaign-irish-referendum > accessed 29 May 2023.

[329] *Joint Oireachtas Committee on the Eighth Amendment of the Constitution* (n 301) 4, 9-11.

[330] Quote from *Butler* (n 250) 12, 18-19; See also *Butler, Gambetti and Sabsay* (n 237) 7.

[331] Government of Ireland, 'Referendum results 1937-2019' [Department of Housing, Planning and Local Government 2019] 96-98; David McCullagh, 'Exit poll indicates large majority vote to change abortion laws' *RTÉ* (Dublin, 30 May 2018) < https://www.rte.ie/news/politics/2018/0526/966120-eighth-amendment-referendum/ > accessed 12 March 2023; Ian McShane, 'Thirty-Sixth Amendment to the Constitution, Exit Poll: 25th May, 2018' < https://www.rte.ie/documents/news/2018/05/rte-exit-poll-final-11pm.pdf > accessed 7 February 2023.

framework – as regressive as it was - could have been more restrictive and condemnatory. Legislators did acknowledge that a form of 'complete' or 'total' censorship would be unjustifiably oppressive, and degrees of information access were facilitated in law.[332]

Legislators were always aware of the perils of claiming legitimacy for laws without accounting for the differences in access needs within Irish society.[333] In the context of censorship, the 'court of public opinion', as Fitzgerald-Kenney described it, needed to approve of legislation.[334] Governments adopted a conciliatory approach in many aspects of law-making. Returning to the 1929 Act, even though it had a high level of approval among legislators and lobby groups, the government received enough pushback to ensure that some channels for information access remained open.[335] Initially, this was to ensure the support of professionals like doctors and those in the retail or publication trades. Hence, the 1929 Act specified that any work intended for the education or use of the medical or legal fields were excluded from the definition of prohibitable periodical or book.[336] This excluded - at least on paper - these publications

[332] Quotes from *Butler* (n 4) 132.
[333] I discussed arguments relating to consensus in Chapter Three.
[334] Quote taken from the Minister for Justice James FitzGerald-Kenney (Cumann na nGaedheal, later Fine Gael) Dáil Éireann debate, Wednesday 20 March 1929, vol 28, no 12.
[335] *Martin* (n 53) 138.
[336] Censorship of Publications Act 1929, s 2. The medical exemption was introduced via the Minister for Justice James Fitzgerald-Kenney (Cumann na nGaedheal, later Fine Gael) after representations made by Deputy James Craig (Independent) representing the College of Physicians. See Dáil Éireann debate, Thursday 18 October 1928, vol 26, no 5; Dáil Éireann debate, Wednesday 27 February 1929, vol 28, no 4; Dáil Éireann debate, Thursday 28 February 1929, vol 28, no 5; Seanad Éireann debate, Thursday 25 April 1929, vol 12, no 5; The legal exemption was later added through Amendment 1 introduced by Senator Samuel Lombard Brown (Independent) and it was accepted by the Minister for Justice. See Seanad Éireann debate, Thursday 25 April 1929, vol 12, no 5; For additional examples of support for professionals having access to publications see *'Censorship debated at public meeting: theory and practice'* (n 145); *Kelly* (n 142) 191.

from the reach of the 1929 Act.[337] If any publications were prohibited, or concerned abortion or contraception, the Minister for Justice could issue a permit for its creation, importation, sale or distribution.[338] The government did not want, Fitzgerald-Kenney stated, to cause 'intellectual harm' to Ireland by prohibiting 'high-class' publications.[339] In addition, concerns that unduly restrictive censorship would expose those handling these publications to criminalisation resulted in the government creating defences under the 1929 Act. These were having 'exercised reasonable care' if handling potentially unlawful publications under section 16 and exemptions for publications that contained commercial advertisements for prohibited publications that did not in themselves advocate abortion or contraception.[340] While it was still open for the Minister for Justice or the Board to prohibit these latter works, it provided some security for those who could be prosecuted under the imprecise and flexible terms in the 1929 Act.[341] This rebalanced some of the legal risk that obtaining or disseminating these publications brought under the 1929 Act.

The 1946 Act did not maintain the definitional distinction for publications intended for the medical and legal professions but left the permit facility and the 'exercised reasonable care' defence in place.[342] It also created the Appeal Board and the government refused

[337] The Minister for Justice James Fitzgerald-Kenney created this exemption but he did not believe it would be necessary as, in his view, these publications could not be considered indecent or obscene. See Dáil Éireann debate, Thursday 11 July 1929, vol 31, no 5; Dáil Éireann debate, Thursday 18 October 1928, vol 26, no 5; Dáil Éireann debate, Wednesday 24 October 1928, vol 26, no 7.
[338] See discussion of permits p. 98-102 and 254-526.
[339] The Minister for Justice James Fitzgerald-Kenney (Cumann na nGaedheal and later Fine Gael) Dáil Éireann debate, Thursday 11 July 1929, vol 31, no 5.
[340] Censorship of Publications Act, ss 16(3) and 16(4).
[341] Censorship of Publications Act, ss 6 and 7; See the comments of the Minister for Justice James FitzGerald-Kenney (Cumann na nGaedheal, then Fine Gael) Dáil Éireann debate, Thursday 11 July 1929, vol 31, no 5.
[342] Censorship of Publications Act 1946, ss 1 and 23.

to exclude publications prohibited before 1946 from their remit, despite requests to do so.[343] Criticisms from legislators ensured that the 1946 Act accommodated incoming travellers by refusing customs the power to seize books for referral to the Board, if those books were found in 'personal luggage' and were not intended for sale.[344] Providing further flexibility, the 1946 Act created a defence of personal use for any charges brought under the Customs Consolidation Act 1876.[345] These were intended to be both protective of those persons who were not considered to be a threat but also to Ireland's international reputation.[346] There was agreement among legislators that tourists and returning professionals should not be bothered by customs. This government, like that in 1928/1929, recognised that people may be harmed or distressed by censorship enforcement, and this could undermine censorship's legitimacy and alienate readers with social capital. The result was that there were limited but present spaces through which counterhegemonic information could be disseminated and accessed.[347]

The 1995 Act was an example of how calls to address vulnerabilities can result in regressive, interventionalist law making, but it can also lead to more progressive, liberal

[343] Censorship of Publications Act 1946, ss 3, 8, 10, 12. For criticisms of the lack of a formal appeals process under the 1929 Act see Deputy Ernest Alton (Independent) Dáil Éireann debate, Thursday 18 October 1928, vol 26, no 5; Senator John Keane (Independent) introduced his own Bill to create a board of appeal. It was supported by Senators Donal O'Sullivan (Independent) and Sam Kyle (Labour Party). See Senator John Keane (Independent) Seanad Éireann debate, Tuesday 20 June 1944, vol 28, no 19; They withdrew the Bill after the Minister for Justice Gerald Boland (Fianna Fáil, formerly Republican) gave an undertaking that the government would create a board with its own legislation. See Censorship of Publications (Amendment) Bill 1944 < https://www.oireachtas.ie/en/bills/bill/1944/12/ > accessed 18 February 2023; *Adams* (n 14) 110.

[344] Censorship of Publications Act 1946, s 5(3). It was introduced through the Minister for Justice Gerald Boland's (Fianna Fáil, formerly Republican) Amendment no 3. See Seanad Éireann debate, Wednesday 12 December 1945, vol 30, no 13.

[345] Censorship of Publications Act 1946, s 18(2). The defence was specifically for charges brought under s 186 of the Customs Consolidation Act 1876.

[346] See contributions in Dáil Éireann debate, Wednesday 7 November 1945, vol 98, no 7, Seanad Éireann debate, Wednesday 14 November 1945, vol 30, no 10 and Dáil Éireann debate, Wednesday 24 October 1945, vol 98, no 5.

[347] For examples of seized personal publications generally see Correspondence in Folder no 90-102-238, National Archives of Ireland and Folder no 90-102-125; Paul Blanchard noted that from the mid-1950s seizures by customs did decrease in *The Irish and Catholic Power* (The Beacon Press 1953) 77.

changes.[348] Legislators were better informed of the harms caused by censorship and the government were criticised for their intentions to continue restricting information access and assistance.[349] After 66 years of censorship, information suppression had become an even less acceptable form of governance, with some legislators considering it a regressive, harmful embarrassment necessitating law reform.[350] The government accepted that change was required and the Minister for Health, Michael Noonan described their intentions for the 1995 Act as being 'just and fair', 'practicable' and focused on regulating information, not abortion.[351] The government rejected the paternalistic argument that people had not understood the Fourteenth Amendment, hence Noonan did not accept some of the most invasive anti-abortion suggestions made during the 1995 Act scrutiny process.[352] These were a refusal to maintain the unlawfulness of sharing information about how and where to access an abortion abroad,[353] to extend conscientious objection to ancillary service providers or incidental information sharers, e.g., printers, secretaries, to allow for refusals to share medical

[348] See discussion from p. 48-57.
[349] For examples of legislators referencing research on abortion experiences in debates see Dáil Éireann debate, Thursday 22 October 1992, vol 424, no 2; Dáil Éireann debate, Wednesday 1 March 1995, vol 449, no 8; Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4.
[350] See for example the embarrassment of government members in 1992 when *The Guardian* was destroyed due to its inclusion of a Marie Stopes advertisement and its distributor's – Easons – fear of being held criminally liable for its circulation. See debates in Seanad Éireann debate, Thursday 28 May 1992, vol 132, no 16; Dáil Éireann debate, Tuesday 20 October 1992, vol 423, no 8; Dáil Éireann debate, Thursday 22 October 1992, vol 424, no 2; Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4; *Holden* (n 34) 168.
[351] The Minister for Health Michael Noonan (Fine Gael) Seanad Éireann debate, 14 March 1995, vol 142, no 8.
[352] See the comments of the Minister for Health Michael Noonan (Fine Gael) Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8; See also the comments of Minister of State at the Department of Enterprise and Employment Eithne Fitzgerald (Labour Party) Dáil Éireann debate, Tuesday 7 March 1995, vol 450, no 2; Deputy Charlie McCreevy (Fianna Fáil) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3.
[353] See the comments of the Minister for Health Michael Noonan (Fine Gael) Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8; See also the comments of Minister of State at the Department of Enterprise and Employment Eithne Fitzgerald (Labour Party) Dáil Éireann debate, Tuesday 7 March 1995, vol 450, no 2; Deputy Charlie McCreevy (Fianna Fáil) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3.

records,[354] to extend criminalisation to those assisting abortion seekers in a personal capacity or to assistance after an abortion seeker made an abortion appointment ,[355] to limit counselling funding to anti-abortion organisations only,[356] and to prohibit the sharing of information about abortions services in public forums.[357] The government's acknowledgement that restrictions could vulnerabilise abortion seekers was decisive to their refusal to accept these more invasive suggestions. It was also a way of recognising a form of agency. People could choose the media that they wanted to consume and could, even after some State inference, make their own decisions around their pregnancies. The 1995 Act was the government's attempt to balance its abortion reduction aims while not creating additional harms or frustrating the legitimacy of information regulations through overly restrictive or uncaring legislation.[358] The government were also concerned a more regressive approach may dissuade already reluctant abortion seekers from engaging with Irish medical and counselling services.[359] This would put abortion seekers at risk, they believed, from medical complications, deny them their constitutionally protected freedoms, and hamper the claimed effectiveness of

[354] Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995, s 13; See the comments of the Minister for bvHealth Michael Noonan (Fine Gael) and conservative anti-abortion legislators in Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4; Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8; *Kelly and O'Regan* (n 326).

[355] The Minister for Health, Michael Noonan (Fine Gael) Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4, Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Seanad Éireann debate, 14 March 1995, vol 142, no 8; *In the matter of Article 26* (n 45) 5 S.C.

[356] For example, the IFPA received no funding from the government for their counselling service between October 1992 and January 1995. They began to receive tens of thousands of pounds in funding thereafter. See Maol Muire Tynan, 'Planned Bill will Allow for Abortion Details' *The Irish Times* (Dublin, 3 May 1993) 1; *O'Brien et. al.* (n 312) [2]; *Irish Family Planning Association* (n 260).

[357] The Minister for Health Michael Noonan (Fine Gael) Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4; Seanad Éireann debate, 14 March 1995, vol 142, no 8.

[358] For an example of someone warning that overly restrictive information regulations would erode respect for the Constitution and the law, especially among young people see Nick Armstrong, 'Abortion ruling' *The Irish Times* (Dublin, 9 April 1992) 11.

[359] See the Minister for Health Michael Noonan (Fine Gael) in *Kelly and O'Regan* (n 326); Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4; Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8.

information provision about the continuation of pregnancy. Hence, information about abortion services could be shared in public and consultations, and the objectors were not exempted from requirements in professional guidelines to refer abortion seekers to other information providers.[360] The paternalism of the 1995 Act was tempered by the government accepting the limitations of censorship and the potential for harm, albeit in an environment that was still orientated towards anti-abortion goals.

Concerns that the most conservative strategies for abortion reduction would lead to additional harms for abortion seekers were also influential in the formation and work of the Crisis Pregnancy Agency (CPA). Despite the CPA having an anti-abortion statutory mandate, their approach to the funding and promotion of crisis pregnancy services often ran counter to the wishes of anti-abortion proponents.[361] Chief among these criticisms was that the CPA should not be funding or promoting three-option, non-directive counselling services and that ethos disclosure requirements targeted anti-abortion organisations.[362] These supported services included the previously enjoined Well

[360] For comments about professional guidelines see Trish Hegarty, 'GPs to get information pack on crisis pregnancies' *The Irish Times* (Dublin, 15 May 1995) 7; Ailís ní Riain, Miriam Daly, Sonya Ryan, Mark Murphy, *Crisis Pregnancy: A Management Guide for General Practice* (Irish College of General Practitioners, 2013) 3, 12; Brendan O'Shea (ICGP) Joint Committee on the Eighth Amendment of the Constitution debate, Thursday 12 October 2017; *Boland et. al.* (n 24) 15, 42.

[361] For examples of criticisms see Moore D.J., 'Cura and abortion advice referrals' *Irish Times* (Dublin, 12 May 2005) < https://www.irishtimes.com/opinion/letters/cura-and-abortion-advice-referrals-1.441103 >; Mary Stewart, 'Crisis Pregnancy Agency' *The Irish Times* (Dublin, 24 May 2005) 17; Breda O'Brien, 'Cura contravenes its mandate on abortion' *The Irish Times* (Dublin, 11 June 2005) 14; Breda O'Brien, 'There must be better way than by taking life' *The Irish Times* (Dublin, 14 June 2007); Senator John Hanafin (Fianna Fáil) Seanad Éireann debate, Thursday 11 October 2007, vol 187, no 7; Senator Rónán Mullen (Independent) Seanad Éireann debate, Wednesday 19 March 2008, vol 188, no 25; Joint Committee on Health and Children Debate, Tuesday 1 December 2009; Joint Committee on the Eighth Amendment of the Constitution debate, Wednesday 15 November 2017; Joint Committee on the Eighth Amendment of the Constitution debate, Thursday 30 November 2017; *Cabinet Committee* (n 299) para. 5.65, p. 43.

[362] See the 'Code of Ethics for the Crisis Pregnancy Agency' in *Annual Report 2006* (n 326) Appendix 3, 43; *Strategy 2007 – 2011* (n 326) 28; See also Kitty Holland, 'Cura's annual grant contested by CPA' *The Irish Times* (Dublin, 11 May 2005) 7; Janice Donlon (HSE Sexual Health and Crisis Pregnancy Agency) Joint Committee on the Eighth Amendment of the Constitution debate, Wednesday 15 November 2017; *Conlon* (n 40) 12.

Woman and the IFPA, who were often criticised by anti-abortion proponents.[363] While CPA's strategies were intended to encourage abortion seekers to attend counselling in the hopes that they may decide to continue their pregnancies, they were also formed based on research that centred and incorporated the views of abortion seekers.[364] The 1995 Act limited the types of services that the CPA could offer,[365] but the strong support among abortion seekers for three-option, non-directive counselling meant that the CPA did not adopt directive anti-abortion counselling as their method for achieving its statutory aims.[366] Where there were geographical gaps in coverage, the CPA worked with Health Boards to establish additional non-directive, three-option services to meet demand.[367] The CPA even advocated for the creation of a regulatory body for counselling services due to concerns about the negative impact that rogue agencies were having on information seekers.[368] The result was that more people had access to

[363] The list of three-option organisations who were part of *Positive Options* by the end of 2017 were Bray Women's Health Centre, Dublin Well Woman, Here2Help Dublin (formerly PACT), Kerry CPCS, Midlands CPCS, Sexual Health Centre, Youth Health Centre, Ballinasloe CPCS, Femplus Clinic, IFPA, Mayo CPCS, One Family, West Cork CPCS. The CPCS services were Health Board provided services supported under *Positive Options* < https://web.archive.org/web/20171217021036/http://www.positiveoptions.ie/ > accessed 19 January 2023.

[364] See for example Kitty Holland, 'Instructions to Cura to stop abortion advice referrals 'would be a problem' *The Irish Times* (Dublin, 10 May 2005) 7; *Conlon* (n 40); *Summary Report of the Consultation for the Strategy to Address the Issue of Crisis Pregnancy* (n 326) section 1.3.2, 5.

[365] An example is information phone lines due to fears that they would be illegal under the 1995 Act if counsellors provided information about how and where abortions could be access abroad. See Suzanne Breen, 'Crisis pregnancy website available' *The Irish Times* (Dublin, 5 September 2003) 10; Irish Family Planning Association, *Sexual Health and Asylum: Handbook for People Working with' Women Seeking Asylum in Ireland* (IFPA 2010) 22; *Conlon* (n 40) 20; *Ely et. al.* (n 322) 561; *Human Rights Watch* (n 2) 22; *Mahon, Conlon and Dillon* (n 28) 216; *Nic Gabhainn and Batt* (n 326) 6, 8, 17; *Summary Report of the Consultation for the Strategy to Address the Issue of Crisis Pregnancy* (n 326) 17-19; This interpretation may not have been accurate but still stymied service development. See *Mazars* (n 327) 4, 7, 32.

[366] According to Janice Donlon, the CPA did consider the promotion of the continuation of pregnancy without discussing abortion if that is what the client wanted as directive counselling. See Joint Committee on the Eighth Amendment of the Constitution debate, Wednesday 15 November 2017.

[367] Crisis Pregnancy Agency, *Strategy summary: to address the issue of crisis pregnancy* (Crisis Pregnancy Agency November 2003) 30-31; Crisis Pregnancy Agency, *Annual Report 2005* (Crisis Pregnancy Agency 2006) 2; The Minister for Health James Reilly (Fine Gael) Dáil Éireann debate, Tuesday 12 June 2012, vol 768, no 1; Janice Donlon (HSE Sexual Health and Crisis Pregnancy Programme project manager) Joint Committee on the Eighth Amendment of the Constitution debate, Wednesday 15 November 2017; *Conlon* (n 40) 20.

[368] Carl O'Brien and Eithne Donnellan, 'Counselling services bullying clients' *The Irish Times* (Dublin, 15 July 2006) 3; Eithne Donnellan, 'Crisis pregnancy organisation wants agencies to be policed' *The Irish Times* (Dublin, 28 July 2006) 6.

accredited and qualified non-directive counsellors and could avoid anti-abortion services.[369] The CPA's decisions also helped to legitimise non-directive counselling and to establish this approach as the best practice model for State supported crisis pregnancy counselling provision. After the passing of the 2018 Act, three-option, non-directive counselling is the sole service model supported by the CPA and rogue agencies will soon be prohibited by law from claiming to be counsellors or psychotherapists.[370]

The Protection of Life During Pregnancy Act 2013 (the 2013 Act) was created in an environment where, due to the death of Savita Halappanavar, the dangers of abortion criminalisation were at the forefront of debates.[371] This focus contributed to the government rejecting the anti-abortion information-based interventions advocated for by conservative legislators. These suggestions built upon express and implied restrictions in the 1995 Act, including that there should be a mandatory 'cooling-off' period, directive counselling sessions or a mandatory ultrasound for those requesting abortion on the ground of a risk to life due to suicide.[372] The intention here being to convince pregnant people to remain pregnant. The 2013 Act was concerned solely with a risk of death due to a pregnancy, and these barriers to access were unacceptable to the government.

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[369] Three option agencies had qualified, professional counselling staff whereas anti-abortion organisations relied upon volunteer counsellors. See *Nic Gabhainn and Batt* (n 326) 7-8, 11-12; *Taylor* (n 225) 226-228.
[370] See the comments of the Minister for Health Simon Harris (Fine Gael) about how the new MyOptions helpline would be non-directive in approach in Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3; HSE, '1. My Options freephone line' < https://www2.hse.ie/services/unplanned-pregnancy-support-services/my-options-freephone-line.html > accessed 9 February 2023 ; HSE, '5. Find a face-to-face service' < https://www2.hse.ie/services/unplanned-pregnancy-support-services/find-a-face-to-face-unplanned-pregnancy-counselling-service.html > accessed 9 February 2023.
[371] For examples in the Oireachtas see Dáil Éireann debate, Thursday 20 June 2013, vol 807, no 4; Dáil Éireann debate, Wednesday 26 June 2013, vol 808, no 2; Dáil Éireann debate, Thursday 27 June 2013, vol 808, no 3; Dáil Éireann debate, Monday 1 July 2013, vol 805, no 1; Dáil Éireann debate, Wednesday 10 July 2013, vol 810, no 2.
[372] See contributions in Select Sub-Committee on Health debate, Tuesday 2 July 2013; Select Sub-Committee on Health debate, Wednesday 3 July 2013; Seanad Éireann debate, Thursday 18 July 2013, vol 225, no 4.

Hence, they rejected them.[373] Even conscientious objectors were required to provide referrals.[374] This recognition of how criminalisation can vulnerabilise pregnant people resulted in the 2013 Act somewhat departing from the framing of counselling and information provision as being legitimate and effective alternatives to abortion access; even if limited to life or death situations. The government emphasised that doctors needed to be able to act as required to protect pregnant people and their rights' to life without codified care requirements.[375] They were not open to accepting amendments that were not compatible with their intentions for facilitating care under *X*.[376] As a result, the 2013 Act did not create any additional anti-abortion information based barriers or requirements in law.

It was the 2018 Act that demonstrated just how impactful having a legislative recognition of the connection between restrictive laws and harms can be. The Thirty-Sixth Amendment itself was passed due to a majority of the electorate wanting reform due to the negative impacts of the Eighth Amendment for pregnant people. A major limiting factor for the transformative structure of the 2018 Act was the government's insistence on adhering to the General Scheme.[377] The importance afforded to the General Scheme

[373] The Minister for Health James Reilly (Fine Gael) Joint Oireachtas Committee on Health and Children, Monday, 20 May 2013; Sub-Committee on Health debate, Tuesday 2 July 2013; Select Sub-Committee on Health debate, Wednesday 3 July 2013; Dáil Éireann debate, Wednesday 10 July 2013, vol 810, no 2; Seanad Éireann debate, Thursday 18 July 2013, vol 225, no 4.
[374] Department of Health, *Implementation of the Protection of Life During Pregnancy Act 2013: Guidance Document for Health Professionals*, (Department of Health 2014) 7; See also the debate in Seanad Éireann debate, Monday 15 July 2013, vol 225, no 1.
[375] The Minister for Health James Reilly (Fine Gael) Dáil Éireann debate, Wednesday 10 July 2013, vol 810, no 2; Dáil Éireann debate, Thursday 11 July 2013, vol 810, no 3.
[376] The Minister of State at the Department of Health Alex White (Labour Party) Seanad Éireann debate, Monday 22 July 2013, vol 225, no 6.
[377] Department of Health, 'General Scheme of a Bill to Regulate Termination of Pregnancy' (27 March 2018) < https://www.gov.ie/en/publication/f501db-general-scheme-of-a-bill-to-regulate-termination-of-pregnancy/ > accessed 20 June 2023.

by the government was that they claimed the electorate approved it as they had published it before the referendum. The government did not want to slow down the legislative process to depart from the Scheme in case resultant delays endangered abortion seekers.[378] Conversely this insistence meant that they also rejected intrusive anti-abortion suggestions. Proposed anti-abortion amendments that the Minister for Health, Simon Harris, refused to accept included extending lawful conscientious objections to referrals, requiring mandatory information provision and scanning, and denying under 18s the ability to consent to an abortion without parental notification or court exemptions.[379] In further support of his decision to reject these suggestions, Harris argued that the 2018 Act was to be a break with the past restrictive iterations of legal regulations. Hence, the 1995 Act and the- advocation of abortion sections of the 1929 Act and 1946 Acts were repealed and the government did not replace the mandatory information provision and these iterations of criminalisation in the 2018 Act.[380] Harris expressly cited wanting to depart from paternalism and those anti-abortion amendments were firmly embedded in those anti-abortion ideologies.[381] Accepting them would have continued the framing of abortion seekers as being irrational, underinformed, and

[378] The Minister for Health Simon Harris (Fine Gael) Dáil Éireann debate, Thursday 4 October 2018, vol 973, no 1; Seanad Éireann debate, Thursday 6 December 2018, vol 262, no 1; Dáil Éireann debate, Wednesday 28 November 2018, vol 975, no 6; Senator James Reilly (Fine Gael) Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3; See also Máiréad Enright, '"The Enemy of the Good": Reflections on Ireland's New Abortion Legislation.' (2018) 8(2) *feminists@law* 1.
[379] See discussion on p. 239-240.
[380] Health (Regulation of Termination of Pregnancy) Act 2018, s 5.
[381] See the Minister for Health Simon Harris (Fine Gael) Dáil Éireann debate, Thursday 4 October 2018, vol 973, no 1; Dáil Éireann debate, Thursday 18 October 2018, vol 973, no 7; Select Committee on Health debate, Wednesday 7 November 2018; Select Committee on Health debate, Thursday 8 November 2018; Dáil Éireann debate, Wednesday 5 December 2018, vol 976 no, 2; Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3; Seanad Éireann debate, Thursday 13 December 2018, vol 262, no 5; See also the comments of other government contributors and opponents to these amendments in Select Committee on Health debate, Thursday 8 November 2018; Dáil Éireann debate, Thursday 29 November 2018, vol 975, no 7; Dáil Éireann debate, Wednesday 5 December 2018, vol 976, no 2; Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3; Seanad Éireann debate, Thursday 13 December 2018, vol 262, no 5.

requiring of state interventions to protect them from themselves.[382] They could be, to quote Harris, 'offensive' and 'traumatising', especially if they involved requiring medically unnecessary scanning, the communication of mis/disinformation about foetal pain, and refusals of transfer of care.[383] Pregnant people were, to quote Harris, 'intelligent human beings' who could do their own research and ask their own questions.[384] Instead, vulnerabilities would be addressed through a more open service provision and these amendments would have hampered medical providers' ability to so in a way that was more respectful of the agency of abortion seekers.[385] Further facilitating removing the legacies of anti-abortion information controls was the government's consideration of whether or not to remove State funding for organisations – like Cura and Anew – who would refuse to refer people to lawful abortion services in Ireland.[386] Despite the 2018 Act not dispensing entirely with information-based controls, the exposure and foregrounding of the harms of information barriers, and the rejection of paternalistic ways of seeing abortion, led to some of the most interventionalist information-based amendments being consigned to regulatory history.

Conclusion

> And the only difference the anti-abortion people have made to this is that it is now much easier than it was before 1983 to talk about it [abortion] and to find out where to go. Nor is there any way of taking this information back. It is in the Dail [sic] record. It was read out on

[382] The Minister for Health Simon Harris (Fine Gael) Select Committee on Health debate, Thursday 8 November 2018.
[383] The Minister for Health Simon Harris (Fine Gael) Select Committee on Health debate, Thursday 8 November 2018; Dáil Éireann debate, Thursday 29 November 2018, vol 975, no 7; Dáil Éireann debate, Wednesday 5 December 2018, vol 976, no 2; Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3.
[384] The Minister for Health Simon Harris (Fine Gael) Select Committee on Health debate, Thursday 8 November 2018.
[385] The Minister for Health Simon Harris (Fine Gael) Select Committee on Health debate, Tuesday 6 November 2018 and Dáil Éireann debate, Wednesday 5 December 2018, vol 976, no 2.
[386] Ellen Coyne, 'Funding threat to agencies that withhold abortion advice' *The Times* (London, 28 September 2918); See p. 228-229.

> radio. It is scribbled on walls. Last week, Englishwomen faxed abortion information to all the Irish numbers they could think of.
>
> Of course, the anti-abortion people got counselling centres closed down, and they got books withdrawn from libraries and all that. But the general attempt to put up barriers against information failed and will fail again. It is not possible any longer…It is simply not possible, if we are a nation among nations, as we are. It is a doomed and futile attempt, and ultimately it is entirely self-regarding.
>
> Nuala O'Faolain[387]

O'Faolain's description of Irish abortion information censorship encapsulated the main reasons why information suppression and control failed to either prevent people from choosing abortions or from preventing abortion legalisation. The processes and ideologies of censorship means that it cannot succeed. In terms of the practical, it was never possible for total censorship to be enforced in Ireland due to its closeness geographically to the United Kingdom, the expansion of accessible and affordable communication technologies, underfunding, and exceptions and defences created for information access in law. When censors or censorship proponents attempted to enforce or advocate for information controls, the publicity generated by their interventions increased the public knowledge of contested information sources and messages. This publicity was generated through increased debate, discourse, protests, court cases and purposeful law-breaking. The framing of censorship as being necessary to protect vulnerable people meant that its very foundations were vulnerable to challenge. In this context, it was abortion seekers and their supporters who were effective at countering the narratives of benevolent protection that were used by censorship proponents to establish and sustain anti-abortion information regulations.

[387] *O'Faolain* (n 37).

Moments and practices of resistance created the momentum for reform, curtailed efforts of anti-abortion and pro-censorship advocates to enact additional interventionalist measures, and in 2018, led to the removal of most of the regressive information-based legal requirements.

Conclusion



Image Conclusion.1 Original WIN phone number t-shirt worn on the day that the Eighth Amendment was repealed in 2018[1]

This photograph of campaigners celebrating the passing of the Thirty-Sixth Amendment in 2018 contains a visual reminder of the role of information restrictions in controlling access to abortion and counterhegemonic perspectives on abortion in Ireland. The t-shirt bearing the telephone number '6794700' for the Women's Information Network was originally worn by the photographer's wife during the *Grogan* Supreme Court hearings.[2] In the photograph, it was worn by USI's then President-elect Síona Cahill. This t-shirt was a powerful symbolic reminder of the decades of labour and resistance taken on by

[1] Permission for reproduction given from the photographer via email.
[2] For a description of this campaigning see p. 341.

pro-choice and anti-censorship campaigners. Providing information was a central part of contesting and undermining abortion criminalisation. Censorship created a common cause for pro-choice activists to come together to resist regressive State controls. Information providers, pro-choice campaigners and abortion seekers had challenged the stigmatisation, awfulisation and exceptionalisation of abortion that had, in part, been created and sustained through anti-abortion information controls. In this thesis, I accounted for how these barriers were created, enforced and overcome through resistance and subversion. In this chapter, I summarised these arguments and reflected upon post-2018 arguments around information control. I have also made recommendations for future research in this complex and fascinating area of interest.

Summary of analysis

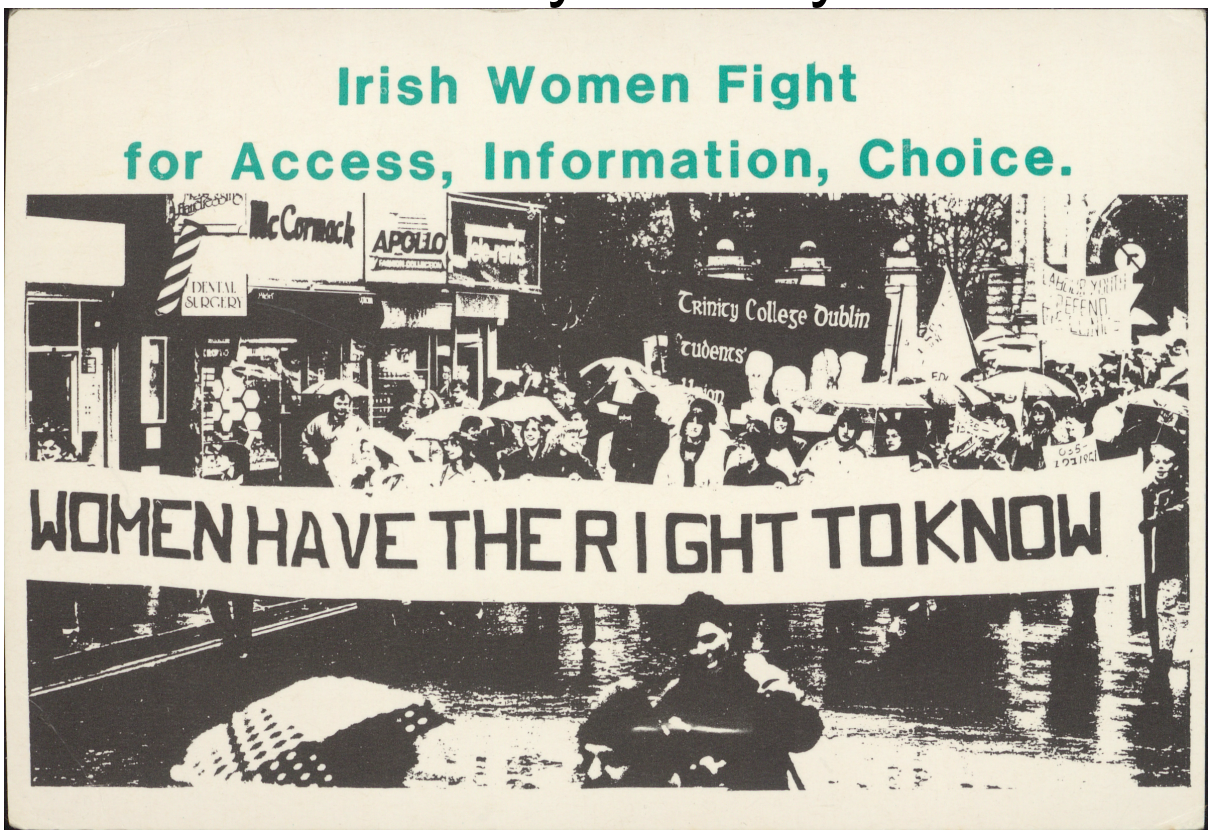


Image Conclusion.2 Postcard depicting an anti-censorship protest 7 February 1987[3]

This image comes from a 1987 anti-censorship protest. It is evocative of the contestations around information control in Ireland. For these pro-choice campaigners, information access was a right, not a threat, as the State, courts and anti-abortion campaigners considered it to be. My analysis focused on these fractures and the role that vulnerability and claims of census played in supporting or subverting anti-abortion information controls.

In Chapter One, I focused on the foundations of information control that sought to limit access to facilitative abortion information in Ireland. The factor that I chose to focus on was the belief of the State and censorship proponents that vulnerable people needed censorship to protect them. Butler, Gambetti and Sabsay argued that paternalistic motivations help the State to sustain or expand its power and that of actors aligned with its goals or ideologies.[4] I did not question the *bona fides* of those who advocated for information restrictions for claimed benevolent protective reasons as I wanted to understand how those dynamics manifested and were successful in law. I began by considering the criminalisation of abortion advertising and referrals for illegal services in the 1861 Act. Next, I moved on to examining the discussions and recommendations of the Committee on Evil Literature. Their *Report* formed the basis for a paternalistic approach to information regulations adopted in the Censorship of Publication Acts 1929

[3] Women's Information Network, 'Postcard - Women Fight for Access, Freedom, Choice' < https://repository.dri.ie/catalog/rf56c215x > accessed 29 January 2023; See also the *Women to Blame* exhibition. See < https://www.100archive.com/projects/women-to-blame > accessed 31 July 2023.
[4] Judith Butler, Zeynep Gambetti and Leticia Sabsay, 'Introduction' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 1, 5; See also Vanessa E. Munro and Jane Scoular, 'Abusing Vulnerability? Contemporary Law and Policy Responses to Sex Work in the UK' (2012) 20 Feminist Legal Studies 189, 197; Kate Brown, ''Vulnerability': Handle with Care' (2011) 5(3) Ethics and Social Welfare 313, 314.

and 1946 (the 1929 and 1946 Acts). These Acts criminalised the creation or dissemination of publications that were considered by the Minister for Justice or the Censorship of Publications Board to have advocated or advertised abortion. However, a privileged class of reader was granted access to contested information that was otherwise denied to the general public. State actors did not consider these readers to be vulnerable to influence. This idea that information control was needed to protect vulnerable subjects endured, and it foreclosed any abortion information reforms in the Censorship of Publication Act 1967 and the Health (Family Planning) Act 1979. Anti-abortion actors expanded this suppressive framework through legal actions after the electorate voted in favour of passing the Eighth Amendment in 1983. The Irish courts interpreted the foetal right to life protections enshrined in Article 40.3.3° as requiring them to enjoin non-directive crisis pregnancy counsellors and students' unions. These information sources posed a threat to vulnerable foetal life through facilitating abortions, so needed to be curtailed. These cases - *Open Door* and *Coogan/Grogan* – demonstrated the power of arguments invoking the obligation to protect vulnerable subjects. In contrast, pregnant people's vulnerabilities were dismissed by judges as requiring a lesser degree of protection, in addition to being a source of threat themselves. By enforcing this censorship, the Irish State, courts and anti-abortion actors sought to create information-based barriers to abortion access that would protect foetal subjects and pregnant people from what they believed to be the harms of abortion.

In Chapter Two, I considered how governments adapted their approach to information regulations when it was no longer politically or legally feasible to leave the shaping of

law to the courts, the Attorney General and SPUC. Reflecting Brown's observation that vulnerabilities can result in 'equality, autonomy and freedom,' as well as 'problematising, patronising, and oppressive' interventions, the Supreme Court judgment in *X* changed the progressively more restrictive development of Irish abortion law-making.[5] The case exposed the extreme harms that abortion prohibitions created for already vulnerabilised pregnant people. The Supreme Court's confirmation that a pregnant person had a constitutional right to access abortion when their life was at risk created a corollary right for a person to access information to vindicate their right. X's story and the public backlash against the Fianna Fáil party's attempts to limit abortion and information rights under the Maastricht Treaty forced the government to commit to re-establishing non-directive counselling. They introduced the Fourteenth Amendment to confirm a constitutional freedom to share and access information about legal abortion services abroad. The electorate voted to pass the referendum in 1992. I detail, however, that the anti-abortion foundations of information controls limited the liberatory potential of the Fourteenth as it was 'subject to such conditions as may be laid down by law'. Those conditions were created through the Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995 (the 1995 Act). The 1995 Act perpetuated the paternalistic ideologies of previous iterations of information control, with the government claiming abortion seekers needed to be protected from mis/under-informed, rushed decision-making. In addition to restricting facilitative information exchanges, the 1995 Act also mandated the sharing of information about options other than abortion. The government hoped that information provision would dissuade people

[5] *Brown* ibid 314.

from accessing abortion, in addition to information suppression. The popularity of the 1995 Act demonstrated the power that arguments using vulnerabilities had in justifying agency-limiting legal interventions. When the 1995 Act was criticised for being illiberal and potentially vulnerabilising, the government relied upon arguments invoking the need to protect vulnerable foetal subjects. The persuasiveness of these framings continued through the founding and operation of the Crisis Pregnancy Agency (CPA). By seeing abortion seekers as needing services rather than in need of abortion liberalisation, the State attributed the source of harms as failures of infrastructure, not injustice due to criminalisation. The State's solution was to fund and promote counselling through the CPA. I detail how this response was embedded within an anti-abortion framework and the CPA was founded with an abortion reduction mandate. In the final section, I consider how paternalism shaped information regulations in times of reform. Information controls intended to dissuade people from choosing abortion were maintained by the government through the Protection of Life During Pregnancy Act 2013. The Health (Regulation of Termination of Pregnancy) Act 2018 fell short of its liberatory and transformative potential. While the 2018 Act did repeal much of the pre-existing censorship and mandated information framework, it undermined newly confirmed abortion freedoms by continuing criminalisation for some forms of information-sharing and having a mandatory delay period for abortion on request in the first 12 weeks of pregnancy. Information control remained a State strategy for reducing or minimising the number of people who chose abortion by forcing them to engage with the formal medical system. Decades of censorship were erased on paper by the 2018 Act, but the paternalistic, anti-abortion ideologies remained.

In Chapter Three, I focused on the role of information regulation in creating and sustaining the idea that there was an anti-abortion consensus in Ireland. State control of counterhegemonic information allowed the State to claim that there were universal or dominant community standards and values around abortion. Few people could diverge from those opinions without access to information that challenged that worldview. The 1929 and 1946 Acts served this purpose by only targeting counterhegemonic publications. Anti-abortion publications were free to circulate. The Department of Justice's operation of the permit system also reflected this assigned role with those who would not challenge the *status quo* granted access by civil servants to these contested materials. State adherence to this belief meant that governments curtailed the transformative and liberatory potential of information and abortion law reforms. Legislators took conservative and narrow approaches to rights and freedoms to abide by existing linguistic formulae denoting the supremacy of the anti-abortion position. For example, the Fourteenth Amendment and the 1995 Act could facilitate abortion travel but only when requirements for 'alternatives' counselling were met. Advocation and appointment-making remained criminalised to reinforce the message that abortion would be a tolerated but disapproved of intervention. These limitations were framed by governments as reflecting the wishes of the electorate by reaffirming the anti-abortion position of society and the State. In the final section, I argued that these legacies endured when governments legislated for abortion access in Ireland. The 2013 and 2018 Acts, by sustaining information-based restrictions and barriers to care, perpetuated the condemnatory framing of abortion of previous iterations of censorship.

By doing so, the governments empowered anti-abortion proponents to advocate for more regressive, information-based interventions on the basis of them being supported by the electorate who they claimed remained anti-abortion in principle.

In Chapter Four, I addressed why I believe censorship failed to eliminate or minimise the number of people who chose abortion. It also did not sustain the dominant, condemnatory hegemonic framings of abortion. Following Butler's work and the literature on vulnerability, I identified two main influences. Firstly, censorship undermines itself as it cannot effectively control all channels of information. Censorship draws attention to the very sources that it is attempting to remove from the public domain. Furthermore, censorship is expensive and burdensome to enforce. Secondly, as censorship was created with the justification that it was needed to protect vulnerable people, demonstrating the harms caused by censorship undermined those foundations. Those who favoured reform could take the language of benevolent paternalism and reappropriate it to reduce popular support for information restrictions. They exposed, to borrow a quote from Mackenzie, the 'hidden assumptions' in law, cultural and social spaces.[6] Their contestations encouraged others to challenge censorship by facilitating information access and challenging prohibitions in the courts and in public debates. In response, various governments tempered their anti-abortion law-making by refusing to model their legal and policy frameworks on the wishes of the staunchest anti-abortion proponents.

[6] Catriona Mackenzie, 'The Importance of Relational Autonomy and Capabilities for an Ethics of Vulnerability' in Catriona Mackenzie, Wendy Rogers, and Susan Dodds (Eds.) *Vulnerability: New Essays in Ethics and Feminist Philosophy* (Oxford University Press 2014) 33, 36.

Information and post-2018 arguments



Image Conclusion.3 Launch of the 'End the silence' campaign[7]

The signs in this photo illustrate why it is so important that scholars consider how the history of information control shaped abortion regulations. The language of the 'right to know' and that 'women are being kept in the dark' were primarily used by the pro-choice, anti-censorship movement. Post-2018, anti-abortion ideologies are arguably the minority ones within the electorate. Campaigners have adopted the same slogans as part of their strategies to frame abortion as unnecessary, dangerous and in need of legal restraint. The appropriation of liberatory or transformative language was to be expected. As Butler identified, actors who favour regressive legal and social frameworks adopt the language of rights and freedom to push interventions that would limit the agency of others.[8] There is, as Athanasiou remarked, no concept of vulnerability free

[7] Photo from Niall Carson/PA in Cate McCurry, 'Anti-abortion campaigners call on Government to make changes to law' (23 November 2021) < https://www.breakingnews.ie/ireland/anti-abortion-campaigners-call-on-government-to-make-changes-to-law-1217970.html > accessed 31 July 2023. Purchased reproduction rights;.
[8] Judith Butler, *Excitable Speech* (Routledge Classics 2021) 15, 20-24.

from the legacies of 'racial, gendered or economic regulatory violence'.[9] Depicting women as being harmed by abortion allows anti-abortion advocates to, to borrow from Ahiska, 'describe, analyze, and solve the problem to *help* these [vulnerabilised] women.'[10] After abortion was legalised in Ireland on broader grounds, anti-abortion campaigners are relying upon the same information-gap arguments that previous pro-censorship proponents used to justify anti-abortion information regulations. That is, they sought to depict themselves as advocating for caring, benevolent interventions to protect vulnerable subjects; not would-be censors seeking to curtail the rights of others.[11] These proponents have ascribed these information vacuums and the proliferation of what they see as mis/disinformation to media failures to communicate what they regard as the truth of abortion,[12] the State's failure to provide sufficient information about 'alternatives' to abortion due to abortion advocation,[13] and the lack of legal requirements or State funding for anti-abortion counselling.[14] They have argued

[9] Athena Athanasiou, 'Nonsovereign Agonism (or, Beyond Affirmation versus Vulnerability' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in Resistance* (Duke Press 2016) 256, 271.
[10] Meltem Ahiska, 'Violence against Women in Turkey: Vulnerability, Sexuality, and Eros' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in Resistance* (Duke Press 2016) 211, 215; See also *Mackenzie* (n 6) 35.
[11] For women protective arguments see Irish Catholic Bishops' Conference, 'Abortion: changing the narrative' (14 May 2023) < https://www.elphindiocese.ie/wp-content/uploads/2023/05/2023-May-14-Bishops-critique-of-Gov-review-of-Health-T-of-P-Act-1.pdf > accessed 14 May 2023; Pro-Life Campaign, 'Disturbing revelations: MyOptions counsellors advising women to book first abortion consultation even when still conflicted about what to do, Students for Life research reveal' (14 January 2022) < https://prolifecampaign.ie/portfolio_cpt/14-1-2022-disturbing-revelations-myoptions-counsellors-advising-women-to-book-first-abortion-consultation-even-when-still-conflicted-about-what-to-do-students-for-life-research-reveal/ > accessed 11 March 2023; For foetal protective arguments see M-Co and the Department of Health, *Public Consultation to Inform the Review of the Operation of the Termination of Pregnancy Act Review* (Department of Health 2023) 17; Life Institute, 'Your referendum update' 1 [September 2018] < https://irishelectionliterature.files.wordpress.com/2018/09/lifeinstitutereport.pdf > accessed 15 June 2023.
[12] *Life Institute* ibid 8-9; Pro-Life Campaign, 'The 8th Amendment: A Life Saving Beacon of Hope: Extracts from Submission to the Citizen's Assembly for session on Sunday March 5th 2017' (2017) < https://2016-2018.citizensassembly.ie/en/Meetings/Pro-Life-Campaign-s-Paper.pdf > accessed 28 January 2023.
[13] *Life Institute* (n 11).
[14] Gript News, 'Carol Nolan: HSE confirm millions for abortions but 'pittance' for pregnancy counselling' *Gript Media* (Dublin, 18 August 2020) < https://gript.ie/carol-nolan-hse-confirm-millions-for-abortions-but-pittance-for-pregnancy-counselling/ > access 12 March 2023; Pro-Life Campaign, *Ireland's Abortion Law: End the Silence* (Pro-Life Campaign 2021) 2; Eilís Mulroy (Pro-Life Campaign) in 'Interview about exclusion zones' *CRCfm* (Castlebar, 10 August 2021) < https://prolifecampaign.ie/portfolio_cpt/10-08-2021-eilis-mulroy-speaking-on-crcfm-castlebar-about-exclusion-zones/ > accessed 28 February 2023; Sarah MacDonald, 'Latest abortion figures in Ireland described as 'devastating'' *tablet.co.uk* (London, 19 July 2022) < https://www.thetablet.co.uk/news/15673/latest-abortion-figures-in-

that the State was deliberately keeping people 'in the dark' for political reasons.[15] As a result neither the electorate or those who chose abortion were sufficiently informed and could not consent to abortion or abortion liberalisation.[16] They presented the fact that recorded abortion numbers were higher after 2018 as evidence for their claims.[17] The State was not, they claimed, doing enough through law to dissuade people from choosing abortions by treating it as the option of last 'last resort' under a 'safe, legal and rare' approach.[18]

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ireland-described-as-devastating- > accessed 3 February 2023; Breda O'Brien, 'State needs an honest investigation of its abortion counselling services' *The Irish Times* (Dublin, 4 March 2023); Ralph Riegel and Eilish O'Regan, 'Taoiseach 'reluctant to make changes' - abortion debate reignites as report recommends major changes including removal of three-day wait' *The Irish Independent* (Dublin, 21 April 2023) < https://www.independent.ie/irish-news/health/taoiseach-reluctant-to-make-changes-abortion-debate-reignites-as-report-recommends-major-changes-including-removal-of-three-day-wait-42443004.html > accessed 23 April 2023; *M-Co and the Department of Health* (n 11) 44; *Pro-Life Campaign* (n 11); For repeal of the 1995 Act, the closure of Cura and the cessation of counselling by Life/Anew see p. 228-229.

[15] Quote from Eilís Mulroy (PLC) in 'Silence about 'devastating impact' of abortion law must end, says PLC' *The Iona Institute* (Dublin, 24 November 2021) < https://ionainstitute.ie/news-roundup/silence-about-devastating-impact-of-abortion-law-must-end-says-plc/ > accessed 11 June 2023; See also Gerard Donaghy, 'Crowds gather in Dublin for anti-abortion rally' *The Irish Post* (London, 18 September 2022) < https://www.irishpost.com/news/crowds-gather-in-dublin-for-anti-abortion-rally-240283 > accessed 23 April 2023; Pro-Life Campaign, 'Watch this video about why we must #EndTheSilence!!' *Facebook* < https://www.facebook.com/watch/?v=450933023057104 > accessed 18 March 2023; Students for Life, 'MyOptions Research Revealed' (17 January 2022) 1 < https://studentsforlife.ie/wp-content/uploads/2015/12/MyOptions-Research-Revealed.pdf > accessed 21 June 2023; *Pro-Life Campaign* (n 11).

[16] *Pro-Life Campaign* (n 14) 3-4; *M-Co and the Department of Health* (n 11) 44.

[17] 2,879 people were recorded as having accessed abortions in Britain in 2018, the last year in which there was major abortion related travel from Ireland. In Ireland, the first year of abortion being accessible on request in the first 12 weeks, on health grounds, and in some cases of fatal foetal anomalies the recorded number of people accessing abortions was 6,666 people. 375 people were recorded as having travelled to Britain. See Department of Health and Social Care, *Abortion Statistics, England and Wales: 2018* (Department of Health and Social Care, 13 June 2019) 21; Department of Health, *Notifications in accordance with section 20 of the Health (Regulation of Termination of Pregnancy) Act 2018: Annual Report 2019* (Department of Health, 20 June 2020) [5]; Department of Health and Social Care, *Abortion Statistics, England and Wales: 2019* (Department of Health and Social Care, 11 June 2020) 16.

