

Articoli/Articles

INVISIBLE WOMEN
IRELAND AND THE FIGHT TO ACCESS SAFE AND LEGAL
ABORTION

CHIARA COSENTINO
Sapienza University of Rome, I

SUMMARY

The Irish legal framework regulating abortion represents one of the most restrictive ones worldwide. It allows for abortion only when medical practitioners assess a risk of life of the pregnant woman, therefore excluding the vast majority of women from legality, and not allowing them to have control over their own bodies. The only option in order to have a lawful termination is travelling abroad.

Against such background, this article holds that the Irish legislation on abortion creates three levels of 'invisible women'. Firstly, the constitutional equation between the pregnant woman's life and the foetus' one downgrades the first to be the biological support of the second, not seeing her as a subject. Secondly, the option of travelling further 'invisibilizes', both geographically and politically, the wills and choices of the majority of women. Thirdly, the women who cannot afford the journey are completely neglected, forced to act clandestinely and criminalised.

Introduction

Reproductive rights fall within a very recent human rights field of interest, situated at the intersection of fundamental human axes such as gender relations, population policies, health issues and bio-ethical and religious questions.

2015 is an important year to remind their fundamental importance within both the human rights and development frameworks. It marks,

Key words: Ireland - Abortion - Public Health - Inequalities

indeed, the Twentieth Anniversary of the 1995 Beijing International Conference on Women, which for the first time stressed the importance of reproductive rights within the women's rights and empowerment framework. Furthermore, it is also the year of revision of the UN agenda on Millennium Development Goals, with a new proposal of Sustainable Development Goals that will probably include a section specifically dedicated to reproductive health as a fundamental issue to be addressed by development policies.

In light of the aforementioned global momentum, the present research addresses the specific situation of reproductive rights of women in the Republic of Ireland, particularly regarding their ability to access safe and legal abortion services. In the first section, the legal framework of Irish legislation on the matter will be briefly addressed, in order to illustrate the legal options available. In the following sections, its practical consequences on women living in Ireland will be analysed in depth from a critical medical anthropological perspective¹.

The present article results from a period of five-month field research conducted between February and July 2014 in Galway, Ireland. Regarding the methodology used for the research, it was partly based on legal documents' analysis and partly on face-to-face interviews. Concerning the Irish legal framework, it has been necessary to consult Irish legislation and official documents, as well as jurisprudence both at national and at European level. Regarding the analysis of the current reproductive rights' situation of women in Ireland, particularly in their ability to access safe and legal abortion services, its comprehensive and multi-layered critical evaluation has emerged thanks to the broad consultation of documentation and briefings from civil society organisations². Finally, a significant part of the research was conducted through in-depth qualitative interviews with members of civil society organisations dealing with women's reproductive rights at local, national and international level³.

Legal framework

To the Irish, the abortion ‘problem’ [...] encompasses far more fundamental and searching questions about who we are as people, as a nation, about the role of women, how we structure our relationships, what are the informing values of our young republic and what makes us different or similar to other nations⁴?

To understand the legal and political spirit of a nation is always worth looking at its founding Act: the Constitution. In the case of Ireland, the importance of this document is even bigger, since it symbolised, after the freedom from the British oppressor gained through a decolonisation war, the proclamation of an independent Republic, and the expression of a proper Irish national *ethos*. The quest for identity, for the “perceived notion of what Irish society is”⁵ is even felt as more necessary since – like in all the countries with a past of colonisation – it represents the direct consequence of centuries of occupation and embodies an understandable will to start its own separate history. It is the “post-colonial need for culturally authentic values”⁶, an “urge to mark Irishness distinctively”⁷ by constructing it in anti-British terms.

The main source of diversity – and therefore identity – in Ireland, which had always shaped the resistance against the colonising power, was the religion. The 1937 Constitution (*Bunreacht Na héireann*)⁸, indeed, had a strong input from the Rome Catholic Church, extremely powerful in Ireland⁹: supervised in some parts by the Archbishop of Dublin, it was sent to the Vatican twice for reviews and comments before its final approval by the Irish People¹⁰. Significantly -and maybe not surprisingly given this drafting process- its Preamble is dedicated to the “Most Holy Trinity, from Whom is all authority and to Whom, as our final end, all actions both of men and State must be referred”¹¹. Against this Catholic background, the Irish woman was culturally constructed in the constitutional discourse as a mother, whose

role is within four walls carrying out her reproductive functions. Indeed, Article 41.2 describes women as “mothers [having] duties in the home [who] shall not be obliged by economic necessity”¹² to neglect them while engaging in labour. The Irish “wom(b)an” -as Hanafin re-names her with an insightful wordplay¹³ – was shaped as a sort of passive reproducing-machine, not as an “aim in herself but as a prosthesis or a tool for other people’s needs”¹⁴, with no possible free election of any other type of life but the one she is naturally made for. This is done through the transformation of a mere biological function – women’s reproductive capacity – in a social aspiration and in the only objective in life¹⁵. A job outside the house would, indeed, be only an undesirable obligation out of necessity, rather than a preferred option. In conclusion, “choice is often completely absent in this as in many aspects of the lives of women as constitutionally predicated”¹⁶.

This cultural perception resulted in framing the debate around abortion mostly in terms of cultural identity, religious as well as moral issues, rather than from the medical or legal perspectives. Indeed, this *leitmotif* has been particularly evident in the official governmental position, as well as within the anti-abortion side of the social debate surrounding the evolving Irish legal framework on the matter.

Since the XIX century, abortion has been a criminal offence in Ireland. Indeed, the “Offences Against the Person Act”, adopted by the Parliament of the United Kingdom of Great Britain and Ireland¹⁷ in 1861, enshrined two sections regarding “Attempts to procure abortion”: imprisonment (lifetime or for an undefined amount of years) represented the penalty for anyone involved in the performance of an abortion (the woman, the practitioner and the supplier). This punishment has been in force in Ireland for more than 150 years, until the 2013 repeal. The Irish ban on abortion was absolute, but apart from the aforementioned criminal provisions, until very recently no legislation had been adopted on the matter.

However, in the early 1980s the issue started to draw political and popular attention. The fear was also very present that “the constitutional right to privacy could be interpreted as grounding a right to abortion, as had happened in the United States”¹⁸. This eventually led to the formation in 1981 of a “Pro-life Amendment Campaign”, pushing for a clear constitutional protection of the right to life of the foetus¹⁹. This was decisive for the inclusion in the Irish Constitution, through a referendum held on 7 September 1983²⁰, of the Eighth Amendment²¹. Article 40.3.3, which equates the life of the foetus and of the pregnant woman, declares that: “The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right”²². In synthesis, only in case of risk of life of the pregnant woman, she would be entitled to get an abortion within Ireland.

This Constitutional Article with its wording -namely “unborn”, “mother”, “equal right to life”, “respect [...] defend and vindicate” – has been, from its approval onwards, at the very core of all political, judiciary and social Irish debate on abortion. It constitutes, indeed, the statutory genesis and the obliged point of reference of all judgments, legislative discussions, foreign States’ observations, European negotiations and the reason for the occurrences in the last thirty years of Irish history regarding abortion.

On 25 November 1992 three referenda were held to clarify the interpretation of Article 40.3.3 and amend the Constitution. Two of them were approved by the popular scrutiny, affirming that such constitutional provision did not limit women’s freedom to travel to another State for having an abortion²³ and to receive information about such services provided abroad²⁴.

However, since the introduction of these two amendments, no major legislative step was taken by any of the Irish governments in order to implement them and adopt an appropriate piece of legislation on

abortion that could clarify all the practical implications of such a declaration of principles. Indeed, as noticed by some commentators, “the Irish government is notorious for sidestepping and redirecting when it comes to dealing with issues surrounding reproductive rights, which leads to the phrase ‘an Irish solution to an Irish problem’²⁵.”