[18] Quote for last resort comes from Eilís Mulroy, 'Thousands of children alive in Ireland today thanks to 72-hour abortion reflection time' *The Irish Times* (Dublin, 12 April 2023); For comments about the 'rare promise' and the need to reduce abortions see 'Eilís Mulroy speaking on CRCfm Castlebar about Exclusion Zones' (10 August 2018) *Pro-Life Campaign* < https://prolifecampaign.ie/portfolio_cpt/10-08-2021-eilis-mulroy-speaking-on-crcfm-castlebar-about-exclusion-zones/ > accessed 17 March 2023; For use of these arguments in the Oireachtas see Written answers Tuesday 27 July 2021; 'Pro-life TDs want law review to result in 'positive alternatives to abortion'' *The Iona Institute* (Dublin, 18 August 2021) < https://ionainstitute.ie/news-roundup/pro-life-tds-want-law-review-to-result-in-positive-alternatives-to-abortion/ > accessed 12 April 2023; 'PLC submission to Three Year Review calls for Ireland's spiralling abortion rate to be tackled' (1 April 2022) < https://prolifecampaign.ie/portfolio_cpt/01-04-2022-plc-submission-to-three-year-review-calls-for-irelands-spiralling-abortion-rate-to-be-tackled/ > accessed 11 June 2023; 'Thousands of People March in Ireland to Demand End to Abortion' *LifeNews.com* (19 September 2022) < https://www.lifenews.com/2022/09/19/thousands-of-people-march-in-ireland-to-demand-end-to-abortion-2/ > accessed 19 April 2023; Dáil Éireann debate, Thursday 25 May 2023, vol 1039, no 2; *Life Institute* (n 11); *M-Co and the Department of Health* (n 11) 50; *Mulroy* (n 14); *Pro-Life Campaign* (n 14) 2-3; *Riegel and O'Regan* (n 14); For a discussion of abortion and ideas of rarity see p. 188, 232, and 315.

The solution proposed by anti-abortion campaigners was to create information-based interventions to address claimed information vacuums. By aligning legal requirements for information-sharing with an anti-abortion worldview, this codification would be an critical part of re-establishing that ideology as the dominant one in Ireland. Having the law orientated towards an anti-abortion position would legitimise their claims that their plans for information and abortion were grounded in science, medicine and best practice.[19] The information may also reduce the number of people who chose abortion.[20] This strategy is why anti-abortion campaigners have pressed for their advocates to be involved in reviews of law and service delivery.[21] Once in those positions of power and influence, anti-abortion actors could lobby for the State to mandate by law information provision about what they regard as the truth of abortion and information about 'alternatives' to abortion seekers.[22] Such information would encompass social welfare entitlements, parenting classes, the financial obligations of fathers, different types of adoption, and even referrals to anti-abortion organisations like Gianna Care.[23] In more medical contexts the information that they believed should be

[19] See Ruth Fletcher, '"Pro-Life" Absolutes, Feminist Challenges: The Fundamentalist Narrative of Irish Abortion Law 1986-1992' (1998) 36 Osgoode Hall Law Journal 1, 13.
[20] For an example of the claim that people would not have had abortions had they received information about supports see *Mulroy* (n 18).
[21] *'PLC submission to Three Year Review calls for Ireland's spiralling abortion rate to be* tackled' (n 18); *Pro-Life Campaign* (n 11); *Pro-Life Campaign* (n 14) 2; *Students for Life* (n 15); *'Thousands of People March in Ireland to Demand End to Abortion'* (n 18).
[22] Quote *Mulroy* (n 14); See also Pro-Life Campaign, 'Government's promotion of abortion ahead of positive alternatives "very concerning" says Councillor Sarah O'Reilly' (18 February 2022) < https://prolifecampaign.ie/portfolio_cpt/18-2-2022-governments-promotion-of-abortion-ahead-of-positive-alternatives-very-concerning-says-councillor-sarah-oreilly/ > accessed 9 March 2023; *Mulroy* (n 18); *Pro-Life Campaign* (n 11); *'Thousands of People March in Ireland to Demand End to Abortion'* (n 18).
[23] All Ireland Rally for Life, 'Carolyn from Gianna Care on working with women with unexpected pregnancies & hear from one [sic] such mother' (*YouTube* 29 July 2020) available < https://www.youtube.com/watch?v=S97px6VJv6s&t=2s > accessed 17 May 2023; Liam de Paor, 'Gianna Care should be expanded' *The Irish Catholic* (Dublin, 7 October 2021); Senator Sharon Keogan (Independent) Seanad Éireann debate - Thursday, 20 January 2022 vol 282, no 2; *Life Institute* (n 11); *M-Co and the Department of Health* (n 11) 29, 44; *Mulroy* (n 14).

provided included anti-abortion claims about foetal pain receptors,[24] offers or mandatory provision of ultrasounds,[25] and mandatory provision of information about the 'limits of prenatal testing'.[26] Without the 1995 Act requiring information providers to supply information intended to dissuade people from choosing abortion, these anti-abortion advocates want the state information service – MyOptions – to be the conduit.[27] If not, at least the law should not impede anti-abortion protestors offering information to abortion seekers outside of abortion services.[28] Continuing those pre-2018 strategies, these advocates wanted the state to push or encourage in-person counselling or consultations as these were considered to be the most impactful forums for encouraging people to remain pregnant.[29] Anti-abortion campaigners have criticised MyOptions for advising people to book appointments with their doctors to discuss abortion if they had not decided on abortion.[30] The reason for MyOptions doing so, I believe, is to ensure that abortion seekers are not cut-off from receiving care due to gestational limits, the 3-day delay period, or from encountering a conscientious objector/obstructor.[31] Despite

[24] See Health (Regulation of Termination of Pregnancy) (Foetal Pain Relief) Bill 2021; Also, Deputy Marian Harkin (Independent) Dáil Éireann debate, Wednesday 15 December 2021, vol 1016, no 2.
[25] *M-Co and the Department of Health* (n 11) 57; *Pro-Life Campaign* (n 14) 4.
[26] *M-Co and the Department of Health* (n 11) 44.
[27] *Mulroy* (n 14).
[28] For opposition to safe access zones see Rónán Mullen, 'Mothers against the ban on help outside abortion centres – Be Here for Me group gives briefing in Leinster House' [2019] < https://www.ronanmullen.ie/mothers-against-the-ban-on-help-outside-abortion-centres-be-here-for-me-group-gives-briefing-in-leinster-house/ > accessed 28 February 2023 via the Wayback Machine; Breda O'Brien, 'Denying women access to legitimate choices and hope' *The Irish Times* (Dublin 23 February 2019); Máirín de Barra, 'Protests at abortion centres may not be banned it seems' *Gript.ie* (Dublin 21 July 2021) available < https://gript.ie/protests-at-abortion-centres-may-not-be-banned-it-seems/ > accessed 28 February 2023; Senator Sharon Keogan (Independent) Seanad Éireann debate, Thursday 7 April 2022, vol 284, no 6; Senators Rónán Mullen and Sharon Keogan (Independent) Seanad Éireann debate, Wednesday 10 November 2021, vol 280, no 2; *'Eilís Mulroy speaking on CRCfm Castlebar about Exclusion Zones'* (n 18); *Irish Catholic Bishops' Conference* (n 11) 2, 4; *M-Co and the Department of Health* (n 11) 20, 51; *Pro-Life Campaign* (n 14) 3.
[29] *M-Co and the Department of Health* (n 11) 24, 44, 48-49; *Students for Life* (n 15).
[30] For criticisms of abortion 'advertising' see Deputy Michael Collins (Independent) Dáil Éireann debate, Wednesday 5 December 2018, vol 976, no 2; Deputy Carol Nolan (Independent, formerly Sinn Féin) Dáil Éireann debate, Thursday 25 May 2023, vol 103 9, no 2; *M-Co and the Department of Health* (n 11) 24; *Pro-Life Campaign* (n 14) 2; *Pro-Life Campaign* (n 22); *Students for Life* (n 15).
[31] For a discussion of the role of MyOptions in ensuring abortion accessibility see the Minister for Health Simon Harris (Fine Gael) Select Committee on Health debate, Thursday 8 November 2018; Dáil Éireann debate, Wednesday 5

this, some anti-abortion proponents believe not only that MyOptions should not give this advice, but that operators should not raise abortion at all unless asked and it should be mandated to offer a referral for counselling when a caller does ask about abortion.[32] The existing statutory three-day delay period would support all of these interventions, though ideally, in their view, a government should expand it to at least five days.[33] Only once the abortion seeker had received such information, and was forced through delays to reflect, should she be considered to have given her true 'informed consent' to abortion in law.[34]

The rationales used by supporters of these interventions continue to reflect those embedded in previous iterations of information retractions. Discouraging abortion, they continued to claim, protects vulnerable subjects such as foetal life[35] and abortion seekers from claimed adverse side-effects of abortion.[36] This is, they claimed, what the

December 2018, vol 976, no 2; Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3; Anne O'Connor (Director General of the HSE) Joint Committee on Health debate, Wednesday 6 February 2019; National Women's Council of Ireland, *Accessing abortion in Ireland: meeting the needs of every woman* (National Women's Council of Ireland 2021) 23; Catherine Conlon, Kate Antosik-Parsons, Éadaoin Butler, Jo Greene, Wenyu Li, Kathyrn Ammon, Unplanned Pregnancy and Abortion Care (UnPAC) Study (Trinity College Dublin and the Sexual Health and Crisis Pregnancy Programme, July 2022) 7-8, 15, 37-39; Joanna Mishtal, Karli Reeves, Dyuti Chakravarty, Lorraine Grimes, Bianca Stifani, Wendy Chavkin, Deirdre Duffy, Mary Favier, Patricia Horgan, Mark Murphy, Antonella F. Lavelanet, 'Abortion policy implementation in Ireland: Lessons from the community model of care' (2022) 17(5) PloS ONE, 10-11; Bianca M Stifani, Joanna Mishtal, Wendy Chavkin, Karli Reeves, Lorraine Grimes, Dyuti Chakravarty, Deirdre Duffy, Mark Murphy, Trish Horgan, Mary Favier, Antonella Lavelanet, 'Abortion policy implementation in Ireland: successes and challenges in the establishment of hospital-based services' (2022) 2 Qualitative Research in Health 100090, 7-8.

[32] Emma Ní Chonaill (Gianna Care) in 'Pregnancy care group Gianna Care say The Times targeting of their work feels like a 'witch hunt'.' (*Gript Media* 21 February 2019) Available < https://www.youtube.com/watch?v=Ve20oiZZIr4 > accessed 17 May 2023; *Students for Life* (n 15).

[33] *M-Co and the Department of Health* (n 11) 34, 44, 54.

[34] *Students for Life* (n 15).

[35] 'Almost 20% of women decided against abortion in 3 day wait, new figures reveal' *Gript.ie* (Dublin, 5 November 2021) < https://gript.ie/almost-20-of-women-decided-against-abortion-in-3-day-wait-new-figures-reveal/ > accessed 22 February 2023; Pro-Life Campaign, '1,480 women decided not to go ahead with abortions in 2020, new figures reveal' (5 November 2021) < https://prolifecampaign.ie/portfolio_cpt/5-11-2021-1480-women-decided-not-to-go-ahead-with-abortions-in-2020-new-figures-reveal/ > accessed 22 February 2023; Pro-Life Campaign, 'Three-day-waiting period is saving lives and must be retained' (12 November 2021) < https://prolifecampaign.ie/portfolio_cpt/12-11-2021-three-day-waiting-period-is-saving-lives-and-must-be-retained/ > accessed 22 February 2023; *Irish Catholic Bishops' Conference* (n 11) 3; *Mulroy* (n 18); *Pro-Life Campaign* (n 14) 12.

[36] *M-Co and the Department of Health* (n 11) 45; *Pro-Life Campaign* (n 14) 13, 19.

electorate wanted.[37] The argument goes that the State should legislate to use information and delay periods as a 'safeguard' so that under/misinformed pregnant people do not decide upon abortion in, to quote Eilís Mulroy (Pro-Life Campaign) an 'initial sense of panic'.[38] What pregnant people need according to Senator Rónán Mullen is 'a bit of help and encouragement'.[39] The evidence that they offer in support of their claims is a difference in abortion seekers recorded by the Department of Health as attending for their first and second abortions appointments.[40] Their claim is the lower number at the second appointment is proof that alternatives counselling and forced pauses work to assist people in remaining pregnant. Appropriating the anti-censorship movement's language, these anti-abortion proponents now claim that the true, 'pro-choice', caring approach would be to mandate the provision of this information and appointment gaps. It would actually be paternalistic to oppose them.[41] Information-based approaches did not, in the opinion of their advocates, create barriers to abortion, they only delayed access to ensure decisional certainty. They did not vulnerabilise any abortion seeker as, according to Deputy Peadar Tóibín, most abortions were carried out

[37] For claims that the electorate support interventions like 'alternatives' information provision and the three-day delay period see Students for Life, 'MyOptions Research Project.' (17 January 2022) 9 < https://studentsforlife.ie/wp-content/uploads/2015/12/MyOptions-Research-Project.pdf > accessed 11 March 2023; *Pro-Life Campaign* (n 11); *Pro-Life Campaign* (n 14) 4, 13, 15, 19; *Pro-Life Campaign* (n 15); *Students for Life* (n 15) 9.
[38] Quotes from *Mulroy* (n 18); See also Niamh Uí Bhriain, '3 fatal flaws in the abortion review that the media ignored' *Gript.ie* (Dublin, 4 May 2023) < https://gript.ie/3-fatal-flaws-in-the-abortion-review-that-the-media-ignored/ > accessed 4 May 2023; Dáil Éireann debate, Thursday 25 May 2023, vol 1039, no 2; Senator Seán Kyne (Fine Gael) Joint Committee on Health debate, Wednesday 31 May 2023; *Irish Catholic Bishops' Conference* (n 11) 3; *Pro-Life Campaign* (n 14) 2.
[39] Senator Rónán Mullen (Independent) Seanad Éireann debate, Tuesday 7 July 2020, vol 270, no 2.
[40] Minister of State at the Department of Rural and Community Development and the Department of Communications, Climate Action and Environment with special responsibility for Community Development, Natural Resources and Digital Development Seán Canney (Independent) Written answers, Tuesday 27 July 2021; Máirín de Barra, '"Time to think": 2,623 women did not return for abortion after 3-day wait in 2022' *Gript.ie* (Dublin, 15 September 2023) < https://gript.ie/time-to-think-2623-women-did-not-return-for-abortion-after-3-day-wait-in-2022/ > accessed 29 January 2023; Deputy Carol Nolan (Independent, formerly Sinn Féin) Dáil Éireann debate, Thursday 25 May 2023, vol 103 9, no 2; *Irish Catholic Bishops' Conference* (n 11) 3; *M-Co and the Department of Health* (n 11) 49; *Mulroy* (n 18); *Pro-Life Campaign* (n 14) 13, 19.
[41] Breda O'Brien, 'Cooling-off period for everything but abortion' *The Irish Times* (Dublin, 11 December 2021); *Irish Catholic Bishops' Conference* (n 11) 1.

on ‘healthy mothers and healthy children’.[42] The implication here being that their abortions were unnecessary and abortion seekers could be made to wait for their own benefit.

This claim that anti-abortion campaigners did not want to block access to abortion is dubious based on their support for other measures that do create barriers to care. They include opposition to decriminalisation[43] and permitting conscientious objectors, including ancillary staff in healthcare settings, to refuse to facilitate referrals to abortion providers.[44] Any arguments in favour of anti-abortion orientated ‘right to information’ approaches need to be contextualised alongside these positions. A further advantage for anti-abortion campaigners in having statutory abortion dissuasion information approaches would be that the law could communicate to the electorate that abortion was an ‘enormous decision’ that should be exceptionalised.[45] To quote Mulroy again, ‘law changes behaviour and once you accept something…in terms of the legal structure, culturally, and in every other way it becomes more…acceptable as a course of action’.[46] Researchers found that when abortion care is provided it becomes quickly

[42] Deputy Peadar Tóibín (Aontú, formerly Sinn Féin and Independent) Dáil Éireann debate, Thursday 25 May 2023, vol 1039, no 2.
[43] Deputy Peadar Tóibín (Aontú, formerly Sinn Féin and Independent) Dáil Éireann debate, Thursday 25 May 2023, vol 1039, no 2.
[44] Ellen Coyne, ‘Abortion opponents to fight for burials in bill on terminations’ *The Times* (London, 3 October 2018); *M-Co and the Department of Health* (n 11) 24, 29; *‘PLC submission to Three Year Review calls for Ireland’s spiralling abortion rate to be* tackled’ (n 18); *Pro-Life Campaign (*n 14) 11; For support for public lists of providers and non-providers see Patrick Daly (Life/Anew) in Ellen Coyne, ‘Abortion fears of Pro-Life group chief’ *The Times* (London, 13 June 2018) 9; Deputy Eugene Murphy (Fianna Fáil) Dáil Éireann debate, Wednesday 5 December 2018, vol 976, no 2; For arguments that conscientious objection was needed to protect the health of anti-abortion healthcare providers see Deputy Margaret Murphy O’Mahony (Fianna Fáil) Select Committee on Health debate, Thursday 8 November 2018; For protections from sting operations for conscientious objectors see Iona Institute, ‘The abortion referendum and its aftermath: A talk by Maria Steen’ (*YouTube*, 21 September 2018) < https://www.youtube.com/watch?v=YHFDqK_6Wy0 > accessed 15 June 2023.
[44] *Irish Catholic Bishops’ Conference* (n 11) 4; *M-Co and the Department of Health* (n 11) 33.
[45] Deputy Peadar Tóibín (Aontú, previously Sinn Féin and Independent) Dáil Éireann debate, Thursday 25 May 2023, vol 1039, no 2; Joint Committee on Health debate, Wednesday 31 May 2023.
[46] *Mulroy* (n 14); *Irish Catholic Bishops’ Conference* (n 11) 1.

normalised.[47] This effect also applied to counsellors who feel more empowered to meet their needs of their clients now that the 1995 Act was repealed by the 2018 Act.[48] If there would be any hope of a government recriminalising abortion, the electorate would need to be convinced about the need to do so. Therefore, controlling the narrative around abortion through statutory anti-abortion information provision could revitalise the framings of abortion as a dangerous, unwanted intervention. As Gerard Casey argued, the anti-abortion campaign in Ireland needed to 'adopt the strategy of the liberals' and be patient…persevere…[and]…persist'.[49] Hence, control of information about abortion remains a critical aspect of anti-abortion campaign work in Ireland.

Fletcher observed that legal changes do not always lead to social changes due to the embedded nature of the 'old ways' and 'habit and institutionalization'.[50] Formerly influential justifications for criminalisation and prohibitions can become re-energised and endanger hard-won freedoms. The government's response to the 2023 reports examining the operation of the 2018 Act indicates that anti-abortion information control ideologies are diminished but enduring.[51] The same 'paternalistic logics' and abortion

[47] A Mullaly, T Horgan, M Thompson, C Conlon, B Dempsey, MF Higgins, 'Working in the shadows, under the spotlight - Reflections on lessons learnt in the Republic of Ireland after the first 18 months of more liberal Abortion Care' (2020) 102(5) Contraception 305, 306; Joanna Mishtal, Deirdre Duffy, Wendy Chavkin, Karli Reeves, Dyuti Chakravarty, Lorraine Grimes, Bianca Stifani, Trish Horgan, Mark Murphy, Mary Favier, Antonella Lavelanet, 'Policy Implementation – Access to Safe Abortion Services in Ireland Research Dissemination Report' (23 April 2021) National Dissemination Workshop, UNDP-UNFPA-UNICEF-WHOWorld Bank Special Programme of Research, Development and Research Training in Human Reproduction (HRP) 32.

[48] Meg Ryan, Ann Nolan, Frédérique Vallières, 'Lifting the cloak of secrecy: Experiences of providing crisis pregnancy counselling in a changing legislative context in Ireland' (2022) 22 Counselling and Psychotherapy Research, 27-29.

[49] Gerard Casey (Professor Emeritus Philosophy) in Life Institute, 'Ireland's fall: the abortion deception - how elites killed the right to life' (*YouTube* 22 September 2021) < https://youtu.be/eCsOE7HHe9Y > accessed 22 February 2023.

[50] Ruth Fletcher, '#RepealedThe8th: Translating Travesty, Global Conversation, and the Irish Abortion Referendum' (2018) 26(3) Feminist Legal Studies 233, 244.

[51] Cillian Sherlock, 'Donnelly says three-day wait 'understood' by abortion referendum voters' *BreakingNews.ie* (Dublin, 26 April 2023) < https://www.breakingnews.ie/ireland/donnelly-says-three-day-wait-understood-by-abortion-referendum-voters-1467879.html > accessed 29 January 2024; David Young, 'Independent review of abortion laws should not be treated as 'gospel' – Varadkar' *The Irish Independent* (Dublin, 2 June 2023).

awfulisation remains part of government rhetoric surrounding their unwillingness to amend the 2018 Act to address barriers to care.[52] For example, the former Taoiseach Leo Varadkar described abortion as 'not a good thing'.[53] Abortion would be tolerated in law but the government would only introduce changes if they aligned with what itthe government believed was 'best' for women and children and the claimed 'assurances' in the General Scheme.[54] They continue to approach abortion regulation from a harm prevention and minimisation approach.[55] The proposed strategies involve changes in areas such as evidence-based sex-education and increased access to contraception. However, as I have demonstrated in this thesis, the exceptionalisation and awfulisation of abortion creates spaces in which abortion opponents can delegitimise abortion and subsume access with paternalistic law-making. I see government refusal to remove the remaining barriers to access created by the 2018 Act – such as the three-day delay period – as part of the enduring legacies of censorship. One area in which that the government have capitulated to the need for additional law-making was safe access zones. In 2023, they introduced a Bill to prohibit anti-abortion protests outside of providers after initially recanting on this undertaking.[56] They have also announced plans

[52] Quote from Judith Butler, Zeynep Gambetti and Leticia Sabsay, 'Introduction' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 1, 2; See also Judith Butler on 'legacies of usage' with language in *Butler* (n 8) 28.
[53] Jennifer Bray, 'Leo Varadkar says he would like to see fewer abortions in Ireland' *The Irish Times* (Dublin, 19 June 2023).
[54] *Young* (n 51); Louise Burne, 'Abortion review debate expected to last months as report suggests removal of three-day wait' *Irish Mirror* (Dublin, 26 April 2023) < https://www.irishmirror.ie/news/irish-news/politics/abortion-review-published-department-health-29819270 > accessed 2 May 2023; Adherence to this view was also why government members either voted against or abstained on the Health (Regulation of Termination of Pregnancy) (Amendment) Bill 2023. See Michael Staines, 'Abortion bill 'goes miles beyond what people voted for' – Donnelly' *Newstalk* (Dublin, 2 June 2023) < https://www.newstalk.com/news/abortion-bill-goes-miles-beyond-what-people-voted-for-donnelly-1471396 > accessed 5 June 2023; For discussion of the General Scheme see p. 312-313 and 392-393.
[55] *Riegel and O'Regan* (n 14); Fiona de Londras, ''a hope raised and then defeated'? the continuing harms of Irish abortion law' (2020) 124 Feminist Review 33.
[56] Health (Termination of Pregnancy Services) (Safe Access Zones) Bill 2023; Elaine Loughlin, 'Government U-turn on safe access zones at abortion clinics; *Irish Examiner* (Cork, 7 August 2021) < https://www.irishexaminer.com/news/arid-40354406.html > accessed 29 January 2024; Sarah Burns, 'Donnelly 'fully committed' to safe access zone legislation' *The Irish Times* (Dublin, 7 August 2021).

to repeal the entirety of the Censorship of Publications Acts 1929, 1946 and 1967.[57] These examples demonstrate that enough political pressure, governments may address other information-based barriers to access and depart from their 'safe, legal, rare' ideological commitment.

While I have been critical of legal interventions, law can be impactful in terms of ameliorating vulnerabilities and normalising abortion care.[58] The 2018 Act delivers care for many people in Ireland who otherwise would have been required to travel abroad. For others, a defensive or guarded approach to providing abortion has perpetuated many of the hardships created by previous iterations of censorship. Artificial barriers to access come from the government failing to decriminalise abortion,[59] to precisely define the boundaries of lawful conscientious objection,[60] to outline referral pathways for those who are over 12-weeks' gestation,[61] and the maintenance of the three-day delay

[57] Department of Justice, 'Minister McEntee proposes new bill to repeal almost century old Censorship of Publications Act' (5 January 2024) < https://www.gov.ie/en/press-release/dfd8b-minister-mcentee-proposes-new-bill-to-repeal-almost-century-old-censorship-of-publications-act/ > accessed 29 January 2024.
[58] For discussions of how State non-intervention can exacerbate or prolong vulnerabilities see Jaime Lindsey, 'Developing Vulnerability: A Situational Response to the Abuse of Women with Mental Disabilities' (2016) 24 Feminist Legal Studies 295, 304; For a discussion of how law is only part of accessible abortion care see Deirdre Niamh Duffy, Claire Pierson, Caroline Myerscough, Diane Urquhart, Lindsay Earner-Byrne, 'Abortion, emotions, and health provision: Explaining health care professionals' willingness to provide abortion care using affect theory' (2018) 71 Women's Studies International Forum 12, 17.
[59] Anna Carnegie and Rachel Roth, 'From the Grassroots to the Oireachtas' (2019) 21(2) Health and Human Rights 109; Joyce Fegan, 'Imperfect system and cruel barriers still stopping women access abortion' *The Irish Examiner* (Cork, 3 June 2019) < https://www.irishexaminer.com/lifestyle/arid-30928382.html > accessed 3 June 2023; Sydney Calkin, 'One year on, it's clear that the new Irish abortion services have serious limitations' *The Conversation* (London, 15 January 2020) < https://theconversation.com/one-year-on-its-clear-that-the-new-irish-abortion-services-have-serious-limitations-129491 > accessed 3 June 2023; National Women's Council of Ireland, *Every woman: towards reproductive health choice and care for all* (National Women's Council of Ireland 2022) 6, 9; *National Women's Council of Ireland* (n 31) 4, 53-54.
[60] Mary Donnelly and Claire Murray, 'Abortion care in Ireland: Developing legal and ethical frameworks for conscientious provision' (2020) 148 International Federation of Gynecology and Obstetrics 127, 130.
[61] Lorraine Grimes, Aideen O'Shaughnessy, Rachel Roth, Anna Carnagie, Deirdre Duffy, 'Evaluating MyOptions: Experiences of Ireland's Abortion Information and Support Service' (2022) 48 BMJ Sexual & Reproductive Health [8]; Deirdre Duffy, Joanna Mishtal, Lorraine Grimes, Mark Murphy, Karli Reeves, Dyuti Chakravarty, Wendy Chavkin, Mary Favier, Patricia Horgan, Bianca Stifani, Antonella F. Lavelanet, 'Information flow as reproductive governance. Patient journey analysis of information barriers and facilitators to abortion care in the republic of Ireland' (2022) 19 SSM-Population Health, 101132, 4

period.[62] Researchers recounted how these issues mean that many abortion seekers still do not know where to find information about abortion providers,[63] or if their doctor is a conscientious objector.[64] The result is that abortion seekers are denied information and referrals by conscientious objectors/obstructors,[65] are referred to counselling instead of MyOptions,[66] and are exposed to directive anti-abortion counselling and mis/disinformation provision.[67] Other abortion seekers had to pass anti-abortion protestors,[68] were denied copies of their medical records,[69] or had their information

[62] See the discussion of the mandatory delay period in p. 233 and 311-313.
[63] *Grimes et. al.* (n 61) [3], [6].
[64] *Grimes et. al.* (n 61) [7-8]; *M-Co and the Department of Health* (n 11) 15, 18, 23, 28; *Mishtal et. al.* (n 47) 11-12, 26, 40.
[65] Abortion Rights Campaign and Lorraine Grimes, *Too many barriers: experiences in Ireland after Repeal* (Abortion Rights Campaign 2021) 58-59; Máiréad Enright, 'Constitutional Issues and the Health (Regulation of Termination of Pregnancy) Act 2018' (2022) 14 < https://research.birmingham.ac.uk/en/publications/constitutional-issues-and-the-health-regulation-of-termination-of > accessed 25 April 2023; *M-Co and the Department of Health* (n 11) 58.
[66] *Duffy et. al.* (n 61) 5.
[67] Taryn de Vere, 'Law lecturer says that new abortion legislation 'leaves too many women behind'' *Her.ie* (Dublin 2018) < https://www.her.ie/news/law-lecturer-says-that-new-abortion-legislation-leaves-too-many-women-behind-444015 > accessed 4 May 2023; Ellen Coyne, 'Anti-abortion activists 'getting details' of cases' *The Times* (London, 1 February 2019); Ellen Coyne, 'Anti-abortion activists try to trick GPs with ultrasound offer' *The Times* (London, 5 February 2019); Stephen McDermott, 'Man ordered by court to stop operating crisis pregnancy website under 'confusing' My Options name' *The Journal* (Dublin, 15 February 2019); Daragh Brophy and Sean Murray, 'Activist says scans are being offered with 'top-of-the-range' ultrasound machine at Dublin building' *TheJournal.ie* (Dublin, 23 February 2019); Daragh Brophy, 'Man who ran HSE copycat website claims it helped 'save five or six women and babies from abortion' *TheJournal.ie* (Dublin, 1 March 2019); Aodhan O'Faolain, 'HSE secures injunction against Euro election candidate over MyOptions website' *The Journal* (Dublin, 29 May 2019); Ellen Coyne, 'Anti-abortion activist accused of giving rogue advice in Malta' *The Times* (London, 8 June 2019) 4; Mark Murphy (Doctors for Choice) speaking about Gianna Care in 'Patients who consulted Gianna Care' (*Twitter* 30 June 2019) < https://twitter.com/DrMarkMurphy/status/1145251750858956800?s=20&t=vSO-YjQKBCmaF7MZyl79cg > accessed 17 May 2023; Mara Clarke (Abortion Support Network), 'The law and resulting provision are leaving too many people behind' *Abortion Rights Campaign* (Dublin, 28 September 2019) < https://www.abortionrightscampaign.ie/mara-clarke-the-law-and-resulting-provision-are-leaving-too-many-people-behind/ > accessed 20 March 2023; Caelainn Hogan, 'Why Ireland's battle over abortion is far from over' *The Guardian* (London, 3 October 2019); All-Ireland Rally for Life 'Carolyn from Gianna Care on working with women with unexpected pregnancies & hear from one [sic] such mother' (*YouTube* 29 July 2020) available < https://www.youtube.com/watch?v=S97px6VJv6s&t=2s > accessed 27 March 2020; Life Institute, 'Gianna Care third baby saved by abortion pill reversal' (Dublin, 3 September 2020) < https://thelifeinstitute.net/news/2020/gianna-care-third-baby-saved-by-abortion-pill-reversal > accessed 12 April 2023; Gianna Care see National Convention for Life, 'WATCH Megan Bopp speak to Carolyn O'Meara' *Facebook* (5 November 2021) < https://www.facebook.com/NationalConventionforlife/videos/2083697511769385 > accessed 16 June 2023; Órla Ryan '"Frightening" language and no abortion information: Warning issued over rogue pregnancy services' *The Journal.ie* (Dublin, 17 January 2022); *Abortion Rights Campaign and Lorraine Grimes* (n 65) 8, 28, 51-52, 57, 60-61; *Duffy et. al.* (n 61) 4; *Fegan* (n 59); *Grimes et. al.* (n 61) [6]; *M-Co and the Department of Health* (n 11) 28; *Mishtal et. al.* (n 31) 13-14; *National Women's Council of Ireland* (n 31) 35, 50.
[68] Ryan O'Rourke, 'Limerick council calls for safe access zones around abortion providers, following protests' *Irish Examiner* (Cork, 6 July 2021); Camilla Fitzsimons, 'Irish healthcare workers experiences of anti-abortion protesters and the case for safe access zones' (2022) < https://mural.maynoothuniversity.ie/16215/ > accessed 26 April 2023; Seanad Éireann debate, Thursday 7 April 2022, vol 284, no 6; *Abortion Rights Campaign and Lorraine Grimes* (n 65) 60.
[69] *Abortion Rights Campaign and Lorraine Grimes* (n 65) 68-70.

leaked to anti-abortion services.[70] Fears of protests and backlash meant that doctors did not sign up to provide abortion or are not public about their provision.[71] The result is that abortion seekers are still refused or delayed in accessing care,[72] having to travel self-source abortions or make appointment with multiple providers.[73] People are forced to remain pregnant for longer, creating additional emotional distress and prolonging the physical symptoms of pregnancy.[74] Rather than slowing down the abortion decision-making process, these barriers to access actually create rush so that abortion seekers would not miss gestational limits. As with censorship, it was marginalised people – migrants, refugees, people who were unhoused, people on limited incomes, disabled people, people in State care, people living with domestic violence, people living in rural areas – who are primarily at risk from being further vulnerabilised by gaps in care.[75] The feeling from some abortion seekers was that the 2018 Act was stigmatising or 'punitive',

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[70] Bernie English, 'Divine providence prompts Limerick abortion protests', *Limerick Post* (Limerick 15 February 2022) < https://www.limerickpost.ie/2022/02/15/divine-providence-prompts-limerick-abortion-protests/ > accessed 11 March 2023; Privacy International, *A Documentation of Data Exploitation in Sexual and Reproductive Rights* (Privacy International April 2020) 29-30; *'Anti-abortion activist accused of giving rogue advice in Malta'* (n 67).

[71] Elaine O'Loughlin, 'Anti-abortion protests have been taking place at hospitals and clinics in 10 counties' *The Irish Examiner* (Cork, 23 August 2021); Bernie English, 'Hospital accused of ignoring calls over anti-abortion group's protests' *The Limerick Post* (Limerick, 16 December 2021); Elaine Loughlin, 'Gardaí played down warnings from HSE over safe access zones for abortion services' *The Irish Examiner* (Cork, 01 April 2022); Seanad Éireann debate, Thursday 7 April 2022, vol 284, no 6; *de Vere* (n 67); *Grimes et. al.* (n 61) [7]; *Fitzsimons* (n 68) 14-15.

[72] Ellen Coyne, 'Abortion services only available on fourth day' *The Times* (London, 18 December 2018); Deirdre Niamh Duffy, Lorraine Grimes, Bethany Jay, and Jack Callan, *Service provider perspectives and experiences of the Health [Regulation of Termination of Pregnancy] Act 2018* (Department of Health 2023) 72; *Abortion Rights Campaign and Lorraine Grimes* (n 65) 9, 33, 38; *Donnelly and Murray* (n 60) 130; *Duffy et. al.* (n 61) 5-6; *Fegan* (n 59); *Mishtal et. al.* (n 47) 15.

[73] Ellen Coyne, 'Three-day wait for abortion set to be relaxed amid safety fears' *The Times* (London, 20 September 2018); Isolde Carmody, 'Reproductive Justice - some choices are more equal than others' in Leitrim Abortion Rights Campaign, *LARCs, Larks and Other Lovely Things* (Leitrim Abortion Rights Campaign 2020); Sydney Calkin and Ella Berny, 'Legal and non-legal barriers to abortion in Ireland and the United Kingdom' (2021) 5 Medicine Access @ Point of Care 1; Shauna Bowers, 'Almost 700 abortion pills seized since legalisation of pregnancy termination' The Irish Times (Dublin, 27 September 2022); *Abortion Rights Campaign and Lorraine Grimes* (n 65) 37, 40-41, 43-45; *Carnegie and Roth* (n 59) 109-120; *Clarke* (n 67); *Conlon et. al.* (n 31) 120-121, 193; *Grimes et. al.* (n 61) [7]; *M-Co and the Department of Health* (n 11) 52; *Mishtal et. al.* (n 47) 16, 27.

[74] *Abortion Rights Campaign and Lorraine Grimes* (n 65) 9, 39, 41-42; *M-Co and the Department of Health* (n 11) 54.

[75] Emma Burns, '#10thdss: Intersectionality and the Irish abortion rights campaign of 2018' (19 September 2018) < https://emmaqburns.com/2018/09/19/10thdss-intersectionality-and-the-irish-abortion-rights-campaign-of-2018/ > accessed 19 April 2023; Paola Rivetti, 'race, identity and the state after the Irish abortion referendum' (2019) 122 Feminist Review 181, 185-186; *Abortion Rights Campaign and Lorraine Grimes* (n 65) 25, 57; *Calkin* (n 59); *Calkin and Berny* (n 73); *Carmody* (n 73); *Donnelly and Murray* (n 60) 148; *Duffy et. al.* (n 72) 69-70; *Enright* (n 65); *Fegan* (n 59); *M-Co and the Department of Health* (n 11) 21; *Mishtal et. al.* (n 31) 15-17; *Mishtal et. al.* (n 47) 38-39.

implying that their decision was disapproved of, or deviant.[76] The 2018 Act continued to frame abortion providers as being potentially dangerous and untrustworthy.[77] Abortion partially remains, through these information-based issues, exceptionalised and awfulised within healthcare.[78]

Pro-choice proponents advocated for law reform to address these issues. I agree that this approach can go some way towards addressing this continued vulnerabilisation. In relation to information-based or adjacent adaptations these should involve decriminalisation,[79] the removal of the mandatory delay period,[80] clarification of the boundaries of conscientious objection, and referral requirements.[81] Alternatively, if the delay period is retained, referral pathways should be established for those who are over 12-weeks' gestation.[82] Other additional legal interventions that people have suggested could to improve abortion care infrastructures are legal protections for conscientious

[76] Quote from Madeleine Ni Dhalaigh (Irish Medical Organisation's GP committee) Eoghan Murphy, 'Almost 100 children called crisis pregnancy helpline that provides abortion information last year' *Irish Mirror* (Dublin, 21 May 2023) < https://www.irishmirror.ie/news/irish-news/almost-100-children-called-crisis-30035409 > accessed 26 May 2023; See also the debate in Joint Committee on Health debate, Wednesday 19 September 2018; Paul Cullen, 'Rotunda master says 95% of parents in Down syndrome cases choose abortion' *The Irish Times* (Dublin, 26 December 2022); Niamh Griffin, 'IFPA claims three-day abortion wait is 'unreasonable and paternalistic' *Irish Examiner* (Cork, 19 April 2023) < https://www.irishexaminer.com/news/arid-41120488.html > accessed 30 April 2023; *Coyne* (n 73); *de Londras* (n 55); *Enright* (n 65) 19; *Mishtal et. al.* (n 31) 15; *Mishtal et. al.* (n 47) 29.
[77] *Donnelly and Murray* (n 60) 130.
[78] For comments about the exceptionalisation and the awfulisation of abortion see Fiona de Londras and Máiréad Enright, '"The only lawyer on the panel": anti-choice lawfare in the battle for abortion law reform' in Kath Browne and Sydney Calkin (Eds.) After Repeal: Rethinking Abortion Politics (Bloomsbury Academic 2000) 53, 68; *Coyne* (n 73); *Cullen* (n 76).
[79] For examples of discussions about criminalisation and sting operations see Abortion Rights Campaign, *The Misuse of Criminal Law Regarding Abortion in Ireland and Northern Ireland: Submitted to the International Commission of Jurists, Joint United Nations Programme on HIV/AIDS, and Office of the UN High Commissioner for Human Rights* (Abortion Rights Campaign 14 February 2019) 7; *Duffy et. al.* (n 72) 73-74; *M-Co and the Department of Health* (n 11) 30-31, 39; See comment on the potential abolition of the Censorship of Publication Board on p. 436.
[80] For criticism of the delay period on the basis that abortion seekers knew their own minds see *Bray* (n 53); *Griffin* (n 76); *M-Co and the Department of Health* (n 11) 30-31, 39.
[81] For an example of a study where some doctors did not want to refer people for abortions see Raymond O'Connor, Jane O'Doherty, Michael O'Mahony, Eimear Spain, 'Knowledge and attitudes of Irish GPs towards abortion following its legalisation: a cross-sectional study' (2019) 3(4) BJGP Open; *Abortion Rights Campaign and Lorraine Grimes* (n 65) 9; *M-Co and the Department of Health* (n 11) 19; *National Women's Council of Ireland* (n 31) 54-55.
[82] *M-Co and the Department of Health* (n 11) 53.

providers,[83] the continued use of telemedicine,[84] safe access zones,[85] and State monitoring of objections or delays in referrals.[86] The pro-choice campaigners and scholars who called for these measures believe there to be no major political barriers for a government to make these changes based on the mandate that the State received to liberalise abortion access through the electorate's support for the Thirty-Sixth Amendment.[87] Opposition legislators aligned with these views introduced two Bills to try and achieve these reforms: the Safe Access to Termination of Pregnancy Services Bill 2021 and the Health (Regulation of Termination of Pregnancy) (Amendment) Bill 2023. The 2021 Bill would establish zones outside of providers where anti-abortion protests could not lawfully take place. The 2023 Bill proposed to remove the 3-day mandatory delay period,[88] and to decriminalise abortion.[89] Their efforts should sustain pressure on the government to address enduring paternalism and barriers to care, including those that were flagged in the State's own review reports.

The 2018 Act required the Minister for Health to review its operation after three years.[90] The government have published the reports commissioned as part of this process.[91] Most of the recommendations made by *The Independent Review* – the main report –

[83] *Donnelly and Murray* (n 60) 130.
[84] *M-Co and the Department of Health* (n 11) 18, 21, 28, 48-49.
[85] *M-Co and the Department of Health* (n 11) 20, 28, 51; See p. 414-415.
[86] *M-Co and the Department of Health* (n 11) 23, 28, 50.
[87] For examples of the majority of study respondents supporting measures like the normalisation of abortion and safe access zones see *Fitzsimons* (n 68); *National Women's Council of Ireland* (n 59) 8, 22; Deputy Bríd Smith (People Before Profit-Solidarity, previously Anti-Austerity Alliance - People Before Profit) Dáil Éireann debate, Wednesday 8 February 2023, vol 1033, no 1 and Dáil Éireann debate, Thursday 25 May 2023, vol 1039, no 2.
[88] Health (Regulation of Termination of Pregnancy) (Amendment) Bill 2023, s 4.
[89] Health (Regulation of Termination of Pregnancy) (Amendment) Bill 2023, s 5.
[90] Health (Regulation of Termination of Pregnancy) Act 2018, s 7.
[91] Marie O'Shea, *The Independent Review of the Operation of the Health (Regulation of Termination of Pregnancy) Act 2018* (28 February 2023) < https://www.gov.ie/pdf/?file=https://assets.gov.ie/255442/bda412d4-9538-47a5-8abc-ce22826bbae6.pdf#page=null > accessed 4 May 2023; *Conlon et. al.* (n 31); *Duffy et. al.* (n 72); *M-Co and the Department of Health* (n 11).

focused on operational matters.[92] The *Review* did recommend some legislative changes, however. In relation to information-provision, the chair of the *Review* confirmed that the three-day delay period was a political decision to assuage anxieties around claimed abortion 'regret' rather than a legitimate medical need.[93] The delays created unjustified additional burdens for abortion seekers who were already having to wait between appointments due to service delivery constraints.[94] Before Covid-19, the Health Service Executive required two face-to-face consultations with a doctor.[95] Even locating a provider was difficult for some abortion seekers.[96] The reports detailed how this was due to a lack of open providers, especially outside of Dublin.[97] The reports found that this was due conscientious objectors, a lack safe access zones,[98] criminalisation,[99] and the labour burden on those who choose to provide.[100] Further amplifying the three-day delay period's barrier to care was the fact that a first appointment did not count if it was with a non-provider.[101] There was a risk that an abortion seeker would encounter a conscientious objector as the *Review* found that some medical providers were acting as obstructors by not declaring their objections in advance,[102] not providing referrals,[103] referring to MyOptions rather than a providing

[92] Máiréad Enright, 'Ireland's Abortion Law Reform' (28 April 2023) < https://ohrh.law.ox.ac.uk/irelands-abortion-law-reform/ > accessed 2 May 2023.
[93] Marie O'Shea (chair of the review), Joint Committee on Health debate, Wednesday 31 May 2023.
[94] Marie O'Shea (chair of the review), Joint Committee on Health debate, Wednesday 31 May 2023; *Conlon et. al.* (n 31) 44, 105; *O'Shea* (n 91) 86-89.
[95] Alison Spillane, Maeve Taylor, Caitriona Henchion, Róisín Venables, Catherine Conlon, 'Early abortion care during the COVID-19 public health emergency in Ireland: Implications for law, policy, and service delivery' (2021) 154(2) International Journal of Gynaecology and Obstetrics 379, 380.
[96] *O'Shea* (n 91) 12, 80.
[97] *Conlon et. al.* (n 31) 55-56; *O'Shea* (n 91) 12, 37-39, 42-43, 51, 79.
[98] *Conlon et. al.* (n 31) 8; *O'Shea* (n 91) 16, 82, 113-115.
[99] *Conlon et. al.* (n 31) xx, 224; *Duffy et. al.* (n 72) 58-60; *O'Shea* (n 91) 15, 125.
[100] Catherine Conlon (UnPAC study author) Joint Committee on Health debate, Wednesday 31 May 2023; *Conlon et. al.* (n 31) 86-87; *O'Shea* (n 91) 87, 96.
[101] *O'Shea* (n 91) 88.
[102] *Conlon et. al.* (n 31) 39, 88, 94.
[103] Marie O'Shea (chair of the review), Joint Committee on Health debate, Wednesday 31 May 2023; *Duffy et. al.* (n 72) 88; *O'Shea* (n 91) 14-15, 80-81, 96-98.

colleague,[104] sharing providing mis/disinformation with the intension of dissuading or preventing people accessing abortions.[105] Ancillary workers were also found by the *Review* to be creating barriers to access.[106] The 2018 Act has no legal or criminal penalty for obstruction.[107] To protect legal access to abortion the State has to seek out injunctions to protect abortion seekers from anti-abortion obstructors spreading mis/disinformation.[108] The *Review* did not accept the government argument that the electorate had voted in favour of the General Scheme by voting in favour of the Thirty-Sixth Amendment.[109] It is open for a government to introduce legal changes or to push for enhanced professional guidelines to address gaps in care. Some suggested areas for reform from the reports included the following:

- defining transfer of care,[110]
- penalties for obstructers or limiting conscientious objections,[111]
- removing the mandatory aspect of the three-day delay period,[112]
- expanding the 12-week gestational cut-off if the delay period remains mandatory,
- introducing a statutory prohibition against healthcare workers providing 'misleading information' or engaging in other conduct intended to delay or prevent a person from accessing services,[113]

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[104] *O'Shea* (n 91) 82.
[105] For example, some people were being told that they were earlier in pregnancy than they are. See Marie O'Shea (chair of the review), Joint Committee on Health debate, Wednesday 31 May 2023.
[106] *O'Shea* (n 91) 103.
[107] Marie O'Shea (chair of the review), Joint Committee on Health debate, Wednesday 31 May 2023; *O'Shea* (n 91) 102.
[108] Jack Horgan-Jones and Sarah Burns, 'Anti-abortion activist launches new website following injunction' *The Irish Times* (Dublin, 19 February 2019); *Brophy* (n 67); O'Faolain (n 67).
[109] Marie O'Shea (chair of the review), Joint Committee on Health debate, Wednesday 31 May 2023.
[110] *O'Shea* (n 91) 14-15, 25, 99.
[111] Marie O'Shea (chair of the review), Joint Committee on Health debate, Wednesday 31 May 2023; *O'Shea* (n 91) 19.
[112] Marie O'Shea (chair of the review), Joint Committee on Health debate, Wednesday 31 May 2023; *O'Shea* (n 91) 25; *Conlon et. al.* (n 31) xxii, 224; For another example of doctors advocating for change see *Mishtal et. al.* (n 47) 29.
[113] *O'Shea* (n 91) 12, 14-16, 27, 81, 117, 126.

- introducing quality assurance measures to protect people from biased, directive counselling,[114]
- criminalise conduct intended to influence a person's decision to have or provide an abortion,[115]
- collecting data on reasons why people do not return for a second appointment such as obstruction,[116]
- decriminalisation,[117]
- safe access zones.[118]

The findings of these reports will be referred to the Oireachtas Committee on Health for consideration.[119] It remains to be seen if the Committee will choose to dispense fully with the paternalistic approach to information regulations and interventions or if the service orientated approach will endure for more years to come.

Other areas for research

There are a number of aspects of information control that I was unable to examine in this thesis. In this section, I highlight some of the most relevant areas that warrant their own consideration, both in terms of the history of regulation, and influence on current and future arguments and boundaries of permissibility and acceptability.

[114] *Conlon et. al.* (n 31) xxi, 14, 220; *O'Shea* (n 91) 12, 84.
[115] *O'Shea* (n 91) 28.
[116] Marie O'Shea (chair of the review), Joint Committee on Health debate, Wednesday 31 May 2023.
[117] *Conlon et. al.* (n 31) xxii; *O'Shea* (n 91) 27.
[118] *O'Shea* (n 91) 113, 115-116.
[119] *Young* (n 51).

Additional anti-abortion influences

Vulnerability was not the only aspect of anti-abortion ideologies that influenced support for censorship and information controls. Religion was also a major influence. In relation to religious bodies supporting the mechanisms of censorship, the Department of Justice liaised with Catholic Archbishop John Charles McQuaid when appointing censors.[120] Though to counter Catholic influence, the Department also consulted with Trinity College Dublin to find Protestant censors, which was according to the correspondence, a difficult task.[121] For information provision, Cura was the largest crisis pregnancy agency and it was founded and governed by the Irish Catholic Bishops' Conference.[122] Life/Anew, were non-denominational and specifically advertised in non-religious spaces.[123] However, it too had a religious connection as Bishop Kevin Doran worked for them in a personal capacity as a chair and an information officer.[124] Future research could examine this influence at a deeper level, including religious anti-abortion actors shifts from censors to information providers.

I discussed how providing information about the 'alternatives' to abortion was a strategy for reducing or eliminating the number of people who chose abortion. There were some nuances in how anti-abortion advocates discussed adoption that is worthwhile from a theoretical perspective. Adoption was described by its proponents as a beneficial

[120] See correspondence in Folder no 90-102-25, National Archives of Ireland.
[121] See correspondence in Folder no 90-102-26, 2 of 2, National Archives of Ireland.
[122] See Chapter Two for a discussion of Cura and Life/Anew.
[123] Ann Healy, 'Dana emphasises need to overcome abortion silence' The Irish Times (Dublin, 3 April 2000) 7.
[124] 'About values' < https://anew.ie/index.php/our-values/ > accessed 20 January 2023; K. Doran, 'The abortion referendum' *The Irish Times* (Dublin, 17 March 1983) 9; Kevin Doran, 'Life (Ireland)', *The Irish Times* (Dublin, 27 August 1984) 9; 'Lesson 13: Introduction to the abortion issue' in Noirin Hayes, Deirdre MacGovern, Frances Kavanagh, Liam Cummins, John McCann, Kevin Doran, Life must go on: A pro-life education programme for post-primary schools (Helicon 1982) 66-67.

practice in itself as well as a way of averting the threat of abortion.[125] Due to Ireland's history of forced and illegal adoptions and the stigmatisation of single parenthood, such framings are not without issue. Directive counselling in favour of the continuation of pregnancy was permitted under the 1995 Act.[126] Furthermore, agencies like Cura and Life/Anew offered services and advice that facilitated adoptions.[127] For example, there was staffing overlap between these organisations and those that ran mother and baby homes and pre-adoption domestic lodgings.[128] Advocation and promotion of adoption was a persistent argument throughout iterations of anti-abortion information control.[129] In particular, 'open adoption' models that were different to the closed, coercive approaches of the past.[130] Future projects could examine the role of adoption legislation in shaping the crisis pregnancy information environment.[131] Researchers could also

[125] For examples see 'Abortion assistance is the same as referral' *The Irish Times* (Dublin, 28 October 1994) 12; Deputy Matt Brennan (Fianna Fáil) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Senator Ann Ormonde (Fianna Fáil) Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Cabinet Committee, *Green Paper on Abortion* (Department of the Taoiseach 1999) para. 5.56 p. 42, 5.58, p. 42, para. 6.40, p. 54, para 6.58, p 58; Senator Mary Jackman (Fine Gael) Seanad Éireann debate, Friday 7 December 2001, vol 168, no 21.
[126] For discussion of the prohibition of advocation of abortion see p. 194-195 and 298-299.
[127] Cathy Halloran, 'Life Pregnancy Care Service' *RTÉ Archives* (Dublin, 1 November 1989) < https://www.rte.ie/archives/collections/news/21369391-life-pregnancy-care-service/ > accessed 17 June 2023; Caelainn Hogan, ''This institution for 'unmarried mothers' is not part of some distant past - it closed in 2006'' *TheJournal.ie* (Dublin, 23 August 2020) < https://www.thejournal.ie/readme/caelinn-hogan-the-castle-5178051-Aug2020/ > accessed 10 March 2023; Rosita Boland, 'Cura and Ally were a different set of walls for women with unplanned pregnancies' *The Irish Times* (25 February 2021); Commission of Investigation into Mother and Baby Homes, *Final Report of the Commission of Investigation into Mother and Baby Homes*, (Department of Children, Equality, Disability, Integration and Youth, 22 November 2021) para. 211, p. 57.
[128] *Commission of Investigation into Mother and Baby Homes* ibid para. 144 and 147, p. 38, para. 175-176, p. 45, para. 2.38, p. 28 para. 12.114, p.58, para. 12.121, p. 61-62, para. 12.126, p. 65; para. 12.141, p. 72; para. 14.1, p. 1, 'chapter 24a Dunboyne statistical analysis', p. 7-8; para. 24.115-24.116, p. 29-30, para 24.124, p. 31; para. 24.179, p. 45; para. 26.9-26.10, p. 3-4, para. 26.13, p.5; para. 26.20, p. 6; para. 26.22, p. 7.
[129] See for example Joe Humphreys, 'Abortion conference told image of adoption must change' The Irish Times (Dublin, 22 September 1998) 5; Deputy Matt Brennan (Fianna Fáil) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Senator Michael Finneran (Fianna Fáil) Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8.
[130] Patricia Casey and Breda O'Brien (Organisers *5,000 Too Many* Conference) in All-Party Oireachtas Committee on the Constitution, *Fifth Progress Report: Abortion* (Stationary Office 2000) 105, A217; Breda O'Brien, 'Irish Abortions: Can We Reduce the Number?' (2001) 90(358) Studies 159; Deputy Peter Fitzpatrick (Independent) Joint Committee on the Eighth Amendment of the Constitution debate, Wednesday 15 November 2017; *Humphreys* ibid; *Pro-Life Campaign* (n 14) 7.
[131] See for example Senator Lynn Ruane calling for the records of Cura to be examined as part of investigations into the abuses of mother and baby homes and forced illegal adoptions in Ireland in Seanad Éireann debate, Tuesday 19 June 2018, vol 258, no 11.

consider how ideas of abortion seekers as being under/misinformed about adoption influenced anti-abortion campaigning and service provision demands. The disconnect between that view and the views of adoptees and abortion seekers would also be an important area for research for those interested in service-led approaches to injustice.[132]

Other forms of information control and provision

My analysis focused primarily on the legal controls impacting publications and crisis pregnancy counselling. There is scope for future research to examine other information sources and how anti-abortion law-making impacted their availability and accessibility. There is potential for overlapping themes, but these sources have their own particular dynamics that may build upon the work in this thesis and in the literature on abortion regulations and information controls.

In addition to opposing the advocation of abortion and referrals, anti-abortion campaigners also opposed prenatal genetic testing and some forms of scanning.[133] If the test or scan supported abortion reduction or minimisation goals, e.g., mandatory ultrasounds, anti-abortion advocates supported it. However, there has been an issue in Irish maternity care historically with access to genetic testing as the results may lead a person to have an abortion.[134] Some anti-testing proponents also claimed tests could

[132] For examples of contestation of anti-abortion claims around adoption and abortion information see Therese Caherty, 'Choosing to tell : women's accounts of the experience of abortion' (Mphil Trinity College Dublin 1994); Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; Hilda Loughran and Valerie Richardson, *Mixed method adoption research*, (June 2005) Research report no 13, 95-96, 113.
[133] For examples of concerns about testing and screening and protections for foetal life see debate in Wendy Holden, *Unlawful carnal knowledge: the true story of the Irish 'X' case* (Harper Collins 1994) 9; Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3; Sadie Bergen, '"The kind of doctor who doesn't believe doctor knows best": Doctors for Choice and the medical voice in Irish abortion politics, 2002–2018' (2022) 297 Social Science and Medicine 114817, 3.
[134] Pat Brennan, 'Backlash and blackmail' *Magill* (Dublin, July 1982) 16, 22-23; Mavis Arnold and Peadar Kirby (Eds.) *"The Abortion Referendum" : The Case Against* (Anti-amendment campaign 1983) 22, 57, 70; Tom Hesketh, *The second partitioning of Ireland?: the referendum of 1983* (Brandsma Books 1990) 45; Janina Lyons, 'Genetics – a missing link' *The Irish Times* (Dublin, 26 August 1992) 11; Kathyrn Holmquist, 'Tinkering with gene genie?' *The Irish*

endanger pregnant people and foetuses.[135] Hospitals either did not perform testing or highly controlled it on this basis.[136] There is ample scope here to consider the intersection of benevolent paternalism and information controls especially as some parts of the anti-abortion movement turned to focus on statutory information provision as their preferred information strategy.[137] There is also scope for considering how a lack of testing also drove momentum for reform. Pro-liberalisation advocates highlighted how pregnant people were ill-served by these service limitations and the law needed to change in order to address the anti-abortion culture around maternity care in Ireland.[138] Under the 2018 Act some people are still forced to travel due to receiving a diagnosis of

Times (Dublin, 8 January 1994) 29; Miguel de Arce (Department of Genetics, Trinity College Dublin) in *All-Party Oireachtas Committee on the Constitution* (n 130) A585-A586; *Cabinet Committee* (n 125) para. 5.34, p. 39; *Holden* ibid 119, 247.

[135] *Lyons* ibid; *Miguel de Arce (Department of Genetics, Trinity College Dublin) in All-Party Oireachtas Committee on the Constitution* ibid.

[136] Loretto Browne, 'The Campaign to Legalise Abortion' in Various Authors, *Abortion Now* (Life and Education Research Network (LEARN) 1983, 31; J.P. O'Carroll, 'Bishops, knights — and Pawns? Traditional thought and the Irish abortion referendum debate of 1983' (1991) 6(1) Irish Political Studies 53, 64; Sandra Coliver, 'Ireland' in Sandra Coliver (Ed.) *The right to know: human rights and access to reproductive health information* (Article 19 and university of Pennsylvania Press 1995) 159, 172; *D v Ireland* Application no. 26499/02 (European Court of Human Rights, 27 June 2006) para. 58, p.23; para. 75, p. 29; Crisis Pregnancy Agency, *Summary Report of the Consultation for the Strategy to Address the Issue of Crisis Pregnancy* (July 2004) 19; Human Rights Watch, *A State of isolation: access to abortion for women in Ireland* (Human Rights Watch 2010) 28-29; Ivana Bacik, 'Politics of Sexual Difference: the enduring influence of the Catholic Church' in Noreen Giffney and Margrit Shildrick (Eds.) *Theory on edge: Irish Studies and the politics of sexual difference* (Palgrave Macmillan 2013) 17, 23; Stephen Donoghue and Claire-Michelle Smyth, 'Abortion for Foetal Abnormalities in Ireland; The Limited Scope of the Irish Government's Response to the A, B and C Judgment' (2013) 20 European Journal of Health Law 117, 134-136; Peter Boylan, *In the shadow of the Eighth: my forty years working for Women's Health in Ireland* (Penguin Random House 2019) 21, 36, 46.

[137] Seanad Éireann debate, Tuesday 11 December 2018, vol 262, no 3; *Boylan* ibid 200.

[138] See as examples Cork Abortion Information Campaign, *Censored: Ireland's Abortion Reality* [Cork Abortion Information Campaign, 1991] 12; Senator Mary Henry (Independent) Seanad Éireann debate, Monday 13 March 1995, vol 142, no 7; National Women's Council of Ireland, *NWCI Policy Position Paper on Abortion* (National Women's Council of Ireland 2013) 18 (Footnote 50) 19, 59; Jennifer Schweppe and Eimear Spain, 'When is a Foetus not an Unborn? Fatal Foetal Abnormalities and Article 40.3.3°' (2013) 3(3) Irish Journal of Legal Studies 92, 98; Sandra McAvoy, 'Vindicating women's rights in a foetocentric state: the longest Irish journey' in Noreen Giffney and Margrit Shildrick (Eds.) *Theory on the edge: Irish studies and the politics of sexual difference* (Palgrave Macmillan 2013) 39, 44; Amanda Mellet and the Centre for Reproductive Rights, 'Submission to the Citizens Assembly' (16 December 2016) 7; Human Rights Committee, 'Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2425/2014' (17 March 2017) CCPR/C/119/D/2425/2014. (*Whelan v Ireland*) para 2.2, p. 2; Peter McParland (National Maternity Hospital) 'Antenatal Diagnosis and Management of Fetal Abnormalities' in the Citizenship' Assembly, *Papers and Presentations from Citizens' Assembly Speakers: from meetings November 2016 to April 2017* (The Citizens' Assembly 2017) Appendix E, volume 1, E 125 to E 144; Terminations for Medical Reasons, *Special Oireachtas Committee TFMR Ireland Oral Presentation on the 8th Amendment* (TMFR Ireland 25 October 2017) 6; *Coliver* (n 136) 172; *Conlon et. al.* (n 31) chapter 10, 165; *All-Party Oireachtas Committee on the Constitution* (n 130) 81, A98; *D v Ireland* (n 136) para. 6, p. 3, para. 58., p. 23, para 68, p. 26, para 75, p. 29; *M-Co and the Department of Health* (n 11) 16, 22, 27, 42.

a foetal anomaly that is not covered under the legislation and because of testing delays.[139] Anti-abortion advocates remain committed to lobbying for the prohibition of abortion on foetal sex or health grounds.[140]

Record-keeping was a form of information collation that I did not consider in this thesis. It was a topic of discussion for anti-abortion and pro-choice advocates in debates around abortion regulations and would therefore be a topic of interest to abortion or information scholars. The lack of systematic record keeping potentially hampered abortion liberalisation attempts as researching the need for abortion was difficult due to the surreptitious nature of abortion travel and the forced break in continuity of care under the 1995 Act. Had the State been collating statistics on abortion need, they may not have been accurate as before the 2013 Act, there was no unform definition of what an abortion to save the life of a pregnant person applied to.[141] After the 2013 Act,

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[139] *Conlon et. al.* (n 31) chapters 10 and 11, 133-137, 141-142, 164; *M-Co and the Department of Health* (n 11) 17; *O'Shea* (n 91) 72.

[140] See for example Pat Leahy, 'Anti-abortion campaigners seek ban on terminations on disability and gender grounds' *The Irish Times* (Dublin, 8 June 2018); Aontú Press, 'Gender selection abortion is completely legal in Ireland.' (*Aontú* 3 August 2021) < https://aontu.ie/gender-selection-abortion-is-completely-legal-in-ireland > accessed 3 February 2024.

[141] For examples of different definitions of abortions see R.S. Rose 'An outline of fertility control, focusing on the element of abortion in the Republic of Ireland to 1976' (1976) PhD Thesis University of Stockholm; Delores Dooley Clarke, 'Divergence between theory and practice' in Mavis Arnold and Peadar Kirby (Eds.) "The Abortion Referendum" : The Case Against (Anti-amendment campaign 1983) 57; Noël Browne, 'Does Rome still rule the Republic?' in Mavis Arnold and Peadar Kirby (Eds.) "The Abortion Referendum" : The Case Against (Anti-amendment campaign 1983) 80; Nell McCafferty, 'As far as practicable' in Ailbhe Smyth (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 157, 160; Anthea McTeirnan, 'Lives at risk in abortion law vacuum, doctor says' *The Irish Times* (Dublin, 28 June 1993) 4; Catholic Press and Information Office, *The Catholic Church and Abortion* (Veritas Publications 1994) 22; Emily O'Reilly, *Masterminds of the Right* (Attic Press, 1997) 112; Chrystel Hug, *The politics of sexual morality in Ireland* (Macmillan 1998) 141; Irish Council for Civil Liberties, 'The Need for Abortion Law Reform in Ireland: The Case Against the Twenty-Fifth Amendment of the Constitution Bill, 2001' [2001] 10, 17 < https://www.iccl.ie/archive/the-need-for-abortion-law-reform-in-ireland-the-case-against-the-twenty-fifth-amendment-of-the-constitution-bill-2001/ > accessed 15 June 2023; Laury Oaks, '"Abortion is part of the Irish experience, it is part of what we are": the transformation of public discourses on Irish abortion policy' (2002) 25(3) *Women's Studies International Forum* 315, 327; Lisa Smyth, *Abortion and Nation: The Politics of Reproduction in Contemporary Ireland* (Routledge 2005); Sandra McAvoy, 'From anti-amendment campaigns to demanding reproductive justice: the changing landscape of abortion rights activism in Ireland 1983-2008' in Jennifer Schweppe (Ed.) *The Unborn Child, Article 40.3.3° and Abortion in Ireland: Twenty-Five Years of Protection?* (Liffey Press 2008) 15, 22; Ann Rossiter *Ireland's Hidden Diaspora: The Abortion Trail and the Making of a London-Irish Underground* (IASC Publishing 2009) Location 2398; Rohini Boddu, 'A review of abortion in Ireland' (2011) 4(1) Royal College of Surgeons in Ireland Student Medical Journal 78; Ciara Breathnach, 'Medicalizing the female reproductive cycle in rural Ireland, 1926–56'

statistics were framed by the government as a way of demonstrating how restrictive the law remained.[142] Yet, the statistics provided by British and Dutch abortion services applied pressure to governments to address the fact that pregnant people in Ireland wanted abortions. As did the lack of statistics from Ireland itself.[143] These conflicting dynamics could be further analysed along with the fact that anti-abortion proponents attempted to amend the 2018 Act to require enhanced record keeping including demographics and reasons for choosing abortion.[144] This was akin to a similar amendment proposed to the 1995 Act.[145] The reason anti-abortion legislators gave in 2018 and 1995 to justify such record keeping was to protect vulnerable pregnant people and foetal life by allowing the State to create targeted abortion reduction strategies.[146] It

(2012) 85(230) Historical Research 674, 684; Goretti Horgan, 'A Holy Alliance? Obstacles to abortion rights in Ireland North and South' in Aideen Quilty, Sinéad Kennedy and Catherine Conlon (Eds.) *The Abortion Papers: Volume 2* (Cork University Press 2015) 246, 249-251; Cara Delay, 'Kitchens and Kettles: Domestic Spaces, Ordinary Things, and Female Networks in Irish Abortion History, 1922–1949' (2018) 30(4) Journal of Women's History 11; Paul Loughlin, 'Debating contraception, abortion and divorce in an era of controversy and change: new agendas and RTÉ radio and television programmes 1968-2018: Volume One' (PhD Thesis, Trinity College Dublin 2020) 117-119, 159-164, 169, 178-179; *All-Party Oireachtas Committee on the Constitution* (n 130) A79, A92, A110-A111, A140, A181, A188, A279; *Hesketh* (n 134) 44-46; *Holden* (n 133) 96; *O'Carroll* (n 136) 64.

[142] The Minister for Health James Reilly (Fine Gael) Dáil Éireann debate, Thursday 20 June 2013, vol 807, no 4.

[143] For criticism of the lack of a central recording system for abortion seekers from Ireland see Andrew Rynne, *Abortion: the Irish question* (Ward River Press 1982) 184; Deputy Frances Fitzgerald (Fine Gael) Dáil Éireann debate, Thursday 2 March 1995, vol 450, no 1; Deputy Dan Wallace (Fianna Fáil) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Senator Marian McGennis (Fianna Fáil) Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8; Deaglán de Bréadún, 'Democratic Left calls for crisis pregnancies studies to begin' *The Irish Times* (Dublin, 10 March 1995) 7; *All-Party Oireachtas Committee on the Constitution* (n 130) A409, A544-545; Deputy Billy Timmins (Fine Gael and later Independent and Renua) Dáil Éireann debate, Thursday 11 July 2013, vol 810, no 3; Deputy Michael Creed (Fine Gael) Dáil Éireann debate, Thursday 27 June 2013, vol 808, no 3; Kathy Sheridan, ''Although we have a pro-life identity, we do not have the healthcare that supports parents and newborns babies who have complex needs' *The Irish Times* (Dublin, 21 April 2012) 39; Ruth Fletcher, 'Peripheral governance: administering transnational health-care flows' (2013) 9(2) International Journal in Law in Context 160, 169.

[144] Amendment 141 < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/dail/3/amendment/numberedList/eng/nl-b10518d.pdf > Amendment 43a < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/dail/4/amendment/numberedList/eng/b105a18d-additional-list.pdf > Amendment 42 < https://data.oireachtas.ie/ie/oireachtas/bill/2018/105/seanad/3/amendment/numberedList/eng/nl-b105b18d-sc.pdf > accessed 3 February 2024.

[145] Amendment 12 introduced by Deputy Máire Geoghegan-Quinn (Fianna Fáil) Dáil Éireann debate, Thursday 9 March 1995, vol 450, no 4; Amendment 3 introduced by Senator Michael Finneran (Fianna Fáil) Seanad Éireann debate, Tuesday 14 March 1995, vol 142, no 8.

[146] Deputy Peadar Tóibín (Independent, formerly Sinn Féin and later Aontú) Dáil Éireann debate, Wednesday 17 October 2018, vol 973, no 6; Dáil Éireann debate, Tuesday 4 December 2018, vol 976, no 1; Senator Rónán Mullen (Independent) Seanad Éireann debate, Thursday 13 December 2018, vol 262, no 5; Seán Canney (Independent) Written answers, Tuesday 27 July 2021; *Irish Catholic Bishops' Conference* (n 11) 2; *Pro-Life Campaign* (n 14) 9.

would have also reinforced their argument that abortion was 'a very serious issue' and the community demanded such measures.[147] In a reversal of previous discussions, anti-abortion advocates are now claiming that the State is guilty of wilful ignorance and obfuscation by not collecting this data.[148] Scholars interested in how anti-abortion legal strategies and arguments have changed within Ireland may find this area of information generation insightful.

I chose not to include post-abortion counselling as I wanted to focus primarily on how information regulations were constructed and enforced to reduce or minimise the number of people who chose abortion. Future research into post-abortion counselling regulations would, however, be worth considering, even though there were no legal constraints on its provision. Scholars could focus on how support for post-abortion counselling sustained service-orientated and mitigation responses to the harms caused to pregnant people by information and abortion prohibitions. In turn, scholars have highlighted how the criminalisation and exceptionalisation of abortion and non-directive counselling resulted in a low uptake on abortion aftercare generally, including post-abortion counselling.[149] This was sometimes due to people not being offered the

[147] Deputy Peadar Tóibín (Independent, formerly Sinn Féin and later Aontú) Select Committee on Health debate, Wednesday 7 November 2018; Deputy Mattie McGrath (Independent, formerly Fianna Fáil) Dáil Éireann debate, Tuesday 4 December 2018, vol 976, no 1; For similar earlier examples see Deputy Peter Fitzpatrick (Fine Gael and later Independent) Dáil Éireann debate, Monday 1 July 2013, vol 805, no 1; Deputy Billy Timmins (Fine Gael and later Independent and Renua) Dáil Éireann debate, Thursday 11 July 2013, vol 810, no 3; Deputy Maurice Cummins (Fine Gael) Seanad Éireann debate, Monday 15 July 2013, vol 225, no 1.
[148] *Pro-Life Campaign* (n 14) 2-3; Deputy Peadar Tóibín (Aontú, formerly Sinn Féin and Independent) Dáil Éireann debate, Thursday 25 May 2023, vol 1039, no 2.
[149] Caroline Walsh, 'Thousands face abortion without advice' *The Irish Times* (Dublin, 25 September 1985) 19; London Irish Women's Conference, *Irish women our lives our identity: report of the 1987 London Irish Women's Conference* (London Irish Women's Conference 1987) 20; 'Women TDs speak out' *The Irish Times* (Dublin, 20 February 1992) 7; Fiona Bradley (Doctors for Freedom of Information), 'Doctors are handed wrong prescription' *Irish Times* (Dublin, 24 October 1992) 7; Irish Family Planning Association, *Annual report 1994* (Irish Family Planning Association 1995) 25; Alison Healy, ''Too few' pregnant women in crisis seek help' *The Irish Times* (Dublin, 12 July 2007) 9; Crisis Pregnancy Agency, *Strategy 2007 - 2011: Leading an integrated approach to reducing crisis pregnancy*, (Crisis Pregnancy Agency 2007) 29; Well Woman, 'Submission by the Dublin Well Woman Centre to the Citizen's Assembly, December 2016' (December 2016) 2 < http://wellwomancentre.ie/wp-

service, even if their doctors knew that they were travelling for an abortion, or due to the stigmatised nature of abortion.[150] The lack of regulations on who could provide post-abortion counselling is also an important area for exploration as anti-abortion organisations, including unregulated rogue agencies provide it.[151] Now that abortion is legal in Ireland on more liberal grounds, the role that anti-abortion post-abortion counselling plays is a vital area for scholars to consider in relation to reducing shame and respecting the agency of abortion seekers.

There were a number of information sources outside of medical or counselling contexts that may be of further interest to scholars of abortion and censorship. Sex education was frequently raised in reports and debates as a method for reducing abortions. Anti-abortion organisations delivered anti-abortion sex and relationship education in schools as the State had largely delegated management to religious organisations.[152]

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content/uploads/2016/12/Submission-to-Citizens-Assembly-Dec-2016.pdf > accessed 25 May 2023; *Crisis Pregnancy Agency* (n 136) section 5.1, 23.

[150] Human Rights Committee, 'Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2324/2013' (31 March 2016) CCPR/C/116/D/2324/2013 (*Mellet v Ireland*) para. 7.5, p. 16, para. 7.10, p. 17; *D v Ireland* (n 136) para. 7, p. 3; *Schweppe and Spain* (n 138) 98.

[151] See for example 'Letter from Limerick Grandmother : June 28th, 1982' in Mavis Arnold and Peadar Kirby (Eds.) "The Abortion Referendum" : The Case Against (Anti-amendment campaign 1983); Tom MacSweeney, 'Cura annual report' *RTÉ Archives* (Dublin, 20 October 1986) < https://www.rte.ie/archives/collections/news/21227324-cura-annual-report/ > accessed 19 June 2023; Women Hurt By Abortion, *An approach to healing for women hurt by abortion* (Revised Ed) (Women Hurt by Abortion 1990) 17; Saoirse Nic Gabhainn and Vivienne Batt, Crisis Pregnancy Counselling in Ireland, prepared by Maureen Gilbert (Crisis Pregnancy Agency, July 2004) Report no 4, 10; Sylwia Kuźma-Markowska and Laura Kelly, 'Anti-abortion Activism in Poland and the Republic of Ireland c.1970s–1990s' (2022) 46(3) Journal of Religious History 1, 21-22.

[152] Senator Helena McAuliffe-Ennis (Labour Party) Seanad Éireann debate, Wednesday 11 May 1983, vol 100, no 8; Evelyn Mahon, 'Women's Rights and Catholicism in Ireland' (1987) 1(166) New Left Review 166; Padraig O'Morain, 'Alton speaks at launch of anti-abortion video' *The Irish Times* (Dublin, 4 December 1990) 6; Colin Francome, *If you ever go across the sea to England: a study of 200 Irish women travelling for their abortions* (Middlesex Polytechnic Health Research Centre 1991) 4; Marie Vernon in Deaglán de Bréadún, 'Campaigning to maintain the status quo' *The Irish Times* (Dublin, 22 February 1992) 5; Tom Inglis, *Lessons in Irish Sexuality* (University College Dublin Press 1998) 9, 44; Richard Scriven, 'Placing the Catholic Church: the moral landscape of repealing the 8th' in Kath Browne and Sydney Calkin (Eds.) *After Repeal: Rethinking Abortion Politics* (Bloomsbury Academic 2020) 191; Kitty Holland, 'Twenty years of antenatal politics' *The Irish Times* (Dublin, 3 September 2003) 13; Roisin Kavanagh and Jo Murphy-Lawless, *Young women's understanding of their sexual needs and perceptions of the Letterkenny Women's Health & Family Planning Clinic* (Crisis Pregnancy Agency 2006) 23; Mary Muldowney, 'Breaking the silence: pro-choice activism in Ireland since 1983' in Jennifer Redmond, Sonja Tiernan, Sandra McAvoy, Mary McAuliffe (Eds.) *Sexual politics in modern Ireland* (Irish Academic Press 2015) 127, 131-132; Aideen Quilty, 'Water, Water Everywhere …

Researchers interested in the dominance of anti-abortion ideologies in Ireland could consider the influence of conservative sex education in sustaining hegemonic condemnatory views of abortion. An area of agreement among anti-abortion and pro-abortion liberalisation advocates was that of delaying sexual relationships or promoting abstinence.[153] Considering the legacies of this approach to sex education would build upon my focus in this thesis on using law to mandate information to fill the assumed information gaps of abortion seekers. In addition to sex education, other areas of information regulation that influenced what people knew about contested topics included:

- film censorship,[154]

exploring education geographies of abortion' in Aideen Quilty, Sinéad Kennedy and Catherine Conlon (Eds.) *The Abortion Papers: Volume 2* (Cork University Press 2015) 189, 196, 204-207; *Brennan* (n 134) 20.

[153] For examples of this position see Fintan O'Toole, 'The Moral Monopoly' *In Dublin Magazine* (Dublin, 8 July 1982) 17; Gene Kerrigan, 'The Moral civil war' *Magill* (Dublin, 31 August 1983); Deaglán de Bréadún, 'SPUC wants abortion advice ban' *The Irish Times* (Dublin, 10 January 1984) 7; Cork Abortion Information Campaign, *Censored: Ireland's Abortion Reality* [Cork Abortion Information Campaign, 1991] 25; Bernadette Bonar (Responsible Society) 'Dealing with rape - a second opinion' *The Irish Times* (Dublin, 23 August 1991) 11; Deaglán de Bréadún, 'Campaign to maintain the status quo' *The Irish Times* (Dublin, 22 February 1992) 5; Mary Kennedy (Irish Family League) 'Letters to the editor' *The Irish Times* (Dublin, 14 March 1995) 13; Lindsey Earner-Byrne, 'Moral Prescription: The Irish Medical Profession, the Roman Catholic Church and the Prohibition of Birth Control in Twentieth-century Ireland' in Catherine Cox and Maria Luddy (Eds.) *Cultures of Care in Irish Medical History, 1750-1970* (Palgrave Macmillan 2010) 207, 219-220; Anthony Keating, 'Censorship: The Cornerstone of Catholic Ireland' (2013) 57(2) Journal of Church and State 289, 292; *All-Party Oireachtas Committee on the Constitution* (n 130) A232; *Browne* (n 136) 22, 27, 37; *Caherty* (n 132); *Crisis Pregnancy Agency* (n 136) 7-11; *Hayes et. al.* (n 124) 67-68; *Hesketh* (n 134) 377; *Inglis* ibid 116; *Kuźma-Markowska and Kelly* (n 151) 13-14; *O'Brien* (n 130) 155-158.

[154] Patrick Smyth and Ellen Hazelkorn (Eds.) *Let in the light : censorship, secrecy and democracy* (Brandon Books 1993); Mary Kelly, 'Censorship and the Media' in Alpha Connelly (Ed.) *Gender and the law in Ireland* (Oak Tress Press 1993) 185; Tom Inglis, *The moral monopoly: the rise and fall of the Catholic Church in modern Ireland* (University College Dublin Press 1998) 78, 98-92; Kevin Rockett, 'Protecting the Family and the Nation: The official censorship of American cinema in Ireland, 1923-1954' (2000) 20(3) Historical Journal of Film, Radio and Television 283; John Horgan, *Irish media: a critical history since 1922* (Routledge 2001) 12; Derek Jones, *Censorship: a world encyclopaedia* (Fitzroy Dearborn Publishers 2001) Volume 2, E-K, 803, 1218, 1221; Senia Pašeta 'Censorship and Its Critics in the Irish Free State 1922-1932' (2003) 181 Past & Present 193; Kevin Rockett, *Irish film censorship: a cultural journey from silent cinema to Internet pornography* (Four Courts Press 2004); Peter Martin, 'Irish censorship in context' (2006) 95(379) Studies: An Irish Quarterly Review 261; Lindsay Earner-Byrne, 'Reinforcing the family: The role of gender, morality and sexuality in Irish welfare policy, 1922–1944' (2008) 13 History of the Family 360; Anthony Keating, 'Setting the agenda for the press: the 1929 case against the *Waterford Standard*' (2012) 16 New Hibernia Review 2, 24; Mary E. Daly, *Sixties Ireland: Reshaping the Economy, State and Society, 1957–1973* (Cambridge University Press 2016) 203; Keelin Rosaleen Burke, 'Gender and the politics of the Irish Free State, 1922-137' (PhD thesis University of Notre Dame 2016).

- broadcast censorship,[155]
- library censorship,[156]
- littering offences,[157]
- obscene libel and customs' 'black-list',[158]
- planning laws and charity regulations,[159]
- restrictions on women transcribing abortion trials,[160]
- postal regulations,[161]
- defamation.[162]

[155] John Maurice Kelly, *Fundamental Rights in the Irish Law and Constitution* (Allen Figgis & Co 1961) 97-98; Michael Noonan (Fine Gael) Seanad Éireann debate 14 March 1995, vol. 142, no.8; Luke Gibbons, *Transformations in Irish Culture* (University of Notre Dame Press 1996) 79; Kevin Rockett, 'Ireland: film, radio, and television' in Derek Jones (Ed.), *Censorship: a world encyclopaedia* (Fitzroy Dearborn Publishers 2001) Volume 2, E-K, 1223; Jonathon Green and Nicholas J. Karolides (Eds.), *Encyclopaedia of censorship* (Facts on File 2005) 296-297.
[156] D[aniel] C[ostigan], 'Memo on circulating libraries' (22 May 1939) 3, Folder no 90-102-233, National Archive of Ireland; Senator John McQuillan (National Progressive Democrats, former Labour Party, Independent, Clann na Poblachta) Seanad Éireann debate, Wednesday 7 June 1967, vol 63, no 5; Julia Carlson, 'Introduction' in Julia Carlson (Ed.) *Banned in Ireland: censorship and the Irish writer* (University of Georgia Press 1990) 11; Peter Martin, 'Censorship in the Two Irelands 1922-1939' (PhD thesis, Trinity College Dublin 2002) 103-105, 315-319; Donal Ó'Drisceoil, ''The best banned in the land': Censorship and Irish Writing since 1950' (2005) 35 The Yearbook of English Studies 139, 151-152; Donal Ó'Drisceoil, 'A Dark Chapter: Censorship and the Irish Writer' in Clare Hutton *The Oxford History of the Irish Book, Volume V: The Irish Book in English, 1891-2000* (Oxford University Press 2011) 285, 287; For discussion of the Dublin Public Libraries censorship see p. 27 and 151-152.
[157] Dick Hogan, 'Members of lobby group fined over posters' *The Irish Times* (Dublin, 18 February 1994) 6; *McAvoy* (n 141) 34.
[158] Michael Adams, *Censorship: the Irish Experience* (University of Alabama 1968) 172; Sandra McAvoy, 'Its effect on public morality is vicious in the extreme': defining birth control as obscene and unethical, 1926–32' in Elaine Farrell (Ed.) *She was in the Family Way* (School of Advanced Study, University of London 2012) 35, 43.
[159] Rachel Thompson, 'Something remarkable happened when this abortion rights mural was painted over' *Mashable* (New York, 29 July 2016) < https://mashable.com/article/abortion-mural-dublin > accessed 15 June 2023; Laura Fitzgerald, *Winning Repeal and Abortion Rights* (Socialist Party 2016); Niamh NicGhabhann, 'City walls, bathroom stalls and tweeting the Taoiseach: the aesthetics of protest and the campaign for abortion rights in the Republic of Ireland' (2018) 32(5) Continuum 553, 562; Sarah Bodelsson, 'Transforming space for reproductive rights: Unequally supported action and resistance in everyday space for reproductive rights and justice in Ireland' (MSc thesis Lund University 2018) 44. 52; Máiréad Enright, 'four pieces on Repeal: notes on art, aesthetics and the struggle against Ireland's abortion law' (2020) 124 Feminist Review 104, 111; Lorna O'Hara, 'Maser's 'Repeal the 8th' mural: the power of public art in the age of social media' in Kath Browne and Sydney Calkin (Eds.) *After Repeal: Rethinking Abortion Politics* (Bloomsbury Academic 2020) 159, 162-163.
[160] Sandra McAvoy, 'A fairly prevalent crime' in The Cork Women's Political Association, *Vow: voices of women* (2003) 8th Amendment Special Edition, 12.
[161] *Kelly* (n 155) 97-98.
[162] Karen Sugrue, 'Tweet about being sued by David Quinn of the Iona Institute for defamation' (*Twitter* 16 May 2023) < https://twitter.com/KarSugrue/status/1658376685727674368?s=20 > accessed 15 August 2023.

These legal interventions all served to create a hostile environment in which facilitative or counterhegemonic abortion information could be shared. They should provide a rich source of additional knowledge for any other scholars working in this area.

Freedom of expression

In a thesis about information control, it may seem unusual that I did not foreground freedom of speech arguments. I chose not to as these arguments were, apart from the *Open Door* case in the European Court of Human Rights, unsuccessful.[163] Freedom of speech arguments were not as prominent as vulnerability or consensus-based ones – especially in relation to foetal rights to life - in debates and legal decisions.[164] Scholars have noted that freedom of expression rights in the Irish Constitution were narrow and qualified so were not often relied upon in legal challenges.[165] Even the *Open Door* decision was confined to the facts of the case rather than being a statement of general principle. Future researchers may find that foregrounding the freedom of expression aspects can draw out the specific dynamics around its limitations and uses. Anti-censorship advocates did attempt to use freedom of expression claims in their campaign work.[166] The anti-abortion movement are increasingly doing so to oppose

[163] *Dublin Well Woman Centre Ltd v Ireland* 1994 WJSC-SC 2704 Application no. 14235/88 and 14234/88 (European Court of Human Rights, 29 October 1992); See also Lex, 'Letters to the editor: The "Observer"' Times (5 April 1956) Folder no 90-102-139, 2 of 3, National Archives of Ireland.
[164] For examples see J.A. Barnwell, 'Information on abortion' *The Irish Times* (Dublin, 19 August 1989) 9; Brendan O'Connor, 'Information on abortion' *The Irish Times* (Dublin, 18 October 1989) 13; For discussion see Madeleine Reid, 'Abortion Law in Ireland After the Maastricht Referendum' in Ailbhe Smyth (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 25.
[165] See Article 9, Constitution of the Irish Free State (Saorstát Eireann) Act 1922 and article 40.6.1°, Bunreacht na hÉireann (Constitution of Ireland); For discussion see Kevin Boyle and Marie McGonagle, 'Censorship of Publications - Irish Style' (1999) 10 Journal of Media Law and Practice 87; James Casey, *Constitutional Law in Ireland* (Third edition, Round Hall Sweet & Maxwell 2000); Kevin Rafter, 'Evil Literature: the banning of the *News of the World* in Ireland' (2013) 19(4) Media History 408, 417; Ruth Fletcher, Richie Keane, Mark Murphy, Veronica O'Keane, *Doctors for Choice Ireland: Submission to the United Nations Human Rights Committee for Ireland's review under the International Covenant on Civil and Political Rights* (12 June 2014) 23; *Kelly* (n 155).
[166] For examples see Irish Times Reporter, 'SPUC fails to get order against students' *The Irish Times* (Dublin, 8 September 1988) 8; 'USI 'to publish abortion advice' despite ruling' *The Irish Times* (Dublin, 29 July 1989) 1; Ultan O'Broin, 'Information on abortion' *The Irish Times* (Dublin, 12 August 1989) 11; Ronan Foster, 'Students to Defy

safe access zones and the regulation of anti-abortion counselling services.[167] Their arguments found governmental support, and it resulted in legislative delays.[168] Considering how censorship was constructed and enforced in the area of abortion information may indicate to scholars how freedom of expression arguments may be used to defend or create barriers to information access in the future.

Conclusion

In this thesis, I demonstrated how information controls were used by the Irish anti-abortion State and proponents as a way to prevent people from accessing abortions, to dissuade people from choosing abortion, and to maintain the anti-abortion *status quo*.

SPUC over abortion information' *The Irish Times* (Dublin, 20 September 1989) 7; Orla Guerin, 'Support For USI Abortion Information' *RTÉ Archives* (Dublin, 24 September 1989) < https://www.rte.ie/archives/collections/news/21291012-tcd-provide-abortion-advice/ > accessed 17 June 2023; Anne Murphy and Gerry Curran (Labour Youth) 'Information on abortion' *The Irish Times* (Dublin, 18 October 1989) 13; Tom Doorley, 'Information on Abortion' *The Irish Times* (Dublin, 16 November 1989) 15; Conor McLoughlin, 'Abortion information' *The Irish Times* (Dublin, 21 February 1990) 11; Ronan Foster, 'Pirate radio to go back on air' *The Irish Times* (Dublin, 28 March 1990) 5; 'Abortion Motion Warning', *The Irish Times* (Dublin, 11 May 1990) 5; Deputy Joan Burton (Labour Party) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Ivana Bacik, 'The Irish Constitution and Gender Politics: Developments in the Law on Abortion' (2013) 28(3) Irish Political Studies 380; *Cork Abortion Information Campaign* (n 153) 8; *Fletcher et. al.* ibid 23; *Kelly* (n 155) 90, 95; *'Women TDs speak out'* (n 149).

[167] For examples see Deputy Matt Brennan (Fianna Fáil) Dáil Éireann debate, Wednesday 8 March 1995, vol 450, no 3; Alphonsus Cullinan (Bishop of Waterford and Lismore) 'Opening address by Bishop Alphonsus Cullinan at the 'Crisis of Democracy in Ireland' conference' *Irish Catholic Bishops Conference* (31 October 2017) < https://www.catholicbishops.ie/2017/10/31/opening-address-by-bishop-alphonsus-cullinan-at-the-crisis-of-democracy-in-ireland-conference/ > accessed 10 March 2023; Katie Ascough, 'If you are anti-abortion be confident and unafraid' *The Irish Times* (Dublin, 13 November 2017) 12; Conor Pope, 'Delegates' views 'It is never right to take a human life intentionally'' *The Irish Times* (Dublin, 4 December 2017) 2; Carl O'Brien, 'College campuses emerging as key battlegrounds to win youth vote' *The Irish Times* (Dublin, 11 May 2018) 6; Press release, Pro-Life Campaign (15 June 2020) available < https://www.facebook.com/prolifecampaignireland/photos/a.10153003497500379/10157916460805379 > accessed 28 February 2023; Pro-Life Campaign, 'Censorship Zone legislation postponed in the North. Meanwhile, Stephen Donnelly makes revealing intervention in Seanad debate on the same issue' (19 November 2021) < https://prolifecampaign.ie/portfolio_cpt/19-11-2021-censorship-zone-legislation-postponed-in-the-north-meanwhile-stephen-donnelly-makes-revealing-intervention-in-seanad-debate-on-the-same-issue/ > accessed 5 June 2023; Senators Sharon Keogan (Independent) and (Independent) Seanad Éireann debate, Thursday 7 April 2022, vol 284, no 6; *O'Brien* (n 28).
Pro-Life Campaign (n 14) 2, 10; *'Pro-life TDs want law review to result in 'positive alternatives to abortion''* (n 18)

[168] The Minister for Health Simon Harris (Fine Gael) Dáil Éireann debate, Thursday 18 October 2018, vol 973, no 7 and Select Committee on Health debate, Thursday 8 November 2018; The Taoiseach Leo Varadkar (Fine Gael) Dáil Éireann debate, Tuesday 16 April 2019, vol 982, no 1; The Minister for Health Stephen Donnelly (Fianna Fáil, previously Independent and Social Democrats) Seanad Éireann debate, Thursday 10 February 2022, vol 282, no 11; *'Gardaí played down warnings from HSE over safe access zones for abortion services'* (n 71).

Regulating information in this way was justified by State and anti-abortion actors as being necessary to protect vulnerable subjects from what they saw as the harms of abortion and to be reflective of a claimed universal or majority anti-abortion community sentiments. When abortion seekers and non-directive/pro-choice information providers challenged these claims of benevolence and universality they destabilised the very foundations of censorship. After the passing of the Thirty-Sixth Amendment, the anti-abortion position was no longer the dominant perspective among the electorate. The government had the political mandate and the legal requirements to remove most anti-abortion information controls. Some remain, however, through continued criminalisation and the awfulisation of abortion in the 2018 Act. How legislators may use information to control access to abortion and the narrative around it seems to be progressing towards further legislation to protect abortion seekers and to remove censorship. Examples of this are the safe access zones legislation and discussions around the government abolishing the Censorship of Publications Board. Anti-abortion campaigners will continue to use information-based strategies to revitalise ideologies to re-establish information-based barriers and disincentives around abortion. The burden of pushing for these reforms should not, as vulnerability scholars warn, rely upon the vulnerabilised themselves. Gambetti, for example warned, that advocates for law reform need to 'beware of romantizing the subaltern and the precarious'.[169] Butler while emphasising the power within vulnerability, argued that strategies for building solidarity, making people care, or achieving law reform should not require people to expose their

[169] Zeynep Gambetti, 'Risking Oneself and One's Identity: Agonism Revisited' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in Resistance* (Duke Press 2016) 28, 45.

vulnerabilities.[170] The State should be held to account for its failure to uphold the principles of reproductive justice and its overreliance on accounts of harm to justify addressing barriers to access to abortion care.[171] It is therefore important for people to continue to examine and interrogate the paternalism of anti-abortion information controls and any 'paternalistic logics' used to encourage liberalisation in order to foreclose any resurgence of regressive anti-abortion or agency limiting information regulations.[172] To quote Mary Favier (Doctors for Choice), 'any campaign should start with where it means to end - Irish women have a right to access abortion services in Ireland and the law needs to be changed accordingly.'[173] Information access will be an essential component of achieving this aim and should not be ceded to those same protective ideas that were used by the State and conservative actors to establish and sustain anti-abortion information controls.

[170] Judith Butler, 'Rethinking Vulnerability and Resistance' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 25.
[171] Leticia Sabsay, 'Permeable bodies: vulnerability, affective powers, hegemony' in Judith Butler, Zeynep Gambetti, and Leticia Sabsay (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 297; Barbara Fawcett, 'Vulnerability: Questioning the certainties in social work and health' (2009) 52(4) International Social Work, 477; Judith Butler, *Excitable Speech* (Routledge Classics 2021) 24; For the risk of rights language leading to interventions that curtail agency see Ruth Fletcher, '#RepealedThe8th: Translating Travesty, Global Conversation, and the Irish Abortion Referendum' (2018) 26(3) Feminist Legal Studies, 233-259; See also Alice M Miller, 'Sexuality, Violence against Women, and Human Rights: Women Make Demands and Ladies Get Protection' (2004) 7 Sexuality, Human Rights, and Health 2, 23.
[172] *Butler, Gambetti and Sabsay* [n 52].
[173] Mary Favier (Doctors for Choice) 'Repressing Abortion in Ireland - a doctor speaks out' (1 June 2003) < http://www.wsm.ie/c/pro-choice-doctor-ireland-abortion > accessed 9 June 2023.

Bibliography

Blog posts and presentations

All Ireland Rally for Life, 'Carolyn from Gianna Care on working with women with unexpected pregnancies &hear from one [sic] such mother' (*YouTube* 29 July 2020) available < https://www.youtube.com/watch?v=S97px6VJv6s&t=2s >

'Almost 20% of women decided against abortion in 3 day wait, new figures reveal' *Gript.ie* (Dublin, 5 November 2021) < https://gript.ie/almost-20-of-women-decided-against-abortion-in-3-day-wait-new-figures-reveal/ >

Anon, 'Abortion rights in Ireland - the story so far' < https://www.wsm.ie/c/story-so-far >

Aontú Press, 'Gender selection abortion is completely legal in Ireland.' (*Aontú* 3 August 2021) < https://aontu.ie/gender-selection-abortion-is-completely-legal-in-ireland >

Banakar R, 'On Socio-Legal Design' (2019) < https://ssrn.com/abstract=3463028 >

Buckley J, 'Right to Life Pastoral Letter by Bishop John Buckley' (8 December 2012) Available < https://www.catholicbishops.ie/2012/12/08/life-pastoral-letter-bishop-john-buckley > accessed 20 January 2023

Burns E, '#10thdss: Intersectionality and the Irish abortion rights campaign of 2018' (19 September 2018) < https://emmaqburns.com/2018/09/19/10thdss-intersectionality-and-the-irish-abortion-rights-campaign-of-2018/ >

Burtenshaw R, 'The X-Files' *Rabble* (Dublin, 6 November 2013) < https://www.rabble.ie/2013/11/06/the-x-files/ >

Butler J, 'Rethinking Vulnerability and Resistance' (2014) 6 accessed < http://bibacc.org/wp-content/uploads/2016/07/Rethinking-Vulnerability-and-Resistance-Judith-Butler.pdf >

Citizens' Assembly, 'Session Two: Current Practice in Ireland - Dr. Brendan O'Shea' *YouTube* (26 November 2016) < https://www.youtube.com/watch?v=57ElzLPGzuA&list=PL8jOxQOnEpsh_jtOPHxIycBF82aWxk7Q2&index=8 >

Clarke M, 'The law and resulting provision are leaving too many people behind' *Abortion Rights Campaign* (Dublin, 28 September 2019) < https://www.abortionrightscampaign.ie/mara-clarke-the-law-and-resulting-provision-are-leaving-too-many-people-behind/ >

Coru, About the Counsellors and Psychotherapists Registration Board' < https://www.coru.ie/about-us/registration-boards/counsellors-and-psychotherapists-registration-board/about-the-counsellors-and-psychotherapists-registration-board/ >

Cullinan A, 'Opening address by Bishop Alphonsus Cullinan at the 'Crisis of Democracy in Ireland' conference' *Irish Catholic Bishops Conference* (31 October 2017) < https://www.catholicbishops.ie/2017/10/31/opening-address-by-bishop-alphonsus-cullinan-at-the-crisis-of-democracy-in-ireland-conference/ >

de Barra M, 'Protests at abortion centres may not be banned it seems' *Gript.ie* (Dublin 21 July 2021) available < https://gript.ie/protests-at-abortion-centres-may-not-be-banned-it-seems/ >

de Barra M, '"Time to think": 2,623 women did not return for abortion after 3-day wait in 2022' *Gript.ie* (Dublin, 15 September 2023) < https://gript.ie/time-to-think-2623-women-did-not-return-for-abortion-after-3-day-wait-in-2022/ >

Delay C, ''Poisons or other Noxious Things': Women's Illegal Abortion Strategies in Twentieth-Century Ireland' *UCD Centre for the History of Medicine in Ireland* (9 May 2014) < http://historyofmedicineinireland.blogspot.com/2014/05/poisons-or-other-noxious-things-womens.html >

Doctors for Life, 'Letter to the public from Irish Doctors for Life' *Doctors for Life* (Naas 10 May 2018) < https://www.irishdoctorsforlife.com/letter-to-the-public-from-irish-doctors-for-life/ >

Donlon J, 'Session Two: Current Practice in Ireland' (27 November 2016) < https://www.youtube.com/watch?v=-H2bD1_y0es&list=PL8jOxQOnEpsh_jtOPHxIycBF82aWxk7Q2&index=7 >

Duffy S, 'a change is gonna come: reflections on the Repeal campaign' (7 January 2019) < https://sandraduffy.wordpress.com/2019/01/07/a-change-is-gonna-come-reflections-on-the-repeal-campaign/ >

Eadaoin R, 'Saving Babies at the Clinic Door: Carolyn tells the National Convention for Life how it's done' *The Life Institute* (Dublin, 3 May 2014) < https://thelifeinstitute.net/blog/2014/saving-babies-at-the-clinic-door-carolyn-tells-the-national-convention-for-life-how-its-done# >

Enright M, 'Constitutional Issues and the Health (Regulation of Termination of Pregnancy) Act 2018' (2022) 14 < https://research.birmingham.ac.uk/en/publications/constitutional-issues-and-the-health-regulation-of-termination-of >

Enright M, 'Ireland's Abortion Law Reform' (28 April 2023) < https://ohrh.law.ox.ac.uk/irelands-abortion-law-reform/ >

Favier M (Doctors for Choice) 'Repressing Abortion in Ireland - a doctor speaks out' (1 June 2003) < http://www.wsm.ie/c/pro-choice-doctor-ireland-abortion >

Fay D, 'Where's my bloody phone?! Connecting a nation: The story of telecommunications in Ireland -Part II' (28 March 2022) < https://www.engineersireland.ie/Brexit/wheres-my-bloody-phone-connecting-a-nation-the-story-of-telecommunications-in-ireland-part-ii >

Fitzsimons C, 'Irish healthcare workers experiences of anti-abortion protesters and the case for safe access zones' (2022) < https://mural.maynoothuniversity.ie/16215/ >

Forde C, 'Abortion and the referendum in Ireland' (*IPPF*, 15 January 2019) < https://www.ippf.org/abortion-and-referendum-ireland-6 >

Garrett PM, 'Mother and Baby Homes: Notes on the Irish State and its 'shameful classes'' (2 November 2018) Presentation at the Transitional Justice, Truth telling, and the legacy of Irish Institutional Abuse at Boston College

Gianna Care at the National Convention for Life, 'WATCH Megan Bopp speak to Carolyn O'Meara' *Facebook* (5 November 2021) < https://www.facebook.com/NationalConventionforlife/videos/2083697511769385 >

Gript News, 'Carol Nolan: HSE confirm million for abortions but 'pittance' for pregnancy counselling' *Gript Media* (Dublin, 18 August 2020)

ICCL, 'Case in Focus: Michelle Harte' < https://www.iccl.ie/her-rights/health/michelle-harte/ >

Iona Institute, 'The abortion referendum and its aftermath: A talk by Maria Steen' (22 September 2018) < https://www.youtube.com/watch?v=YHFDqK_6Wy0&t=868s >

Irish Bishops Conference, *Human life is sacred: pastoral letter of the Archbishops and Bishops of Ireland to the clergy, religious and faithful* (May 1975) < https://www.catholicbishops.ie/wp-content/uploads/images/stories/cco_publications/human_life_is_sacred.pdf >

Irish Catholic Bishops' Conference, 'Abortion: changing the narrative' (14 May 2023) < https://www.elphindiocese.ie/wp-content/uploads/2023/05/2023-May-14-Bishops-critique-of-Gov-review-of-Health-T-of-P-Act-1.pdf >

Irish Council for Civil Liberties, 'Her suffering was aggravated by obstacles in getting information' [Undated] < https://www.iccl.ie/her-rights/information/ >

Irish Council for Psychotherapy, 'Psychological Therapists call on Government to introduce statutory registration for their professions in Ireland' (1 October 2008) < https://www.psychotherapycouncil.ie/2008/10/psychological-therapists-call-on-government-to-introduce-statutory-registration-for-their-professions-in-ireland/ >

Irish Family Planning Association, 'Delay to implementation of ABC judgment shows disregard for women's human rights' (31 May 2011) < https://www.ifpa.ie/delay-to-implementation-of-abc-judgment-shows-disregard-for-womens-human-rights-2/ >

Irish Family Planning Association, 'IFPA submission to the Crisis Pregnancy Agency' (2002) < https://www.ifpa.ie/sites/default/files/documents/submissions/ifpa_cpa_submission_june_2002.pdf >

Irish Family Planning Association, 'Irish Women Speak Out About Their Abortions. – Unique Seminar to be held in Dublin' (22 October 2000) < https://www.ifpa.ie/irish-women-speak-out-about-their-abortions-unique-seminar-to-be-held-in-dublin/ >

Life Institute, 'Counselling' *The Life Institute* < https://thelifeinstitute.net/learning-centre/women/crisis-pregnancy/counselling >

Life Institute, 'Gianna Care third baby saved by abortion pill reversal' (Dublin, 3 September 2020) < https://thelifeinstitute.net/news/2020/gianna-care-third-baby-saved-by-abortion-pill-reversal >

Life Institute, 'Ireland's fall: the abortion deception - how elites killed the right to life' (22 September 2021) < https://www.youtube.com/watch?v=eCsOE7HHe9Y&t=367s >

Life Institute, 'Your referendum update' 1 [September 2018] < https://irishelectionliterature.files.wordpress.com/2018/09/lifeinstitutereport.pdf >

Love Both, 'A New Vision for Ireland: Supports for women and unborn children in pregnancy and beyond' *LoveBoth* < https://loveboth.ie/supports-for-women-and-unborn-children/ >

Lynch K, 'Equality as rhetoric: the careless state of Ireland' [2013] < https://www.macgillsummerschool.com/equality-as-rhetoric-the-careless-state-of-ireland/ >

MacSimóin A, 'A history of the struggle for abortion rights in Ireland' (25 April 2009) *Workers Solidarity Movement* < http://www.wsm.ie/c/abortion-rights-ireland-history >

Peter McParland 'Antenatal Diagnosis and Management of Fetal Abnormalities' in the Citizenship' Assembly, *Papers and Presentations from Citizens' Assembly Speakers: from meetings November 2016 to April 2017* (The Citizens' Assembly 2017) Appendix E, volume 1, E 125 to E 144

McParland P, 'Second Meeting of the Citizens' Assembly' (*YouTube,* 7 January 2017) < https://www.youtube.com/watch?v=GC1c3ETy8Jo >

Michi L, Balaam M, McCarthy J, Osadchiy T, Morrissey K, 'From Her Story, to Our Story: Digital Storytelling as Public Engagement around Abortion Rights Advocacy in Ireland' (2018) Paper 357 CHI 2018 Best Paper Award

Mullen E, 'Mothers against the ban on help outside abortion centres – Be Here for Me group gives briefing in Leinster House' [2019] < https://www.ronanmullen.ie/mothers-against-the-ban-on-help-outside-abortion-centres-be-here-for-me-group-gives-briefing-in-leinster-house/ >

'No more chains!' (March/April 2013) 21(2) History Ireland < https://www.historyireland.com/no-more-chains/ >

O'Carroll A, 'Background to 1992 referendum - Anti-Abortionists told to SPUC OFF!' *WSM.ie* (1 April 1993) < http://www.wsm.ie/c/ireland-1992-anti-abortionists-spuc-referendum >

O'Carroll A, 'New abortion rights campaign formed' *Workers Solidarity Movement* (Dublin, January 1998) < http://www.wsm.ie/c/new-abortion-rights-campaign-formed >

'PLC submission to Three Year Review calls for Ireland's spiralling abortion rate to be tackled' (1 April 2022) < https://prolifecampaign.ie/portfolio_cpt/01-04-2022-plc-submission-to-three-year-review-calls-for-irelands-spiralling-abortion-rate-to-be-tackled/ > accessed 11 June 2023

'Pregnancy care group Gianna Care say The Times targeting of their work feels like a 'witch hunt'.' (*Gript Media* 21 February 2019) Available < https://www.youtube.com/watch?v=Ve20oiZZIr4 >

Pro-Life Campaign, '1,480 women decided not to go ahead with abortions in 2020, new figures reveal' (5 November 2021) < https://prolifecampaign.ie/portfolio_cpt/5-11-2021-1480-women-decided-not-to-go-ahead-with-abortions-in-2020-new-figures-reveal/ >

Pro-Life Campaign, 'Censorship Zone legislation postponed in the North. Meanwhile, Stephen Donnelly makes revealing intervention in Seanad debate on the same issue' (19 November 2021) < https://prolifecampaign.ie/portfolio_cpt/19-11-2021-censorship-zone-legislation-postponed-in-the-north-meanwhile-stephen-donnelly-makes-revealing-intervention-in-seanad-debate-on-the-same-issue/ >

Pro-Life Campaign, 'Disturbing revelations: MyOptions counsellors advising women to book first abortion consultation even when still conflicted about what to do, Students for Life research reveal' (14 January 2022) < https://prolifecampaign.ie/portfolio_cpt/14-1-2022-disturbing-revelations-myoptions-counsellors-advising-women-to-book-first-abortion-consultation-even-when-still-conflicted-about-what-to-do-students-for-life-research-reveal/ >

Pro-Life Campaign, 'Government's promotion of abortion ahead of positive alternatives "very concerning" says Councillor Sarah O'Reilly' (18 February 2022) < https://prolifecampaign.ie/portfolio_cpt/18-2-2022-governments-promotion-of-abortion-ahead-of-positive-alternatives-very-concerning-says-councillor-sarah-oreilly/ >

Pro-Life Campaign, 'Three-day-waiting period is saving lives and must be retained' (12 November 2021) < https://prolifecampaign.ie/portfolio_cpt/12-11-2021-three-day-waiting-period-is-saving-lives-and-must-be-retained/ >

Pro-Life Campaign, 'Watch this video about why we must #EndTheSilence!!' *Facebook* < https://www.facebook.com/watch/?v=450933023057104 >

'Pro-life TDs want law review to result in 'positive alternatives to abortion'' *The Iona Institute* (Dublin, 18 August 2021) < https://ionainstitute.ie/news-roundup/pro-life-tds-want-law-review-to-result-in-positive-alternatives-to-abortion/ >

Sam, 'Dublin Well Woman Centre Picket (1978)' (*Come here to me*, 25 April 2018) < https://comeheretome.com/2018/04/25/dublin-well-woman-centre-picket-1978/ >

'Silence about 'devastating impact' of abortion law must end, says PLC' *The Iona Institute* (Dublin, 24 November 2021) < https://ionainstitute.ie/news-roundup/silence-about-devastating-impact-of-abortion-law-must-end-says-plc/ >

Terminations for Medical Reasons, *Special Oireachtas Committee TFMR Ireland Oral Presentation on the 8th Amendment* (TMFR Ireland 25 October 2017)

Terminations for Medical Reasons, *TFMR Ireland Submission to the Citizens' Assembly* (Terminations for Medical Reasons, 14 December 2016)

Uí Bhriain N, '3 fatal flaws in the abortion review that the media ignored' *Gript.ie* (Dublin, 4 May 2023) < https://gript.ie/3-fatal-flaws-in-the-abortion-review-that-the-media-ignored/ >

University of Auckland, 'Doing Reflexive TA' < https://www.thematicanalysis.net/doing-reflexive-ta/ >

Zrazy, 'What's New' < http://www.zrazy.com/whats-new.html >

Books and chapters

Adams M, *Censorship: the Irish Experience* (University of Alabama 1968)

Ahiska M, 'Violence Against Women in Turkey: Vulnerability, Sexuality and Eros' in Butler J, Gambetti Z, and Sabsay L (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 211

Archbishops and bishops of Ireland, 'Yes to Life*' in Austin Flannery (Ed.), *Abortion & Law* (Dominican Publications 1983) 14

Arnold M and Kirby P (Eds.) *"The Abortion Referendum" : The Case Against* (Anti-amendment campaign 1983)

Athanasiou A, 'Nonsovereign Agonism (or, Beyond Affirmation versus Vulnerability' in Butler J, Gambetti Z, and Sabsay L (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 256

Bacik I, 'Abortion and the law in Ireland' in Quilty A, Kennedy S, and Conlon C (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 117

Bacik I, ‘Foreword’ in Anne Rossiter *Ireland’s Hidden Diaspora: The Abortion Trail and the Making of a London-Irish Underground* (IASC Publishing 2009) Location 134

Bacik I, ‘Politics of Sexual Difference: the enduring influence of the Catholic Church’ in Giffney N and Shildrick M (Eds.) *Theory on edge: Irish Studies and the politics of sexual difference* (Palgrave Macmillan 2013) 17

Barry U, ‘Discourses on foetal rights and women’s embodiment’ in Quilty A, Kennedy S, and Conlon C (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 130

Barry B, ‘Movement, Change and Reaction: The Struggle over Reproductive Rights in Ireland’ in Smyth A (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 107

Beale J, *Women in Ireland: Voices of Change* (Indiana University Press 1987)

Belfast Women’s Collective, *Scarlet Women II* (Socialist Feminist Current of the Women’s Liberation Movement, June 1980)

Bell J, ‘The police and policing’ in Austin Sarat (Ed.) *The Blackwell companion to law and society* (Blackwell publishing 2004) 131

Binchy W, ‘Pluralism, Liberty and the Right to Life’ in Whelan A (Ed.) *Law and liberty in Ireland* (Oak Tree Press 1993) 132

Binchy W, ‘The Need for a Constitutional Amendment’ in Flannery A (Ed.) *Abortion & Law* (Dominican Publications 1983) 116

Blanchard P, *The Irish and Catholic Power* (The Beacon Press 1953)

Boston Women’s Health Book Collective, *Our Bodies, Ourselves*, Philips A and Rakusen J (Eds.) (Penguin 1979)

Boylan P, *In the shadow of the Eighth: my forty years working for Women’s Health in Ireland* (Penguin Random House 2019)

Bradshaw A, ‘Sense and sensibility: debates and developments in socio-legal research methods’ in Thomas PA (Ed.) *Socio-Legal Studies* (Dartmouth 1997) 99

Bracke S, ‘Bouncing Back: Vulnerability and Resistance in Times of Resilience’ in Butler J, Gambetti Z, and Sabsay L (Eds.) *Vulnerability in Resistance* (Duke Press 2016) 52

Brady M, ‘Punish and Be Banned’ in Smyth P and Hazelkorn E (Eds.) *Let in the light : censorship, secrecy and democracy* (Brandon Books 1993) 92

Braun V and Clarke V, *Successful qualitative research: a practical guide for beginners* (SAGE 2013)

Braun V and Clarke V, *Thematic analysis: a practical guide* (SAGE 2022)

Brown T, *Ireland: a social and cultural history 1922-1979* (Fontana 1981)

Browne L, ‘The Campaign to Legalise Abortion’ in *Abortion Now* (Life and Education Research Network (LEARN) 1983)

Browne N, ‘Does Rome still rule the Republic?’ in Arnold M and Kirby P (Eds.) *"The Abortion Referendum" : The Case Against* (Anti-amendment campaign 1983)

Buckley M, ‘Sitting on your politics: the Irish among the British and the Women among the Irish’ in Mac Laughlin J (Ed.) *Location and dislocation in contemporary Irish society: emigration and Irish identities* (Notre Dame 1997) 94

Butler J, *Excitable Speech* (Routledge Classics 2021) 12

Butler J, Gambetti Z and Sabsay L, ‘Introduction’ in Butler J, Gambetti Z, and Sabsay L (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 1

Butler J, 'Rethinking Vulnerability and Resistance' in Butler J, Gambetti Z, and Sabsay L (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 12

Byrne N, *Choices in a crisis pregnancy* (Attic Press 1992)

Callahan S, 'Foreword' in McClory R, *Turning point: The inside story of the Papal Birth Control Commission, and how Humane Vitae changed the life of Patty Crowley and the Future of the Church* (Crossroads 1995) vii

Carmody I, 'Reproductive Justice - some choices are more equal than others' in Leitrim Abortion Rights Campaign, *LARCs, Larks and Other Lovely Things* (Leitrim Abortion Rights Campaign 2020)

Casey J, *Constitutional Law in Ireland* (Third edition, Round Hall Sweet & Maxwell 2000)

Catholic Truth Society of Ireland, *The problem of undesirable printed matter: suggested remedies* (Catholic Truth Society 1926)

Catholic Press and Information Office, *The Catholic Church and Abortion* (Veritas Publications 1994)

Clare A, 'Democracy and Freedom of Information in Smyth P and Hazelkorn E (Eds.) *Let in the light : censorship, secrecy and democracy* (Brandon Books 1993) 173

Connolly L, 'Explaining Repeal: a long term view' in Browne K and Calkin S (Eds.) *After Repeal: Rethinking Abortion Politics* (Bloomsbury Academic 2020) 36

Connolly L, *The Irish Women's Movement: from Revolution to Devolution* (Lilliput Press, 2003)

Conroy P, 'Dúirt bean liom … A woman told me … Punishing the productive and the reproductive' in Quilty A, Kennedy S, and Conlon C (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 50

Conroy Jackson P, 'Outside the jurisdiction: Irish women seeking abortion' in Smyth A (Ed.) *The Abortion Papers Ireland* (Attic Press 1992) 119

Conroy Jackson P, 'Women's movement and abortion: the criminalization of Irish women' in Dahlerup D (Ed.) *The new women's movement: feminism and political power in Europe and the USA* (Sage publications 1986) 48

Carlson J, *Banned in Ireland: censorship and the Irish writer* (University of Georgia Press 1990)

Chubb B, *The government and politics of Ireland* (Sandford University Press 1982)

Coliver S, 'Ireland' in Sandra Coliver (Ed.), *The right to know: human rights and access to reproductive health information* (Article 19 and university of Pennsylvania Press 1995) 159

Connolly L, 'Explaining Repeal: a long term view' in Browne K and Calkin S (Eds.) *After Repeal: Rethinking Abortion Politics* (Bloomsbury Academic 2020) 36

Cotterrell R and Sarat AD, *Law, Culture and Society : Legal Ideas in the Mirror of Social Theory* (Taylor and Frances 2006)

Cousins J, *Make it Happy* (Virago 1978)

Cura, 'Cura, who are they?' (Captured by the Wayback Machine 09 February 2005) < https://web.archive.org/web/20050209215752/http://www.cura.ie/introduction.html >

D'Arcy M, *Galway's Pirate Women: a global trawl* (Women's Pirate Press 1996)

Daly A, ''Veiled obscenity': contraception and the Dublin Medical Press, 1850–1900' in Farrell E (Ed.) *She was in the family way: pregnancy* (School of Advanced Study, University of London 2012) 15

Daly C, 'Ireland's first abortion legislation' in Quilty A, Kennedy S and Conlon C (Eds.) *The Abortion Papers: Volume 2* (Cork University Press 2015) 264

Daly ME, *Sixties Ireland: Reshaping the Economy, State and Society, 1957–1973* (Cambridge University Press 2016)

Davies M, ‘Law’s truths and the truth about law: interdisciplinary refractions’ in Davies M and Munro VE (Eds.) *The Ashgate research companion to feminist legal theory* (Routledge 2016) 65

de Londras F and Enright M, *Repealing the 8th: Reforming Irish abortion law* (Policy Press 2018)

de Londras F and Enright M, ‘“The only lawyer on the panel”: anti-choice lawfare in the battle for abortion law reform’ in Browne K and Calkin S (Eds.) *After Repeal: Rethinking Abortion Politics* (Bloomsbury Academic 2020) 53

Deale KEL, *Beyond any reasonable doubt?: a book of Irish murder trials* (Gill and MacMillan 1990)

Defend the Clinics Campaign, *Fact pack for women on abortion* (Defend the Clinics Campaign 1987)

Delvin D, *The Book of Love* (St. Martin’s Press and Jove Publications 1976)

Devane RS, *Evil Literature: Some suggestions* [Browne and Nolan, 1927]

Doherty C and Redmond S, ‘The Radicalisation of a New Generation of Abortion Rights Activists’ in Quilty A, Kennedy S and Conlon C (Eds.) *The Abortion Papers: Volume 2* (Cork University Press 2015) 271

Dooley D, ‘Abortion and moral disagreement’ in Ailbhe Smyth (Ed.) *The Abortion Papers: Ireland* (Attic 1992) 166

Dooley D, ‘Twenty years on: 1983-2003’ in The Cork Women’s Political Association, *Vow: voices of women* (2003) 8th Amendment Special Edition

Dooley Clarke D, ‘Divergence between theory and practice’ in Mavis Arnold and Peadar Kirby (Eds.) *“The Abortion Referendum” : The Case Against* (Anti-amendment campaign 1983)

Earner-Byrne L, *Mother and child: maternity and child welfare in Dublin, 1922–60* (Manchester University Press 2013)

Earner-Byrne L, ‘Moral Prescription: The Irish Medical Profession, the Roman Catholic Church and the Prohibition of Birth Control in Twentieth-century Ireland’ in Cox C and Luddy M (Eds.) *Cultures of Care in Irish Medical History, 1750-1970* (Palgrave Macmillan 2010) 207

Earner-Byrne L, *Mother and child: maternity and child welfare in Dublin, 1922–60* (Manchester University Press 2013)

Egar L, ‘Snuffing out life at Trinity College Dublin’ in Matthews D and Hamilton M (Eds.) *SUSS* (The SUSS 1989)

Eggert A and Rolston B, ‘Ireland’ in Rolston B and Eggert A (Eds.) *Abortion in the new Europe: A comparative handbook* (Greenwood Press 1994) 157

Enright M, ‘Abortion Law in Ireland : Reflecting on Reform’ in Black L and Dunne P, Law and *Gender in Modern Ireland: Critique and Reform*, (Hart Publishing 2019) 55

Ertür B, ‘Barricades: Resources and Residues of Resistance’ in Butler J, Gambetti Z, and Sabsay L (Eds.) *Vulnerability in Resistance* (Duke Press 2016) 97

ESCORT, *Travelling to Liverpool* < https://wellcomecollection.org/works/dzy4dx4m >

Ewick P, ‘Consciousness and ideology’ in Sarat A (Ed.) *The Blackwell companion to law and society* (Blackwell publishing 2004) 80

Family Life Research Centre*, The blood-dimmed tide and Ireland* (Family Life Research Centre 1983)

Fellion M and Inglis K, *Censored: a literary history of subversion and control* (British Library 2017)

Ferriter D, *Occasions of Sin* (Profile 2012)

Fitzgerald L, *Winning Repeal and Abortion Rights* (Socialist Party 2016)

Flannery A, ‘About this book’ in Flannery A (Ed.) *Abortion & Law* (Dominican Publications 1983)

Fletcher R, ‘Civic feminism and voluntary abortion care: A story of ESCORT’s contribution to reproductive justice’ in Quilty A, Kennedy S and Conlon C (Eds.) *The Abortion Papers: Volume 2* (Cork University Press 2015) 137

Fletcher R, ‘Negotiating strangeness on the abortion trail’ in Harding R, Fletcher R, and Beasley C (Ed.) *ReValuing Care in Theory, Law and Policy : Cycles and Connections* (Taylor & Francis Group 2016) 27

Freshwater H, ‘Towards a redefinition of censorship’ in Muller B (Ed.) *Censorship and cultural regulation in the modern age* (Brill 2004) 217

Gambetti Z, ‘Risking Oneself and One's Identity: Agonism Revisited’ in Butler J, Gambetti Z, and Sabsay L (Eds.) *Vulnerability in Resistance* (Duke Press 2016) 28

Gibbons L, ‘Censorship and the Arts’ in Smyth P and Hazelkorn E (Eds.) *Let in the light : censorship, secrecy and democracy* (Brandon Books 1993) 122

Gibbons L, *Transformations in Irish Culture* (University of Notre Dame Press 1996) 79

Goldhaber M, *A People's History of the European Court of Human Rights : A People's History of the European Court of Human Rights* (Rutgers University Press 2007)

Goulding B, ‘I will not remain silent’ in O’Riordan C (Ed.) *Debating the Eighth: Repeal or Retain?* (Orpen Press, 2018) 41

Gray B, ‘From ‘Ethnicity’ to ‘Diaspora’: 1980s Emigration and ‘Multicultural’ London’ in Bielenberg A (Ed.) *The Irish Diaspora* (Pearson Education 2000) 65

Green J and Karolides NJ (Eds.), *Encyclopaedia of censorship* (Facts on File 2005)

Hadley J, *Abortion between freedom and necessity* (Temple University Press 1996)

Hammami R, ‘Precarious Politics. The Activism of “Bodies That Count” (Aligning with Those - That Don’t) - in Palestine’s Colonial Frontier’ in Butler J, Gambetti Z, and Sabsay L (Eds.) *Vulnerability in Resistance* (2016 Duke University Press) 146

Hardiman A, ‘The Constitution and the Amendment’ in Arnold M and Kirby P (Eds.) *“The Abortion Referendum”: The Case Against* (Anti-amendment campaign 1983)

Hesketh T, *The Second Partitioning of Ireland?: the abortion referendum of 1983* (Brandsma Books 1990).

Hirsch M, ‘Vulnerable Times’ in Butler J, Gambetti Z, and Sabsay L (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 76

Hoff J, ‘Comparative analysis of abortion in Ireland, Poland and the United States’ in O’Dowd M and Wichert S, *Chattel, servant or citizen: women’s status in church state and society* (The Institute of Irish Studies, Queen’s University Belfast 1995) 254

Hogan L, ‘Procreative Choice: A Feminist Theological Comment’ in Smyth A (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 175

Holden W, *Unlawful carnal knowledge: the true story of the Irish ‘X’ case* (Harper Collins 1994)

Holland M, ‘Political censorship’ in Smyth P and Hazelkorn E (Eds.) *Let in the light : censorship, secrecy and democracy* (Brandon Books 1993) 147

Horgan G, *Abortion: Why Irish Women must have the right to choose*, (Bookmarks Ireland, 1990) 11

Horgan J, *Irish media: a critical history since 1922* (Routledge 2001)

Hug C, ‘1983-2003: war of wombs, war of words’ in The Cork Women’s Political Association, *Vow: voices of women* (2003) 8th Amendment Special Edition

Hug C, *The politics of sexual morality in Ireland* (Macmillan 1998)

Hunter R, ‘Feminist approaches to socio-legal studies’ in Cruetzfeldt N, Mason M, McConnachie K (Eds.) *Routledge Handbook of Socio-Legal Theory and Methods* (Routledge 2020) 260

Tom Inglis, *Lessons in Irish Sexuality* (University College Dublin Press 1998)

Inglis T, *The moral monopoly: the rise and fall of the Catholic Church in modern Ireland* (University College Dublin Press 1998)

Ingram A, ‘Home and Away: The Unequal Vista for Irish Women’ in Smyth S (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 149

Irishwomen United, *Banshee: Journal of Irishwomen United* [Irishwomen United 1976] 1(2)

Irish Women’s Right to Choose Group, *Abortion: a choice for Irish women*, [2nd edition, Irish Women’s Right to Choose Group 1981]

Jackson P, *The Deadly Solution to An Irish Problem* (Women’s Right to Choose Campaign 1983)

Jones D, *Censorship: a world encyclopaedia* (Fitzroy Dearborn Publishers 2001) Volume 2, E-K

Kahn PW, ‘Freedom, autonomy, and the cultural study of law’ in Sarat A and Simon J (Eds.) in *Cultural analysis, cultural studies, and the law: moving beyond legal realism* (HeinOnline Legal Classics 2003) 141

Kavanagh R, *Mamie Cadden: backstreet abortionist* (Mercier Press 2005)

Kavanagh R, ‘Reflections’ in The Cork Women’s Political Association, *Vow: voices of women* (2003) 8th Amendment Special Edition

Keane K, ‘From SPUC v Grogan to Students4Choice: The History of Abortion Law in Ireland, and the case for student activism’ in O’Riordan C (Ed.) *Debating the Eighth: Repeal or Retain?* (Orpen Press, 2018) 128.

Keating J, *Why the abortion referendum solves nothing : a Humanist View* (Association of Irish Humanists 2002)

Kelly JM, *Fundamental Rights in the Irish Law and Constitution* (Allen Figgis & Co 1961)

Kelly LM, ‘Reckoning with narratives on innocent suffering in transitional abortion litigation’ in Cook RJ, Erdman JN, and Dickens BM, (Eds.) *Abortion Law in Transnational Perspective : Cases and Controversies* (University of Pennsylvania Press 2014) 303

Kelly M, ‘Censorship and the Media’ in Connelly A (Ed.) *Gender and the law in Ireland* (Oak Tress Press 1993) 185

Kennedy S, ‘Ireland’s handmaid’s tale’ in Quilty A, Kennedy S, and Conlon C (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 276

Kennedy S, ‘The right to know: gender, power, reproduction and knowledge, regulation in Ireland’ in Corcoran M and Cullen P (Eds.) *Producing Knowledge, Reproducing Gender Power, Production and Practice in Contemporary Ireland* (UCD Press 2020) 110

Kennelly B and Ward E, ‘The abortion referendums’ in Gallagher M and Laver M (Eds.) *How Ireland voted 1992* (Folens and PSAI Press 1993) 115

Keogh D, *Twentieth Century Ireland* (New Gill History of Ireland 2005)

Kennedy S, ‘Ireland’s handmaid’s tale’ in Quilty A, Kennedy S, and Conlon C (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 276

Kilfeather S, ‘Irish feminism’ in Cleary J and Connolly C (Eds.) *The Cambridge Companion to Modern Irish Culture* (Cambridge University Press 2006) 96

Kingston J and Whelan A with Bacik I, *Abortion and the Law* (Round Hall Sweet and Maxwell 1997)

Leon V, Kane J, Mann S, Woods J, Lombardo M, Saint J and Knight R (Eds.), *Abortion Internationally* [National Abortion Campaign 1978?]

'Letter from Limerick Grandmother : June 28th, 1982' in Mavis Arnold and Peadar Kirby (Eds.) "The Abortion Referendum" : The Case Against (Anti-amendment campaign 1983)

Liberal Ethic, The (The Irish Times, 1950)

Linden J, 'Defence of the Silent and Unseen' in Flannery A (Ed.) *Abortion & Law* (Dominican Publications 1983) 85

Mackenzie C, 'The Importance of Relational Autonomy and Capabilities for an Ethics of Vulnerability' in MacKenzie C, Rogers W, and Dodds S (Eds.) *Vulnerability: New Essays in Ethics and Feminist Philosophy* (Oxford University Press 2014) 33

MacKenzie C, Rogers W, and Dodds S, 'What is Vulnerability, and Why Does It Matter for Moral Theory?' in MacKenzie C, Rogers W, and Dodds S (Eds.) *Vulnerability: New Essays in Ethics and Feminist Philosophy* (Oxford University Press 2014) 1

Maher M, 'Five reasons against an amendment' in Arnold M and Kirby P (Eds.) *"The Abortion Referendum" : The Case Against* (Anti-amendment campaign 1983) 9

Mahon E, 'Abortion Debates in Ireland: An Ongoing Issue' in McBride Stetson D (Ed.) *Abortion Politics, Women's Movements, and the Democratic State: A Comparative Study of State Feminism* (Oxford University Press 2001) 157

Mahon E and Conlon C, 'Legal abortions carried out in England on women normally resident in the Republic of Ireland' in Constitution Review Group, *Report of the Constitution Review Group* (Stationary Office 1996) 605

Martin J, *The Essential Guide for Women* (Arlen House 1977)

Matthews D and Hamilton M (Eds.) *SUSS* (The SUSS 1989)

McAvoy S, 'A fairly prevalent crime' in The Cork Women's Political Association, *Vow: voices of women* (2003) 8th Amendment Special Edition

McAvoy S, 'Before Cadden: Abortion in Mid-Twentieth Century Ireland' in Keogh D, O'Shea F and Quinlan C (Eds.) The Lost Decade: Ireland in the 1950s (Mercier 2004) 147

McAvoy S, ''Bring forth abundantly in the earth, and multiply therein' (Genesis 9:7): Aspects of Irish discourse on contraception (1837-1908)' in Leane M and Kiely E (Eds.) *Sexualities and Irish society: a reader* (Orpen Press 2014) 3

McAvoy S, 'From anti-amendment campaigns to demanding reproductive justice: the changing landscape of abortion rights activism in Ireland 1983-2008' in Schweppe J (Ed.) *The Unborn Child, Article 40.3.3° and Abortion in Ireland: Twenty-Five Years of Protection?* (Liffey Press 2008) 15

McAvoy S, 'Its effect on public morality is vicious in the extreme': defining birth control as obscene and unethical, 1926–32' in Farrell E (Ed.) *She was in the Family Way* (School of Advanced Study, University of London 2012) 35

McAvoy S, 'The Catholic Church and Fertility Control in Ireland: the making of a dystopian regime' in Quilty A, Kennedy S, and Conlon C (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 62

McAvoy S, 'Vindicating women's rights in a foetocentric state: the longest Irish journey' in Giffney N and Shildrick M (Eds.) *Theory on the edge: Irish studies and the politics of sexual difference* (Palgrave Macmillan 2013) 39

McCafferty N, 'As far as practicable' in Smyth A (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 157

McCafferty N, *A woman to blame: the Kerry babies case* (Attic Press 1985)

McCarthy J, 'Reproductive justice in Ireland: A feminist analysis of the Neary and Halappanavar cases' in Donnelly M and Murray C (Eds.) *Ethical and Legal Debates in Irish Healthcare: Confronting Complexities* (Manchester University Press 2016) 9

MacEntee P, ‘Punish and Be Banned’ in Smyth P and Hazelkorn E (Eds.) *Let in the light : censorship, secrecy and democracy* (Brandon Books 1993) 109

Meaney G, *Sex and nation: women in Irish culture and politics* (Attic press 1991)

Mezey N, *Cultural analysis, cultural studies, and the law: moving beyond legal realism* (HeinOnline Legal Classics 2003) 37

Muldowney M, ‘Breaking the silence: pro-choice activism in Ireland since 1983’ in Redmond J, Tiernan S, McAvoy S, McAuliffe M (Eds.) *Sexual politics in modern Ireland* (Irish Academic Press 2015) 127

Murphy TA, *The Literature Crusade in Ireland* (Munster Printing Works, 1912)

National Abortion Campaign, *Abortion: Our Struggle for Control* (National Abortion Campaign 1980)

Ní Shuilleabháin J, ‘My Story’ in Quilty A, Kennedy S, and Conlon C (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 44

Nielsen LB, ‘The work of rights and the work rights do: a critical empirical approach’ in Sarat A (Ed.) *The Blackwell companion to law and society* (Blackwell publishing 2004) 63

Lee JJ, *Ireland 1912-1985 : Politics and Society* (Cambridge University Press 2010)

Lee R, ‘Socio-legal research – what’s the use?’ in Thomas PA (Ed.) *Socio-Legal Studies* (Dartmouth 1997) 76

Lentin R, ‘After Savita: migrant m/others and the politics of birth in Ireland’ in Quilty A, Kennedy S and Conlon C (Eds.) *The Abortion Papers: Volume 2* (Cork University Press 2015) 179

‘Lesson 13: Introduction to the abortion issue’ in Hayes N, MacGovern D, Kavanagh F, Cummins L, McCann J, Doran K, *Life must go on: A pro-life education programme for post-primary schools* (Helicon 1982)

Levenson L and Natterstad J, *Hanna Sheehy-Skeffington: Irish Feminist*, (Syracuse University Press 1986)

Loizidou E, ‘Dreams and the Political Subject’ in Butler J, Gambetti Z, Sabsay L (Eds.) *Vulnerability in Resistance* (2016 Duke University Press) 122

Lord S, ‘The Eighth Amendment: planting a legal timebomb’ in Quilty A, Kennedy S, and Conlon C (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 104

Loscher C, *The X Case: How Abortion Was Brought Into Ireland* (Human Life International 1992)

O’Callaghan DF, ‘The Value of Unborn Life: Historical Perspective’ in *Abortion Now* (Life and Education Research Network (LEARN) 1983)

O’Connor A, ‘Women in Irish Folklore: The testimony regarding illegitimacy, abortion and infanticide’ in MacCurtain M and O'Dowd M (Eds.) *Women in early modern Ireland* (Edinburgh University Press 1991) 304

O’Connor F, ‘Frank O’Connor on censorship’ in Carlson J (Ed.) *Banned in Ireland: censorship and the Irish writer* (Article 19 1990) 151

O’Connor O, ‘Abortion as a Women’s Health and Human Rights Issue: National Women’s Council (NWCI) activism on reproductive rights over the decades’ in Quilty A, Kennedy S, and Conlon C (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 258, 260-262.

O’Donovan K, ‘Fem-legal and socio-legal: an incompatible relationship?’ in Thomas PA (Ed.) *Socio-Legal Studies* (Dartmouth 1997) 123

Ó’Drisceoil D, ‘A Dark Chapter: Censorship and the Irish Writer’ in Hutton C (Ed.) *The Oxford History of the Irish Book, Volume V: The Irish Book in English, 1891-2000* (Oxford University Press 2011) 285

O'Faolain S, 'The dangers of censorship' in Kent B (Ed.) *Selected essays of Sean O'Faolain* (McGill-Queen's University Press 2016) 90

O'Hara L, 'Maser's 'Repeal the 8th' mural: the power of public art in the age of social media' in Browne K and Calkin S (Eds.) *After Repeal: Rethinking Abortion Politics* (Bloomsbury Academic 2020) 159

O'Leary E, 'Management of Problem Pregnancies' in *Abortion Now* (Life Education and Research Network (LEARN) 1983)

O'Reilly E, *Masterminds of the Right* (Attic Press, 1997)

Oaks L, 'Irishness, eurocitizens, and reproductive rights' in Franklin S (Ed.) *Reproducing reproduction: kinship, power and technological innovation* (University of Pennsylvania Press 1998) 132

Olund E, 'Repealing a 'legacy of shame': press coverage of emotional geographies of secrecy and shame in Ireland's abortion debate' in Browne K and Calkin S (Eds.) *After Repeal: Rethinking Abortion Politics* (Bloomsbury Academic 2020) 174

Open Door Counselling, *An Unexpected Pregnancy: and how we can help!* [Open Door Counselling, 1983]

'Preface' in *Abortion Now* (Life Education and Research Network (LEARN) 1983)

'Protestant Church's' Statements' in Arnold M and Kirby P (Eds.) *"The Abortion Referendum" : The Case Against* (Anti-amendment campaign 1983) 62

Quesney A, 'Speaking Up! Speaking Out! Abortion in Ireland, exploring women's voices and contemporary abortion rights activism' in Quilty A, Kennedy S, and Conlon C (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 158

Quilty A, 'Water, Water Everywhere … exploring education geographies of abortion' in Quilty A, Kennedy S and Conlon C (Eds.) *The Abortion Papers: Volume 2* (Cork University Press 2015) 189

Randall V, 'The politics of abortion' in Lovenduski J and Outshoorn J (Eds.) *The new politics of abortion* (Sage publications 1986) 67

Reid M, 'Abortion Law in Ireland After the Maastricht Referendum' in Smyth A (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 25

Reidy T, 'Abortion referendums in Ireland' in Brunn SD and Kehrein R (Eds.) *Handbook of the changing world language map* (Springer International Publishing, 2020) 2311

Riles A, 'Introduction: In Response' in Rile A (Ed.) *Documents: artifacts of modern knowledge* (University of Michigan Press 2006) I

Rossiter A, *Ireland's Hidden Diaspora: The Abortion Trail and the Making of a London-Irish Underground* (IASC Publishing 2009)

Riddick R, *Making Choices: The Abortion Experience of Irish Women* (O.D.C. Ltd 1988)

Riddick R, *The Right to choose : questions of feminist morality* (Attic Press 1990)

Riddick R, *Towards a Feminist Morality of Choice* (1990 Attic Press)

Riddick R, 'Towards a Feminist Morality of Choice' in Smyth A (Ed.) *The Abortion Papers: Ireland* (Attic Press 1992) 186

Riordan S, ''Storm and Stress': Richard Devane, Adolescent Psychology and the Politics of Protective Legislation 1922–1935' in Cox C and Riordan S (Eds.) *Adolescence in Modern Irish History* (Palgrave Macmillan London 2015) 129

Roberts B, 'Introduction – Abortion and Patriarchal Society' in Leon V, Kane J, Mann S, Woods J, Lombardo M, Saint J and Knight R (Eds.), *Abortion Internationally* [National Abortion Campaign 1978?]

Rockett K, ‘Ireland: film, radio, and television’ in Jones D (Ed.), *Censorship: a world encyclopaedia* (Fitzroy Dearborn Publishers 2001) Volume 2, E-K

Rockett K, *Irish film censorship: a cultural journey from silent cinema to Internet pornography* (Four Courts Press 2004)

Rohan D, *Marriage: Irish style* (Mercier Press 1969)

Rogers W, ‘Vulnerability and bioethics’ in Mackenzie C, Rogers W, and Dodds S (Eds.) *Vulnerability: New Essays in Ethics and Feminist Philosophy* (Oxford University Press 2014) 60

Ryan L, ‘A decent girl well worth helping: women, migration and unwanted pregnancy’ in Harte L and Whelan Y (Eds.) *Ireland beyond boundaries: mapping Irish studies in the twenty-first century* (Pluto 2007) 135

Ryan L, *Gender, Identity, and the Irish Press, 1922-1937: Embodying the Nation* (E. Millen Press 2002)

Rynne A, *Abortion: the Irish question* (Ward River Press 1982)

Sabsay L, ‘Permeable bodies: vulnerability, affective powers, hegemony’ in Butler J, Gambetti Z, and Sabsay L (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 278

Sacred Congregation for the Declaration of the Faith, ‘Declaration on Procured Abortion’ in Flannery A (Ed.) *Abortion & Law* (Dominican Publications 1983) 1

Samuels H, ‘Feminist legal theory’ in Banakar R and Travers M (Eds.) in *Law and Social Theory* (Bloomsbury 2013) 129

Schweppe J, ‘Introduction’ in Schweppe J (Ed.) *The Unborn Child, Article 40.3.3 and Abortion in Ireland: Twenty-five years of protection?* (The Liffey Press 2008)

Scriven R, ‘Placing the Catholic Church: the moral landscape of repealing the 8th’ in Browne K and Calkin S (Eds.) *After Repeal: Rethinking Abortion Politics* (Bloomsbury Academic 2020) 191

Seal L and Neale A, ‘Encountering the archive: researching race, racialisation and the death penalty in England and Wales, 1900-65’ in Cruetzfeldt N, Mason M, McConnachie K (Eds.) *Routledge Handbook of Socio-Legal Theory and Methods* (Routledge 2020) 289.

Sheldon S, *Beyond Control: Medical Power and Abortion Law* (Pluto 1997)

Sirman N, ‘When Antigone is a man: feminist “trouble” in the Late Colony’ in Butler J, Gambetti Z, and Sabsay L (Eds.) Vulnerability in resistance (Duke University Press 2016) 191

Smart C, *Feminism and the power of law* (Taylor and Frances Group 1989)

Smyth A, ‘A Sadistic Farce Women and abortion in the Republic of Ireland, 1992’ in Smyth A (Ed.) *The Abortion Papers Ireland* (Attic Press 1992) 7

Smyth A, ‘The Politics of Abortion in a Police State’ in Smyth A (Ed.) *The Abortion Papers: Ireland* (Attic 1992) 138

Smyth L, *Abortion and Nation: The Politics of Reproduction in Contemporary Ireland* (Routledge 2005)

Smyth L, ‘Ireland’s Abortion Ban: honour, shame and the possibility of a moral revolution’ in Quilty A, Kennedy S, and Conlon C (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 175

Socialist Workers' Movement, *SPUC: a threat to Irish Women* (Socialist Workers’ Movement 1989)

Solomons M, *Pro Life? The Irish Question* (Lilliput Press 1992)

Speed A, ‘The Struggle for Reproductive Rights: A Brief History in its Political Context’ in Smyth A (Ed.) *The Abortion Papers Ireland* (Attic Press 1992) 85

Spring D, 'Abortion and the right to life' in Group of the Party of European Socialist (Eds.) *A collection of speeches of Dick Spring* [1993] < https://irishelectionliterature.com/2017/02/23/1992-dick-spring-speech-on-abortion-and-the-right-to-life/ >

Spray G, 'A Carmelite in One Hand and a Ballot Box in the other Some Personal Reflections on the 1983 Abortion Referendum' in The Cork Women's Political Association, *Vow: voices of women* (2003) 8th Amendment Special Edition 5

Sweetman R, *On our backs: sexual attitudes in a changing Ireland* (Pan books 1979)

Taylor M, 'Abortion Stigma: a health service provider's perspective' in Quilty A, Kennedy S, and Conlon C (Eds.) *The Abortion Papers Ireland: Volume 2* (Cork University Press 2015) 223

Thurtle D, *Abortion: Right or Wrong?* (T Werner Laurie 1940)

Tzelepis E, 'Vulnerable Corporealities and Precarious Belongings in Mona Hatoum's Art' Eros' in Butler J, Gambetti Z, and Sabsay L (Eds.) *Vulnerability in resistance* (Duke University Press 2016) 146

van Boom WH, Desmet P and Mascini P, 'Empirical legal research: charting the terrain' in van Boom, WH, Desmet P, and Mascini P (Eds.) *Empirical Legal Research in Action* (Elgar online 2018) 1

Webley L, 'The *why* and *how to* of conducting a socio-legal empirical research project' in Cruetzfeldt N, Mason M, McConnachie K (Eds.) *Routledge Handbook of Socio-Legal Theory and Methods* (Routledge 2020) 58

Whyte JH, *Church and State in Modern Ireland* (1980 Gill and Macmillan)

Women's Information Network, *Choosing abortion: a practical guide to abortion and other options for Irish women with problem pregnancies* [Women's Information Network 1993]

Woodman K, *Media control in Ireland 1923-1983* (Southern Illinois University Press 1985)

Women Hurt By Abortion, *An approach to healing for women hurt by abortion* (Revised Ed.) (Women Hurt by Abortion 1990)

Yeats WB, *The Collected Works of W.B. Yeats Vol X: Later Article Uncollected Articles, Reviews, and Radio Broadcast*, (Scribner, 1 May 2010)

Yes to Life, *Have you got a question about abortion?* (Yes to Life 2016)

Campaign literature

Alliance for Choice, '1992 referendum leaflet' [Alliance for Choice 1992] < https://irishelectionliterature.com/2012/11/16/1992-abortion-referendums-leaflet-from-the-alliance-for-choice/ >

Anti-Amendment Campaign, 'It's life that needs amending not the Constitution' (1983) < https://irishelectionliterature.com/2018/05/07/1982-leaflet-from-the-anti-amendment-campaign/ >

Cork Abortion Information Campaign, *Censored: Ireland's Abortion Reality* [Cork Abortion Information Campaign, 1991]

Democratic Left, *Don't gamble with their lives* [Democratic Life 1992] < https://irishelectionliterature.com/2009/09/29/democratic-left-1992-abortion-referendum/ >

Government of Ireland, *The referendums on the right to life, travel and information key questions and answers: an information publication from the Government* (1992)

O'Malley D, 'Abortion referenda: where we stand' (November 1992) < https://irishelectionliterature.com/2013/06/08/from-1992-progressive-democrats-des-omalley-outlines-the-partys-reasons-to-vote-no-on-the-abortion-referendum/ >

People's Democracy, *No more chains! Why you should oppose the Constitutional Ban on Abortion* [1982]

Pro-Life Campaign, '1992 referendum leaflet' [Pro-Life Campaign 1992] < https://irishelectionliterature.com/2009/09/29/1992-abortion-referendum-pro-life-campaign-flyer/ >

Pro-Life Campaign, 'Vote no to abortion on referendum day' [Pro-Life Campaign 1992] < https://irishelectionliterature.com/2010/01/25/pro-life-campaign-leaflet-1992-abortion-referendum/ >

Support Life Ireland, 'Pope's warning to Ireland' [Support Life Ireland 1992] < https://irishelectionliterature.com/2016/05/18/popes-warning-to-ireland-vote-no-leaflet-from-the-1992-abortion-referendum/#more-35821 >

Sweeney P, 'Abortion – the Bishops Statement' [Páidí Sweeney 1992] < https://irishelectionliterature.com/2012/11/28/from-1992-the-supreme-court-judges-who-approved-abortion-in-the-x-case-committed-the-mortal-sin-of-murder/ >

The National Platform, 'The Maastricht Referendum: seven good reasons for voting no' [The National Platform 1992] < https://irishelectionliterature.com/2009/09/17/the-national-platform-no-to-maastricht-seven-good-reasons-for-voting-no/ >

The Society for the Protection of Unborn Children, 'Abortion Information' 2 < https://irishelectionliterature.com/2013/07/10/1991-anti-abortion-information-leaflet-from-spuc-with-an-unusual-graph/ >

The Support Life Group, Family Solidarity, Irish Right to Life, 'Why the vote on the Maastricht E.C. treaty is a vote on abortion' [The Support Life Group, Family Solidarity, Irish Right to Life 1992] < https://irishelectionliterature.com/2013/01/17/why-the-irish-vote-on-the-maastricht-treaty-is-a-vote-on-abortion/ >

'This amendment could kill women' [1983] < https://irishelectionliterature.com/2017/01/15/from-1983-this-amendment-could-kill-women-leaflet-from-the-anti-amendment-campaign-repealthe8th/ >

'Wexford Doctors & Lawyers will vote 'no'!' [1983] < https://irishelectionliterature.com/2018/05/06/from-1983-wexford-doctors-lawyers-will-vote-no-leaflet-from-the-wexford-anti-amendment-campaign/ >

Youth Defence/Pro-Life Movement, Abortion kills women and children [Youth Defence/Pro-Life Movement 1992] < https://irishelectionliterature.com/2012/11/18/1992-referendum-leaflet-from-youth-defence-pro-life-movement-urging-a-no-vote-against-travel-information-and-abortion/ >

Cases

A and B v Eastern Health Board, Judge Mary Fahy and C, and the Attorney General [1998] 1 IR 464

A, B and C v Ireland Application no. 25579/05 (European Court of Human Rights, 16 December 2010)

Attorney General (at the relation of The Society for the Protection of Unborn Children) v Open Door Counselling Limited and Dublin Wellwoman Centre Limited (1986) WJSC-HC 1783

Attorney General (at the relation of The Society for the Protection of Unborn Children) v Open Door Counselling Limited and Dublin Wellwoman Centre Limited [1988] IR 593.

Attorney General (at the relation of The Society for the Protection of Unborn Children) v Open Door Counselling Limited and Dublin Wellwoman Centre Limited (No. 2) [1994] 2 IR 333

Attorney General v X and others [1992] 1 IR 1

Case C-159/90, *The Society for the Protection of Unborn Children Ireland Ltd v Stephen Grogan and others* (1991)

Case C-159/90 *The Society for the Protection of Unborn Children Ireland Ltd v Stephen Grogan and others* [1991] European Court reports 1991 Page I-04685, Opinion of Mr Advocate General Van Gerven

D v Ireland Application no. 26499/02 (European Court of Human Rights, 27 June 2006)

Dublin Well Woman Centre Ltd v Ireland 1994 WJSC-SC 2704 Application no. 14235/88 and 14234/88 (European Court of Human Rights, 29 October 1992)

Human Rights Committee, 'Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2324/2013' (31 March 2016) CCPR/C/116/D/2324/2013

Human Rights Committee, 'Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2425/2014' (17 March 2017) CCPR/C/119/D/2425/2014

In the matter of Article 26 of the Constitution and in the matter of the Regulation of Information (Services out-side the State for Termination of Pregnancies) Bill 1995 [1995] 1 IR 1

McGee v The Attorney General [1973] IESC 2; [1974] IR 284

Open Door and Well Woman v Ireland, Application no. 14234/88; 14235/88 (European Court of Human Rights, 29 October 1992)

The Irish Family Planning Association and Joan Wilson v Patrick Noel Ryan and Others [1979] IR 295

The Society for the Protection of Unborn Children v Diarmuid Coogan and Others [1989] IR 734

The Society for the Protection of Unborn Children (Ireland) Limited v Stephen Grogan and others [1989] IR 753

The Society for the Protection of Unborn Children (Ireland) Limited v Stephen Grogan and others (No 4) [1994] 1 IR 46

The Society for the Protection of Unborn Children (Ireland) Limited v Stephen Grogan and Others (No 5) [1998] 4 IR 343, [1997] 3 JIC 0601

Journal articles

Ackerly B and True J, 'Reflexivity in Practice: Power and Ethics in Feminist Research on International Relations' (2008) 10, International Studies Review 693

Aiken ARA, Gomperts R, Trussell J, 'Experiences and characteristics of women seeking and completing at-home medical termination of pregnancy through online telemedicine in Ireland and Northern Ireland: a population-based analysis' (2017) 124 BJOG 1208

Aiken ARA, Johnson DM, Broussard K, Padron E, 'Experiences of women in Ireland who accessed abortion by travelling abroad or by using abortion medication at home: a qualitative study' (2018) 44 BMJ Sexual and Reproductive Health 181

Albertson Fineman M, 'The Vulnerable Subject: Anchoring Equality in the Human Condition' (2008) 20(1) Yale Journal of Law and Feminism 1

Allen K, Mandache M and Nielsen G, 'Soul City: Dublin and the Irish Abortion Question' (2004) 30(2) Canadian Journal of Irish Studies 48

Bacik I, 'The Irish Constitution and Gender Politics: Developments in the Law on Abortion' (2013) 28(3) Irish Political Studies 380

Bar-Tal D, 'Self-Censorship as a Socio-Political-Psychological Phenomenon: Conception and Research: Self-Censorship in a Society' (2017) 38(1) Advances in Political Psychology 37

Barnard C, 'An Irish solution' (1992) 142(6548) New Law Journal 1

Barrett G, 'The use of referendums in Ireland: an analysis' (2017) 23(1) The Journal of Legislative Studies 71

Barry U, 'Abortion in the Republic of Ireland' (1988) 29 Feminist Review 57

Bartlett KT, 'Feminist legal methods' (1990) 103(4) Harvard Law Review 829.

Battersby E, 'How Irish women cope' *The Irish Times* (Dublin, 20 February 1992) 6

Bell J, 'The police and policing' in Austin Sarat (Ed.) *The Blackwell companion to law and society* (Blackwell publishing 2004) 114

Berer M, 'Termination of pregnancy as emergency obstetric care: the interpretation of Catholic health policy and the consequences for pregnant women: An analysis of the death of Savita Halappanavar in Ireland and similar cases' (2013) 21(41) Reproductive Health Matters 9

Best A, 'Abortion Rights along the Irish-English Border and the Liminality of Women's Experiences' (2005) 29(3/4) Dialectical Anthropology 423

Bloomer F and O'Dowd K, 'Restricted access to abortion in the Republic of Ireland and Northern Ireland: exploring abortion tourism and barriers to legal reform' (2014) 16(4) Culture, Health & Sexuality 366

Boddu R, 'A review of abortion in Ireland' (2011) 4(1) Royal College of Surgeons in Ireland Student Medical Journal 78

Boyer D, 'Censorship as a Vocation: The Institutions, Practices, and Cultural Logic of Media Control in the German Democratic Republic' (2003) 45(3) Comparative Studies in Society and History 511

Boyle K and McGonagle M, 'Censorship of Publications - Irish Style' (1989) 10 Journal of Media Law and Practice 87

Braun V and Clarke V, 'Reflecting on reflexive thematic analysis' (2019) 11(4) Qualitative research in sport, exercise and health 589

Breathnach C, 'Medicalizing the female reproductive cycle in rural Ireland, 1926–56' (2012) 85(230) Historical Research 674

Broussard K, 'The changing landscape of abortion care: Embodied experiences of structural stigma in the Republic of Ireland and Northern Ireland' (2020) 245 Social Science & Medicine 112686

Brown K, '"Vulnerability': Handle with Care' (2011) 5(3) Ethics and Social Welfare 313

Browne SJ, 'Concerning censorship' (1936) 64(751) The Irish Monthly

Butterly L, 'Racism and reproductive health: migrant rights and the Irish abortion referendum' *Verso Books* (23 May 2018) < https://www.versobooks.com/en-gb/blogs/news/3840-racism-and-reproductive-health-migrant-rights-and-the-irish-abortion-referendum >

Byrne J, 'What a shocker: no more books to ban' *The Irish Times* (Dublin, 18 December 2010)

Carder KE, 'Liberalizing Abortion in Ireland: In re Article 26 and the Passage of the Regulation of Information (Services Outside the State for the Termination of Pregnancies) Bill' (1996) 3(2) Tulsa Journal of Comparative and International Law 253

Carnegie A and Roth E, 'From the Grassroots to the Oireachtas' (2019) 21(2) Health and Human Rights 109

Calkin S and Berny E, 'Legal and non-legal barriers to abortion in Ireland and the United Kingdom' (2021) 5 Medicine Access @ Point of Care 1

Chan S, 'Speaking of silence, speaking of art, abortion and Ireland' (2019) 27(1) Irish Studies Review 73

Cloatre E and Enright M, 'On the Perimeter of the Lawful': Enduring Illegality in the Irish Family Planning Movement, 1972-1985' (2017) 44(4) Journal of Law and Society 471

Cole D, ‘Going to England: Irish Abortion Law and the European Community’ (1993) 17(1) Hastings International and Comparative Law Review 113

Collins B and Hanafin P, ‘Mothers, maidens and the myth of origins in the Irish Constitution’ (2001) 12 Law and Critique 53

Colvin C, ‘Society for the Protection of Unborn Children (Ireland) Ltd. v. Grogan: Irish Abortion Law and the Free Movement of Services in the European Community’ (1991) 15 Fordham International Law Journal 476

Comyn A, ‘Censorship in Ireland’ (1969) 58(229) Studies: An Irish Quarterly Review 42

Connolly L, ‘The Women’s Movement in Ireland, 1970-1995: A Social Movements Analysis’ (1996) 1(1) Irish Journal of Feminist Studies 45.

Conrad K, ‘Fetal Ireland: National Bodies and Political Agency’ (2001) 36(3&4) Éire-Ireland 153

Crowley U and Kitchin R, ‘Producing ‘decent girls’: governmentality and the moral geographies of sexual conduct in Ireland (1922-1937)’ (2008) 15(4) Gender, Place and Culture 355

Cullen P and Korolczuk E, ‘Challenging abortion stigma: framing abortion in Ireland and Poland’ (2019) 27(3) Sexual and Reproductive Health Matters 6

Curran A, ‘Ordinary and Extraordinary Images: Making Visible the Operations of Stock Photography in Posters Against the Repeal of the 8th Amendment’ (2022) 6(1) Feminist Encounters: A Journal of Critical Studies in Culture and Politics 7

Daly B, ‘Access to abortion services: the impact of the European Convention on Human Rights in Ireland’ (2011) 30 Medicine and Law 267

Daly ME, ‘Marriage, Fertility and Women’s Lives in Twentieth-Century Ireland (*c.* 1900- *c.* 1970)’ (2006) 15(4) Women’s History Review 571

Darnton R, ‘Censorship, a Comparative View: France, 1789-East Germany, 1989’ (1995) 49 Representations, Special Issue: Identifying Histories: Eastern Europe Before and After 1989 40

de Londras F, ‘‘a hope raised and then defeated’? the continuing harms of Irish abortion law’ (2020) 124 Feminist Review 33

de Londras F, ‘Constitutionalizing foetal rights: a salutary tale from Ireland’ (2015) 22 Michigan Journal of Gender and Law 243

de Londras F, ‘Fatal foetal abnormality, Irish Constitutional Law and Mellet v Ireland’ (2016) 24(4) Medical Law Review 591

de Londras F, ‘Introduction note to Mellet v. Ireland (H.R. Comm.) (2017) 56(2) The American Society of International Law 217

de Londras F and Graham L, ‘Impossible floodgates and unworkable analogies in the Irish abortion debate’ (2013) 3(3) Irish journal of legal studies

de Londras F and Markicevic M, ‘Reforming abortion law in Ireland: Reflections on the public submissions to the Citizens' Assembly’ (2018) 70 Women’s Studies International Forum 89

Delay C, ‘Kitchens and Kettles: Domestic Spaces, Ordinary Things, and Female Networks in Irish Abortion History, 1922–1949’ (2018) 30(4) Journal of Women’s History 11

Delay C, ‘Pills, potions, and purgatives: women and abortion methods in Ireland, 1900–1950’ (2019) 28(3) Women’s History Review 479

Delay C, ‘Wrong for womankind and the nation: Anti-abortion discourses in 20th-century Ireland’ (2019) 17(3) Journal of Modern European History: Special Issue: Reproductive Decision-making in Comparative Perspective 312

Delay C and Liger A, 'Bad Mothers and Dirty Lousers: Representing Abortionists in Post-independence Ireland' (2020) 54(1) Journal of Social History 286

Darling O, 'Storytelling and the Repeal of the 8th Amendment: Narrative and Reproductive Rights in Ireland' (2020) 5 Rejoinder < https://irw.rutgers.edu/rejoinder-webjournal/issue-5-storytelling-for-social-change/483-storytelling-and-the-repeal-of-the-8th-amendment-narrative-and-reproductive-rights-in-ireland >

Devane RS, 'Indecent Literature: Some Legal Remedies' (1925) XXV Irish Ecclesiastical Record 182

Donnelly M and Murray C, 'Abortion care in Ireland: Developing legal and ethical frameworks for conscientious provision' (2020) 148 International Federation of Gynecology and Obstetrics 127

Donoghue S and Smyth CM, 'Abortion for Foetal Abnormalities in Ireland; The Limited Scope of the Irish Government's Response to the A, B and C Judgment' (2013) 20 European Journal of Health Law 117

Dooley D, 'Medical Ethics in Ireland: A Decade of Change' (1991) 21(1) The Hastings Center 18

Duffy D, Mishtal J, Grimes L, Murphy M, Reeves K, Chakravarty D, Chavkin W, Favier M, Horgan P, Stifani B, Lavelanet AF, 'Information flow as reproductive governance. Patient journey analysis of information barriers and facilitators to abortion care in the republic of Ireland' (2022) 19 SSM-Population Health

Duffy DN, Pearson C, Best P, 'A formative evaluation of online information to support abortion access in England, Northern Ireland and the Republic of Ireland' (2019) 45 BMJ Sexual and Reproductive Health 32

Duffy DN, Pierson C, Myerscough C, Urquhart D, Earner-Byrne L, 'Abortion, emotions, and health provision: Explaining health care professionals' willingness to provide abortion care using affect theory' (2018) 71 Women's Studies International Forum 12

Earner-Byrne L, 'Reinforcing the family: The role of gender, morality and sexuality in Irish welfare policy, 1922–1944' (2008) 13 History of the Family 360

Ely GE, Hales TW, and Jackson DL, 'A cross-cultural exploration of abortion fund patients in the USA and the Republic of Ireland, Northern Ireland and the Isle of Man' (2018) 20(5) Culture, Health & Sexuality 560

Enright M, 'four pieces on Repeal: notes on art, aesthetics and the struggle against Ireland's abortion law' (2020) 124 Feminist Review 104

Enright M, '"The Enemy of the Good": Reflections on Ireland's New Abortion Legislation.' (2018) 8(2) *feminists@law* 1

Enright M, Conway V, de Londras F, Donnelly M, Fletcher R, McDonnell N, McGuinness S, Murray C, Ring S, Uí Chonnachtaigh S, 'Abortion Law Reform in Ireland: A Model for Change' (2015) 5(1) *feminists@law* 2105

Enright M and de Londras F, '"Empty without and empty within": the Unworkability of the Eighth Amendment after Savita Halappanavar and Miss Y' (2014) 20 Medico-Legal Journal of Ireland 85

Enright M, McNeilly K, and de Londras F, 'Abortion activism, legal change, and taking feminist law work seriously' (2020) 71(3) Northern Ireland Legal Quarterly OA7

Fawcett B, 'Vulnerability: Questioning the certainties in social work and health' (2009) 52(4) International Social Work 473

Fenwick D, 'The modern abortion jurisprudence under Article 8 of the European Convention on Human Rights' (2013) 12(3-4) Medical Law International 249

Field L, 'The abortion referendum of 2018 and a timeline of abortion politics in Ireland to date' (2018) 33(4) Irish Political Studies 608

Findlay MJ, 'Criminal Liability for Complicity in Abortions Committed outside Ireland' (1980) 15(1) Irish Jurist 88

Fineman M, 'The vulnerable subject and the responsive state' [2010] Research Paper No. 10-130, Public Law & Legal Theory Research Paper Series

Finnane M, ‘The Carrigan Committee of 1930-31 and the ‘moral condition of the Saorstát’ (2001) 32(128) Irish Historical Studies 519

Fischer C, ‘Feminists redraw public and private spheres: Abortion, vulnerability, and the affective campaign to repeal the eighth amendment’ (2020) 45(4) Signs 485

Fitzgerald JM, Krause KE, Yermak D, Dunne S, Hannigan A, Cullen W, Meagher D, McGrath D, Finucane P, Coffey C, Dunne C, ‘The first survey of attitudes of medical students in Ireland towards termination of pregnancy’ (2014) 40 Journal of Medical Ethics 710

FitzGerald SA, ‘Biopolitics and the regulation of vulnerability: the case of the female trafficked migrant’ (2010) 6(3) International Journal of Law in Context 277

Fischer C, ‘Gender, Nation, and the Politics of Shame: Magdalen Laundries and the Institutionalization of Feminine Transgression in Modern Ireland’ (2016) 41(4) Signs: Journal of Women in Culture and Society 821

FitzGerald SA and Munro VE, ‘Sex Work and the Regulation of Vulnerability(ies): Introduction’ (2012) 20 Feminist Legal Studies 183

Fletcher R, ‘Contesting the cruel treatment of abortion-seeking women’ (2014) 22(44) Reproductive Health Matters 10

Fletcher R, ‘National crisis, supranational opportunity: the Irish construction of abortion as a European service’ (2000) 8(16) Reproductive health matters 35

Fletcher R, ‘Peripheral governance: administering transnational health-care flows’ (2013) 9(2) International Journal in Law in Context 160

Fletcher R, ‘Post-colonial Fragments: Representations of Abortion in Irish Law and Politics’ (2001) 28(4) Journal of Law and Society 568

Fletcher R, ‘“Pro-Life” Absolutes, Feminist Challenges: The Fundamentalist Narrative of Irish Abortion Law 1986-1992’ (1998) 36(1) Osgoode Hall Law Journal

Fletcher R, ‘#RepealedThe8th: Translating Travesty, Global Conversation, and the Irish Abortion Referendum’ (2018) 26(3) Feminist Legal Studies 233

Fletcher R, ‘Reproducing Irishness: Race, Gender, and Abortion Law’ (2005) 17(2) Canadian Journal of Women and the Law 365

Fletcher R, ‘Silences : Irish Women and Abortion’ (1995) 50 Feminist Review 44

Foley D, ‘‘Too Many Children?’ Family Planning and Humanae Vitae in Dublin, 1960–72’ 46(1) Irish Economic and Social History 142

Fox M and Murphy T, ‘Irish Abortion: Seeking Refuge in a Jurisprudence of Doubt and Delegation’ (1992) 19(4) Journal of Law and Society 454

Francome C, ‘Irish Women Who Seek Abortions in England’ (1992) 24(6) Family Planning Perspectives 265

Fuller L, ‘Religion, politics and socio-cultural change in twentieth-century Ireland’ (2005) 10(1) The European Legacy 41

Gearty C, ‘The Politics of Abortion’ (1992) 19(4) Journal of Law and Society 441

Girvin B, ‘Church, State, and Society in Ireland since 1960’ (2008) 41(1&2) Éire/Ireland 74

Girvin B, ‘Contraception, Moral Panic and Social Change in Ireland, 1969–79’ (2008) 23(4) Irish Political Studies 555

Girvin B, ‘Moral politics and the Irish abortion referendums, 1992’ (1994) 47(2) Parliamentary Affairs 203

Girvin B, ‘Social Change and Moral Politics: The Irish Constitutional Referendum 1983’ (1986) XXXIV Political Studies 61

Gordon M, ‘Fighting for Control - the ongoing struggle for reproductive rights’ (1984) The Irish Feminist Review 7

Gomperts R, ‘Women on Waves: Where next for the Abortion Boat’ (2002) 10(19) Reproductive Health Matters 180

Grimes L, O’Shaughnessy A, Roth R, Carnagie A, Duffy D, ‘Evaluating MyOptions: Experiences of Ireland’s Abortion Information and Support Service’ (2022) 48 BMJ Sexual & Reproductive Health

Groll D, ‘Paternalism, Respect, and the Will’ (2012) 122(4) Ethics 692

Gross Solomon S, ‘The Soviet Legalization of Abortion in German Medical Discourse: A Study of the Use of Selective Perceptions in Cross-Cultural Scientific Relations’ (1992) 22(3) Social studies of science 455

Hallgarten L, ‘Abortion narratives: moving from statistics to stories’ (2018) 391 The Lancet 1988

Hanafin P, ‘Valorising the Virtual Citizen: The Sacrificial Grounds of Postcolonial Citizenship in Ireland’ (2003) 4(1) Law, Social Justice & Global Development Journal

Heavey H, ‘The Irish Healthcare System: A Morality Tale’ (2019) 28 Cambridge Quarterly of Healthcare Ethics 276

Hilevych Y, ‘Abortion and gender relationships in Ukraine, 1955–1970’ (2015) 20(1) The history of the family 86

Holquist M, ‘Introduction: Corrupt Originals: The Paradox of Censorship’ (1994) 109(1) PMLA 14

Horgan G, ‘Red flags’ (2015) 44(4) Index on censorship, 32-33

Horgan J, ‘Saving us from Ourselves: Contraception, Censorship and the 'Evil Literature' Controversy of 1926’ (1995) 5 Irish Communications Review 61

Hornsby J, ‘Disempowered speech’ (1995) 23(2) Philosophical Topics: Feminist perspectives on language and reality 127

Houston LM, ‘‘Sterilization of the mind and apotheosis of the litter’: Beckett, Censorship, and Fertility’ (2018) 69(290) The Review of English Studies 546

Howe A, ‘Feminist Methods and Sources in Criminology and Criminal Justice’ (2016) 16(2) Legal Information Management 102

Hunt K, ‘Social movements and human rights language in abortion debates’ (2021) 20(1) Journal of Human Rights 72

Inglis T, ‘Foucault, Bourdieu and the Field of Irish Sexuality’ (1997) 7(1) Irish Journal of Sociology 5

Inglis T, ‘Origins and Legacies of Irish Prudery: Sexuality and Social Control in Modern Ireland’ (2005) 40(3&4) Éire/Ireland 9

Irish Women’s Abortion Support Group, ‘Across the Water’ (Summer 1998) 29 Feminist Review 64

Jack J, ‘Abortion Information’ *The Irish Times* (Dublin, 18 March 1995) 1

Jackson P, ‘Abortion Trials and Tribulations’ (1987) Women and Gender Studies Series Working Papers No. 1

Jones G, ‘Marie Stopes in Ireland – The Mother’s Clinic in Belfast, 1936-47’ (1992) 5(2) Social history of medicine: the journal of the Society for the Social History of Medicine 255

Keating A, ‘Censorship: The Cornerstone of Catholic Ireland’ (2013) 57(2) Journal of Church and State 289

Keating A, ‘Setting the agenda for the press: the 1929 case against the *Waterford Standard*’ (2012) 16 New Hibernia Review 2

Keating A, ‘The Uses and Abuses of Censorship: God, Ireland and the Battle to Extend Censorship Post 1929’ (2014) 9 Estudios Irlandeses 67

Keating A, ‘Women their own worst enemy: sex crime in the Free State’ (2014) Crimsoc: Journal of Social Criminology

Kelly J, ‘The Operation of the Censorship of Publications Board: The Notebooks of C. J. O'Reilly, 1951-55’ (2004) 38 Analecta Hibernica 223

Kelly L, ‘Debates on family planning and the contraceptive pill in the Irish magazine Woman’s Way, 1963–1973’ (2020) Women’s History Review 1

Kelly L, ‘Irishwomen United, the Contraception Action Programme and the feminist campaign for free, safe and legal contraception in Ireland, c.1975–81’ (2019) 43(164) Irish Historical Studies 269

Kennedy F, ‘Report - Abortion Referendum 2002’ (2002) 17(1) Irish Politics Studies 114

Kennedy S, ‘A Tale of Two Referendums: A Comparative Study of the Anti-Amendment Campaign and Together for Yes’ (2022) (6)(1) Feminist Encounters: A Journal of Critical Studies in Culture and Politics 4

Kent B, ‘Zealots, Censors And Perverts: Irish censorship and Liam O'Flaherty's *The Puritan*’ (2006) 14(3) Irish Studies Review 344

Kimport K and Doty C, ‘Interpreting the Truth: How People Make Sense of New Information about Abortion’ (2019) 29(2) Women’s Health Issues 182

Koegler KS, ‘Ireland's Abortion Information Act of 1995’ (1996) 29(5) Vanderbilt Journal of Transnational Law 1117

Kreischer KS, ‘The relation and function of discourses: a corpus-cognitive analysis of the Irish abortion debate’ (2019) 14(1) Corpora 105

Kuźma-Markowska S and Kelly L, ‘Anti-abortion Activism in Poland and the Republic of Ireland c.1970s–1990s’ (2022) 46(3) Journal of Religious History 1

Lather P, ‘Postbook: Working the Ruins of Feminist Ethnography’ (2001) 27(1) Signs 199

Lawson R, ‘The Irish Abortion Cases: European Limits to National Sovereignty’ (1994) 1 European Journal of Health Law 167

Lentin R, ‘a woman died: abortion and the politics of birth in Ireland’ (2013) 105 Feminist Review 130

Li A, ‘From Ireland to Northern Ireland: campaigns for abortion law’ (16 June 2018) 391 The Lancet 2403

Lindsey J, ‘Developing Vulnerability: A Situational Response to the Abuse of Women with Mental Disabilities’ (2016) 24 Feminist Legal Studies 295

Luddy M, ‘Unmarried Mothers in Ireland, 1880–1973’ (2011) 20(1) Women’s History Review 109, 121

Lyons J, ‘Genetics – a missing link’ *The Irish Times* (Dublin, 26 August 1992) 11

McGraw S, ‘Multi-dimensional Party Competition: Abortion Politics in Ireland’ (2018) 53(4) Government and Opposition 682

Mahon E, ‘Women’s Rights and Catholicism in Ireland’ (1987) 1(166) New Left Review 166

Mathews M, ‘Quantitative Inference with the Right to Life: Abortion and Irish Law’ (1976) 22(4) The Catholic Lawyer 344

Martin P, ‘Irish censorship in context’ (2006) 95(379) Studies: An Irish Quarterly Review 261

Mason C, ‘Opposing Abortion to Protect Women: Transnational Strategy since the 1990s’ (2019) 44(3) Signs: Journal of Women in Culture and Society 665

McAuliffe M, ‘‘Opening Pandora’s Box’: the anti-amendment campaign, 1979-1983’ (2022) 6(1) Feminist Encounters: A journal of critical studies in culture and politics

McCarthy J, O'Donnell K, Campbell L, Dooley D, 'Ethical arguments for access to abortion services in the Republic of Ireland: recent developments in the public discourse' (2018) 44 Journal of Medical Ethics 513

McDonnell O and Allison J, 'From biopolitics to bioethics: church, state, medicine and assisted reproductive technology in Ireland' (2006) 28(6) Sociology of Health and Illness 817

McDonnell O and Murphy P, 'Mediating abortion politics in Ireland: media framing of the death of Savita Halappanavar' (2019) 16(1) Critical Discourse Studies

McKee E, 'Church-state relations and the development of Irish health policy: the mother-and-child scheme, 1944–53' (1986) 25(98) Irish Historical Studies 159

McTiernan A, 'Centre declines to distribute abortion booklet' *The Irish Times* (Dublin, 31 May 1993) 16

Miller AM, 'Sexuality, Violence against Women, and Human Rights: Women Make Demands and Ladies Get Protection' (2004) 7(2) Sexuality, Human Rights, and Health 16

Mishler K, '"It's Most Peculiar That This Particular Story Doesn't Get Told": A Reproductive-Justice Analysis of Storytelling in the Repeal Campaign in Ireland, 2012–18' (2021) 56(3-4) Éire/Ireland, 80

Mishtal J, Duffy D, Chavkin W, Reeves K, Chakravarty D, Grimes L, Stifani B, Horgan T, Murphy M, Favier M, Lavelanet A, 'Policy Implementation – Access to Safe Abortion Services in Ireland Research Dissemination Report' (23 April 2021) National Dissemination Workshop, UNDP-UNFPA-UNICEF-WHOWorld Bank Special Programme of Research, Development and Research Training in Human Reproduction (HRP)

Mishtal J, Reeves K, Chakravarty D, Grimes L, Stifani B, Chavkin W, Duffy D, Favier M, Horgan P, Murphy M, Lavelanet AF, 'Abortion policy implementation in Ireland: Lessons from the community model of care' (2022) 17(5) PloS ONE

Mishtal J, Zanini G, de Zordo S, Clougher D, Gerdts C, ''To be vigilant to leave no trace': secrecy, invisibility and abortion travel from the Republic of Ireland' (2022) Culture, Health and Sexuality

Muldowney M, 'Breaking the silence on abortion: the 1983 referendum campaign' (2013) 21(2) History Ireland < https://www.historyireland.com/breaking-the-silence-on-abortionthe-1983-referendum-campaign-2/ >

Mullaly A, Horgan T, Thompson M, Conlon C, Dempsey B, Higgins MF, 'Working in the shadows, under the spotlight - Reflections on lessons learnt in the Republic of Ireland after the first 18 months of more liberal Abortion Care' (2020) 102(5) Contraception 305

Mullaly S, 'Debating reproductive rights in Ireland' (2005) 27(1) Human Rights Quarterly 78

Munro VE and Scoular J, 'Abusing Vulnerability? Contemporary Law and Policy Responses to Sex Work in the UK' (2012) 20 Feminist Legal Studies 189

Murray C, 'The Protection of Life During Pregnancy Act 2013: Suicide, dignity and the Irish discourse on abortion' (2016) 25(6) Social & Legal Studies 667

Murphy M, Vellinga A, Walkin S & MacDermott M, 'Termination of pregnancy: Attitudes and clinical experiences of Irish GPs and GPs-in-training' (2012) 18(3) European Journal of General Practice 136

Murphy-Lawless J and McCarthy J, 'Social policy and fertility change in Ireland: The push to legislate in favour of women's agency' (1999) 6 The European Journal of Women's Studies 69

Mustonen AM, Paakkonen T, Ryökäs E and Nieminen P, 'Abortion debates in Finland and the Republic of Ireland: textual analysis of experiential thinking and argumentation in parliamentary and layperson discussions' (2017) 14(1) Reproductive Health 163

NicGhabhann N, 'City walls, bathroom stalls and tweeting the Taoiseach: the aesthetics of protest and the campaign for abortion rights in the Republic of Ireland' (2018) 32(5) Continuum 553

O'Brien B, 'Irish Abortions: Can We Reduce the Number?' (2001) 90(358) Studies 152

O’Brien ET, ‘Hibernian mores: hypocrisy or reality?’ (1976) 1 British Medical Journal 145

O’Carroll JP, ‘Bishops, knights — and Pawns? Traditional thought and the Irish abortion referendum debate of 1983’ (1991) 6(1) Irish Political Studies 53

Ó’Drisceoil D, ‘‘The best banned in the land’: Censorship and Irish Writing since 1950’ (2005) 35 The Yearbook of English Studies 139

O’Leary S, ‘Freedom of establishment and freedom to provide services: the Court of Justice as a reluctant constitutional adjudicator: an examination of the abortion information case’ (1992) European Law Review 1

O'Neill S, ‘London agencies speak of women's despair’ *The Irish Times* (Dublin, 19 February 1992) 5

Oaks L, ‘“Abortion is part of the Irish experience, it is part of what we are”: the transformation of public discourses on Irish abortion policy’ (2002) 25(3) Women’s Studies International Forum 315

Oaks L, ‘Antiabortion positions and young women's life plans in contemporary Ireland’ (2003) 56 Social Science and Medicine 1973

Pantazis C, ‘‘Fear of crime’, vulnerability and poverty: evidence from the British Crime Survey’ (2000) 40(3) The British Journal of Criminology 414

Pašeta S, ‘Censorship and Its Critics in the Irish Free State 1922-1932’ (2003) 181 Past & Present 193

Philbin Bowman E, ‘Sexual and contraceptive attitudes and behaviour of single attenders at a Dublin family planning clinic’ (1977) 9(4) Journal of Biosocial Science 429

Pentz Bottini S, ‘Europe's Rebellious Daughter: Will Ireland Be Forced to Conform Its Abortion Law to That of Its Neighbors?’ (2007) 49(2) Journal of Church and State 211

Plonowska Ziarek E, ‘Feminist Reflections on Vulnerability: Disrespect, Obligation, Action’ (2013) 42(3) SubStance 67

Porter E, ‘Culture, community and responsibilities: abortion in Ireland’ (1996) 30(2) Sociology 279

Quinlan C, ‘Policing Women’s Bodies in an Illiberal Society: The Case of Ireland’ (2017) 27(1) Women & Criminal Justice 51

Quinlan J, ‘The Right to Life of the Unborn-An Assessment of the Eighth Amendment to the Irish Constitution’ (1984) 3(4) Brigham Young University Law Review 371

Rafter K, ‘Evil Literature: the banning of the *News of the World* in Ireland’ (2013) 19(4) Media History 408

Reidy T and Suiter J, ‘Does Social Media Use Matter? A Case Study of the 2018 Irish Abortion Referendum’ (2023) 11(1) Media and Communication 81

Riddick R, ‘Abortion and law in the Republic of Ireland’ (1993) 2 Inter Alia 36

Rivetti P, ‘Race, Identity and the State After the Irish Abortion Referendum’ (2019) 122 Feminist Review 181

Robinson M, ‘Women and the Law in Ireland’ (1988) 11(4) Women’s Studies International Forum 351

Rockett K, ‘Protecting the Family and the Nation: The official censorship of American cinema in Ireland, 1923-1954’ (2000) 20(3) Historical Journal of Film, Radio and Television 283

Rose R.S., ‘Induced abortion in the Republic of Ireland’ (1978) 18(3) The British Journal of Criminology 245

Ryan F, ‘The Latest Crusade’ (1912) 1(11) The Irish Review 521

Ryan M, Nolan A, Vallières F, ‘Lifting the cloak of secrecy: Experiences of providing crisis pregnancy counselling in a changing legislative context in Ireland’ (2022) 22 Counselling and Psychotherapy Research 22

Saroj Bakhru T, ‘Reproductive Health and Human Rights: Lessons from Ireland’ (2017) 18(2) Journal of International Women’s Studies 27

Schweppe J and Spain, E ‘When is a Foetus not an Unborn? Fatal Foetal Abnormalities and Article 40.3.3°’ (2013) 3(3) Irish Journal of Legal Studies 92

Sheldon S, ‘Empowerment and Privacy? Home Use of Abortion Pills in the Republic of Ireland’ (2018) 43(4) Signs 823

Sheldon S, ‘How can a state control swallowing? The home use of abortion pills in Ireland’ (2016) 24(48) Reproductive Health Matters 90

Side K, ‘A geopolitics of migrant women, mobility and abortion access in the Republic of Ireland’ (2016) 23(12) Gender, Place & Culture 1788

Smith JM, ‘The Politics of Sexual Knowledge: The Origins of Ireland's Containment Culture and the Carrigan Report (1931)’ (2004) 13(2) Journal of the History of Sexuality 208

Smyth A, ‘The contemporary women’s movement in the Republic of Ireland’ (1988) 11(4) Women’s Studies International Forum 331

Smyth L, ‘Narratives of Irishness and the Problem of Abortion: The X Case 1992’ (1998) 60(1) Feminist Review 61

Spillane A, Taylor M, Henchion C, Venables R, Conlon C, ‘Early abortion care during the COVID-19 public health emergency in Ireland: Implications for law, policy, and service delivery’ (2021) 154(2) International Journal of Gynaecology and Obstetrics 379

Ståsett SJ, ‘The Ethics of Vulnerability, Social Inclusion and Social Capital’ (2007) 34(1) Forum for Development Studies 45

Staunton C, ‘As Easy as A, B and C: Will A, B and C v. Ireland Be Ireland’s Wake-up Call for Abortion Rights?’ (2011) 18(2) European Journal of Health Law 205

Stifani BM, Mishtal J, Chavkin W, Reeves K, Grimes L, Chakravarty D, Duffy D, Murphy M, Horgan T, Favier M, Lavelanet A, ‘Abortion policy implementation in Ireland: successes and challenges in the establishment of hospital-based services’ (2022) 2 Qualitative Research in Health 100090

Stirling AMEW, ‘The European Union and abortion tourism: Liberalizing Ireland’s laws’ (1997) 20(2) Boston College International and Comparative Law Review 385

Taylor M, ‘Women's right to health and Ireland's abortion laws’ (2015) 130(1) International Journal of Gynecology and Obstetrics 93

Taylor M, Spillane A, Arulkumaran S, ‘The Irish Journey: Removing the shackles of abortion restrictions in Ireland’ (2020) 62 Best Practice and Research Clinical Obstetrics and Gynaecology 36

Thompson A, ‘International protection of rights an analysis of Open Door Counselling and Dublin Well Woman Centre v Ireland’ (1994) 12 Boston University International Law Journal 371

Valiulis MG, ‘Power, Gender, and Identity in the Irish Free State’ (1995) 6(4) and 7(1) Journal of Women’s History 117

Walsh D, ‘Medical and social characteristics of Irish residents whose pregnancies were terminated under the 1967 Abortion Act in 1971 and 1972’ (1975) 68(6) Journal of the Irish Medical Association 143

Weinstein JA, ‘An Irish Solution to an Irish Problem: Ireland's Struggle with Abortion Law’ (1993) 10(1) Arizona Journal of International and Comparative Law 165

Westeson J, ‘Reproductive health information and abortion services: Standards developed by the European Court of Human Rights’ (2013) 122(2) International Journal of Gynecology & Obstetrics 173

Wick DW, ‘Interdisciplinary and the discipline of law’ (2004) 31(2) Journal of Law and Society 163

Zanini G, Mishtal J, De Zordo S, Ziegler AK, Gerdts C, ‘Abortion information governance and women's travels across European borders’ (2021) 87 Women’s Studies International Forum 102496

Legislation and Treaty instruments

Censorship of Films Act 1923

Censorship of Publications Act 1929

Censorship of Publications Act 1946

Censorship of Publications Act 1967

Censorship of Publications (Amendment) Bill 1944

Censorship of Publications Board Repeal Bill 2013

Eighth Amendment of the Constitution Act 1983

Eleventh Amendment of the Constitution Bill 1992 (Bill 2 of 1992)

Eleventh Amendment of the Constitution Bill 1992 (Bill no. 11 of 1992)

Fourteenth Amendment of the Constitution Act 1992

Health (Family Planning) Act 1979

Health (Family Planning) (Amendment) 1985

Health and Social Care Professionals (Amendment) Bill 2016

Health (Regulation of Termination of Pregnancy) Act 2018

Health (Regulation of Termination of Pregnancy) (Amendment) Bill 2023

Health (Regulation of Termination of Pregnancy) (Foetal Pain Relief) Bill 2021

International Convention for the suppression of the Circulation of and Traffic in Obscene publications (concluded 12 September 1923) 46 League of Nations Treaty Series 201

Non-Fatal Offences Against the Persons Act 1997

Offences Against the Person Act 1861

Protection of Life During Pregnancy Act 2013

Protocol 17, ‘Treaty on European Union’ (Office for Official Publications of the European Communities 1992)

Regulation of Information (Services Outside the State For Termination of Pregnancies) Act 1995

Safe Access to Termination of Pregnancy Services Bill 2021

Thirteenth Amendment of the Constitution Act 1992

Thirty-fifth Amendment of the Constitution (Repeal of the Eighth Amendment) Bill 2016
refer
Thirty-sixth Amendment of the Constitution Act 2018

‘Treaty on European Union - Declaration of the High Contracting Parties to the Treaty on European Union’, (29 August 1992) 11992M/AFI/INT/IRL, *C 191*

Media reports, opinion pieces, and letters to the editor

‘1,010 Irish abortions in three months’ *The Irish Times* (Dublin 23 September 1988) 9

‘A truth about abortion information’ *The Irish Times* (Dublin, 13 May 1995) 8

‘Abortion – the street demonstrations in pictures’ *The Irish Times* (Dublin, 23 September 2016)

‘Abortion assistance is the same as referral’ *The Irish Times* (Dublin, 28 October 1994) 12

‘Abortion information campaign’ *RTÉ Archives* (Dublin, 24 November 1987) < https://www.rte.ie/archives/collections/news/21262098-abortion-information-campaign/ >

‘Abortion information distributed’ *The Irish Times* (Dublin, 10 October 1990) 2

‘Abortion issue inexorably entangled with treaty vote’ *The Irish Times* (Dublin, 15 June 1992) 4

‘Abortion numbers sent by fax’ *The Irish Times* (Dublin, 18 June 1992) 5

‘Abortion option should not be mentioned’ *The Irish Times* (Dublin, 9 October 1986) 5

‘Abortion rate for Irish women in Britain up 10.4%, group claims’ *The Irish Times* (Dublin, 8 June 1999) 4

‘Abortion travel ruling’ *The Irish Times* (Dublin, 29 February 1992) 9

‘Action opens to overturn ban on abortion counselling and assistance’ *The Irish Times* (Dublin, 10 February 1988) 8

‘Advice ‘oriented to abortion’’, *The Irish Times* (Dublin, 14 March 1980) 6

‘Anti-abortion group pickets GPs Surgery’ *The Irish Times* (Dublin, 24 May 1995) 2

Armstrong N, ‘Abortion ruling’ *The Irish Times* (Dublin, 9 April 1992) 11

Ascough K, ‘If you are anti-abortion be confident and unafraid’ *The Irish Times* (Dublin, 13 November 2017) 12

Bacik I, ‘Government must act on reality of crisis pregnancy’ *The Irish Times* (Dublin, 6 February 2012) 16

Bacik I, ‘“Legal Advice” Can’t Justify UCDSU’s Decision to Remove Abortion Information from its Handbook’ *University Times* (Dublin, 21 September 2017) < https://universitytimes.ie/2017/09/legal-advice-seems-an-unlikely-explanation-for-removing-abortion-information-from-ucdsu-handbook/ >

Bacik I, Murphy G, Lonergan E, Davis J, ‘Information on Abortion’ *The Irish Times* (Dublin, 28 February 1990) 11

Balls R, ‘Urgent action sought on crisis pregnancies’ *The Irish Times* (Dublin, 26 May 1998) 3

Banned paper sold in public’ *The Irish Times* (Dublin, 1 March 1977) 1

‘Banned publications’ *The Irish Times* (Dublin, 8 June 1946) 7

Barnwell J.A., ‘Information on abortion’ *The Irish Times* (Dublin, 19 August 1989) 9

Barr RA, ‘Repealing the Eighth: Abortion referendum was won by narrative’ *The Irish Times* (Dublin, 31 May 2019)

Barry C, ‘Crisis pregnancy agency rejects claims it’s no longer pro-life’ *The Irish Catholic* (Dublin 30 June 2016)

Bergen S, ‘“The kind of doctor who doesn’t believe doctor knows best”: Doctors for Choice and the medical voice in Irish abortion politics, 2002–2018’ (2022) 297 *Social Science and Medicine*

‘Bill’s objective is to clarify legal entitlements’ *The Irish Times* (Dublin, 24 February 1995) 7

‘Bill is said to promote abortion’ *The Irish Times* (Dublin, 2 March 1995) 7.

‘Bill would assist in procuring abortions – Hanafin’ *The Irish Times* (Dublin, 8 March 1995) 6

Billings J and Govi V, ‘Savita’s Law: The Racial Politics of Repeal’ (*The New Pretender* 28 June 2018) < http://new-pretender.com/2018/06/28/ireland-savitas-law-the-racial-politics-of-repeal/ >

Binchy W, ‘Abortion ruling one of the most significant since the foundation of the State’ *The Irish Times* (Dublin, 15 May 1995) 12

Binchy W, ‘Bill facilitates abortions as long as they are not on Irish soil’ *The Irish Times* (Dublin, 2 March 1995) 14

Binchy W, ‘No democratic mandate to make abortion legal’ *The Irish Times* (Dublin, 25 November 1994) 14

Binns K, ‘The secret network that helped women secure safe abortions’ *The Times* (London, 19 May 2018)

Birchard K, ‘Irish injunction against antiabortion protesters’ *The Lancet* (London, 20 March 1999) 993

Bird C, ‘USI Abortion Information’ *RTÉ Archive* (Dublin, 19 September 1989) < https://www.rte.ie/archives/collections/news/21359220-usi-abortion-information/ >

‘Bishops accept both ‘Yes’ and ‘No’ votes’ *The Irish Times* (Dublin, 6 November 1992) 5

‘Bishops see Supreme Court ruling in the X case to be a corruption of the law’ *The Irish Times* (Dublin, 1 July 1995) 8

‘Bishops urge support for anti-abortion campaign’ *The Irish Times* (Dublin, 4 February 1982) 8

Blake T, ‘European court may show flexibility in abortion information case’ *The Irish Times* (Dublin, 22 May 1991) 10

Blake U, ‘Information on Abortion’ *The Irish Times* (Dublin 20 October 1989) 13

Boland C, ‘Cairo accord reached on world population’ *The Irish Times* (Dublin, 14 September 1994) 1

Boland R, ‘Cura and Ally were a different set of walls for women with unplanned pregnancies’ *The Irish Times* (25 February 2021)

Boland R, ‘Stories of concealed pregnancy in Ireland: 1973-2013’ *The Irish Times* (Dublin, 6 February 2021)

Bonar B, ‘Dealing with rape - a second opinion’ *The Irish Times* (Dublin, 23 August 1991) 11

‘Book ban remains’ *The Irish Times* (Dublin, 12 November 1991) 2

Bowers S, ‘Almost 700 abortion pills seized since legalisation of pregnancy termination’ The Irish Times (Dublin, 27 September 2022)

Bradley F, ‘Doctors are handed wrong prescription’ *The Irish Times* (Dublin, 24 October 1992) 7

Bray J, ‘Leo Varadkar says he would like to see fewer abortions in Ireland’ *The Irish Times* (Dublin, 19 June 2023)

Bray J, ‘Unregulated online pills bound to kill, Varadkar says’ *The Times* (London 19 May 2018)

Breen S, ‘Crisis pregnancy website available’ *The Irish Times* (Dublin, 5 September 2003) 10

Brennan P, ‘Backlash and blackmail’ *Magill* (Dublin, July 1982) 16

Brennock M, 'The Saturday Column' *The Irish Times* (Dublin, 28 October 1989) 32

Bristow A, 'Dublin's book banners' (1981) 2 Index on Censorship 28

Brophy D, 'Man who ran HSE copycat website claims it helped 'save five or six women and babies from abortion' *TheJournal.ie* (Dublin, 1 March 2019)

Brophy D and Murray S, 'Activist says scans are being offered with 'top-of-the-range' ultrasound machine at Dublin building' *TheJournal.ie* (Dublin, 23 February 2019)

Buckley D, 'Family Planning Booklet to be sold in defiance of ban' *The Irish Times* (Dublin, 8 December 1976) 6

Buckley D, 'Gardai seize family planning booklet' *The Irish Times* (Dublin, 9 December 1976) 1, 4

Burne L, 'Abortion review debate expected to last months as report suggests removal of three-day wait' *Irish Mirror* (Dublin, 26 April 2023) < https://www.irishmirror.ie/news/irish-news/politics/abortion-review-published-department-health-29819270 >

Burns M, 'Abortion articles removed' *RTÉ Archives* (Dublin, 5 February 1990) < https://www.rte.ie/archives/collections/news/21391002-abortion-articles-removed/ >

Burns S, 'Donnelly 'fully committed' to safe access zone legislation' *The Irish Times* (Dublin, 7 August 2021)

Burke C, 'Information on Abortion' *The Irish Times* (Dublin, 2 March 1990) 13

Burtenshaw R, 'The X-Files' *Rabble* (Dublin, 6 November 2013) < https://www.rabble.ie/2013/11/06/the-x-files/ >

Bury L, 'Irish book censor could be silenced' *The Guardian* (London, 28 October 2013) < http://www.theguardian.com/books/2013/oct/28/irish-book-censor-fianna-fail-republic >

Calkin S, 'One year on, it's clear that the new Irish abortion services have serious limitations' *The Conversation* (London, 15 January 2020) < https://theconversation.com/one-year-on-its-clear-that-the-new-irish-abortion-services-have-serious-limitations-129491 >

'Cardinal stresses law's moral role' *The Irish Times* (Dublin, 6 October 1992) 2

'Carlow students to give abortion information' *The Irish Times* (Dublin, 28 September 1989) 8

Carolan M, 'Banning or limiting access to abortion is about 'judging and controlling women', says US lawyer' *The Irish Times* (Dublin, 29 Saturday 2023)

Carroll G, 'USI policy' *The Irish Times* (Dublin, 26 April 1991) 13

Carroll J, 'Church in an age of 'seeking consensus'' *The Irish Times* (Dublin, 2 July 1992) 9

Carroll J, 'Spring rules out major changes in programme' *The Irish Times* (Dublin, 26 November 1994) 6

Carroll J, 'Supreme Court to decide upon ban within two months' *The Irish Times* (Dublin, 20 March 1995) 7

'Cash is key in crisis pregnancies' *The Irish Times* (Dublin 29 October 2001) 11

Casey G, 'Failure of imagination in abortion debate' *The Irish Times* (18 March 1997) 14

'Charges against a coloured man' *The Irish Times* (Dublin 14 December 1928) 11

'Charges against two family planning groups dismissed' *The Irish Times* (Dublin, 20 February 1974) 17

'Chronology of long campaign' *The Irish Times* (7 September 1983) 10

Clayton-Lea T, 'The power of the protest song, from Strange Fruit to Irish polemics' *The Irish Times* (Dublin, 6 July 2016) 10

Cleary C, ‘Covering up about the London experience’ *The Irish Times* (Dublin, 11 March 1995) 7

Cleary C, ‘Number seeking abortions in UK was highest so far’ *The Irish Times* (Dublin, 17 January 1995) 2

Cleary C, ‘‘Tribune’ advertiser protests at Marie Stopes ad’ *The Irish Times* (Dublin, 9 March 1995) 8

Clerkin J, ‘Supreme Court Judgement’ *The Irish Times* (Dublin, 18 May 1995) 15

Clingan W, ‘Telephone help-lines service on abortion opened’ *The Irish Times* (Dublin, 25 November 1987) 22

Coghlan D, ‘Abortion information ruling due’ *The Irish Times* (Dublin, 20 March 1992) 1

Coghlan D, ‘Abortion referendum to be held’ *The Irish Times* (Dublin, 8 April 1992) 1

Coghlan D, ‘Charity can become scarce when seats and power are at stake’ *The Irish Times* (Dublin 10 March 1994), 12

Coghlan D, ‘Coalition split over sequence of proposed referendums’ *The Times* 9 April 1992) 1

Coghlan D, ‘Comprehensive “Yes” vote heavy blow to anti-abortion lobby’ *The Irish Times* (Dublin, 20 June 1992) 1

Coghlan D, ‘Leaders of four main parties join to back ‘Yes’ vote’ *The Irish Times* (Dublin, 10 June 1992) 1

Coghlan D, ‘New abortion poll is sought’ *The Irish Times* (Dublin, 23 March 1992) 1

Coghlan D, ‘Opponents of abortion turn the heat on Fine Gael’ *The Irish Times* (Dublin, 4 March 1995) 9

Coghlan D, ‘PDs yield on treaty referendum’ *The Irish Times* 10 April 1992, 1

Coghlan D, ‘Pressure on for ‘advice’ reference in the Protocol’ *The Irish Times* (Dublin 12 March 1992) 4

Coghlan D, ‘Reynolds will confront FF dissidents over referendum’ *The Irish Times* (Dublin, 28 March 1992) 1

Coghlan D, ‘Setbacks for anti-abortion organisations’ *The Irish Times* (Dublin, 27 February 1995) 1

Coghlan D and Flynn S, ‘Cabinet split on revision to EC Protocol’ *The Irish Times* (Dublin, 25 March 1992) 1

Coghlan D and Flynn S, ‘Government to discuss draft wording of declaration today’ *The Irish Times* (Dublin, 14 April 1992) 1

Coghlan D and Flynn S, ‘New abortion protocol proposed’ *The Irish Times* (Dublin, 26 March 1992) 1

Coleman M, ‘Information on abortion’ *The Irish Times* (Dublin, 7 August 1989) 11

Coleman M, ‘Information on abortion’ *The Irish Times* (Dublin, 21 August 1989) 11

Coleman M, ‘Referendum on information and travel sought’ *The Irish Times* (Dublin, 18 May 1992) 4

‘Confiscation criticised’ in *The Irish Times* (Dublin, 22 May 1992) 6

Connolly J, ‘Binchy claims judges lack ‘philosophic resources’ in interpreting the Constitution’ *The Irish Times* (Dublin 12 August 1996) 4

Connolly J, ‘Student body to seek advice on providing information’ *The Irish Times* (Dublin, 11 March 1997) 4

Connolly J, ‘Unions to watch their words’ *The Irish Times* (Dublin, 11 March 1997) 38

Corrigan K, ‘The facts of life for Irish women’ *Cosmopolitan* (London, June 1990) 8-10

Cosgrove S, ‘Abortion and Two Kinds of Law’ *The Irish Times* (Dublin, 19 May 1995) 15

Cotter EM, ‘Abortion Information and Truth’ *The Irish Times* (Dublin, 17 June 1995) 13

Coulter C, ‘Abortion leaflets to be distributed’ *The Irish Times* (Dublin, 13 October 1989) 8

Coulter C, ‘Clinic head claims assault by Youth Defence Supporter’ *The Irish Times* (Dublin, 17 February 1998) 3

Coulter C, ‘Crisis pregnancy group at centre of network’ *The Irish Times* (Dublin, 2 September 1999) 7

Coulter C, ‘Divorce referendum is another milestone to secular state, says Judge’ (Dublin, 25 September 1995) 4

Coulter C, ‘Eighth Amendment led to a decade of litigation and it’s not over yet’ *The Irish Times* (Dublin, 25 February 1995) 4

Coulter C, ‘Long wait for the Bill born of the “X” Case’ *The Irish Times* (Dublin, 24 February 1995) 7

Coulter C, ‘Noonan's Bill: Safety net or path to an abortion culture?’ *The Irish Times* (Dublin, 4 March 1995) 9

Coulter C, ‘Pro-Life Campaign to lobby politicians against Bill’ *The Irish Times* (Dublin, 25 February 1995) 4

Coulter C, ‘‘Reasonable compromise’ beset by a tide of controversy’ *The Irish Times* (Dublin, 8 March 2002)

Coulter C, ‘Students may face jail on abortion issue’ *The Irish Times* (Dublin, 9 October 1989) 11

Coulter C, ‘Students set up fund to help pay cost of SPUC case’ *The Irish Times* (Dublin, 6 March 1990) 9

Coulter C, ‘Woman to defy abortion ruling’ *The Irish Times* (Dublin, 30 December 1986) 1

‘Court result ‘a victory for women’’ *The Irish Times* (Dublin, 15 September 1978) 1

‘Councillors call for a referendum on abortion’ *The Irish Times* (Dublin, 7 October 1994) 2

Courtney K, ‘Zrazy Whelan’s’ *The Irish Times* (11 March 1993) 12

Coveney S, ‘Here’s how my thinking shifted on the Eighth Amendment’ *Independent.ie* (Cork, 26 March 2018)

Coyle C and Mooney J, ‘‘Sting’ clinics escape prosecution’ *The Times* (London, 16 November 2014)

Coyne E, ‘Abortion fears of Pro-Life group chief’ *The Times* (London, 13 June 2018) 9

Coyne E, ‘Abortion opponents to fight for burials in bill on terminations’ *The Times* (London, 3 October 2018)

Coyne E, ‘Abortion services only available on fourth day’ *The Times* (London, 18 December 2018);

Coyne E, ‘Agencies free to target scared and vulnerable women’ *The Times* (London, 5 September 2016)

Coyne E, ‘Anti-abortion activist accused of giving rogue advice in Malta’ *The Times* (London, 8 June 2019) 4

Coyne E, ‘Anti-abortion activists ‘getting details’ of cases’ *The Times* (London, 1 February 2019)

Coyne E, ‘Anti-abortion activists try to trick GPs with ultrasound offer’ *The Times* (London, 5 February 2019)

Coyne E, ‘Crisis pregnancy agency avoids telling women it opposes abortion’ *The Times* (London, 1 September 2017).

Coyne E, ‘Crisis pregnancy counsellor told Irish student abortion would lead to years in jail; Pregnancy advice has still not changed, says a woman talked into giving birth 16 years ago’, *The Times* (London 21 August 2017)

Coyne E, ‘Funding threat to agencies that withhold abortion advice’ *The Times* (London 28 September 2018) 4

Coyne E, ‘New guidelines for abortion information’ *The Times* (London, 12 August 2016)

Coyne E, ‘‘No plans’ to scrap abortion information law’ *The Times* (London, 29 October 2015)

Coyne E, ‘Pregnant women feel abandoned by the law’ *The Times* (London, 20 January 2016)

Coyne E, ‘Rogue anti-abortion agencies face crackdown after exposé’ *The Times* (London, 22 March 2018)

Coyne E, ‘Rogue anti-abortion agency Gianna Care planning new site in Galway’ *The Times* (London, 23 November 2018)

Coyne E, ‘Rogue pregnancy agencies bill is rejected’ *The Times* (London, 10 April 2017)

Coyne E, ‘Three-day wait for abortions must go, rights chief demands’ *The Times* (London, 15 December 2018)

Coyne E, ‘Three-day wait for abortion set to be relaxed amid safety fears’ *The Times* (London, 20 September 2018)

Cullen P, ‘Civil rights, women's groups warn on abortion Bill impact’ *The Irish Times* (Dublin, 28 February 1995) 3

Cullen P, ‘EHB asked to affirm right to life of the unborn’ *The Irish Times* (Dublin 26 November 1997) 4

Cullen P, ‘Rotunda master says 95% of parents in Down syndrome cases choose abortion’ *The Irish Times* (Dublin, 26 December 2022)

Cullen P, ‘Woman ‘felt like a criminal’ leaving Ireland for termination’ *The Irish Times* (Dublin, 13 June 2017

Cullen R, ‘Debate on abortion’ *The Irish Times* (Dublin, 17 June 2000) 15

Cullen-Delsol C, ‘My options were to feel my unborn child die, or watch her die’ *The Times* (London, 5 May 2018)

Cummins M, ‘Abortion adverts blanked out in magazine’ *The Irish Times* (Dublin, 3 September 1992) 6

Cummins M, ‘Andrews urged to lobby of deletion of abortion protocol’ *The Irish Times* (Dublin, 2 May 1992) 7

Cummins M, ‘Dáil picket, reception mark world women's day’ *The Irish Times* (Dublin, 7 March 1995) 6

Cummins M, ‘Having a baby won’t ruin your life’ *The Irish Times* (Dublin, 6 April 1992) 15

Cummins M, ‘Ministers, AG, being drawn into birth control information dispute’ *The Irish Times* (Dublin, 23 February 1995) 2

Cummins M, ‘Women's rights TDs seek text’ *The Irish Times* (Dublin, 30 April 1992) 5

‘Cura Cares’ *The Irish Times* (Dublin, 2 April 1984) 21

Davey JP, ‘Information on abortion’ *The Irish Times* (Dublin, 25 July 1989) 11

Davey K, ‘Information on Abortion’ *The Irish Times* (Dublin, 26 February 1990) 11

de Bréadún D, ‘A power struggle ‘on women's right to equality’’ *The Irish Times* (Dublin, 22 October 1992) 7

de Bréadún D, ‘Campaigning to maintain the status quo’ *The Irish Times* (Dublin, 22 February 1992) 5

de Bréadún D, ‘Democratic Left calls for crisis pregnancies studies to begin’ *The Irish Times* (Dublin, 10 March 1995) 7

de Bréadún D, ‘FF-Labour agreement to speed pace of change’ *The Irish Times* (Dublin 5 December 1994) 7

de Bréadún D, ‘Five-day week for Dáil in Labour, FF package’ *The Irish Times* (Dublin 5 December 1994) 1

de Bréadún D, ‘Information right to be challenged’ *The Irish Times* (Dublin, 23 October 1992) 7

de Bréadún D, ‘Kerry Abortion Opponents organise’ *The Irish Times* (Dublin, 29 April 1992) 4

de Bréadún D, ‘Picketing of TDs to continue’ *The Irish Times* (Dublin, 17 October 1992) 5

de Bréadún D, 'SPUC wants abortion advice ban' *The Irish Times* (Dublin 10 January 1984) 7

de Bréadún D, 'TD backs petition to seek abortion plebiscite' *The Irish Times* (Dublin, 10 March 1995) 7

de Bréadún D, 'USI defiance triggers calls for change' *The Irish Times* (Dublin, 8 August 1992) 4

de Paor L, 'Gianna Care should be expanded' *The Irish Catholic* (Dublin, 7 October 2021)

de Vere T, '40pc of maternal deaths in Ireland are migrant and ethnic minority women' *Herfamily.ie* (Dublin, 2018) < https://www.herfamily.ie/pregnancy/40-of-maternal-deaths-in-ireland-are-migrant-women-293482 >

de Vere T, 'Law lecturer says that new abortion legislation 'leaves too many women behind'' *Her.ie* (Dublin 2018) < https://www.her.ie/news/law-lecturer-says-that-new-abortion-legislation-leaves-too-many-women-behind-444015 >

Dempsey A, 'Abortion those for…and those against…' *The Irish Independent* (Dublin, 28 May 1981) 14

'Desperate Fear Of Being Pregnant' *RTÉ Archives* (Dublin, 1978) < https://www.rte.ie/archives/2018/0124/935701-back-street-abortions-in-dublin/ >

Devlin G, '4,000 Travel For UK Abortions' *RTÉ Archive* (Dublin, 25 September 1985) < https://www.rte.ie/archives/collections/news/21199681-4-000-travel-for-uk-abortions/ > accessed 17 June 2023;

Devlin G, 'TCD abortion referendum' *RTÉ Archives* (Dublin, 19 January 1990) < https://www.rte.ie/archives/collections/news/21380617-tcd-abortion-referendum/ >

Digital Desk, 'LoveBoth Project launch poster and slam lack of debate around development of baby in the womb' *The Irish Examiner* (Cork, 5 April 2018) < irishexaminer.com/news/arid-30835942.html >

'Doctor and business man charged' *The Irish Times* (Dublin 25 July 1944) 2; 'Charge Against Dublin Trader' *The Irish Times* (Dublin 28 July 1944) 2

'Doctor sentenced' *The Irish Times* (Dublin 5 December 1944) 2

'Doctors testify on abortion in SPUC claim' *The Irish Times* (Dublin 23 July 1992) 2

Donaghy G, 'Crowds gather in Dublin for anti-abortion rally' *The Irish Post* (London, 18 September 2022)

Donlon L, '"An Internment Camp for Pregnant Young Women"' *RTÉ Archives* (Dublin, 22 February 1992) < https://www.rte.ie/archives/exhibitions/1666-women-and-society/459005-x-case-protest-march/ >

Donlon L, 'Proposals On Legislation Over Abortion' *RTÉ* (Dublin, 18 November 1992) < https://www.rte.ie/archives/2017/1116/920632-proposals-on-abortion/ >

Donlon L, 'Sistership protest highlights abortion concerns' *RTÉ Archives* (Dublin, 6 May 1992) < https://www.rte.ie/archives/2017/0503/872166-abortion-boat-to-britain/ >

Donlon L, 'SPUC And USI In High Court' *RTÉ Archives* (Dublin, 9 October 1989) < https://www.rte.ie/archives/collections/news/21362712-spuc-and-usi-in-high-court/ >

Donlon L, 'SPUC Versus USI Court Case' *RTÉ Archives* (Dublin, 10 October 1989) < https://www.rte.ie/archives/collections/news/21362727-spuc-versus-usi-court-case/ > accessed 19 June 2023

Donlon L, 'SPUC win court case' *RTÉ Archives* (Dublin, 19 December 1989) < https://www.rte.ie/archives/collections/news/21377744-spuc-win-court-case/ > accessed 17 June 2023;

Donnellan E, 'Crisis pregnancy organisation wants agencies to be policed' *The Irish Times* (Dublin, 28 July 2006) 6

Doorley T, 'Information on Abortion' *The Irish Times* (Dublin, 16 November 1989) 15

Doran K, 'Life (Ireland)', *The Irish Times* (Dublin, 27 August 1984) 9

Doran K, ‘Pro-life supporters gave an extraordinary public service’ *The Irish Catholic* (31 May 2018) < https://www.irishcatholic.com/pro-life-supporters-gave-an-extraordinary-public-service/ >

Doran K, ‘The abortion referendum’ *The Irish Times* (Dublin, 17 March 1983) 9;

Downes R, ‘Information on abortion’ *The Irish Times* (Dublin, 20 October 1989) 13

Doyle K, ‘Shatter's novel is cleared by the censor’ *Independent* (Dublin, 8 May 2014) < https://www.independent.ie/irish-news/politics/shatters-novel-is-cleared-by-the-censor-30258684.html >

‘DPP gets file on Women's Network’ *The Irish Times* (Dublin, 28 April 1994) 19

‘Dr. Ashe acquitted, Flynn convicted and put back’ *The Irish Times* (Dublin 27 July 1944) 2

‘Dr. David Delvin’, *The Times* (21 March 2018) 11

Dublin Correspondent, ‘Irish Ban on ‘The Observer’’ *The Observer* (London, 8 April 1956) in Ronald Mortished Papers’ MS 50,135/5, National Library of Ireland

Duffy R, ‘New Censorship Board being put together...solely to deal with Alan Shatter's ‘Laura’’ *The Journal* (Dublin, 18 March 2014) < https://www.thejournal.ie/shatter-laura-censorship-1368286-Mar2014/ >

Dunne J, ‘In the post’ *The Irish Times* (Dublin, 30 November 1991) 30

Dunne J, ‘Ruling ends centre’s uncertain future’ *The Irish Times* (Dublin, 24 June 1995) 4

Dunne J, ‘Woman alleges Dublin abortion’ The Irish Times (Dublin, 28 February 1997) 1

Editor, ‘Editor’s reply’ in *Cosmopolitan* (London June 1990) 236

Editor, ‘Judge and Bishop speak’ *The Irish Times* (Dublin, 2 March 1995) 15

‘Eilís Mulroy speaking on CRCfm Castlebar about Exclusion Zones’ (10 August 2018) *Pro-Life Campaign* < https://prolifecampaign.ie/portfolio_cpt/10-08-2021-eilis-mulroy-speaking-on-crcfm-castlebar-about-exclusion-zones/ >

English B, ‘Divine providence prompts Limerick abortion protests’, *Limerick Post* (Limerick 15 February 2022) < https://www.limerickpost.ie/2022/02/15/divine-providence-prompts-limerick-abortion-protests/ >

English B, ‘Hospital accused of ignoring calls over anti-abortion group’s protests’ *The Limerick Post* (Limerick, 16 December 2021)

Erskine C, ‘One In Ten Births Outside Marriage’ *RTÉ Archives* (Dublin, 18 January 1989) < https://www.rte.ie/archives/collections/news/21303188-one-in-ten-births-outside-marriage/ >

‘Estimates of a vote for repeal on Ireland’s abortion rate’ (17 May 2018) < https://loveboth.ie/estimates-of-a-vote-for-repeal/ >

Everyday Stories, ‘Draft mission statements’ (*Twitter* 14 December 2018) < https://twitter.com/es_irl/status/1073590988671717376 >

Fahy J, ‘Row Over Abortion Posters’ *RTÉ Archives* (Dublin, 16 March 1987) < https://www.rte.ie/archives/collections/news/21242699-row-over-abortion-posters/ >

Fanning M, ‘Council for the Status of Women Conference’ *RTÉ Archives* (Dublin, 11 April 1987) < https://www.rte.ie/archives/collections/news/21244776-council-for-status-of-women-conference/ >

Faul D, ‘Abortion referendum’ *The Irish Times* (Dublin, 12 October 1992) 3

Fay L, ‘Abortion: the plain truth’ *Hot Press* (Dublin, 7 October 1992) 6

Fegan J, 'Imperfect system and cruel barriers still stopping women access abortion' *The Irish Examiner* (Cork, 3 June 2019) < https://www.irishexaminer.com/lifestyle/arid-30928382.html >

'Feminist freed after haebus corpus move' *The Irish Times* (Dublin, 13 March 1980) 4

'Feminists Against Abortion' *The Irish Times* (Dublin, 12 May 1997) 6

Ferriter D, 'The Irish abortion question has always been linked to class, secrecy and moral judgment' *The Irish Times* (Dublin, 23 August 2014)

'Fianna Fail MEPs abstain in Strasbourg abortion vote' *The Irish Times* (Dublin 13 March 1992) 6

'Findings on abortion disturbing, says Cura' *The Irish Times* (Dublin 19 July 1984) 6

Finn D, 'The Lying Game' *Hot Press* (Dublin, 26 March 2007) < https://www.hotpress.com/opinion/the-lying-game-2916940 >

Fitzpatrick J, 'Abortion information' *The Irish Times* (Dublin, 29 August 1989) 9

Foley C, 'Youth Defence marchers refer to comparisons with Hitler' *The Irish Times* (Dublin, 6 March 1995) 4

Foley M, 'Dr Eames encouraged by level of debate' *The Irish Times* (Dublin, 22 May 1992) 5

Flynn S, 'Anti-abortion lobby says EC Protocol insufficient' *The Irish Times* (Dublin 20 February 1992) 5

Flynn S, 'Centre wary of campaign on abortion' *The Irish Times* (Dublin, 14 September 1985) 6

Flynn S, 'Declaration seen as only option' *The Irish Times* (Dublin, 29 April 1992) 4

Flynn S, 'EC States likely to fight protocol change' *The Irish Times* (Dublin, 4 April 1992) 7

Flynn S, 'Limited right to abortion information conceded' *The Irish Times* (Dublin, 25 March 1992) 3

Flynn S, 'Protocol 'does not undermine' EC legislation' *The Irish Times* (Dublin, 25 February 1992) 4

Flynn S and Walshe J, 'Court upholds abortion ruling' *The Irish Times* (Dublin, 5 October 1991, 1

Foley C, 'Youth Defence marchers refer to comparisons with Hitler' *The Irish Times* (Dublin, 6 March 1995) 4

Foley M, 'Information on abortion planned' *The Irish Times* (Dublin, 6 July 1989) 7

Foley M, 'UCD Students oppose abortion materials' *The Irish Times* (Dublin, 18 November 1989) 1

Foster R, 'Pirate radio to go back on air' *The Irish Times* (Dublin 28 March 1990) 5

Foster R, 'Students to Defy SPUC over abortion information' *The Irish Times* (Dublin, 20 September 1989) 7

Foyle JF, 'Supreme Court Judgement' *The Irish Times* (Dublin, 18 May 1995) 15

Freehill M, 'Women's health books back in Dublin public libraries' *The Irish Times* (Dublin, 18 February 1993) 13

Frison F, 'Abortion Information Bill' *The Irish Times* (Dublin, 13 April 1995) 17

Gallagher E, 'Abortion travel ruling' *The Irish Times* (Dublin, 22 February 1992) 17

Ganley D, 'Irish people do not want a British-style abortion law' *The Irish Times* (Dublin, 12 March 2018) 2

Ginty G, 'Abortion law is 'abominable'' *The Irish Times* (Dublin, 25 May 1995) 4

Griffin N, 'IFPA claims three-day abortion wait is 'unreasonable and paternalistic' *Irish Examiner* (Cork, 19 April 2023) < https://www.irishexaminer.com/news/arid-41120488.html >

‘Group claims new abortion counselling service is legal’ *The Irish Times* (Dublin, 9 October 1992)

‘Group condemns Bill’ *The Irish Times* (Dublin, 4 March 1995) 9

Guerin O, ‘SPUC Case Referred To European Court’ *RTÉ Archives* (Dublin, 11 October 1989) < https://www.rte.ie/archives/collections/news/21362751-spuc-case-referred-to-european-court/ >

Guerin O, ‘Support For USI Abortion Information’ *RTÉ Archives* (Dublin, 24 September 1989) < https://www.rte.ie/archives/collections/news/21291012-tcd-provide-abortion-advice/ >

‘Guide altered on abortion’ *The Irish Times* (Dublin 11 April 1989) 8

Hall S, ‘Abortion’ *The Irish Times* (Dublin 16 January 1982) 15

Halloran C, ‘Life Pregnancy Care Service’ *RTÉ Archives* (Dublin, 1 November 1989) < https://www.rte.ie/archives/collections/news/21369391-life-pregnancy-care-service/ >

Hamilton I, ‘The hashtag campaign saying 'Hear Me Out' about Ireland's abortion laws’ *Mashable* (New York, 21 May 2018) < https://mashable.com/article/hearmeout-campaign-irish-referendum >

Hanafin D, ‘Abortion assistance is the same as referral’ *The Irish Times* (Dublin, 28 October 1994) 12

Hanafin D, ‘Any reform must reduce crisis pregnancies’ *The Irish Times* (Dublin, 3 April 2001) 14

Hanly D, ‘The role of women in Ireland’ *RTÉ Archive* (Dublin, 28 July 1988) < https://www.rte.ie/archives/2018/0728/980516-attitudes-to-abortion-and-divorce/ >

Hardesty A, ‘Cutting Abortion Page Wasn’t a Moral Decision, Says Ascough’ *University Observer* (Dublin, 19 September 2017)

Hardesty A, ‘Impeachment of Katie Ascough: what led us here?’ *The University Observer* (Dublin, 1 November 2017) < https://universityobserver.ie/impeachment-of-katie-ascough-what-led-us-here/ >

Hayes L and Kelly U, ‘U.S.I. Congress’ *The Irish Times* (Dublin, 24 January 1976) 9

‘Health Board Members condemn Bill but no formal vote taken’ *The Irish Times* (Dublin, 14 March 1995) 6

Healy A, ‘Cura may lose agency funding of €600,000’ *The Irish Times* (Dublin, 8 June 2006) 11

Healy A, ‘Dana emphasises need to overcome abortion silence’ The Irish Times (Dublin, 3 April 2000) 7.

Healy A, ‘‘Too few’ pregnant women in crisis seek help’ *The Irish Times* (Dublin, 12 July 2007) 9

Heffernan J, Debate on Abortion’ *The Irish Times* (8 July 2000) 15

Hegarty T, ‘Anti-abortion agencies get bulk of all new funding’ *The Irish Times* (Dublin, 4 August 1995) 5

Hegarty T, ‘GP who objects to prescribing pill will not refer patients’ The Irish Times (Dublin, 17 July 1995) 3

Hegarty T, ‘GPs to get information pack on abortions services’ *The Irish Times* (Dublin, 15 May 1995) 1

Hegarty T, ‘GPs to meet on pregnancy counselling request’ *The Irish Times* (Dublin, 10 March 1995) 7

Hegarty T, ‘Group seeks withdrawal of information on abortion Bill’ *The Irish Times* (Dublin, 27 February 1995) 4

Hegarty T, ‘Youth Defence members arrested for obstruction’ *The Irish Times* (Dublin, 24 October 1994) 6

Heron M, ‘Counselling for the right to life’ *The Irish Independent* (Dublin, 28 May 1981) 14

HLI Ireland, ‘Ask Majella on Today with Pat Kenny Radio Show’ (25 October 2012) < https://www.youtube.com/watch?v=2t6ubfP2zw8 >

Hogan C, ‘‘This institution for ‘unmarried mothers’ is not part of some distant past - it closed in 2006’’ *TheJournal.ie* (Dublin, 23 August 2020)

Hogan C, ‘Why Ireland’s battle over abortion is far from over’ *The Guardian* (London, 3 October 2019);

Hogan D, ‘Members of lobby group fined over posters’ *The Irish Times* (Dublin, 18 February 1994) 6

Hogan D, ‘Show abortion procedures on TV, says priest’ *The Irish Times* (Dublin, 14 March 1995) 6

Holborow M, ‘Information on Abortion’ *The Irish Times* (Dublin, 20 June 1991) 11

Holland K, ‘Crisis Pregnancy body had busiest year for information requests’ *The Irish Times* (Dublin, 27 July 2005) 7

Holland K, ‘Cura's annual grant contested by CPA’ *The Irish Times* (Dublin, 11 May 2005) 7.

Holland, K, ‘Golden pages refuses family planning ad’ *The Irish Times* (Dublin, 2 May 2003) 3

Holland K, ‘Grim anti-abortion session with the agency that “only wants what’s best”’ *The Irish Times* (Dublin, 4 September 1999) 10

Holland K, ‘Instructions to Cura to stop abortion advice referrals ‘would be a problem’ *The Irish Times* (Dublin, 10 May 2005) 7

Holland K, ‘Warning on biased crisis pregnancy ‘counselling’’ *The Irish Times* (Dublin, 21 July 2009)

Holland K, ‘Twenty years of antenatal politics’ *The Irish Times* (Dublin, 3 September 2003) 13

Holland M, ‘It’s the company that she keeps’ *The Irish Times* (Dublin, 14 February 1990) 12

Holland M, ‘Where each side believes the other is the loser’ *The Irish Times* (Dublin, 28 November 1992) 9

Holmquist K, ‘British anti-abortion group criticised’ *The Irish Times* (Dublin 2 November 1989) 9

Holmquist K, ‘Irish abortions increase despite abortion ban’ *The Irish Times* (Dublin, 21 September 1990) 5

Holmquist K, ‘Report on abortion urges non-directive counselling in Ireland’ *The Irish Times* (Dublin, 28 September 1990) 4

Holmquist K, ‘She is everywoman’ *The Irish Times* (Dublin, 3 May 1993) 10

Holmquist K, ‘Tinkering with gene genie?’ *The Irish Times* (Dublin, 8 January 1994) 29

Holohan R, ‘Three routes are open to Reynolds’ *The Irish Times* (Dublin, 19 September 1992) 4.

Holohan R, ‘Right to abortion information upheld’ *The Irish Times* (Dublin, 16 May 1991) 2

Horgan-Jones J and Burns S, ‘Anti-abortion activist launches new website following injunction’ *The Irish Times* (Dublin, 19 February 2019)

Houston M, ‘Call for mental health support after abortion’ *The Irish Times* (Dublin, 2 December 2008) 35

Humphreys J, ‘Abortion conference told image of adoption must change’ *The Irish Times* (Dublin, 22 September 1998) 5

Humphreys J, ‘Group demands legalised abortion’ *The Irish Times* (Dublin, 9 March 1998) 11

Humphreys J, ‘Pro-choice lobby condemns government move’ *The Irish Times* (Dublin 3 October 2001) 6

Hunt L, ‘Abortion network is guarded closely; Liz Hunt looks at the semi-clandestine work of the republic's abortion support groups’ *The Independent* (London, 18 February 1992) 3

‘Illegal Operation Charge’ *The Irish Times* (Dublin 8 July 1944) 2

Ingoldsby T, ‘Information on abortion’ *The Irish Times* (Dublin 28 July 1989) 11

Ingoldsby T, ‘Information on abortion’ *The Irish Times* (Dublin, 11 October 1991) 11

‘‘Information’ means aiding in abortion, says bishops’ *The Irish Times* (Dublin, 9 March 1995) 8

‘Injunction may affect British magazines’ *The Irish Times* (Dublin, 21 December 1989) 8

‘Interview about exclusion zones’ *CRCfm* (Castlebar, 10 August 2021) < https://prolifecampaign.ie/portfolio_cpt/10-08-2021-eilis-mulroy-speaking-on-crcfm-castlebar-about-exclusion-zones/ >

‘Ireland: Battle of Maastricht’ *The Economist* (London, 29 February 1992) 55

Irish Times Reporter, ‘Biggest family planning body seeks consent of Minister’ *The Irish Times* 26 August 1980, 11

Irish Times Reporter, ‘Papers seized, woman claims’ *The Irish Times* (Dublin, 23 May 1992) 1

Irish Times Reporters, ‘Hierarchy says judgment does not allay fears’ *The Irish Times* (Dublin, 13 May 1995) 7

Irish Times Reporter, ‘SPUC fails to get order against students’ *The Irish Times* (Dublin, 8 September 1988) 8

Irish Women United, *Banshee*, (1977)

Jack J, ‘Abortion Information’ *The Irish Times* (Dublin, 18 March 1995) 13

Johnson D, ‘Abortion’ *The Irish Times* (Dublin 20 March 1981) 9

Jones J, ‘Opinion poll shows that satisfaction with the Government's performance has risen two points in four weeks’ *The Irish Times* (Dublin, 11 June 1992) 4

‘Judge steps down after SPUC objections’ *The Irish Times* (Dublin, 19 July 1992) 3

Kelly D and I O'Regan M, ‘Geoghegan-Quinn criticised “unwise” timing of Bill’ *The Irish Times* (Dublin, 3 March 1995) 6

Kelly D and O’Regan M, ‘Minister says few referred for abortions by professionals’ *The Irish Times* (Dublin, 2 March 1995) 9

Kelly D and O'Regan M, ‘McDaid gets ‘curse of Cromwell’ for his stance’ *The Irish Times* (Dublin, 9 March 1995) 6

Kennedy G, ‘Abortion issue is heavily defeated’ *The Irish Times* (30 November 1992) 6

Kennedy G, ‘Clinic defends abortion ads’ *The Irish Times* (Dublin, 22 May 1992) 7

Kennedy G, ‘EC law may rule out new vote on abortion’ *The Irish Times* (Dublin, 2 April 1992) 1

Kennedy G, ‘Protocol has created legal morass for campaigners’ *Irish Times* (Dublin, 15 June 1992) 4

Kennedy G, ‘Who says what’ *The Irish Times* (Dublin, 24 October 1992) 7

Kennedy G and Boland C, ‘De Rossa pledges to repeat phone numbers of clinics’ *The Irish Times* (Dublin, 23 May 1992) 1

Kennedy G and Tynan MM, ‘Government to press ahead with Bill on abortion information’ *The Irish Times* (Dublin, 2 March 1995) 1

Kennedy G and Tynan MM, ‘‘Guardian’ held on legal advice – Easons’ *The Irish Times* (Dublin, 22 May 1992) 1

Kennedy M, ‘Letters to the editor’ *The Irish Times* (Dublin, 14 March 1995) 13

Kennedy MJ, ‘Genetics – a missing link?’ *The Irish Times* (Dublin, 3 September 1992) 11

Kennedy S and Tweedy H, 'Abortion information ruling' *The Irish Times* (Dublin, 4 March 1987) 9

Kerrigan G, 'The Moral civil war' *Magill* (Dublin, 31 August 1983)

Kiely N, 'SPUC pickets Dublin service' *The Irish Times* (Dublin, 28 March 1984) 10

Lally C, 'Government will not review abortion laws' The Irish Times (Dublin, 9 July 2004) 3

Langan P, 'Abortion should not be a criminal act, says USI' *The Irish Times* (Dublin, 15 January 1979) 4

'Leader prepared to go to jail' *The Irish Times* (Dublin, 8 August 1992) 4

Leahy P, 'Anti-abortion campaigners seek ban on terminations on disability and gender grounds' *The Irish Times* (Dublin 8 June 2018)

Leahy P, 'Women in Ireland should not take abortion pills, says Harris' *The Irish Times* (Dublin 12 April 2018) < https://www.irishtimes.com/news/politics/women-in-ireland-should-not-take-abortion-pills-says-harris-1.3459882 >

'Legal advice points to new abortion referendum' *The Irish Times* (Dublin 21 February 1992) 4

'Letters to the Editor' *The Irish Times* (Dublin, 14 March 1995) 13

'Life' *The Irish Times* (Dublin, 16 January 1988) 20

Little M, 'Newspaper pulled over Abortion Services Ad 1992' *RTÉ Archives* (Dublin, 20 May 1992) < https://www.rte.ie/archives/2017/0518/876228-guardian-newspaper-withheld-from-sale/ >

Loughlin E, 'Anti-abortion protests have been taking place at hospitals and clinics in 10 counties' *The Irish Examiner* (Cork, 23 August 2021)

Loughlin E, 'Gardaí played down warnings from HSE over safe access zones for abortion services' *The Irish Examiner* (Cork, 01 April 2022)

Loughlin E, 'Government U-turn on safe access zones at abortion clinics; *Irish Examiner* (Cork, 7 August 2021) < https://www.irishexaminer.com/news/arid-40354406.html >

Lucey M, 'Abortion Information Bill' *The Irish Times* (Dublin, 7 April 1995) 15

Lucey M, 'Abortion Information' *The Irish Times* (Dublin, 20 June 1995) 13

Lynch S, 'Controversy over Cura's pregnancies policy' *The Irish Times* (Dublin, 21 June 2005) 15

MacDonald S, 'Latest abortion figures in Ireland described as 'devastating'' *tablet.co.uk* (London, 19 July 2022)

MacDughghaill U, 'Campaign tactics of Youth Defence criticised' *The Irish Times* (Dublin, 6 October 1992) 2

MacDughghaill U, 'Ministers to discuss crisis pregnancies' *The Irish Times* (Dublin, 12 February 1994) 11

MacDubhghaill U, 'Repeal of Abortion Amendment Urged' *The Irish Times* (Dublin, 24 February 1992) 7

MacSweeney T, 'Cura annual report' *RTÉ Archives* (Dublin, 20 October 1986) < https://www.rte.ie/archives/collections/news/21227324-cura-annual-report/ >

McCaughren M, 'SPUC Takes Clinics To Court' (7 October 1986) < https://www.rte.ie/archives/collections/news/21226164-spuc-takes-clinics-to-court/ > accessed 17 June 2023;

McDermott R, 'Abortion referral ruling' *The Irish Times* (Dublin, 24 February 1987) 9.

'McGennis splits with Fianna Fáil on abortion Bill' *The Irish Times* (Dublin, 14 March 1995) 6

McGarry P, 'Cura, the Catholic Church crisis pregnancy agency, to close on Friday' *The Irish Times* (Dublin, 13 June 2018) < https://www.irishtimes.com/news/social-affairs/religion-and-beliefs/cura-the-catholic-church-crisis-pregnancy-agency-to-close-on-friday-1.3529428 >

McGonagle M, 'Censorship laws are out of date' *The Post.ie* (Dublin, 10 September 2000) < https://web.archive.org/web/20070929120428/http://archives.tcm.ie/businesspost/2000/09/10/story573869038.asp >

Maher M, 'Abortion hearing faces incoming government' *The Irish Times* (Dublin, 13 June 1989) 11

Maher M, 'Clinics ruling hasn't stopped abortions' *The Irish Times* (Dublin, 5 May 1987) 13

Maher M, 'USI abortion policy likely to be ratified' *The Irish Times* (Dublin 18 November 1989) 2

Maher M, 'Why Irish Abortions in Britain are Down' *The Irish Times* (Dublin, 8 August 1988) 13

'Man fails in High Court attempt to stop abortion referendum' *The Irish Times* (Dublin, 18 June 1983) 8

Marie Stopes, 'Unplanned pregnancy?' *Sunday Tribune* (Dublin 20 November 1994) 41

Moloney P and Loughran J, 'Information on abortion' *The Irish Times* (Dublin, 11 October 1991) 11

McAleese M, 'English Abortion Services' *RTÉ Archives* (Dublin, 15 January 1980) < https://www.rte.ie/archives/2015/0115/672554-mary-mcaleese-investigates-english-abortion-services-1980/ >

McCamley C, 'Censoring newspapers will not prevent women having abortions' *The Irish Times* (Dublin, 22 May 1992) 7

McCormack M, 'Abortion referral' *The Irish Times* (Dublin 26 October 1979) 11

McCullagh D, 'Exit poll indicates large majority vote to change abortion laws' *RTÉ* (Dublin, 30 May 2018) < https://www.rte.ie/news/politics/2018/0526/966120-eighth-amendment-referendum/ >

McDaid J, 'Minister for Fun finds success the best medicine' *The Irish Times* (Dublin, 5 June 1999) 2

McDermott R, 'Abortion referral ruling' *The Irish Times* (Dublin, 24 February 1987) 9

McDermott S, 'Man ordered by court to stop operating crisis pregnancy website under 'confusing' My Options name' *The Journal* (Dublin 15 February 2019)

McGarry P, 'Cura moves to clarify stance on abortion leaflets dispute' *The Irish Times* (Dublin, 12 May 2005) 8

McGarry P, 'Cura, the Catholic Church crisis pregnancy agency, to close on Friday' *The Irish Times* (Dublin, 13 June 2018) < https://www.irishtimes.com/news/social-affairs/religion-and-beliefs/cura-the-catholic-church-crisis-pregnancy-agency-to-close-on-friday-1.3529428 >

McGarry P, 'Patience on addressing Cura sacking issue urged' *The Irish Times* (Dublin, 6 February 2006) 5

McGarry P, 'Withdrawal of leaflet may have funding implications' *The Irish Times* (Dublin, 17 June 2005) 7

McGee H, 'Coalition in power two years when Smyth row erupted' *The Irish Times* (Dublin, 15 March 2010) 7

'McGennis splits with Fianna Fail on abortion Bill' *The Irish Times* (Dublin, 14 March 1995) 6

McKenna AA, 'Information on abortion' *The Irish Times* (Dublin, 5 December 1989) 11

McLoughlin C, 'Abortion information' *The Irish Times* (Dublin, 21 February 1990) 11

McNally F and Maher J, 'Pressure failed to sway them say FG, Labour TDs' *The Irish Times* (Dublin, 6 March 1995) 4

McTeirnan A, ''Disobedience Day' on abortion information' *The Irish Times,* (Dublin, 3 October 1992) 4

McTeirnan A, 'Lives at risk in abortion law vacuum, doctor says' *The Irish Times* (Dublin, 28 June 1993) 4

McTiernan A, ‘Retrieving 40 years of women’s struggle in Ireland’ *The Irish Times* (Dublin, 6 November 2014) < https://www.irishtimes.com/news/social-affairs/retrieving-40-years-of-women-s-struggle-in-ireland-1.1989660 >

McShane I, ‘Thirty-Sixth Amendment to the Constitution, Exit Poll: 25th May, 2018’ < https://www.rte.ie/documents/news/2018/05/rte-exit-poll-final-11pm.pdf >

‘Moral standards’ *The Irish Times* (Dublin, 2 August 1944) 3

Moloney P and Loughran J, ‘Information on abortion’ *The Irish Times* (Dublin, 11 October 1991) 11

Moore D.J., ‘Cura and abortion advice referrals’ *Irish Times* (Dublin, 12 May 2005) < https://www.irishtimes.com/opinion/letters/cura-and-abortion-advice-referrals-1.441103 >

Moore N, ‘The Amendment: a report’ in National Women’s Committee of The Workers’ Party, *Women’s View: Ireland’s current affairs quarterly* (No. 10 Winter 1983) 20

Mulroy E, ‘Thousands of children alive in Ireland today thanks to 72-hour abortion reflection time’ *The Irish Times* (Dublin, 12 April 2023)

Murdock A, ‘Irish Government Words Abortion Referendum’ *BMJ* (London, 17 October 1992) 906

Murphy A and Curran G, ‘Information on abortion’ *The Irish Times* (Dublin, 18 October 1989) 13

Murphy D, ‘Additional cruelty of abortion no solution’ *The Irish Times* (Dublin, 27 August 1992) 10

Murphy N, ‘25 years of internet in Ireland marked’ *RTÉ* (Dublin, 17 June 2016) < https://www.rte.ie/news/technology/2016/0617/796241-25-years-of-internet-in-ireland-marked/ >

Murray S, ‘Simon Harris: I have to accept the reality that Irish women are having dangerous abortions’ *The Irish Independent* (Dublin 11 November 2017) < https://www.independent.ie/irish-news/politics/simon-harris-i-have-to-accept-the-reality-that-irish-women-are-having-dangerous-abortions-36310641.html >

Murphy E, ‘Almost 100 children called crisis pregnancy helpline that provides abortion information last year’ *Irish Mirror* (Dublin, 21 May 2023) < https://www.irishmirror.ie/news/irish-news/almost-100-children-called-crisis-30035409 >

Newman C, ‘Bonner denies wanting to stop travel’ *The Irish Times* (Dublin, 27 February 1992) 4

Newman C, ‘Judge refuses to withdraw from case’ *The Irish Times* (Dublin, 13 October 1994) 8

Newman C, ‘USI magazine contains abortion referral numbers’ *The Irish Times* (Dublin, 8 October 1991) 3

Ní Aodha G, ‘Catholic Church crisis pregnancy agency to close due to drop in demand’ *The Journal* (Dublin 13 June 2018) < https://www.thejournal.ie/cura-ending-services-4069628-Jun2018/ >

Nesbitt J, ‘Hundreds protest outside Four Courts during SPUC hearing’ *The Irish Times* (Dublin, 10 October 1989) 1

Newman C, ‘Doctor who fought for euthanasia and contraceptives dies ages 81’ *The Irish Times* (Dublin, 18 December 1998)

‘No further moves’ The Irish Times, (Dublin 7th April 1956)

‘Noonan to draft opt-out clause for doctors’ *The Irish Times* (Dublin, 10 March 1995) 6

O’Brien B, ‘Cooling-off period for everything but abortion’ *The Irish Times* (Dublin, 11 December 2021)

O'Brien B, ‘Cura contravenes its mandate on abortion’ *The Irish Times* (Dublin, 11 June 2005) 14

O’Brien B, ‘Denying women access to legitimate choices and hope’ *The Irish Times* (Dublin 23 February 2019)

O’Brien B, ‘Message from the people still far from clear’ *The Irish Times* (Dublin, 9 March 2002) 14

O’Brien B, ‘State needs an honest investigation of its abortion counselling services’ *The Irish Times* (Dublin, 4 March 2023)

O’Brien B, ‘There must be better way than by taking life’ *The Irish Times* (Dublin, 14 June 2007)

O'Brien C, ‘College campuses emerging as key battlegrounds to win youth vote’ *The Irish Times* (Dublin, 11 May 2018) 6

O'Brien C, ‘Decision to drop information on abortion defended’ *The Irish Times* (Dublin, 21 September 2017) 3

O'Brien C and Donnellan E, ‘Counselling services bullying clients’ *The Irish Times* (Dublin, 15 July 2006) 3

O'Broin U, ‘Information on abortion’ *The Irish Times* (Dublin, 12 August 1989) 11

O’Ceilleachair F, ‘Letters to the editor’ *The Irish Times* (Dublin, 14 March 1995) 13

O’Connell B, ‘Defend the Women’s Clinics’ *RTÉ Archives* (Dublin, 7 February 1987) < https://www.rte.ie/archives/collections/news/21239940-defend-the-women-s-clinics/ >

O’Connell B, ‘SPUC Fails In High Court Bid’ *RTÉ Archives* (Dublin, 7 September 1988) < https://www.rte.ie/archives/collections/news/21286856-spuc-fails-in-high-court-bid/ >

O’Connell B, ‘Students Advise On Abortion’ *RTÉ Archives* (Dublin, 14 October 1987) < https://www.rte.ie/archives/collections/news/21291012-tcd-provide-abortion-advice/ >

O’Connell B, ‘Students’ Union in High Court’ *RTÉ Archives* (Dublin, 24 August 1988) < https://www.rte.ie/archives/collections/news/21283847-students-union-in-high-court/ >

O’Connell B, ‘TCD Provide Abortion Advice’ *RTÉ Archives* (Dublin, 2 October 1988) < https://www.rte.ie/archives/collections/news/21291012-tcd-provide-abortion-advice/ >

O'Connell L, ‘Abortion information Bill’ *The Irish Times* (Dublin, 16 March 1995) 15

O'Connor A, ‘Bill on abortion information watered down’ *The Irish Times* (Dublin 23 February 1995) 4

O'Connor B, ‘Information on abortion’ *The Irish Times* (Dublin 18 October 1989) 13

O’Connor F, ‘Over 1,000 NI women had abortions last year’ *The Irish Times* (Dublin, 8 February 1984) 7

O’Connor K, ‘Abortion referral’ *RTÉ Archives* (Dublin, 12 January 1987) < https://www.rte.ie/archives/collections/news/21236640-abortion-referral/ >

O'Connor KBW, ‘Information on abortion’ *The Irish Times* (Dublin, 24 October 1989) 11

O'Connor R, O'Doherty J, O'Mahony M, Spain E, ‘Knowledge and attitudes of Irish GPs towards abortion following its legalisation: a cross-sectional study’ (2019) 3(4) BJGP Open

O’Donnell F, ‘Pregnancy counselling’ *The Irish Times* (Dublin, 9 March 1987) 13

O’Faolain A, ‘HSE secures injunction against Euro election candidate over MyOptions website’ *The Journal* (Dublin, 29 May 2019)

O'Faolain N, ‘Abortion debate was not based on rights’ *The Irish Times* (Dublin, 22 May 1995) 14

O’Faolain N, ‘Canute had more hope than SPUC of stopping the waves’ *The Irish Times* (Dublin 10 August 1992) 10

O’Faolain N, ‘Information, empowerment: crucial words in a republic’ *The Irish Times* (Dublin, 19 October 1992) 12.

O'Faolain N, ‘Politicising women's group over control of leaflets’ *The Irish Times* (Dublin, 27 February 1995) 12

O’Faolain N, ‘Why abortion referendum doesn’t matter’ *The Irish Times* (Dublin, 22 June 1992) 10

O’Faolain N, ‘You could almost hear the creak as we were ratcheted forward a notch’ (Dublin, 13 May 1995) 7

O’Hagan U, ‘SPUC’ *RTÉ Archives* (Dublin, 28 July 1989) < https://www.rte.ie/archives/collections/news/21346916-spuc/ > accessed 17 June 2023

O’Hagan U, ‘UCD Votes Against Abortion’ *RTÉ Archives* (Dublin, 18 November 1989) < https://www.rte.ie/archives/collections/news/21372387-ucd-votes-against-abortion/ >

O'Halloran M, ‘Group opposes doctor's council post’ *The Irish Times* (Dublin, 23 November 1994) 3

O'Halloran M, ‘Judge's moral crusade’ *The Irish Times* (Dublin, 1 March 1995) 3

O’Kane M, ‘Aurora abortion ship’ *RTÉ Archives* (Dublin, 2001) < https://www.rte.ie/archives/2016/0613/795269-abortion-ship-docks-in-dublin/ >

O'Loughlin E, ‘Methodists to oppose referendum on abortion’ *Irish Times* (Dublin, 23 October 1992) 7

O’Loughlin E, ‘Pragmatic view on abortion ads’ *The Irish Times* (Dublin, 22 May 1992) 7

O'Loughlin E, ‘We actually think they've got it right this time’ *The Irish Times* (Dublin, 22 October 1992) 7

O’Maonaigh D, ‘Abortion and Two Kinds of Law’ *The Irish Times* (Dublin, 19 May 1995) 15

O’Meara K, ‘Abortion Advertisement in The Guardian’ (RTÉ, 23 May 1992) < https://www.rte.ie/archives/2017/0517/875936-guardian-newspaper-and-abortion-information/ >

O’Morain P, ‘Alton speaks at launch of anti-abortion video’ *The Irish Times* (Dublin, 4 December 1990) 6

O'Morain P, ‘IFPA says it will continue to make abortion appointments’ *The Irish Times* (Dublin, 22 May 1995) 1

O’Moráin P, ‘Many women ‘happy after abortion’’ *The Irish Times* (Dublin, 26 October 1992) 6

O'Neill S, ‘London agencies speak of women's despair’ *The Irish Times* (Dublin, 19 February 1992) 5

O'Neill P, ‘Abortion and Two Kinds of Law’ *The Irish Times* (Dublin, 19 May 1995) 15

O'Neill P, ‘Challenge to Veritas anti-abortion book’ *The Irish Times* (Dublin, 17 February 1992) 4

O'Raghallaigh E, ‘Abortion debate’ *The Irish Times* 7 June 1995, 13

O’Regan M, ‘GPs’ group fails to advise on abortion information’ *The Irish Times* (Dublin, 13 March 1995) 4

O’Regan M, ‘Leading judge condemns Abortion Information Act’ *The Irish Times* (Dublin, 10 July 1995) 4

O’Regan M and O’Halloran M, ‘Abortion legislation ‘could place young men at risk’’ *The Irish Times* (Dublin, 20 May 2013); legitimise suicide:

O’Rourke R, ‘Limerick council calls for safe access zones around abortion providers, following protests’ *Irish Examiner* (Cork, 6 July 2021)

O’Toole F, ‘The moral monopoly : the people and the theories behind the pro-life amendment campaign’ *In Dublin Magazine* (Dublin, 8 July 1982) 17

‘Oireachtas urged to reject Bill’ *The Irish Times* (Dublin, 1 March 1995) 3

‘Owen accuses FF of “hypocrisy” in its attitude to abortion Bill’ *The Irish Times* (Dublin, 6 March 1995) 4

‘Personal’, *The Irish Times* (Dublin, 8 March 1995) 30.

Pierson C, 'Irish Abortion Trails and Informal Care Networks: Facilitating Continuities in Care' (29 March 2017) Nursing Cleo < https://nursingclio.org/2017/03/29/irish-abortion-trails-and-informal-care-networks-facilitating-continuities-in-care/ >

Pollak A, '5,300 had abortions in Britain in 1997' *The Irish Times* (Dublin, 26 May 1998) 3

Pollak A, 'Abortion opponents to continue lobby of FG' *The Irish Times* (Dublin, 6 March 1995) 4

Pollak A, 'Anti-abortion groups condemn wording' *The Irish Times* (Dublin, 27 March 1992) 4

Pollack A, 'Bishops declare Bill would aid in obtaining abortions' *The Irish Times* (Dublin, 9 March 1995) 1

Pollak A, 'Doctors say they give information on abortion' *The Irish Times* (Dublin, 6 March 1992) 12

Pollak A, 'Political consensus will not influence Church – Bishop' *The Irish Times* (Dublin, 21 February 1992) 5

Pope C, 'Delegates' views 'It is never right to take a human life intentionally'' *The Irish Times* (Dublin, 4 December 2017) 2

Powell B, 'Vote on abortion information' *RTÉ Archives* (Dublin, 17 January 1990) < https://www.rte.ie/archives/collections/news/21380583-vote-on-abortion-information/ >

'Printer faces prosecution' *The Irish Times* (Dublin, 22 May 1992) 7

'Pub quiz' *The Irish Times* (Dublin, 16 July 1990) 9

Reidy P, 'Abortion Information Bill' *The Irish Times* (Dublin, 22 April 1995) 13

Reynolds G, 'Court Rules Against Abortion Advice' *RTÉ Archives* (Dublin, 19 December 1986) < https://www.rte.ie/archives/collections/news/21235631-court-rules-against-abortion-advice/ >

Riddick R, 'Women on abortion' *The Irish Times* (Dublin, 17 January 1995) 13

Riegel R and O'Regan E, 'Taoiseach 'reluctant to make changes' - abortion debate reignites as report recommends major changes including removal of three-day wait' *The Irish Independent* (Dublin, 21 April 2023)

Ruane M, 'Blocking the way to early abortions' *The Irish Times* (Dublin, 21 July 2000) 14

Ryan C, 'Alarm over pregnancy advise by "rogue" agencies' *The Irish Times* (Dublin, 29 June 2010) 37

Ryan Ó, ''Frightening' language and no abortion information: Warning issued over rogue pregnancy services' *TheJournal.ie* (Dublin, 17 January 2022) < https://www.thejournal.ie/unregulated-crisis-pregnancy-services-in-ireland-5650166-Jan2022/ >

''Safe, legal and rare': full text of Taoiseach's abortion speech' *The Irish Times* (Dublin 30 January 2018) < https://www.irishtimes.com/news/social-affairs/safe-legal-and-rare-full-text-of-taoiseach-s-abortion-speech-1.3373468>

Sanz C, 'Doubts grow over 'nurse' by anti-abortion campaign' *The Times* (London, 14 March 2018)
'Service arranged 100 abortions' *The Irish Times* (Dublin, 19 March 1982) 6

Scully E, 'Abortion Information' *The Irish Times* (Dublin, 12 July 1989) 9

Shaw H, 'Women look North for abortion advice' *The Irish Times* (Dublin, 8 October 1987) 5

Shearlaw M and Notelovitz S, 'My budget flight to get an abortion: the story no one in Ireland wants to tell' *The Guardian* (London, 23 May 2018) < https://www.theguardian.com/world/video/2018/may/23/my-budget-flight-to-get-an-abortion-the-story-no-one-in-ireland-wants-to-tell-video >

Sheridan K, ''Although we have a pro-life identity, we do not have the healthcare that supports parents and newborn babies who have complex needs' *The Irish Times* (Dublin, 21 April 2012) 39

Sheridan K, 'NI students bring abortion material south' *The Irish Times* (Dublin, 9 March 1990) 8.

Sheridan K, 'Stories of abortion' *The Irish Times* (Dublin, 24 March 2012) 39-40

Sheridan K and O'Brien C, 'System 'ignores and stigmatises' women who travel for abortion' *The Irish Times* (Dublin, 17 April 2012) 1

Sherlock C, 'Donnelly says three-day wait 'understood' by abortion referendum voters' *BreakingNews.ie* (Dublin, 26 April 2023) < https://www.breakingnews.ie/ireland/donnelly-says-three-day-wait-understood-by-abortion-referendum-voters-1467879.html >

Sherlock L, 'Defend The Clinics Campaign' *RTÉ Archives* (Dublin, 17 February 1987) < https://www.rte.ie/archives/collections/news/21240550-defend-the-clinics-campaign/ >

Shortall B, 'Abortion law conflicts with established medical ethics' *The Irish Times* (Dublin, 23 May 1995) 14

Siggins L, 'Closed Line' *The Irish Times* (Dublin, 9 January 1987) 11

Siggins L, 'Emergency legislation criticised by UN report' *The Irish Times* (Dublin, 16 August 1993) 2

Siggins L, 'Group claims wide support' *The Irish Times* (Dublin, 28 March 1992) 4.

Siggins L, 'Libraries withdraw guide for women' *The Irish Times* (Dublin, 1 October 1991) 2

Siggins L, 'Protestors picket Andrew's clinic' *The Irish Times* (Dublin, 6 March 1995) 4

Siggins L, ''RTÉ told us our abortion film lacked balance'' *The Irish Times* (Dublin, 11 April 2016)

Siggins L, 'TCD pregnancy group launched' *The Irish Times* (Dublin, 28 September 1989) 8

Simms C, 'Abortion and divorce' *The Irish Times* (Dublin, 23 May 1995) 15

Smyth A, 'Living in a police state' in *Trouble & Strife: The Radical Feminist Magazine* (Trouble and Strife 1992) 5

Smyth P, 'Mistrust of ordinary people keeps secrecy culture alive' *The Irish Times* (Dublin, 13 January 1993) 14

'SPUC judgment flawed – Asmal' *The Irish Times* (Dublin, 13 January 1987) 7

'SPUC sues Well Woman centres' *The Irish Times* (Dublin 1 July 1985) 10

St. Ledger J, 'Photograph of Youth Defence protesting outside of Reproductive Choices' *The Irish Times* (Dublin, 4 March 1997) 14

Stack S, 'Pro-choice activists travel on 'abortion pill train' to Belfast' *The Irish Independent* (Dublin, 28 October 2014) < https://www.independent.ie/irish-news/pro-choice-activists-travel-on-abortion-pill-train-to-belfast/30698655.html >

Staines M, 'Abortion bill 'goes miles beyond what people voted for' – Donnelly' *Newstalk* (Dublin, 2 June 2023)

Stamp B, *The Irish Times* (Dublin 5 October 1989) 11

Steen M, 'Study ignores the moral gravity of abortion' *The Irish Times* (Dublin, 16 July 2022) 16

'Students agree to hand out UCD guide' *The Irish Times* (Dublin, 22 October 1988) 6

'Students unions face garda enquiries' *The Irish Times* (Dublin, 18 November 1989) 2

Stewart M, 'Crisis Pregnancy Agency' *The Irish Times* (Dublin, 24 May 2005) 17

Sweeney J, 'Information on abortion' *The Irish Times* (Dublin, 26 September 1992) 11

'Telecom rejects claim' *The Irish Times* (Dublin, 17 December 1994) 9

'The "Observer" No further moves' *The Irish Times* (Dublin, 7 April 1956) 1

''These women are not selfish'' *The Irish Times* (Dublin, 10 July 1978) 12

'This week they said' *The Irish Times* (Dublin, 3 January 1987) 26

'This week they said' *The Irish Times* (Dublin, 4 March 1995) 12

Thompson R, 'Something remarkable happened when this abortion rights mural was painted over' *Mashable* (New York, 29 July 2016) < https://mashable.com/article/abortion-mural-dublin >

'Thousands of People March in Ireland to Demand End to Abortion' *LifeNews.com* (19 September 2022) < https://www.lifenews.com/2022/09/19/thousands-of-people-march-in-ireland-to-demand-end-to-abortion-2/ >

'Three years' sentence' *The Irish Times* (Dublin 31 October 1944) 2

Toibin C, 'Have SPUC, will travel' *Magill* (Dublin, 31 January 1983)

'Two Prisoners as State Witnesses' *The Irish Times* (Dublin 4 July 1944) 2

Tynan MM, 'Abortion Bill Will Not Outlaw Referrals' *The Irish Times* (Dublin 3 November 1994) 1

Tynan MM, 'Centre's journey through the maze of law' *The Irish Times* (Dublin, 21 July 1993) 2

Tynan MM, 'FG members urged to seek withdrawal of Bill', *The Irish Times* (Dublin, 3 March 1995) 7

Tynan MM, 'Planned Bill will Allow for Abortion Details' *The Irish Times* (Dublin, 3 May 1993) 1

Tynan MM, 'Repeal Campaign might share Hanafin Platform' *The Irish Times* (Dublin, 9 April 1992) 4

Tynan MM and Coulter C, 'Abortion critics, supporters assail information Bill' *The Irish Times* (Dublin, 24 February 1995) 7

'University Staff Support Abortion Campaign by USI' *The Irish Times* (Dublin, 28 November 1989) 9

USI Publications, 'USI disassociates from Cura' (Dublin 18 May 2018) Available < https://usi.ie/student-life/sexual-health/usi-disassociate-from-cura/ >

'USI 'to publish abortion advice' despite ruling' *The Irish Times* (Dublin, 29 July 1989) 1

'UUP claims Northern majority opposes abortion' *The Irish Times* (Dublin, 8 March 1995) 6

Vernon M, 'Abortion ruling' *The Irish Times* (Dublin, 12 February 1987) 13

Vernon M, 'The case against abortion information' *The Irish Times* (Dublin, 25 September 1992) 12

Walsh C, 'Thousands face abortion without advice' *The Irish Times* (Dublin, 25 September 1985) 19

Walsh D, 'Information ban can no longer face challenge in EC' *The Irish Times* (Dublin, 11 December 1991) 8

Walsh M, 'Ryan wants ban on medical magazine' *The Irish Times* (Dublin, 10 January 1981) 6

Walshe J, 'SPUC seeking £100,000 legal costs from student leaders' *The Irish Times* (Dublin, 11 June 1990) 2

Walshe J, 'USI to maintain stance on abortion information' *The Irish Times* (Dublin, 22 April 1991) 1

Walshe J, 'Youth Council Disagreement on Pregnancy Vote' *The Irish Times* (Dublin, 18 November 1991) 4

Walsh J H and Flynn S, 'SPUC to press for legal costs' *The Irish Times* (Dublin, 12 June 1991) 1

Ward J, 'Legal Costs For SPUC Case' *RTÉ Archives* (Dublin, 18 July 1990) < https://www.rte.ie/archives/collections/news/21434549-legal-costs-for-spuc-case/ >

Waters J, 'Champion of the right to choose' *The Irish Times* (Dublin, 28 March 1992) 4

'Well Woman Centre, SPUC come to agreement over abortion information' *The Irish Times* (Dublin, 24 June 1995) 4

'Well Woman chairwoman condemns referendum' *The Irish Examiner* (Cork 5 February 2000) < https://www.irishexaminer.com/news/arid-30038860.html >

White V, 'Will the British Phone Books be next?' *The Irish Times* (Dublin, 17 February 1992) 11
Women's Programme, 'The Abortion Trail Ireland to England and Back' *RTÉ Archives* (Dublin, 29 November 1985) < https://www.rte.ie/archives/2015/1127/749702-abortion-trail/ >

Wood K, 'Abortion Referral Demonstration' *RTÉ Archives* (Dublin, 11 January 1987) < https://www.rte.ie/archives/collections/news/21235999-abortion-referral-demonstration/ >

Yeates P, ''Abortion' leaflets seized in raid' *The Irish Times* (Dublin, 5 March 1992) 5

Yeates P, 'UCD Students to fight SPUC summons on abortion' *The Irish Times* (Dublin, 25 August 1988) 10

Yeates P and O'Loughlin E, 'Government ban breaches human rights convention' *The Irish Times* (Dublin, 30 October 1992) 1

Yeats WB, 'The Irish Censorship' *The Spectator* (London, 29 September 1928) 391

Young D, 'Independent review of abortion laws should not be treated as 'gospel' – Varadkar' *The Irish Independent* (Dublin, 2 June 2023).

Reports

Abortion Rights Campaign, *Submission to the Citizens Assembly* (23 December 2016)

Abortion Rights Campaign and Lorraine Grimes, *Too many barriers: experiences of abortion after repeal* (Abortion Rights Campaign 2021)

Aiken A, 'Opening Statement to the Joint Oireachtas Committee on the Eighth Amendment to the Constitution' (11 October 2017) < https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_the_eighth_amendment_of_the_constitution/submissions/2017/2017-10-11_opening-statement-professor-abigail-aiken-university-of-texas_en.pdf >

All-Party Oireachtas Committee on the Constitution, *Fifth Progress Report: Abortion* (Stationary Office 2000)

Amnesty International, *She is Not a Criminal* (Amnesty International 2005)

An Roinn Sláinte, 'Explanatory Memo' (Feabhra 1995) < https://data.oireachtas.ie/ie/oireachtas/bill/1995/8/eng/memo/bills1995-10882-02.pdf >

Anew, *Annual Report 2019* (Anew 2020).

Boland M, Favier M, Coughlan M, *Training programme and information for General Practitioners: in response to the Termination of Pregnancy Information Act 1995* (ICGP, 1995)

Burke S, *Profile of first 202 women to attend Open Door Counselling (July - September 1983)* (Open Door Counselling 1983)

Cabinet Committee, *Green Paper on Abortion* (Department of the Taoiseach 1999)

Censorship Board, *Register of Prohibited Publications*, (Department of Justice 31st December 2016) <https://jobs.justice.ie/en/JELR/Register_of_Prohibited_Publications_2016.pdf/Files/Register_of_Prohibited_Publications_2016.pdf>

Citizens' Assembly, 'First Hand Experiences - 6 - Citizens' Assembly' (*YouTube* Saturday 4 March 2017) < https://youtu.be/N54r5YAOR-M >

Citizen's Assembly, 'First Report and Recommendations of the Citizens' Assembly' (29 June 2017)

Citizens' Assembly, *Papers and presentations from Citizens' Assembly speakers: from meetings November 2016 to April 2017* [Citizens' Assembly, 2017] Appendix E, volume 2

Citizens' Assembly, 'Recommendations on the Eighth Amendment of the Constitution' < https://2016-2018.citizensassembly.ie/en/The-Eighth-Amendment-of-the-Constitution/Recommendations/ >

Clements S and Ingham R, *Improving knowledge regarding abortion performed on Irish women in the UK*, (Crisis Pregnancy Agency, August 2007) Report no 19

Commission on the Status of Women, *Report to the Minister for Finance* (Stationary Office December 1972)

Committee Against Torture, 'Concluding observations of the Committee against Torture : Ireland' (17 June 2011) CAT/C/IRL/CO/1

Committee against Torture, 'Report of the Committee against Torture, 45th session (1-19 November 2010), 46th session (9 May-3 June 2011)' (2011) A/66/44

Committee on Economic, Social and Cultural Rights, 'Concluding observations on the 3rd periodic report of Ireland : Committee on Economic, Social and Cultural Rights' (8 July 2015) E/C.12/IRL/CO/3

Committee on Evil Literature, *Report of the Committee on Evil Literature* (Stationary Office 1927)

Committee on the Elimination of Discrimination against Women, 'Concluding comments (of the Committee on the Elimination of Discrimination against Women) : Ireland' (22 July 2005) CEDAW/C/IRL/CO/4-5

Committee on the Elimination of Discrimination against Women, 'Concluding observations on the combined sixth and seventh periodic reports of Ireland' (9 March 2017) CEDAW/C/IRL/CO/6-7

Committee on the Rights of the Child, 'Concluding observations on the combined 3rd and 4th periodic reports of Ireland : Committee on the Rights of the Child' (1 March 2016) CRC/C/IRL/CO/3-4

Committee on the Working of the Abortion Act, *Report of the Committee on the Working of the Abortion Act* [H.M.S.O. 1974] Volume 1

Commission of Investigation into Mother and Baby Homes, *Final Report of the Commission of Investigation into Mother and Baby Homes* (Department of Children, Equality, Disability, Integration and Youth, 22 November 2021)

Conlon C, *Mixed Methods Research of Crisis Pregnancy Counselling and Support Services* (Crisis Pregnancy Agency, January 2005) Report no 12

Conlon C, Antosik-Parsons K, Butler E, Greene J, Li W, Ammon K, Unplanned Pregnancy and Abortion Care (UnPAC) Study (Trinity College Dublin and the Sexual Health and Crisis Pregnancy Programme, July 2022)

Conlon C, O'Connor J, Ní Chatháin S, *Attitudes to fertility, sexual health and motherhood amongst a sample of Non-Irish national minority ethnic women living in Ireland* (Crisis Pregnancy Programme 2012)

Crisis Pregnancy Agency, *Annual Report 2003* (Crisis Pregnancy Agency 2004)

Crisis Pregnancy Agency, *Annual Report 2005* (Crisis Pregnancy Agency 2006)

Crisis Pregnancy Agency, *Annual Report 2006* (Crisis Pregnancy Agency 2007)

Crisis Pregnancy Agency, *Annual Report 2009* (Crisis Pregnancy Agency, 2010)

Crisis Pregnancy Programme, *National Strategy 2012-2016* (HSE 2012)

Crisis Pregnancy Agency, *Strategy 2007 - 2011: Leading an integrated approach to reducing crisis pregnancy* (Crisis Pregnancy Agency 2007)

Crisis Pregnancy Agency, *Strategy: Leading an Integrated Approach to Reducing Crisis Pregnancy 2007-2011* (Crisis Pregnancy Agency 2007)

Crisis Pregnancy Agency, *Strategy summary: to address the issue of crisis pregnancy* (Crisis Pregnancy Agency November 2003)

Crisis Pregnancy Agency, *Summary Report of the Consultation for the Strategy to Address the Issue of Crisis Pregnancy* (July 2004)

Crisis Pregnancy Programme, *Annual Report 2010* (HSE and Crisis Pregnancy Programme 2011)

Dean G, *Termination of pregnancy: England 1983: Women from the Republic of Ireland* (Medico-Social Research Board 1984)

Dean G, *The characteristics of Irish women who terminated their pregnancy in England in 1983* (Medico-Social Research Board 1984)

Dean G, Walsh D, O'Hare A, and McLoughlin H, *Termination of pregnancy, England, 1984, women from the Republic of Ireland* (Medico-Social Research Board 1985)

Department of Health, *A Guide to the Regulation of Information (Services Outside the State For Termination of Pregnancies) Bill, 1995* (Department of Health February 1995)

Department of Health, *Notifications in accordance with section 20 of the Health (Regulation of Termination of Pregnancy) Act 2018: Annual Report 2019* (Department of Health, 20 June 2020)

Department of Health and Social Care, *Abortion Statistics, England and Wales: 2019* (Department of Health and Social Care, 11 June 2020)

Department of Health and Social Care, *Abortion Statistics, England and Wales: 2018* (Department of Health and Social Care, 13 June 2019)

Department of Housing, Planning and Local Government, *Referendum results 1937-2019* [Department of Housing, Planning and Local Government 2019]

Democratic Left, *Crisis Pregnancy: prevention and termination*, (Democratic Left 1998)

Department of Health, *Implementation of the Protection of Life During Pregnancy Act 2013: Guidance Document for Health Professionals*, (Department of Health 2014)

Duffy DN, Grimes L, Jay B, and Callan J, *Service provider perspectives and experiences of the Health [Regulation of Termination of Pregnancy] Act 2018* (Department of Health 2023)

Expert Group on the Judgement in A, B and C v Ireland, *Report of the Expert Group on the Judgement in A, B and C v Ireland* (Department of Health, November 2012) < https://www.ifpa.ie/sites/default/files/judgment_abc.pdf >

Ferguson H and Hogan F, *Men, sexuality and crisis pregnancy: A study of men's experiences*, (Crisis Pregnancy Agency, June 2007) Report no 18

Fine-Davis M, *Psychological effects of abortion on women: a review of the literature* (Crisis Pregnancy Agency 2007) Report no 20

Fletcher R, Keane R, Murphy M, O'Keane V, *Doctors for Choice Ireland: Submission to the United Nations Human Rights Committee for Ireland's review under the International Covenant on Civil and Political Rights* (12 June 2014)

Francome C, *If you ever go across the sea to England: a study of 200 Irish women travelling for their abortions* (Middlesex Polytechnic Health Research Centre 1991)

Harris S, ‘Statement from Minister for Health, Simon Harris, TD, regarding the United Nations Human Rights Committee in the case of Ms Amanda Mellet’, *Merrion Street* (Dublin 30 November 2016) < https://merrionstreet.ie/en/news-room/releases/statement_from_minister_for_health_simon_harris_td_regarding_the_united_nations_human_rights_committee_in_the_case_of_ms_amanda_mellet_.html >

HSE, ‘Sexual Health and Crisis Pregnancy Programme’ < https://www.hse.ie/eng/about/who/healthwellbeing/our-priority-programmes/sexual-health/ >

Human Rights Committee, ‘Concluding observations on the 4th periodic report of Ireland : Human Rights Committee’ (19 August 2014) CCPR/C/IRL/CO/4

Human Rights Committee, ‘Consideration of reports submitted by States parties under article 40 of the Covenant: Fourth periodic reports of States parties: Ireland’ (12 November 2012) CCPR/C/IRL/4

Human Rights Committee, ‘Consideration of reports submitted by States parties under article 40 of the Covenant : International Covenant on Civil and Political Rights : comments of the Human Rights Committee : Ireland’ (3 August 1993) CCPR/C/79/Add.21

Human Rights Committee, ‘Report of the Human Rights Committee’ (7 October 1993) A/48/40(Part I)

Human Rights Watch, *A State of isolation: access to abortion for women in Ireland* (Human Rights Watch 2010)

Ireland, ‘Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All forms of Discrimination against Women : combined 4th and 5th periodic reports of States parties : Ireland’ (10 June 2003) CEDAW/C/IRL/4-5

Ireland, ‘Consideration of reports submitted by States parties under article 40 of the Covenant : International Covenant on Civil and Political Rights : 3rd periodic reports of States parties : Ireland’ (4 September 2007) CCPR/C/IRL/3

Irish Council for Civil Liberties, ‘The Need for Abortion Law Reform in Ireland: The Case Against the Twenty-Fifth Amendment of the Constitution Bill, 2001’ [2001] < https://www.iccl.ie/archive/the-need-for-abortion-law-reform-in-ireland-the-case-against-the-twenty-fifth-amendment-of-the-constitution-bill-2001/ >

Irish Family Planning Association, ’50 years’ [2019] < https://www.ifpa.ie/app/uploads/2019/11/IFPA_50Years_Accordian_WEB.pdf >

Irish Family Planning Association, *Annual report 1994* (Irish Family Planning Association 1995)

Irish Family Planning Association, *Annual report 2013: access choice and advocacy* (IFPA 2014)

Irish Family Planning Association, *Rogue Crisis Pregnancy Agencies in Ireland – Anti Choice and Anti Women* (IFPA, Undated) < https://www.ifpa.ie/sites/default/files/documents/media/publications/rogue_agency_factsheet.pdf >

Irish Family Planning Association, *Sexual Health and Asylum: Handbook for People Working with' Women Seeking Asylum in Ireland* (IFPA 2010)

Irish Family Planning Association, ‘Submission to the Citizens’ Assembly: A health and rights approach to abortion in Ireland’ (16 December 2016) <https://www.ifpa.ie/sites/default/files/ifpa_submission_to_the_citizens_assembly.pdf>

Irish Family Planning Association, *Submission to the Working Group on the Protection Process* (Irish Family Planning Association March 2015)

Irish Family Planning Association, *The IFPA report 1997: Making a difference* (Irish Family Planning Association 1997)

Irish Family Planning Association, *The Irish Journey: Women’s Stories of Abortion* (IFPA 2000)

Jackson P, ‘Abortion Trials and Tribulations’ (1987) Women and Gender Studies Series Working Papers No. 1

Joint Oireachtas Committee on the Eighth Amendment of the Constitution, *Report of the Joint Committee on the Eighth Amendment of the Constitution* (Houses of the Oireachtas, December 2017)

Kavanagh R and Murphy-Lawless J, *Young women's understanding of their sexual needs and perceptions of the Letterkenny Women's Health & Family Planning Clinic* (Crisis Pregnancy Agency 2006) 23

Layte R, McGee H, Quail A, Rundle K, Cousins G, Donnelly C, Mulcahy F and Conroy R, *The Irish study of sexual health and relationships* (Crisis Pregnancy Agency 2006)

London Irish Women's Conference, *Irish women our lives our identity: report of the 1987 London Irish Women's Conference* (London Irish Women's Conference 1987)

London Irish Women's Centre, *The 5th London Irish Women's Conference Report* (London Irish Women's Conference 1990)

Loughran H and Richardson V, *Mixed method adoption research*, (June 2005) Research report no 13

M-Co and the Department of Health, *Public Consultation to Inform the Review of the Operation of the Termination of Pregnancy Act Review* (Department of Health 2023)

Mahon E and Conlon C, 'Legal abortions carried out in England on women normally resident in the Republic of Ireland' in Constitution Review Group *Report of the Constitution Review Group* (Stationary Office 1996) 599

Mahon E, Conlon C, and Dillon L, *Women and Crisis Pregnancy: A Report Presented to the Department of Health and Children* (Stationary Office 1998)

Mazars, *Review of Funding and Service Delivery Models of Crisis Pregnancy Counselling Services* (HSE Sexual Health and Crisis Pregnancy Programme 2017)

McBride O, Morgan K, McGee H, *Irish contraception and crisis pregnancy study 2010: a survey of the general population*, (Crisis Pregnancy Programme, 2012) Report no 24

McGee H, Rundle K, Layte R, and Donnelly C, *The Irish study of sexual health and relationships sub-report 2: sexual health challenges and related service provision* (Crisis Pregnancy Agency and the Department of Health and Children 2008)

Mellet A and the Centre for Reproductive Rights, 'Submission to the Citizens Assembly' (16 December 2016)

Murphy-Lawless J, Oaks L, Brady C, *Understanding how sexually active women think about fertility, sex and motherhood*, (Crisis Pregnancy Agency September 2004) Report no 6

National Women's Council of Ireland, *Accessing abortion in Ireland: meeting the needs of every woman* (National Women's Council of Ireland 2021)

National Women's Council of Ireland, *Every woman: towards reproductive health choice and care for all* (National Women's Council of Ireland 2022)

National Women's Council of Ireland, *NWCI Policy Position Paper on Abortion* (National Women's Council of Ireland 2013)

Ní Riain A, Daly M, Ryan S, Murphy M, *Crisis Pregnancy: A Management Guide for General Practice* (Irish College of General Practitioners, 2013)

Ní Riain A, Galimberti R, Burke S, Collins C, Dillon M, *Women's Health Services in General Practice: 2004* (ICGP and the Crisis Pregnancy Agency 2006)

Nic Gabhainn S and Batt V prepared by Gilbert M, *Crisis Pregnancy Counselling in Ireland*, (Crisis Pregnancy Agency, July 2004) Report no 4

O'Brien T, de Burgh S, Kiernan K, *Assessing the impact of the 1995 abortion information legislation for women who seek pregnancy counselling in Ireland* (Irish Family Planning Association 30 October 1998)

O'Shea M, *The Independent Review of the Operation of the Health (Regulation of Termination of Pregnancy) Act 2018* (28 February 2023)

Privacy International, *A Documentation of Data Exploitation in Sexual and Reproductive Rights* (Privacy International April 2020)

Pro-Life Campaign, *Ireland's Abortion Law: End the Silence* (Pro-Life Campaign 2021)

Pro-Life Campaign, 'The 8th Amendment: A Life Saving Beacon of Hope: Extracts from Submission to the Citizen's Assembly for session on Sunday March 5th 2017' (2017) < https://2016-2018.citizensassembly.ie/en/Meetings/Pro-Life-Campaign-s-Paper.pdf >

Psychological Therapies Forum, 'Submission on The Statutory Registration of Counsellors & Psychotherapists in Ireland' [2018] < https://iacp.ie/files/file514816120b41e.201303190838 >

'Regulation of Information (Services Outside the State for the Termination of Pregnancies) Bill: Explanatory Memorandum' [1995] < https://data.oireachtas.ie/ie/oireachtas/bill/1995/8/eng/memo/bills1995-10882-02.pdf >

Rundle K, Leigh C, McGee H, and Layte R, *Irish contraception and crisis pregnancy [ICCP] study: a survey of the general population summary* (Crisis Pregnancy Agency September 2004) Report no 7 summary, 16;

Second Commission on the Status of Women, *Report to the Government* (Stationary Office 1993)

Sekaggya M, 'Report of the Special Rapporteur on the Situation of Human Rights Defenders: addendum' (Human Rights Council 26 February 2013) A/HRC/22/47/Add.3

Sinn Féin's Department of Women's Affairs, *Abortion Ireland* (Sinn Féin 1981)

Students for Life, 'MyOptions Research Revealed' (17 January 2022) 1 < https://studentsforlife.ie/wp-content/uploads/2015/12/MyOptions-Research-Revealed.pdf >

Terminations for Medical Reasons*, Terminations for Medical Reasons: the women and families left behind by repeal* (Terminations for Medical Reasons 2022) < https://lmcsupport.ie/wp-content/uploads/2022/03/TFMR-Review-Report_FINAL_2022-1.pdf >

Well Woman, 'Submission by the Dublin Well Woman Centre to the Citizen's Assembly, December 2016' (December 2016) 3 < http://wellwomancentre.ie/wp-content/uploads/2016/12/Submission-to-Citizens-Assembly-Dec-2016.pdf >

Theses and dissertations

Bodelsson S, 'Transforming space for reproductive rights: Unequally supported action and resistance in everyday space for reproductive rights and justice in Ireland' (MSc thesis Lund University 2018)

Burke KR, 'Gender and the politics of the Irish Free State, 1922-137' (PhD thesis University of Notre Dame 2016)

Caherty T, 'Choosing to tell : women's accounts of the experience of abortion' (Mphil Trinity College Dublin 1994)

Dully H, 'Balance, binary debate and missing women: a discourse analysis and creative response to 30 years of the abortion debate on RTÉ current affairs television, 1983-2013' (PhD thesis, National University of Ireland, Galway 2016)

Larmour S, *Aspects of the State and Female Sexuality in the Irish Free State* (PhD thesis University College Cork 1998)

Loughlin P, 'Debating contraception, abortion and divorce in an era of controversy and change: new agendas and RTÉ radio and television programmes 1968-2018: Volume One' (PhD Thesis, Trinity College Dublin 2020)

Martin P, 'Censorship in the Two Irelands 1922-1939' (PhD thesis, Trinity College Dublin 2002)

Quinney DJ, ‘Abortion and Irish women: a descriptive study (by in-depth interview) exploring the experiences of 53 women from the Republic of Ireland having abortions in England’ (Master’s in public health University of Liverpool, 1991)

Rattigan C, ‘“Dark Spots” in Irish Society: Unmarried motherhood, crime and prosecution in Ireland, 1900-1950’ (PhD thesis Trinity College Dublin 2008)

Rose RS, ‘An outline of fertility control, focusing on the element of abortion in the Republic of Ireland to 1976’ (PhD Thesis University of Stockholm 1976)

Students for Life, ‘MyOptions Research Project.’ (17 January 2022) < https://studentsforlife.ie/wp-content/uploads/2015/12/MyOptions-Research-Project.pdf >

Appendix 1: List of main archives consulted

Folder/Manuscript number Switch dash to bracket	**Repository**
Online archive	Election Literature
Online archive	Irish Left Archive
Online archive	The Archive of the Irish in Britain, London Metropolitan University
24,129	National Library of Ireland
30,105	National Library of Ireland
33,607(21)	National Library of Ireland
33,626(2) check for this number as there was a 9 before the (2)	National Library of Ireland
39,316	National Library of Ireland
39,744-5	National Library of Ireland
40,507-7	National Library of Ireland
40,515-1	National Library of Ireland
40,518-3	National Library of Ireland
40,530-35	National Library of Ireland
40,531-44	National Library of Ireland
40,551-9	National Library of Ireland
40,551-10	National Library of Ireland
41,178-73	National Library of Ireland
41,194-6	National Library of Ireland
45,949-5	National Library of Ireland
41,193-5	National Library of Ireland
45,999-25	National Library of Ireland
49,494-225	National Library of Ireland
49,494-330	National Library of Ireland
49,494-228	National Library of Ireland
49,494-925(2)	National Library of Ireland
49,494-925, 3	National Library of Ireland
49,494-925(9)	National Library of Ireland
49,494-925(11)	National Library of Ireland
49,494-948(1)	National Library of Ireland
49,494-948, 3	National Library of Ireland
49,581-54-7	National Library of Ireland
50,132-2-6	National Library of Ireland
50,132-5	National Library of Ireland
90-102-04, 1 of 4	National Archives of Ireland
90-102-06, 2	National Archives of Ireland
90-102-07, 2	National Archives of Ireland
90-102-10	National Archives of Ireland
90-102-11	National Archives of Ireland
90-102-12, 1 of 2	National Archives of Ireland
90-102-13, 1 of 2	National Archives of Ireland
90-102-25	National Archives of Ireland

90-102-26, 1 of 2	National Archives of Ireland
90-102-26, 2 of 2	National Archives of Ireland
90-102-135	National Archives of Ireland
90-102-136	National Archives of Ireland
90-102-137	National Archives of Ireland
90-102-138	National Archives of Ireland
90-102-139, 2 of 3	National Archives of Ireland
90-102-140, 1 of 4	National Archives of Ireland
90-102-141, 1 of 3	National Archives of Ireland
90-102-142, 1 of 2	National Archives of Ireland
90-102-142, 2 of 2	National Archives of Ireland
90-102-176	National Archives of Ireland
90-102-215	National Archives of Ireland
90-102-228	National Archives of Ireland
90-102-230	National Archives of Ireland
90-102-231, 1 of 3	National Archives of Ireland
90-102-233	National Archives of Ireland
90-102-238	National Archives of Ireland
90-102-243	National Archives of Ireland
90-102-246	National Archives of Ireland
90-102-249	National Archives of Ireland
90-102-250	National Archives of Ireland
2006-148-14	National Archives of Ireland

Appendix 2: List of main debates analysed

This list covers the main Oireachtas debates that I used to form my analysis. It is not exhaustive as I also used debates found through additional searches, serendipitous discovery and following references in the literature.

Legislation	Date
Censorship of Publications Act 1929	Dáil Éireann debate, Thursday 19 July 1928 vol 25, no 7.
	Dáil Éireann debate, Thursday 18 October 1928, vol 26, no 5
	Dáil Éireann debate, Friday, 19 October 1928 vol.26, no. 6
	Dáil Éireann debate, Wednesday 24 October 1928, vol 26, no 7
	Dáil Éireann debate, Wednesday 20 February 1929, vol 28, no 1
	Dáil Éireann debate, Thursday, 21 February 1929, vol 28, no 2
	Dáil Éireann debate, Wednesday, 27 February 1929, vol 28, no 4
	Dáil Éireann debate, Wednesday 20 March 1929, vol 28, no 12
	Dáil Éireann debate, Friday 22 March 1929, vol 28, no 14
	Seanad Éireann debate, Wednesday 10 April 1929, vol 12, no 1
	Seanad Éireann debate, Thursday 11 April 1929, vol 12, no 2
	Seanad Éireann debate, Thursday 25 April 1929, vol 12, no 5
	Seanad Éireann debate, Thursday 2 May 1929, vol 12, no 7
	Seanad Éireann debate, Thursday, 9 May 1929, vol 12, no 9
	Seanad Éireann debate, Wednesday 15 May 1929, vol 12, no 10
	Seanad Éireann debate, Wednesday 5 June 1929, vol 12, no 12
	Seanad Éireann debate, Thursday 6 June 1929, vol 12, no 13
	Seanad Éireann debate, Wednesday 12 June 1929, vol 12, no 14
	Seanad Éireann debate, Thursday 20 June 1929, vol 12, no 15

	Dáil Éireann debate, Wednesday 26 June 1929, vol 30, no 14
	Dáil Éireann debate, Thursday 11 July 1929, vol 31, no 5
Senator John Keane's (Independent) 1942 motion to declare that the Censorship of Publications Board had lost public confidence, and the Minister for Justice should appoint new members.	Seanad Éireann debate, Wednesday 18 November 1942, vol 27, no 1
	Seanad Éireann debate, Wednesday 2 December 1942, vol 27, no 2
	Seanad Éireann debate, Wednesday 9 December 1942, vol 27, no 4
Censorship of Publications (Amendment) Bill 1944	Seanad Éireann debate, Wednesday 19 April 1944, vol 28, no 17
	Seanad Éireann debate, Tuesday 20 June 1944, vol 28, no 19
Censorship of Publications Act 1946	Dáil Éireann debate, Wednesday 10 October 1945, vol 98, No 1
	Dáil Éireann debate, Wednesday 24 October 1945, vol 98, no 5
	Dáil Éireann debate, Wednesday 7 November 1945, vol 98, no 7
	Seanad Éireann debate, Wednesday 14 November 1945, vol 30, no 10
	Seanad Éireann debate, Wednesday 28 November 1945, vol 30, no 11
	Seanad Éireann debate, Thursday 29 November 1945, vol 30, no 12
	Seanad Éireann debate, Wednesday 12 December 1945, vol 30, no 13
	Seanad Éireann debate, Thursday 13 December 1945, vol 30, no 14
	Dáil Éireann debate, Thursday 7 February 1946, vol 99, no 5
	Seanad Éireann debate, Wednesday 20 February 1946, vol 31, no 6
Censorship of Publications Act 1967	Dáil Éireann debate, Thursday 27 April 1967, vol 228, no 3
	Dáil Éireann debate, Wednesday 10 May 1967, vol 228, no 6
	Dáil Éireann debate, Wednesday 24 May 1967, vol 228, no 12
	Seanad Éireann debate, Wednesday 7 June 1967, vol 63, no 5
	Seanad Éireann debate, Wednesday 14 June 1967, vol 63, no 6
	Seanad Éireann debate, Wednesday 21 June 1967, vol 63, no 7
	Seanad Éireann debate, Wednesday 5 July 1967, vol 63, no 8
Family Planning Bill 1973	Seanad Éireann debate, 14 November 1973, vol 76, no1
	Seanad Éireann debate, 20 February 1974, vol 77, no 2

	Seanad Éireann debate, 21 February 1974, vol 77, no 3
	Seanad Éireann debate, Wednesday 27 March 1974, vol 77 no 7
Control of Importation, Sale and Manufacture of Contraceptives Bill 1974	Dáil Éireann debate, Thursday 21 March 1974, vol 271, no 5
	Dáil Éireann debate, Thursday 4 July 1974, no 274, no 3
	Dáil Éireann debate, Thursday 11 July 1974, vol 274, no 6
	Dáil Éireann debate, Tuesday 16 July 1974, vol 274, no 7
Family Planning Bill 1974	Seanad Éireann debate, Tuesday 17 December 1974, vol 79, no 3
	Seanad Éireann debate, Thursday 16 December 1976, vol 85, no 12
	Seanad Éireann debate, Wednesday 9 February 1977, vol 86, no 2
	Seanad Éireann debate, Thursday 5 May 1977, vol 86, no 10
Family Planning Bill 1978	Seanad Éireann debate, Wednesday 8 November 1978, vol 90, no 2
Health (Family Planning) Act 1979	Dáil Éireann debate, Friday 15 December 1978, vol 310, no 10
	Dáil Éireann debate, Wednesday 28 February 1979, vol 312, no 3
	Dáil Éireann debate, Thursday 29 March 1979, vol 313, no 5
	Dáil Éireann debate, Wednesday 4 April 1979, vol 313, no 7
	Dáil Éireann debate, Thursday 5 April 1979, vol 313, no 8
	Dáil Éireann debate, Wednesday 25 April 1979, vol 313, no 9
	Dáil Éireann debate, Wednesday 9 May 1979, vol 314, no 2
	Dáil Éireann debate, Tuesday 15 May 1979, vol 314, no 4
	Dáil Éireann debate, Tuesday, 12 June 1979, vol 315, no 1
	Dáil Éireann debate, Wednesday 13 June 1979 vol 315, no 2
	Dáil Éireann debate, Wednesday 20 June 1979, vol 315, no 5
	Dáil Éireann debate, Tuesday 26 June 1979, vol 315, no 7
	Seanad Éireann debate, Tuesday 3 July 1979, vol 92, no 8
	Seanad Éireann debate, Wednesday, 4 July 1979 vol 92, no 9
	Seanad Éireann debate, Wednesday, 11 July 1979 vol 92, no 11
	Seanad Éireann debate, Thursday, 12 July 1979, vol 92, no 12

	Seanad Éireann debate, 17 July 1979, vol 92, no 13
The Eighth Amendment	Dáil Éireann debate, Tuesday 2 November 1982 vol 338, no 3
	Dáil Éireann debate, Wednesday, 2 February 1983 vol 339, no 7
	Dáil Éireann debate, Wednesday, 9 February 1983 vol 339, no 10
	Dáil Éireann debate, Thursday, 17 February 1983 vol 340, no 3
	Dáil Éireann debate, Wednesday, 23 February 1983 vol 340, no 5
	Dáil Éireann debate, Wednesday, 2 March 1983 vol 340, no 8
	Dáil Éireann debate, Tuesday, 8 March 1983 vol 340, no 10
	Dáil Éireann debate, Thursday, 24 March 1983 vol 341, no 5
	Dáil Éireann debate, Wednesday, 27 April 1983 vol 341 no 10
	Dáil Éireann debate, Wednesday, 27 April 1983 vol 341, no 10
	Seanad Éireann debate, Wednesday, 4 May 1983 vol 100, no 5
	Seanad Éireann debate, Thursday, 5 May 1983 vol 100, no 6
	Seanad Éireann debate, Tuesday 10 May 1983 vol 100, no 7
	Seanad Éireann debate, Wednesday 11 May 1983 vol 100, no 8
	Seanad Éireann debate, Wednesday 18 May 1983 vol 100, no 9
	Seanad Éireann debate, Thursday 19 May 1983 vol 100, no 10
	Seanad Éireann debate, Wednesday 25 May 1983 vol 100, no 11
	Seanad Éireann debate, Thursday 26 May 1983 vol 100, no 12
Health (Family Planning)(Amendment) Act 1985	Dáil Éireann debate, Wednesday, 13 February 1985 vol 355, no 11
	Dáil Éireann debate, Thursday, 14 February 1985 vol 355, no 12
	Dáil Éireann debate, Tuesday, 19 February 1985 vol 356, no 1
	Dáil Éireann debate, Wednesday, 20 February 1985 vol 356, no 2
	Dáil Éireann debate, Thursday, 21 February 1985 vol 356, no 3
	Seanad Éireann debate, Wednesday, 27 February 1985 vol 107, no 6
	Seanad Éireann debate, Wednesday, 6 March 1985 vol 107, no 8
Eleventh Amendment of the Constitution Bill 1992	Dáil Éireann debate, Wednesday 26 February 1992 vol 416, no 3

	Dáil Éireann debate, Tuesday 12 May 1992 vol 419, no 5
	Dáil Éireann debate, Wednesday 13 May 1992 vol 419, no 6
Eleventh Amendment of the Constitution Act 1992	Dáil Éireann debate, Tuesday 5 May 1992 vol 419, no 1
	Dáil Éireann debate, Thursday 7 May 1992 vol 419, no 3
	Seanad Éireann debate, Thursday 14 May 1992 vol 132, no 10
	Seanad Éireann debate, Friday 15 May 1992 vol 132, no 11
Health (Family Planning)(Amendment) Act 1992	Dáil Éireann debate, Wednesday 8 July 1992 vol 422, no 4
	Dáil Éireann debate, Thursday 9 July 1992 vol 422, no 5
	Seanad Éireann debate, Tuesday 14 July 1992 vol 133, no 18
	Seanad Éireann debate, Wednesday 15 July 1992 vol 133, no 19
Fourteenth Amendment of the Constitution Act 1992	Dáil Éireann debate, Wednesday, 21 October 1992 vol 424, no 1
	Dáil Éireann debate, Thursday, 22 October 1992 vol 424, no 2
	Seanad Éireann debate, Thursday, 29 October 1992 vol 134, no 7
	Seanad Éireann debate, Friday, 30 October 1992 vol 134, no 8
Regulation of Information (Services outside the State for Termination of Pregnancies) Act 1995	Dáil Éireann debate, Thursday, 2 Mar 1995 Vol. 450 No. 1
	Dáil Éireann debate, Tuesday 7 March 1995 vol 450, no 2
	Dáil Éireann debate, Wednesday 8 March 1995 vol 450, no 3
	Dáil Éireann debate, Thursday 9 March 1995 vol 450, no 4
	Dáil Éireann debate, Friday 10 March 1995 vol 450, no 5
	Seanad Éireann debate, Monday 13 March 1995 vol 142, no 7
	Seanad Éireann debate, Tuesday, 14 March 1995 vol 142, no 8
	Dáil Éireann debate, Wednesday, 22 March 1995 vol 450, no 8
	Dáil Éireann debate, Tuesday 16 May 1995 vol 452, no 8
Censorship of Publications (Amendment) Bill 1998	Dáil Éireann debate, Tuesday 16 June 1998 vol 492, no 4
Care of Persons Board Bill 2001	Dáil Éireann debate, Wednesday 3 October 2001, vol 541, no 2
Health and Social Care Professionals Act 2005	Seanad Éireann debate, Tuesday, 9 November 2004 vol 178, no 13
	Seanad Éireann debate, Wednesday, 10 November 2004 vol 178, no 14

	Seanad Éireann debate, Wednesday, 17 November 2004 vol 178, no 15
	Seanad Éireann debate, Thursday 25 November 2004 vol 178, no 18
	Seanad Éireann debate, Wednesday, 27 April 2005 vol 180, no 5
	Dáil Éireann debate, Thursday 16 June 2005 vol 604, no 2
	Dáil Éireann debate, Wednesday 29 June 2005 vol 605, no 4
	Dáil Éireann debate, Thursday 30 June 2005 vol 605, No. 5
	Dáil Éireann debate, Thursday, 30 Jun 2005 Vol. 605, no 5
	Select Committee on Health and Children debate, Wednesday 28 September 2005
	Dáil Éireann debate, Wednesday 2 November 2005 vol 609, no 1
	Dáil Éireann debate, Tuesday 8 November 2005 vol 609, no 3
Health (Miscellaneous Provisions) Act 2009	Dáil Éireann debate, Thursday 2 April 2009 vol 679, no 3
	Dáil Éireann debate, Thursday 30 April 2009 vol 681, no 3
	Dáil Éireann debate, Wednesday 24 June 2009 vol 685, no 4
	Seanad Éireann debate, Thursday 2 July 2009 vol 196, no 9
	Seanad Éireann debate, Wednesday 8 July 2009 vol 196, no 12
	Dáil Éireann debate, Thursday 9 July 2009 vol 688, no 1
Medical Treatment (Termination of Pregnancy in Case of Risk to Life of Pregnant Woman) Bill 2012	Dáil Éireann debate, Wednesday 22 February 2012 vol 756, no 3
	Dáil Éireann debate, Wednesday 18 April 2012 vol 761, no 3
	Dáil Éireann debate, Thursday 19 April 2012 vol 762, no 1
Medical Treatment (Termination of Pregnancy in Case of Risk to Life of Pregnant Woman) (No. 2) Bill 2012	Dáil Éireann debate, Wednesday 21 November 2012 vol 783, no 3
	Dáil Éireann debate, Tuesday 27 November 2012 vol 784, no 2
	Dáil Éireann debate, Wednesday 28 November 2012 vol 784, no 3
Health and Social Care Professionals (Amendment) Act 2012	Dáil Éireann debate, Tuesday, 2 October 2012 vol 776, no 3
	Dáil Éireann debate, Wednesday 3 October 2012 vol 777, no 1
	Dáil Éireann debate, Thursday 29 November 2012 vol 784, no 4
	Seanad Éireann debate, Tuesday 11 December 2012 vol 129, no 8

	Seanad Éireann debate, Tuesday 18 December 2012 vol 219, no 11
Protection of Life During Pregnancy Act 2013	Dáil Éireann debate, Thursday 20 June 2013 vol 807, no 4
	Dáil Éireann debate, Wednesday 26 June 2013 vol 808, no 2
	Dáil Éireann debate, Thursday 27 June 2013 vol 808, no 3
	Dáil Éireann debate, Monday 1 July 2013 vol 805, no 1
	Select Sub-Committee on Health debate, Tuesday 2 July 2013
	Dáil Éireann debate, Tuesday, 2 July 2013 vol 809 no 2
	Select Sub-Committee on Health debate, Wednesday 3 July 2013
	Dáil Éireann debate, Wednesday 10 July 2013 vol 810, no 2
	Dáil Éireann debate, Thursday 11 July 2013 vol 810, no 3
	Seanad Éireann debate, Monday 15 July 2013 vol 225, no 1
	Seanad Éireann debate, Tuesday 16 July 2013 vol 225, no 2
	Seanad Éireann debate, Wednesday 17 July 2013 vol 225, no 3
	Seanad Éireann debate, Thursday 18 July 2013 vol 225, no 4
	Seanad Éireann debate, Monday 22 July 2013 vol 225, no 6
	Seanad Éireann debate, Tuesday 23 July 2013 vol 225, no 7
Censorship of Publications Board Repeal Bill 2013	Dáil Éireann debate, Wednesday 23 October 2013 vol 818, no 2
	Dáil Éireann debate, Friday 24 January 2014 vol 827, no 4
	Dáil Éireann debate, Tuesday 28 January 2014 vol 828, no 1
Thirty-fourth Amendment of the Constitution (Right to Personal Autonomy and Bodily Integrity) Bill 2014	Dáil Éireann debate, Thursday 27 November 2014 vol 859, no 3
	Dáil Éireann debate, Tuesday 16 December 2014 vol 862, no 1
	Dáil Éireann debate, Wednesday 17 December 2014 vol 862, no 2
Protection of Life During Pregnancy (Amendment) (Fatal Foetal Abnormalities) Bill 2015	Dáil Éireann debate, Thursday 5 March 2015 vol 870, no 3
Thirty-fifth Amendment of the Constitution (Repeal of the Eighth Amendment) Bill 2016	Dáil Éireann debate, Thursday 30 June 2016 vol 916, no 1
	Dáil Éireann debate, Tuesday 25 October 2016 vol 926, no 1
	Dáil Éireann debate, Thursday 27 October 2016 vol 926, no 3

Health and Social Care Professionals (Amendment) Act 2017	Dáil Éireann debate, Tuesday 20 June 2017 vol 954, no 1
	Dáil Éireann debate, Thursday 22 June 2017 vol 955, no 2
	Select Committee on Health debate, Tuesday 11 July 2017
	Dáil Éireann debate, Wednesday 15 November 2017 vol 961, no 5
	Seanad Éireann debate, Tuesday 21 November 2017 vol 254, no 6
	Seanad Éireann debate, Thursday 30 November 2017 vol 254, no 11
Thirty-sixth Amendment of the Constitution Act 2018	Dáil Éireann debate, Friday 9 March 2018 vol 966, no 6
	Dáil Éireann debate, Tuesday, 20 March 2018 vol 966, no 7
	Dáil Éireann debate, Wednesday, 21 March 2018 vol 966, no 8
	Seanad Éireann debate, Tuesday, 27 March 2018 vol 257, no 1
	Seanad Éireann debate, Wednesday, 28 March 2018 vol 257, no 2
Health (Regulation of Termination of Pregnancy) Act 2018	Dáil Éireann debate, Thursday 4 October 2018 vo. 973, no 1
	Dáil Éireann debate, Tuesday 16 October 2018 vol 973, no 5
	Dáil Éireann debate, Wednesday, 17 October 2018 vol 973, no 6
	Dáil Éireann debate, Thursday, 18 October 2018 vol 973, no 7
	Dáil Éireann debate, Tuesday 23 October 2018 vol 974, no 1
	Select Committee on Health debate, Tuesday 6 November 2018
	Select Committee on Health debate, Wednesday 7 November 2018
	Select Committee on Health debate, Thursday 8 November 2018
	Dáil Éireann debate, Tuesday 27 November 2018 vol 975, no 5
	Dáil Éireann debate, Wednesday 28 November 2018 vol 975, no 6
	Dáil Éireann debate, Thursday 29 November 2018 vol 975, no 7
	Dáil Éireann debate, Tuesday 4 December 2018 vol 976, no 1
	Dáil Éireann debate, Wednesday 5 December 2018 vol 976, no 2
	Seanad Éireann debate, Thursday 6 December 2018 vol 262, no 1
	Seanad Éireann debate, Monday 10 December 2018 vol 262, no 2
	Seanad Éireann debate, Tuesday 11 December 2018 vol 262, no 3

	Seanad Éireann debate, Thursday 13 December 2018 vol 262, no 5

Appendix 3: Timeline of important legal developments

Year	Case or development	Outcome
1803	The Miscarriage of Women Act (Lord Ellensborough's Act)	Created a felony offence for abortion after the 'quickening' i.e., around the second trimester. Lesser penalties applied to earlier abortions. One of the purposes attributed to this Act was the protection of pregnant people from unsafe abortions.[1]
1837	Offences Against the Person Act	Abolished the distinction between a quickened and non-quickened foetus.[2]
1861	Offences Against the Person Act	Established offences of procuring own miscarriage for pregnant people or supplying or procuring drugs or devices intended to be used to cause a pregnant person to miscarry.[3] It also created offences for being a principal in the second degree, an accessory before the fact, or for the counselling, aiding or abetting 'commission of any indictable misdemeanour.'[4]
July 1923	Censorship of Films Act	Under this Act the Minister for Justice appointed an Official Censor for films who would certify if a film was suitable for public showing, or would specify conditions required for a film to be considered suitable.[5] It was an offence to show an uncertified film in public.[6] A film could be denied certification or could be edited for certification if the Official Censor deemed it to be 'indecent, obscene or blasphemous' or if it would 'inculcate principles contrary to public morality or would be otherwise subversive of public morality'.[7] The Act also established an Appeal Board who could recommend that the Official Censor reconsider his decision to deny or impose conditions upon a

[1] Irish Council for Civil Liberties, 'The Need for Abortion Law Reform in Ireland: The Case Against the Twenty-Fifth Amendment of the Constitution Bill, 2001' [2001] 17 < https://www.iccl.ie/archive/the-need-for-abortion-law-reform-in-ireland-the-case-against-the-twenty-fifth-amendment-of-the-constitution-bill-2001/ > accessed 15 June 2023.
[2] ibid.
[3] Offences Against the Person Act 1861, ss 58 and 59.
[4] Offences Against the Person Act 1861, s 67.
[5] Censorship of Films Act 1923, ss 2, 5, 6, and 7.
[6] Censorship of Films Act 1923, ss 5(2) and 6.
[7] Censorship of Films Act 1923, s 7(2).

		certificate.[8] The Minister for Justice could also make regulations under the Act.[9]
September 1923	Geneva Convention for the Suppression of the Circulation and Traffic in Obscene Publications[10]	This was primarily an anti-obscenity Treaty where countries, including the Irish Free State, agreed to work together to attempt to stop cross-border movement of these publications.[11]
1925	Censorship of Films (Amendment) Act	This Act required any extracts from films used in other mediums like advertisements to have the approval of the Official Censor.[12] The Official Censor was also able to prohibit advertisements, posters, playbills etc. if he deemed them 'indecent, obscene…blasphemous, or because the display thereof in public would convey suggestions contrary to public morality or would be…subversive of public morality'.[13] It was an offense to display or disseminate non-approved materials.[14]
1927	Report of the Committee on Evil Literature[15]	The Committee was formed to consider if Ireland's censorship framework was sufficient to ensure the protection and preservation of 'public morality'.[16] It concluded that it was not and recommended that a Board be established to advise the Minister for Justice of any works that should be prohibited. This could be done on the basis that these publications were 'demoralising or corrupting' or that they advocated contraception.[17] The Committee also recommended that the definition of indecent or obscene in the Indecent Advertisements Act 1889 be expanded to include coded terms that were covers for abortion or abortifacients.[18]
1929	Censorship of Publications Act	This legislation allowed the Minister for Justice to issue prohibition orders preventing publications from being imported or sold without a licence. The grounds for this prohibition included that the publication had advocated abortion.[19] It also prohibited the unauthorised creation or dissemination of publications that advocated or could be said to have advocated abortion and expanded the definition of indecent or obscene in the Indecent Advertisements Act 1889 to include

[8] Censorship of Films Act 1923, ss 3 and 8.
[9] Censorship of Films Act 1923, s 12.
[10] Kevin Boyle and Marie McGonagle, 'Censorship of Publications - Irish Style' (1999) 10 Journal of Media Law and Practice 87, 88.
[11] International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications (concluded 12 September 1923) 46 League of Nations Treaty Series 201.
[12] Censorship of Films (Amendment) Act 1925, s 2.
[13] Censorship of Films (Amendment) Act 1925, s 3(2).
[14] Censorship of Films (Amendment) Act 1925, ss 2, 3 and 4.
[15] Committee on Evil Literature, 'Report of the Committee on Evil Literature' (Stationary Office 1927).
[16] ibid A2.
[17] ibid 19-20.
[18] ibid 19-20.
[19] Censorship of Publications Act 1929, ss 6 and 7.

		wording reflecting that used by illegal abortion providers.[20]
1930	Censorship of Films (Amendment) Act	Extended previous restrictions to 'talkie films' i.e., films with sound and speech.[21]
1933	Import levies in budget	The government imposes a levy of 2/5d on imported English daily newspapers. Commentators viewed this as an indirect censorship measure intended to dissuade readers from purchasing them.[22]
1942	Motion	Senator John Keane (Independent) introduced the motion 'That, in the opinion of Seanad Eireann, the Censorship of Publications Board appointed by the Minister for Justice under the Censorship of Publications Act, 1929, has ceased to retain public confidence, and that steps should be taken by the Minister to reconstitute the board.'[23] It was defeated.[24]
1944	Censorship of Publications (Amendment) Bill	This Bill was introduced by two opposition Senators – Sam Kyle (Labour) and John Keane (Independent) –to establish a Censorship of Publications Appeal Tribunal.[25] It would have required the Minister for Justice to give notice to the author or publisher of a book that it was being considered for prohibition. This way they could appeal to the Tribunal.[26] If the Tribunal found in their favour, no prohibition order would be issued. The proposers did not press the Bill as the government promised to introduce their own legislation to restructure the appeals process.[27]
1946	Censorship of Publications Act	This legislation created the Censorship of Publications Appeal Board,[28] and transferred the power to issue prohibition orders to the Censorship of Publications Board.[29]
1965	*Ryan v Attorney General*[30]	The Supreme Court confirmed that the Constitution contained unenumerated, actionable personal rights.
1967	Censorship of Publications Act	This legislation introduced a 12 year time limit for prohibition orders issued on the grounds that a

[20] Censorship of Publications Act 1929, ss 16 and 17.
[21] Censorship of Films (Amendment) Act 1930, ss 2 and 3; The Minister for Justice James Fitzgerald-Kenney (Cumann na nGaedheal, later Fine Gael) Dáil Éireann debate, Friday 11 April 1930, vol 34, no 8.
[22] Michael Adams, *Censorship: the Irish Experience* (University of Alabama 1968) 67.
[23] Senator John Keane (Independent) Seanad Éireann debate, Wednesday 18 November 1942, vol 27, no 1; Seanad Éireann debate, Wednesday 2 December 1942, vol 27, no 2; Seanad Éireann debate, Wednesday 9 December 1942, vol 27, no 4.
[24] One argument presented by opponents of the motion as to why it should fail was that the public did not know enough about the Censorship Board to have lost confidence in them. See debates ibid.
[25] Censorship of Publications (Amendment) Bill 1944, s 4.
[26] Censorship of Publications (Amendment) Bill 1944, s 3.
[27] Senator John Keane, Seanad Éireann debate, Tuesday 20 June 1944, vol 28 no 19; For record of dissolution see Houses of the Oireachtas, 'History of this Bill' < https://www.oireachtas.ie/en/bills/bill/1944/12/ > accessed 5 January 2023.
[28] Censorship of Publications Act 1946, s 3.
[29] Censorship of Publications Act 1946, ss 7 and 9.
[30] [1965] IESC 1; [1965] IR 294.

		publication was indecent or obscene.[31] It also expanded the time available for appeals to the Appeal Board to be launched.[32]
1970	Censorship of Films (Amendment) Act	This Act permitted any certificate issued for a film before 1965, or any film after 7 years, to be resubmitted for review.[33]
1971	Criminal Law (Amendment) Bill	This Bill introduced by Senators Mary Robinson (Independent and later Labour Party and Independent), John Horgan (Labour Party) and Trevor West (Independent) proposed to remove the advocation of contraception as a ground for prohibition in the Censorship of Publications Acts 1929 and 1946 and the Indecent Advertisements Act 1889.[34] The Bill was refused a second reading by the government and was not even printed.[35]
November 1973	Family Planning Bill	This Bill introduced by Senators Mary Robinson (Independent and later Labour Party and Independent), John Horgan (Labour Party) and Trevor West (Independent) proposed to remove contraception as a ground for prohibition in the Censorship of Publications Acts 1929 and 1946 and the Indecent Advertisements Act 1889.[36] This Bill was defeated by a vote.[37]
December 1973	*McGee v Attorney General and the Revenue Commissioners*[38]	The Supreme Court found that section 17 of the Criminal Law (Amendment) Act 1935 was repugnant to the Constitution on the basis that it violated Mary McGee's unenumerated right to a private, family life. Mary McGee was supported by the IFPA.[39]
March 1974	Control of Importation, Sale and Manufacture of Contraceptives Bill	This Bill proposed to remove contraception as a ground for prohibition in the Censorship of Publications Acts 1929 and 1946 and the Indecent Advertisements Act 1889.[40] It also proposed to allow for a person entitled to appeal under the 1946 Act to apply to the Board for a review of a prohibition order on the ground that it did not advocate abortion. If they found no advocation of abortion, the Board could revoke the prohibition

[31] Censorship of Publications Act 1967, s 2. Though the Board could reissue prohibition orders for a further 12 years under s 3.
[32] Censorship of Publications Act 1967, s 4.
[33] Censorship of Films (Amendment) Act 1970, s 2. The Minister for Justice Michael Moran (Fianna Fáil) Dáil Éireann debate, Wednesday 8 April 1970, vol 245, no 6.
[34] Criminal Law (Amendment) Bill 1971, ss 2 and 3.
[35] 'Bill on contraception, censorship published: was refused second reading' *The Irish Times* (Dublin, 26 October 1972) 7.
[36] Family Planning Bill 1973, ss 4 and 5.
[37] Houses of the Oireachtas, 'History of this Bill' <https://www.oireachtas.ie/en/bills/bill/1973/33/> accessed 6 January 2023.
[38] [1973] IESC 2; [1974] IR 284.
[39] Irish Family Planning Association, 'Submission to the Citizens' Assembly: A health and rights approach to abortion in Ireland' (16 December 2016) 11.
[40] Control of Importation, Sale and Manufacture of Contraceptives Bill 1974, ss 12 and 13.

		order.[41] Despite this being a government Bill, it was defeated by a vote.[42]
1974	Family Planning Bill	This Bill introduced by Senators Mary Robinson (Independent and later Labour Party and Independent), John Horgan (Labour Party) and Trevor West (Independent) proposed to remove contraception as a ground for prohibition in the Censorship of Publications Acts 1929 and 1946 and the Indecent Advertisements Act 1889.[43] It also proposed to allow for a person entitled to appeal under the 1946 Act to apply to the Board for a review of a prohibition order on the ground that it did not advocate abortion. If they found no advocation of abortion, the Board could revoke the prohibition order.[44] This Bill was defeated by a vote.[45]
July 1977	*The Irish Family Planning Association and Wilson v Ryan and Others*[46]	Hamilton J. in the High Court found that the Board had a duty to exercise their powers fairly and in accordance with natural justice. Their failure to inform the IFPA that they were considering prohibiting their book, *Family Planning: A Guide for Parents and Prospective Parents*, on the grounds of it being indecent or obscene, was a breach of these constitutional principles and therefore the order was void.[47]
1978	Family Planning Bill	This Bill introduced by Senators Mary Robinson (Labour Party, previously and later Independent), Justin Keating (Labour Party) and John Harte (Labour Party) proposed to remove contraception as a ground for prohibition in the Censorship of Publications Acts 1929 and 1946 and the Indecent Advertisements Act 1889.[48] It also proposed to allow for a person entitled to appeal under the 1946 Act to apply to the Board for a review of a prohibition order on the ground that it did not advocate abortion. If they found no advocation of abortion, the Board could revoke the prohibition order.[49] This Bill lapsed with the dissolution of the Oireachtas.[50]
1978	*The Irish Family Planning Association and Wilson v Ryan and Others*[51]	The Supreme Court rejected the Board's appeal on the grounds the content of the publication was not indecent or obscene. Rather it was a

[41] Control of Importation, Sale and Manufacture of Contraceptives Bill 1974, s 11.
[42] Houses of the Oireachtas, 'History of this Bill' <https://www.oireachtas.ie/en/bills/bill/1974/43/> accessed 6 January 2023.
[43] Family Planning Bill 1974, ss 6 and 7.
[44] Family Planning Bill 1974, s 5.
[45] It was introduced to the Oireachtas in December 1974, but was not voted against until February 1977. Houses of the Oireachtas, 'History of this Bill' <https://www.oireachtas.ie/en/bills/bill/1974/43/> accessed 6 January 2023.
[46] [1979] IR 295.
[47] ibid 295.
[48] Family Planning Bill 1978, ss 6 and 7.
[49] Family Planning Bill 1978, s 5.
[50] Houses of the Oireachtas, 'History of this Bill' <https://www.oireachtas.ie/en/bills/bill/1978/37/> accessed 6 January 2023.
[51] [1979] IR 295.

		legitimate medical publication for use with the clients/patients of the IFPA. Had the Board used their discretionary powers and consulted the IFPA, the Board would have realised this and therefore they acted unjustly and the order was void.[52]
1979	Health (Family Planning) Act	This legislation removed the advocation of contraception as a ground for prohibition under the Censorship of Publications Acts 1929 and 1946, and from prohibited forms of advertising in the Indecent Advertisements Act 1889.[53] The Minister for Health could also refuse to grant a licence to a family planning service unless he was satisfied that it was in the 'public interest'.[54] The IFPA were one of the groups consulted by the Minister for Health.[55]
June 1983	*Roche v Ireland*[56]	Gerald Roche's application to the High Court seeking an injunction to prevent the Eighth Amendment referendum being held was refused by Carroll J.[57]
July 1983	*Finn v The Attorney General*[58]	Eugene Finn's application to the High Court seeking an injunction to prevent the Eighth Amendment referendum from being held was refused by the High Court. His appeal was refused by the Supreme Court.
September 1983	The Eighth Amendment	Inserted the following text into the Constitution as Article 40.3.3°: '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.'[59]
1985	Health (Family Planning) (Amendment) Act	The Act increased the type of persons/organisations who could be authorised to provide contraceptives.[60] Part of the reason given for doing so was that there was a recognised link between abortion numbers and lack of contraceptive use.[61] The Minister for Health stated during scrutiny that he would not permit those operating abortion referral services to provide family planning services.[62]
1986	*Attorney General (at the relation of the Society for the Protection of Unborn*	The High Court held that Open Door Counselling and Dublin Well Woman were endangering foetal life contrary to Article 40.3.3° by providing

[52] ibid 295-6.
[53] Health (Family Planning) Act 1979, s 12.
[54] Health (Family Planning) Act 1979, s 3(2)(b).
[55] The Minister for Health Charles Haughey (Fianna Fáil) Dáil Éireann debate, Tuesday 24 October 1978, vol 308, no 6.
[56] *Roche v Ireland and others* (High Court, 16 June 1983).
[57] 'Man fails in High Court attempt to stop abortion referendum' *The Irish Times* (Dublin, 18 June 1983) 8.
[58] [1983] IR 154.
[59] Eighth Amendment of the Constitution Act 1983; For a full timeline of events see 'Chronology of long campaign' *The Irish Times* (Dublin, 7 September 1983) 10.
[60] Health (Family Planning) (Amendment) Act 1985, s 2.
[61] The Minister for Health Barry Desmond (Labour) Dáil Éireann debate, Thursday 14 February 1985, vol 355, no 12.
[62] The Minister for Health Barry Desmond (Labour) Dáil Éireann debate, Wednesday 20 February 1985, vol 356, no 2.

	Children) v Open Counselling Limited and Dublin Well-Woman Centre Limited[63]	pregnant people with information about how to access an abortion abroad, and by assisting them to make appointments with abortion services.[64] The High Court enjoined the counsellors to prevent them from providing counselling or assistance to abortion seekers that would facilitate them in having an abortion or accessing further advice about abortion abroad.[65]
March 1988	*Attorney General (at the relation of The Society for the Protection of Unborn Children) v Open Door Counselling Limited and Dublin Wellwoman Centre Limited*[66]	The Supreme Court dismissed Open Door and Well Woman's appeal. This was on the basis that the information-sharing of the counsellors had violated the foetal right to life enshrined in Article 40.3.3°.[67]
September 1988	*The Society for the Protection of Unborn Children v Diarmuid Coogan and Others*[68]	Carroll J finds that SPUC did not have *locus standi* to take an action against UCDSU on their own merit.[69]
July 1989	*The Society for the Protection of Unborn Children v Diarmuid Coogan and Others*[70]	A majority in the Supreme Court overturned Carroll J's decision, declaring that SPUC had *locus standi*.[71] They returned the case to the High Court for consideration.
October 1989	The Society for the *Protection of Unborn Children (Ireland) Limited v Stephen Grogan and others*[72]	In the High Court, Costello J. granted an interim order against the officers of UCDSU, TCDSU, and USI to restrain them from publishing information about how and where to access abortion services abroad in their guidebook. He later granted an *ex parte* motion for attachment and committal against those who SPUC had accused of breaking the earlier order.[73] SPUC's application for an interlocutory injunction came before Carroll J. She did not issue an one against the defendants.[74] Nor did she issue a committal order, or an order to seize the unions' funds, as the newspaper clippings submitted by SPUC as evidence were not sufficient.[75] She did agree to refer a number of questions relating to the unions case to the European Court of Justice as part of an Article 177 application.[76]

[63] 1986 WJSC-HC 1783.
[64] ibid 209-212 (Hamilton P).
[65] ibid 215-219.
[66] [1988] IR 593.
[67] ibid 594.
[68] [1989] IR 734.
[69] ibid 737.
[70] [1989] IR 734.
[71] ibid 734.
[72] [1989] IR 753.
[73] ibid 754; 757.
[74] ibid 754.
[75] *Carroll J.* ibid 759.
[76] *Carroll J.* ibid 758.

December 1989	The Society for the *Protection of Unborn Children (Ireland) Limited v Stephen Grogan and others*[77]	SPUC appealed to the Supreme Court. The Court granted an interlocutory injunction against the unions on the grounds that they were engaged in an activity that had been declared unlawful in *Open Door*.[78]
December 1989	Video Recordings Act	Under this Act, the Official Censor could refuse to issue a certificate, or could issue a prohibition order, for a 'video work' on multiple grounds. These included if the work incited or encouraged a person to commit crimes, if it was obscene or indecent matter, or if it would 'deprave or corrupt' people.[79] It also allowed for the granting of age ratings.[80] The Act created an offence of showing or disseminating a prohibited work unless it was exempt.[81] Such exemptions included if the video was for medical training purposes.[82]
June and October 1991	*The Society for the Protection of Unborn Children Ireland Ltd v Stephen Grogan and others*	Mr Advocate General Van Gerven concluded that abortion when provided lawfully and for remuneration was a protected service under Article 60 of the EEC Treaty. However, the Irish State had the right to limit access to those services as foetal rights to life were recognised in the Constitution and had been placed there after a referendum.[83] The European Court of Justice agreed with Van Gerven that abortion when provided lawfully for remuneration was a protected service. They also found in favour of the State but instead based on the rationale that the applicants engaged in information-sharing on a voluntary basis and therefore could not be considered protected commercial operators.[84]
November 1991	Protocol 17 to the Treaty on European Union (Maastricht Treaty)[85]	It read, 'Nothing in the Treaty on the European Union, or in the Treaties establishing the European Communities or in the Treaties or Acts modifying or supplementing those Treaties, shall affect the application in Ireland of Article 40.3.3. of the Constitution of Ireland'[86]

[77] [1989] IR 753.
[78] ibid 755.
[79] Video Recordings Act 1989, ss 3 and 7.
[80] Video Recordings Act 1989, s 4.
[81] Video Recordings Act 1989, ss 2, 5, 6, 7, 8, 9, 11, 16, and 27.
[82] Video Recordings Act 1989, s 2(1)(g).
[83] Case C-159/90 *The Society for the Protection of Unborn Children Ireland Ltd v Stephen Grogan and others* [1991] European Court reports 1991 Page I-04685, Opinion of Mr Advocate General Van Gerven, para. 41, [p. 14].
[84] Case C-159/90, *The Society for the Protection of Unborn Children Ireland Ltd v Stephen Grogan and others* (1991).
[85] The *Irish Times* reported that this was when the government first raised the question of creating a Protocol to protect Irish abortion law from European influence. See Sean Flynn, 'Protocol 'does not undermine' EC legislation' *The Irish Times* (Dublin, 25 February 1992) 4.
[86] See Protocol 17 in Council of the European Communities, Commission for the European Communities 'Treaty on European Union' (Office for Official Publications of the European Communities 1992) < https://europa.eu/european-union/sites/europaeu/files/docs/body/treaty_on_european_union_en.pdf> accessed 25 February 2020.

February-March 1992	*Attorney General v X*[87]	Costello J. in the High Court enjoined a 14-year-old survivor of sexual violence and her family to prevent them from travelling for an abortion. He based his rationale on the obligation to protect foetal rights to life under Article 40.3.3°.[88] His decision was overturned by a majority of the Supreme Court who held that where there was 'a real and substantial risk to the life of the mother', she could access an abortion. This included *X* who was suicidal and hence she was lawfully free to travel for an abortion.[89]
March 1992	Solemn Declaration on the interpretation of Protocol 17	To quell fears that the Protocol would limit the rights of Irish women, the State agreed a Solemn Declaration with their Treaty partners. It read: 'That it was and is their intention that the Protocol shall not limit freedom to travel between Member States or, in accordance with conditions which may be laid down, in conformity with Community law, by Irish legislation, to obtain or make available in Ireland information relating to services lawfully available in Member States. At the same time the High Contracting Parties solemnly declare that, in the event of a future constitutional amendment in Ireland which concerns the subject matter of Article 40.3.3 of the Constitution of Ireland and which does not conflict with the intention of the High Contracting Parties hereinbefore expressed, they will, following the entry into force of the Treaty on European Union, be favourably disposed to amending the said Protocol so as to extend its application to such constitutional amendment if Ireland so requests'.[90]
April 1992	Eleventh Amendment (Bill 11 of 1992)	Introduced by Brendan Howlin, it intended to remove Article 40.3.3° in response to the *X* case. It was defeated by a vote.[91]
June 1992	Eleventh Amendment (Act C11 of 1992, Bill 12 of 1992)	The referendum to ratify the Treaty on European Union (Maastricht Treaty) was passed by the Irish Electorate.[92]
July 1992	Health (Family Planning)(Amendment) Act	The purpose of this act was to address the HIV/AIDS crisis and to align the law more with the public's acceptance of contraception.[93]

[87] [1992] 1 IR 1.
[88] ibid 1-2.
[89] ibid 3.
[90] 'Treaty on European Union - Declaration of the High Contracting Parties to the Treaty on European Union' (29 August 1992) 11992M/AFI/INT/IRL, *C 191* < https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:11992M/AFI/INT/IRL&qid=1614260886985&from=EN> accessed 15 January 2023.
[91] Houses of the Oireachtas, 'History of this Bill' < https://www.oireachtas.ie/en/bills/bill/1992/11/ > accessed 21 December 2023.
[92] Houses of the Oireachtas, 'History of this Bill' < https://www.oireachtas.ie/en/bills/bill/1992/12/ > accessed 30 June 2023.
[93] The Minister for Health John O'Connell (Fianna Fáil, previously Independent and Labour Party) Dáil Éireann debate, Wednesday 8 July 1992, vol 422, no 4.

		Amendment No. 10 was introduced by Deputy Pronsias de Rossa (Democratic Left, formerly Workers Party and Sinn Féin Workers Party, later Labour Party). It was intended to delete section 17 of the Censorship of Publications Act 1929 in order to amend the Indecent Advertisements Act 1889 to allow Health Boards to advertise products e.g., condoms, to combat the spread of HIV/AIDS. Amendment 32 introduced by Deputies Richard Bruton and Michael Creed (Fine Gael) and Amendment 37 by Deputy Brendan Howlin (Labour Party) were intended to amend the 1929 Act in the same way. The Minister for Health John O'Connell (Fianna Fáil, previously Independent and Labour Party) said these changes were unnecessary as the 1929 and 1889 Acts were aimed at 'obscene materials' and not responsible Health Board content.[94] Hence, the refused to accept them.
July 1992	*The Society for the Protection of Unborn Children (Ireland) Limited v Stephen Grogan and others (No.3)*[95]	In the High Court, Morris J. ruled that the students' unions could not rely upon promises made by legislators about the effect of Protocol 17 and the Solemn Declaration to the Maastricht Treaty to prevent the injunction against them being made permanent. This was because the Treaty had not yet come into effect, the witness in question (an advisor to the AG) had legal professional privilege and the witness would be asked about domestic matters which was not within his competency.[96]
August 1992	*The Society for the Protection of Unborn Children (Ireland) Limited v Stephen Grogan and others (No 4)*[97]	In the High Court, Morris J. granted a permanent injunction against the defendants.
October 1992	*Open Door and Well Woman v Ireland*[98]	The European Court of Human Rights found that the injunction issued against the counsellors violated their Article 10 - freedom of expression – rights. This was because they regarded the injunction as being overbroad as it also restrained them from providing information to a person who was entitled to an abortion under the *X* case decision.[99]
November 1992	Fourteenth Amendment	The Fourteenth Amendment was passed by the electorate. It read, 'This subsection shall not limit freedom to obtain or make available, in the State, subject to such conditions as may be laid down by law, information relating to services lawfully

[94] Dáil Éireann debate, Thursday 9 July 1992, vol 422, no 5.
[95] [1992] 2 IR 471.
[96] ibid 742-743.
[97] [1994] 1 IR 46.
[98] Application no. 14234/88; 14235/88 (European Court of Human Rights, 29 October 1992).
[99] ibid paras. 73-74, p. 24; para. 80, p. 25.

		available in another state.'[100] They also voted for the Thirteenth Amendment (freedom to travel)[101] and against the Twelfth Amendment (remove suicide as a risk to life of the mother under Article 40.3.3°).[102]
December 1992	Censorship of Films (Amendment) Act	Created the position of Assistant Censor. They could be appointed by the Minister for Justice.[103]
1993	*Attorney General (at the relation of The Society for the Protection of Unborn Children) v Open Door Counselling Limited and Dublin Wellwoman Centre Limited (No. 2)*[104]	The majority of the Supreme Court refused to lift the injunction from Well Woman and Open Door, arguing that they did not have the power to do so as the injunction had been issued in the High Court.[105] Denham J. dissented, stating that the injunction should be lifted so that the rights of information sharers, and seekers, would not be frustrated.[106]
October 1994	*Open Door and Well Woman v Ireland*[107]	Carroll J. refused to recuse herself from hearing the review of the injunction as requested by SPUC. SPUC had asked her to do so as she had been chair of the Commission on the Status of Women when they had requested that the government take action to confirm and protect the right to access information about abortion services abroad before the passing the Fourteenth Amendment.
November 1994	Fianna-Fáil and Labour Party Information Bill	It was reported that this Bill would have permitted crisis pregnancy service providers to make appointments and travel arrangements on behalf of information sharers.[108] It would have also required the provision of information about abortion and continuing the pregnancy to the abortion seeker.[109] The Bill did not progress due to the government collapsing.[110]
December 1994	*Open Door and Well Woman v Ireland*[111]	SPUC appealed Carroll J.'s refusal to step down from hearing the Well Woman case. The Supreme Court overturned Carrol J.'s decision, with Denham J. giving the judgment. She stated that while there was no evidence of Carroll J. being biased, in the interests of the perception of justice, she should have stepped aside.

[100] Houses of the Oireachtas, 'History of this Bill' < https://www.oireachtas.ie/en/bills/bill/1992/26/ > accessed 30 June 2023.
[101] Houses of the Oireachtas, 'History of this Bill' < https://www.oireachtas.ie/en/bills/bill/1992/25/ > accessed 30 June 2023.
[102] Houses of the Oireachtas, 'History of this Bill' < https://www.oireachtas.ie/en/bills/bill/1992/24/ > accessed 30 June 2023.
[103] Censorship of Films (Amendment) Act 1992, s 2.
[104] [1994] 2 IR 333.
[105] ibid 334. The judges were Finlay CJ. and Hederman, Egan and Blayney JJ.
[106] ibid 334.
[107] [1994] 10 JIC 1201, 1994 WJSC-HC 2698.
[108] Maol Muire Tynan, 'Abortion Bill Will Not Outlaw Referrals' *The Irish Times* (Dublin 3 November 1994), 1.
[109] Deaglán De Bréadún, 'FF-Labour agreement to speed pace of change' *The Irish Times* (Dublin, 5 December 1994) 7.
[110] Lisa Smyth, *Abortion and Nation: The Politics of Reproduction in Contemporary Ireland* (Routledge 2005); Harry McGee 'Coalition in power two years when Smyth row erupted' *The Irish Times* (Dublin, 15 March 2010) 7.
[111] 1994 WJSC-SC 2704.

March 1995	Regulation of Information (Services outside the State for Termination of Pregnancies) Act	This Act regulated how information about how and where to access abortion services abroad could be provided in public and in crisis pregnancy counselling or medical consultations to pregnant people.[112] These included prohibitions on advocating or promoting abortion, that the information should be truthful and objective and crisis pregnancy professionals could not make appointments for information recipients.[113] Crisis pregnancy professionals were also required to counsel and advise a person about the continuation of pregnancy 'at the same time' as providing information about how and where abortions can be accessed abroad.[114] 'Unsolicited' notices or publications remained prohibited.[115] Violation of these restrictions and requirements were offences.[116] The 1995 also confirmed that the inclusion of information about how and where to access an abortion abroad would not be eligible for prohibition or prosecution under the Indecent Advertisements Act 1889 or the Censorship of Publications Act 1929 and 1946, if the information was legal under the 1995 Act.[117]
May 1995	*In the matter of Article 26 of the Constitution and in the matter of the Regulation of Information (Services outside the State for Termination of Pregnancies) Bill 1995*[118]	President Mary Robinson referred the Regulation of Information (Services outside the State for Termination of Pregnancies) Bill 1995 for a Supreme Court review of its Constitutionality. Hamilton CJ delivered the judgment and the Court found that the Bill was compatible with the Constitution.
June 1995	*Attorney General (at the relation of The Society for the Protection of Unborn Children) v Open Door Counselling Limited and Dublin Wellwoman Centre Limited*	The AG, SPUC and Well Woman agree to lift the injunction. Geoghegan J. approved the change and ordered the State to pay Well Woman's costs and SPUC to pay their own.[119]
1996	*Report of the Constitution Review Group*[120]	The Group recommended the introduction of legislation to clarify issues of definition, legal medical treatment, and gestational limits.[121] It did state that not enough attention was being given to non-legal means to reduce abortions such as education and counselling.[122]

[112] Regulation of Information (Services outside the State for Termination of Pregnancies) Act 1995, ss 3 and 5.
[113] Regulation of Information (Services outside the State for Termination of Pregnancies) Act 1995, ss 3(1)(a)(II), 5(b)(iii), and 8.
[114] Regulation of Information (Services outside the State for Termination of Pregnancies) Act 1995, s 5(b)(ii).
[115] Regulation of Information (Services outside the State for Termination of Pregnancies) Act 1995, s 4.
[116] Regulation of Information (Services outside the State for Termination of Pregnancies) Act 1995, s 10.
[117] Regulation of Information (Services outside the State for Termination of Pregnancies) Act 1995, s 14.
[118] [1995] 1 I.R. 1.
[119] Jim Dunne, 'Ruling ends centre's uncertain future' *The Irish Times* (Dublin, 24 June 1995) 4; 'Well Woman Centre, SPUC come to agreement over abortion information' *The Irish Times* (Dublin, 24 June 1995) 4.
[120] Constitution Review Group, *Report of the Constitution Review Group* (Stationary Office 1996).
[121] ibid 279.
[122] ibid 275.

1997	*The Society for the Protection of Unborn Children (Ireland) Limited v Stephen Grogan and others (No 5)*[123]	The Supreme Court agree to lift the injunction issued against the students' unions and their printers.
1998	Censorship of Publications (Amendment) Bill	Introduced by Deputy Liz McManus (Democratic Left, later Labour Party) this Bill would have amended the Censorship of Publications Act 1967 to extend the expiration of prohibition orders to also apply to works prohibited for having advocated abortion or contraception.[124] The Bill lapsed with the dissolution of the Oireachtas.[125]
1999	*Green Paper on Abortion*[126]	The report summarised the findings of a Cabinet Committee and an Interdepartmental Oireachtas Working Group who were tasked with considering the legal and social issues related to abortion in Ireland. In terms of information policy, they recommended expanding counselling availability with the goal of reducing the number of people who chose abortion.[127]
March 2000	Labour Party appeal	The Labour Party launched a mass appeal of prohibition orders to remove publications that had been judged by a Minister for Justice or the Board to have advocated contraception from the *Register of Prohibited Publications.*[128]
November 2000	*Fifth Progress Report: Abortion*[129]	The All-Party Oireachtas Committee on the Constitution who wrote the report were unable to come to a unified decision regarding the law but they did recommend expanding counselling and information services to facilitate or encourage people to continue their pregnancies.[130]
June 2001	Women on Waves visits Ireland	They provided information to doctors, abortion seekers, and organisations in Ireland and held workshops on the boat.[131] They helped to expose the fact that many people could not easily travel abroad for an abortion.[132]
October 2001	Care of Persons Board Bill	This Bill introduced by Deputy Gay Mitchell (Fine Gael) proposed to introduce a Board who would

[123] [1998] 4 IR 343, [1997] 3 JIC 0601.
[124] Censorship of Publications (Amendment) Bill 1998, s 2.
[125] Houses of the Oireachtas, 'History of this Bill' < https://www.oireachtas.ie/en/bills/bill/1998/42/?tab=debates > accessed 29 June 2023.
[126] Cabinet Committee, *Green Paper on Abortion* (Department of the Taoiseach 1999).
[127] ibid paras. 5.64-5.65, p. 43.
[128] See all the works released back onto the market in Government of Ireland, *Irish Oifigiúil* (Stationary Office 7 March 2000) 287-307.
[129] All-Party Oireachtas Committee on the Constitution, *Fifth Progress Report: Abortion* (Stationary Office 2000).
[130] ibid 113.
[131] Michael O'Kane, 'Aurora abortion ship' *RTÉ Archives* (Dublin, 2001) < https://www.rte.ie/archives/2016/0613/795269-abortion-ship-docks-in-dublin/ > accessed 19 June 2023; Rebecca Gomperts, 'Women on Waves: Where next for the Abortion Boat' (2002) 10(19) Reproductive Health Matters, 180; Ivana Bacik, 'The Irish Constitution and Gender Politics: Developments in the Law on Abortion' (2013) 28(3) Irish Political Studies 380, 389; Mary Muldowney, 'Breaking the silence: pro-choice activism in Ireland since 1983' in Jennifer Redmond, Sonja Tiernan, Sandra McAvoy, Mary McAuliffe (Eds.) *Sexual politics in modern Ireland* (Irish Academic Press 2015) 127, 138-139.
[132] *Gomperts* ibid 182.

		assist a pregnant person to bring her pregnancy to term via information provision and material supports. It lapsed as the government established the Crisis Pregnancy Agency.[133]
October 2001	Crisis Pregnancy Agency	The Agency was established to be a strategy and coordinating body. One of its goals was to reduce the number of people accessing abortion 'by offering services and supports which make other options more attractive'.[134]
December 2001	Twenty-fifth Amendment[135]	This proposed amendment to the Constitution was rejected by the electorate. It proposed to remove suicide as a ground for accessing abortion under Article 40.3.3°.
2005	Health and Social Care Professionals Act	This Act created a system of statutory regulation for some health and social care professions.[136] It was legally binding and created offences.[137] Counsellors, therapists and psychotherapists were not included despite legislators introducing amendments to do so.[138] The government rejected the amendments on the grounds that the professions themselves had not yet agreed on titles and qualifications and required more work before they should be included in the regulatory framework.[139]
2006	*D v Ireland*[140]	The European Court of Human Rights rejected Deirdre Conroy's claim that Ireland's abortion and information restrictions violated her rights after her twins were diagnosed with fatal foetal anomalies.[141] This included her doctors being 'very guarded' about her options for termination and were unable to assist her to make an appointment for care abroad.[142] She was also

[133] Care of Persons Board Bill 2001, s 7; Houses of the Oireachtas, 'History of this Bill' < https://www.oireachtas.ie/en/bills/bill/2001/51/ > accessed 30 June 2023.
[134] Crisis Pregnancy Agency (Establishment) Order 2001, SI no 446/2001, s 4(i)(b).
[135] Houses of the Oireachtas, 'History of this Bill' < https://www.oireachtas.ie/en/bills/bill/2001/48/ > accessed 30 June 2023.
[136] Health and Social Care Professionals Act 2005, Part 2, ss 6, 7 and 8.
[137] Health and Social Care Professionals Act 2005, Part 7, ss 79, 80 and 81.
[138] Amendment no 4 introduced by Senator Brendan Ryan (Labour Party, previously Independent) proposed to commit the government to designating the professions of 'counsellor or therapist' within 12 months. He withdrew it. In Seanad Éireann debate, Wednesday 17 November 2004, vol 178, no 15; He later introduced Amendment no 3 to do the same in Seanad Éireann debate, Wednesday 27 April 2005, vol 180, no 5. This amendment was defeated; Deputy Liz McManus (Labour Party, formerly Democratic Left) reintroduced this as amendment no 6 on Committee on health and children debate, Wednesday 28 September 2005. She withdrew the amendment; She tried again with amendment no 3 in Dáil Éireann debate, Wednesday 2 November 2005, vol 609, no 1 but the amendment was lost.
[139] Minister of State at the Department of Health and Children Tim O'Malley (Progressive Democrats) Seanad Éireann debate, Wednesday 17 November 2004, vol 178, no 15; Seanad Éireann debate, Thursday 25 November 2004, vol 178, no 18; Dáil Éireann debate, Wednesday 2 November 2005, vol 609, no 1; Minister of State at the Department of Health and Children Seán Power (Fianna Fáil) Seanad Éireann debate, Wednesday 27 April 2005, vol 180, no 5; Minister of State at the Department of Health and Children Brian Lenihan (Fianna Fáil) Dáil Éireann debate, Thursday 30 June 2005, vol 605, no 5; Committee on health and children debate, Wednesday 28 September 2005.
[140] Application no. 26499/02 (European Court of Human Rights, 27 June 2006).
[141] ibid para. 58-59, p. 23-24; Para. 92, p. 36; Para 102-104, p. 39-40.
[142] ibid para. 4, p. 2-3.

		unable to remain in the UK for genetic counselling.[143]
2008	Psychological Therapies Forum Report	The Psychological Therapies Forum – an umbrella organisation representing 5,000 counsellors and psychotherapists – recommended that the titles 'counsellor' and 'psychotherapist' be protected in law and a registering board be created for the professions. This board would ensure those using the titles had the required qualifications and professional experience.[144]
2009	Health (Miscellaneous Provisions) Act	The Crisis Pregnancy Agency was dissolved and made part of the HSE.[145] It is now called the HSE Sexual Health and Crisis Pregnancy Programme.
2010	*A, B and C v Ireland*	The European Court of Human Rights found that the State had violated applicant C's article 8 – privacy and family life – rights.[146] Part of her argument was that the legal framework prevented her doctors from being open with her and she had to research and organise her own abortion care abroad despite her undergoing treatment for cancer.[147] The applicants were supported by the IFPA.[148]
April 2012	Medical Treatment (Termination of Pregnancy in Case of Risk to Life of Pregnant Woman) Bill	This Bill, introduced by Deputy Clare Daly (Socialist Party/Independent, and later Independents 4 Change), would have required conscientious objectors to provide information about entitlements and referrals to other providers.[149] It would have permitted a minor to access an abortion if her life was at risk without having to notify her parents or guardian.[150] It also would have created an offense of obstruction, harassment or intimidation for any individuals or groups who prevented a person from accessing an abortion or from a person or institution from providing it.[151] It was co-drafted with pro-choice campaign group Action on X.[152]

[143] ibid para. 6, p. 3.
[144] Psychological Therapies Forum, 'Submission on The Statutory Registration of Counsellors & Psychotherapists in Ireland' [2018] < https://iacp.ie/files/file514816120b41e.201303190838 > accessed 3 May 2023; Irish Council for Psychotherapy, 'Psychological Therapists call on Government to introduce statutory registration for their professions in Ireland' (1 October 2008) < https://www.psychotherapycouncil.ie/2008/10/psychological-therapists-call-on-government-to-introduce-statutory-registration-for-their-professions-in-ireland/ > accessed 3 May 2023.
[145] Health (Miscellaneous Provisions) Act 2009, ss 48-59.
[146] Application no. 25579/05 (European Court of Human Rights, 16 December 2010) para 268, p. 75.
[147] ibid para 254, p. 71; para 261, p. 73.
[148] See Irish Family Planning Association, 'Delay to implementation of ABC judgment shows disregard for women's human rights' (31 May 2011) < https://www.ifpa.ie/delay-to-implementation-of-abc-judgment-shows-disregard-for-womens-human-rights-2/ > accessed 19 June 2023.
[149] Medical Treatment (Termination of Pregnancy in Case of Risk to Life of Pregnant Woman) Bill 2012, s 5(i)(b)(i) and (ii).
[150] Houses of the Oireachtas 'History of this Bill' < https://www.oireachtas.ie/en/bills/bill/2012/10/ > accessed 30 April 2023; s 6(3).
[151] Medical Treatment (Termination of Pregnancy in Case of Risk to Life of Pregnant Woman) Bill 2012, s 7.
[152] Clare Daly, 'Ireland's first abortion legislation' in Aideen Quilty, Sinéad Kennedy and Catherine Conlon (Eds.) *The Abortion Papers: Volume 2* (Cork University Press 2015) 264.

November 2012	Medical Treatment (Termination of Pregnancy in Case of Risk to Life of Pregnant Woman) (No. 2) Bill	This Bill, introduced by Deputy Clare Daly (Socialist Party/Independent, and later Independents 4 Change), would have abolished section 6 of the 1995 Act that made it unlawful for a crisis pregnancy information provider to provide information about abortion services abroad if they had a 'interest' in those services.[153] It also would have exempted medical treatments (to save the pregnant person's life) under it from violating sections 58 and 59 of the Offences Against the Persons Act 1861.[154] Conscientious objection would have been permitted in non-emergency circumstances but objectors would have been required to provide information about entitlements and to refer the abortion seeker to another provider.[155] The Bill had a definition of consent that included provision of 'adequate' information that the pregnant person could understand about the proposed treatment.[156] Pregnant people over 16 could also consent to an abortion without needing parental or guardian permission.[157] For those under 16, parental or guardian consent would not be needed to emergency circumstances.[158] It would also be an offence to attempt to threaten, obstruct or intimidate a person with a view to preventing or coercing them not to exercise their rights under the Act.[159] It was defeated by a vote.[160]
December 2012	Health and Social Care Professionals Act	This Act was introduced to make provision for the recognition of some international professional qualifications. When asked why the government had not designated therapist, counsellor or psychotherapist yet, the government said the sector was still working on creating sector frameworks for qualifications and quality markers.[161]
July 2013	Protection of Life During Pregnancy Act	The Act repealed ss 58 and 59 of the Offences Against the Persons Act 1861.[162] It required conscientious objectors to arrange for alternative

[153] Houses of the Oireachtas 'History of this Bill' < https://www.oireachtas.ie/en/bills/bill/2012/103/?tab=debates > accessed 29 June 2023; s 3(2).
[154] Medical Treatment (Termination of Pregnancy in Case of Risk to Life of Pregnant Woman) (No. 2) Bill 2012, s 3(1).
[155] Medical Treatment (Termination of Pregnancy in Case of Risk to Life of Pregnant Woman) (No. 2) Bill 2012, s 7.
[156] Medical Treatment (Termination of Pregnancy in Case of Risk to Life of Pregnant Woman) (No. 2) Bill 2012, s 8(1)(b).
[157] Medical Treatment (Termination of Pregnancy in Case of Risk to Life of Pregnant Woman) (No. 2) Bill 2012, s 8(4).
[158] Medical Treatment (Termination of Pregnancy in Case of Risk to Life of Pregnant Woman) (No. 2) Bill 2012, s 8(5).
[159] Medical Treatment (Termination of Pregnancy in Case of Risk to Life of Pregnant Woman) (No. 2) Bill 2012, ss 10, 11, 12, 13 and 14.
[160] Dáil Éireann debate, Wednesday 28 November 2012, vol 784, no 3.
[161] The Minister of State at the department of Health Alex White (Labour Party) Dáil Éireann debate, Thursday 29 November 2012, vol 784, no 4; The Minister of Health James Reilly (Fine Gael) Seanad Éireann debate, Tuesday 11 December 2012, vol 129, no 8.
[162] Protection of Life During Pregnancy Act 2013, s 6.

		care for the pregnant person.[163] It also confirmed that nothing in the Act was intended to impact the freedom to access or share information about lawful abortion services abroad.[164]
October 2013	Censorship of Publications Board Repeal Bill	This Bill was introduced by Deputy Niall Collins (Fianna Fáil) and it would have abolished the Censorship Board. It was defeated by a vote.[165]
October 2014	Abortion pill train	Pro-choice activists publicly brought abortion medication from Belfast to Dublin and took them to raise awareness of how these medications could be accessed and used.[166]
December 2014	Thirty-fourth Amendment of the Constitution (Right to Personal Autonomy and Bodily Integrity) Bill	This defeated Private Members Bill proposed a referendum to remove Article 40.3.3 from the Constitution[167]
March 2015	Protection of Life During Pregnancy (Amendment) (Fatal Foetal Abnormalities) Bill 2015[168]	This lapsed Bill was introduced to allow for access to abortion in cases where a fatal foetal abnormalities were diagnosed following *D v Ireland*.[169] In this case the State successfully argued before the European Court of Human Rights that the Eighth Amendment may allow abortions in these cases and should be tested in the domestic courts.[170]
October 2015	Abortion pill bus	Rosa said they helped 20 abortion seekers access pills on this bus tour.[171] They also disseminated information about how to access abortion pills from abroad.[172]
March 2016	*Mellet v Ireland*[173]	The Human Rights Committee found that Ireland's abortion prohibitions and the 'chilling effect' of legislation like the 1995 Act had violated Amanda Mellet's article 7 – prohibition on cruel, inhuman or degrading treatment – 17 – unlawful interference in privacy and family life - and article 26 – prohibition on discrimination - rights.[174]

[163] Protection of Life During Pregnancy Act 2013, s 17(3).
[164] Protection of Life During Pregnancy Act 2013, s 18(1)(b).
[165] Houses of the Oireachtas, 'History of this Bill' < https://www.oireachtas.ie/en/bills/bill/2013/104/?tab=bill-text > accessed 17 April 2023; Dáil Éireann debate, Tuesday 28 January 2014, vol 828, no 1.
[166] Sarah Stack, 'Pro-choice activists travel on 'abortion pill train' to Belfast' *The Irish Independent* (Dublin, 28 October 2014) < https://www.independent.ie/irish-news/pro-choice-activists-travel-on-abortion-pill-train-to-belfast/30698655.html > accessed 27 April 2023; Laura Fitzgerald, *Winning Repeal and Abortion Rights* (Socialist Party 2016).
[167] Houses of the Oireachtas 'History of this Bill' < https://www.oireachtas.ie/en/bills/bill/2014/105/?tab=debates > accessed 27 April 2023.
[168] Houses of the Oireachtas 'History of this Bill' < https://www.oireachtas.ie/en/bills/bill/2015/20/?tab=bill-text > accessed 27 April 2023.
[169] Deputy Michael McNamara (Independent, previously and later Labour Party) Dáil Éireann debate, Thursday 5 March 2015, vol 870, no 3.
[170] *D v Ireland* Application no. 26499/02 (European Court of Human Rights, 27 June 2006).
[171] *Fitzgerald* (n 166); Niamh NicGhabhann, 'City walls, bathroom stalls and tweeting the Taoiseach: the aesthetics of protest and the campaign for abortion rights in the Republic of Ireland' (2018) 32(5) Continuum 553, 560.
[172] Peter Boylan, *In the shadow of the Eighth: my forty years working for Women's Health in Ireland* (Penguin Random House 2019) 118.
[173] Human Rights Committee, 'Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2324/2013' (31 March 2016) CCPR/C/116/D/2324/2013.
[174] ibid para. 3.10 p. 5; paras. 8-9, p. 18

June 2016	Thirty-fifth Amendment of the Constitution (Repeal of the Eighth Amendment) Bill	This defeated Private Members Bill proposed a referendum to remove Article 40.3.3° from the Constitution.[175]
March 2017	*Whelan v Ireland*[176]	The Human Rights Committee found that Ireland's abortion prohibitions and the 'chilling effect' of legislation like the 1995 Act violated Siobhán Whelan's article 7 – prohibition on cruel, inhuman or degrading treatment – 17 – unlawful interference in privacy and family life - and article 26 – prohibition on discrimination - rights.[177]
2017	Health and Social Care Professionals Act	This Act was introduced to address administrative gaps in previous legislation.[178] During Oireachtas scrutiny the Minister for Health, Simon Harris, confirmed that he felt ready to designate the professions of 'counsellor' and 'psychotherapist'.[179]
May 2018	S.I. No. 170/2018 - Health and Social Care Professionals Act 2005 (Section 4(2)) (Designation of Professions: Counsellors and Psychotherapists and Establishment of Registration Board) Regulations and S.I. No. 500/2018 - Counsellors and Psychotherapists Registration Board (Establishment Day) Order	The titles 'counsellor' and 'psychotherapist' were designated protected status under the Health and Social Care Professionals Act 2005. The S.I. also set up the initial establishment of The Counsellors and Psychotherapists Registration Board. Once operative it will register members of those professions, establish training and qualification requirements, and require a Code of Ethics.[180]
May 2018	Thirty-sixth Amendment	The electorate voted in favour of passing the Thirty-sixth Amendment. It replaced the existing text of Article 40.3.3° with ' 3° Provision may be made by law for the regulation of termination of pregnancy'.
December 2018	Health (Regulation of Termination of Pregnancy) Act	This Act repealed sections 16 and 17(1) of the Censorship of Publications Act 1929, sections 7(b) and 9(1)(b) of the Censorship of Publications Act 1946, section 10 of the Health (Family Planning) Act 1979, and the Regulation of Information (Services outside the State for Termination of Pregnancies) Act 1995.[181] It introduced a mandatory 3 day waiting period for early pregnancy terminations[182] and made it an offence

[175] Houses of the Oireachtas, 'History of this Bill' < https://www.oireachtas.ie/en/bills/bill/2016/56/?tab=debates > accessed 27 April 2023.
[176] Human Rights Committee, 'Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2425/2014' (17 March 2017) CCPR/C/119/D/2425/2014.
[177] ibid para 3.7, p. 5-6; fn. 8, p. 6; para. 5.10, p. 12; paras. 8-7, p. 17.
[178] An Roinn Sláinte, *Health and Social Care Professionals (Amendment) Bill 2017: Explanatory Memorandum* (Department of Health 2017).
[179] The Minister for Health Simon Harris (Fine Gael) Dáil Éireann debate, Tuesday 20 June 2017, vol 954, no 1.
[180] Coru, About the Counsellors and Psychotherapists Registration Board' < https://www.coru.ie/about-us/registration-boards/counsellors-and-psychotherapists-registration-board/about-the-counsellors-and-psychotherapists-registration-board/ > accessed 14 April 2023.
[181] Health (Regulation of Termination of Pregnancy) Act 2018, s 5.
[182] Health (Regulation of Termination of Pregnancy) Act 2018, s 12(3).

		to 'aid, abet, counsel or procure' a pregnant person to end their pregnancy outside of the care authorised under the Act.[183] It required conscientious objectors to 'make such arrangements for the transfer of care of the pregnant woman' so that she could access abortion care.[184]
January 2019	S.I. No. 21/2019 - Health And Social Care Professionals Act 2005 (Section 28A) (Counsellors And Psychotherapists Registration Board) Regulations	This S.I. concerned appointments to the Counsellors and Psychotherapists Registration Board.
February 2019	Bye-law against abortion protests passed in Louth	Louth county council passed this bye-law to prevent protests outside of the premises of providers. Was later followed by county councils in 'Dublin, Wicklow, Sligo, Galway and Limerick' but central legislation was still considered to be necessary for implementation.[185]
2019	Health and Social Care Professionals (Amendment) Act	This Act was created to confirm that recognised health qualifications from abroad that were recognised in Ireland before statutory registrations requirements will not have to be re-recognised. This also applied to 'counsellors and psychotherapists'.[186]
October 2021	Safe Access to Termination of Pregnancy Services Bill	This Bill was introduced by a number of cross-party Senators.[187] By time of writing the draft Bill would create zones of 100 meters around abortion or contraceptive providers within which a person cannot express or demonstrate support for, or opposition to, a person's decision to provide or access abortion services.[188] This included activities such as attempts to provide information to a person verbally or in print, or leaving information through postering or stickering.[189] It would be an offense to do otherwise or the person may be made subject to a civil claim.[190]
July-August 2022	Health (Termination of Pregnancy Services (Safe	The aim of the Bill will be to protect abortion seekers and providers from intimidation, abuse, attempts at persuasion and from violations of their

[183] Health (Regulation of Termination of Pregnancy) Act 2018, s 23(4).
[184] Health (Regulation of Termination of Pregnancy) Act 2018, s 22(3).
[185] Camilla Fitzsimons, 'Irish healthcare workers experiences of anti-abortion protesters and the case for safe access zones' (2022) 20 < https://mural.maynoothuniversity.ie/16215/ > accessed 26 April 2023.
[186] An Roinn Sláinte, *Health and Social Care Professionals (Amendment) Bill 2018: Explanatory Memorandum* (Department of Health 2018).
[187] Senators Paul Gavan (Sinn Féin), Frances Black (Independent), Lynn Boylan (Sinn Féin), Eileen Flynn (Independent), Alice-Mary Higgins (Independent), Annie Hoey (Labour Party), Erin McGreehan (Fianna Fáil), Rebecca Moynihan (Labour Party), David Norris (Independent), Niall Ó'Donnghaile (Sinn Féin), Pauline O'Reilly (Green Party), Lynn Ruane (Independent), Marie Sherlock (Labour Party), Mark Wall (Labour Party) and Fintan Warfield (Sinn Féin).
[188] Houses of the Oireachtas, 'History of this Bill' < https://www.oireachtas.ie/en/bills/bill/2021/73/ > accessed 29 June 2023; Safe Access to Termination of Pregnancy Services Bill 2021, ss 2 and 3.
[189] Safe Access to Termination of Pregnancy Services Bill 2021, ss 3(2)(f) and 3(2)(h).
[190] Safe Access to Termination of Pregnancy Services Bill 2021, ss 3(3) and 6.

	Access Zones)) Bill: General Scheme of Bill	privacy. It would apply within 100 meters of abortion providers.[191]
December 2022	Health (Regulation of Termination of Pregnancy) (Amendment) Bill	This Bill was introduced by a number of People Before Profit-Solidarity Deputies.[192] It would have removed the mandatory 3-day waiting period for early abortions and decriminalised abortion.[193] The Bill was withdrawn.[194]
April 2023	*The Independent Review of the Operation of the Health (Regulation of Termination of Pregnancy) Act 2018*[195]	This is the main report considering the operation of the 2018 Act. It detailed that criminalisation is still an issue for providers and leading to the practice of 'defensive medicine',[196] people are still not being informed of bereavement care when they return from having a termination abroad,[197] the 3-day delay period is creating issues especially for those who have to travel for care,[198] the 3-day waiting period is seen as an infringement on personal autonomy,[199] abortion seekers are also in practice having to wait days before receiving appointments anyway so the 3-day delay period is delaying them further,[200] that people are still having to navigate obstructors, misinformation and a lack of information,[201] people are not being referred on to providers,[202] and protests intended to dissuade people from having or providing abortions are taking place.[203] *The Review* recommended that the 3-day waiting period be made optional,[204] the obligations of conscientious objectors should be clarified by the HSE,[205] and

[191] Department of Health, 'General Scheme of the Health (Termination of Pregnancy Services (Safe Access Zones))' *Gov.ie* (5 August 2022) < https://www.gov.ie/en/publication/0970b-general-scheme-of-the-health-termination-of-pregnancy-services-safe-access-zones/ > accessed 4 May 2023.
[192] Deputy Bríd Smith (People Before Profit-Solidarity, formerly Anti-Austerity Alliance - People Before Profit), Paul Murphy (People Before Profit-Solidarity, previously Anti-Austerity Alliance - People Before Profit), Gino Kenny (People Before Profit-Solidarity, previously Anti-Austerity Alliance - People Before Profit), Richard Boyd Barrett (People Before Profit-Solidarity, previously Anti-Austerity Alliance - People Before Profit and People Before Profit Alliance).
[193] Health (Regulation of Termination of Pregnancy) (Amendment) Bill 2022, ss 3 and 4.
[194] Houses of the Oireachtas, 'History of this Bill' < https://www.oireachtas.ie/en/bills/bill/2022/119/ > accessed 29 June 2023.
[195] Marie O'Shea, *The Independent Review of the Operation of the Health (Regulation of Termination of Pregnancy) Act 2018* (28 February 2023) 86-89 < https://www.gov.ie/en/publication/13fe5-the-independent-review-of-the-operation-of-the-health-regulation-of-termination-of-pregnancy-act-2018/ > accessed 4 May 2023
[196] p. 8-9 and 15.
[197] p. 10.
[198] p. 12.
[199] p. 12.
[200] p. 12.
[201] p. 12 and 14.
[202] p. 12 and 14.
[203] p. 16.
[204] p. 25.
[205] p. 25 and 26.

		abortion should be decriminalised for medical professionals.[206]
June 2023	Health (Termination of Pregnancy Services) (Safe Access Zones) Bill	This is the government's Bill. It proposes to create zones of 100 meters of a 'relevant healthcare premises' to prevent people from obstructing or impeding people from accessing or providing abortion services.[207] This includes sharing information with people that is 'likely to influence' them making decisions about whether or not to access or provide abortion services.[208] This includes written, audio or visual communications.[209] These restrictions would not apply to healthcare providers if they were sharing information as part of the delivery of healthcare services.[210] Continuing to engage in such behaviours after the warning of a Garda (police) would be an offence.[211]

[206] p. 27.
[207] Health (Termination of Pregnancy Services) (Safe Access Zones) Bill 2023, ss 1 and 2.
[208] Health (Termination of Pregnancy Services) (Safe Access Zones) Bill 2023, s 2(2).
[209] Health (Termination of Pregnancy Services) (Safe Access Zones) Bill 2023, s 2(5).
[210] Health (Termination of Pregnancy Services) (Safe Access Zones) Bill 2023, s 3(3).
[211] Health (Termination of Pregnancy Services) (Safe Access Zones) Bill 2023, ss 4(1)(d) and 5.