This stall continued until 2010, when the European Court of Human Rights, judging on a case against Ireland²⁶, held that there was an urgent need for legal clarity in the Irish legal framework on abortion, since such long-lasting legislative gap was no more sustainable. The Irish government was finally called to take a step further.

However, in 2013, the outcome of thirty years of social and political debates on the issue was the mere codification of the reality already in place since 1981. Indeed, the legislation adopted by the Irish Parliament, the “Protection of Life During Pregnancy Act”, only reaffirms the lawfulness of extremely limited circumstances for women to access legal abortion services and represents one of the most restrictive legal frameworks worldwide. It regulates it in case medical practitioners can diagnose a “real and substantial” risk of life of the pregnant woman (as distinct from health), including threatened suicide. It differentiates the medical assessment procedure, depending on the origin of such a risk: only one medical practitioner is required to verify situations of physical emergency, two when there is a physical risk but not immediate, and three in cases of alleged suicidal attempts. Unanimity must be achieved in order to allow the procedure, and when there are some divergences of opinion among the doctors, a review pathway is set, jointly with regulations on the conscientious objection. Furthermore, the criminal section condemns women, medical practitioners and body corporate involved in performing an unlawful abortion to fourteen years of imprisonment. As it will be shown in the following sections, such legal framework on abortion shapes an extremely excluding environment for women, since it prevents the vast majority of them from acting within legal-

ity, creating from a legislative, political and anthropological point of view “invisible women”.

Invisible women (1). No more than a foetus

[...] her lap becomes, scientifically and through a professional mediation, the public womb. The woman's body becomes the place where a process takes place that concerns directly the State, the public health, the public body, as well as the Church and the husband²⁷.

Not surprisingly, the Irish Constitution, explicitly equating the life of the pregnant woman to the one of the foetus she is carrying, had – and still has – a huge impact on women’s and girls’ lives. This section of the present article will analyse two emblematic cases – namely the first and the last one – of the thirty-year lasting fight of women and girls for accessing abortion services in Ireland. Both of them show the extreme consequences to which such constitutional equation of lives brought, and both had a huge impact on public opinion, at national and international levels. These cases also helped to explore the limits of the Irish abortion framework and to revise it, in order to avoid that they could ever repeat.

The first case goes back to 1992 and concerns a 14-year-old girl known as X, suicidal after the discovery of being pregnant as a result of rape, who was prevented by an injunction from the Irish High Court from leaving Ireland for nine months in order to travel to the United Kingdom to have an abortion²⁸. Finally, the Irish Supreme Court overturned the decision and allowed the girl to legally have an abortion on Irish soil, on the ground of risk of life, due to her suicidal attempts. The consequences this case had on Irish public opinion were multiple. On the one hand, its outcome shocked the most conservative ones, since it was the first time that a case of lawful abortion was foreseeable within the Irish borders. On the other hand, the substance of the situation caused a scandal of huge propor-

tions amongst the rest of Irish population, as well as at international level: it was clear that the constitutional protection of the ‘unborn’ could push the Irish abortion ban until violating for the second time the will of an adolescent vulnerable girl already victim of rape.

The second case took place twenty years after, and represented a tragedy that shook not only the Irish nation²⁹, but which had also global proportions and generated international outrage. On 21 October 2012, Savita Halappanavar, a seventeen-week pregnant Indian woman of 31 years old, living in Galway with her husband Praveen, entered the University College Hospital in severe back pain for what would have revealed to be an on-going inevitable miscarriage. One week later, on 28 October, after days of agony, Savita died from septicaemia and multi-organ failure, after being repeatedly refused a termination of pregnancy, which both her and her husband had requested three times, due to the failure of the medical personnel of assessing the gravity of the situation. The doctors and nurses felt the huge burden of the life-imprisonment punishment established by the Penal Code, as well as the legislative uncertainty on the lawfulness of performing an abortion while the heartbeat of the dying foetus was still present³⁰. Besides, facing the insisting desperate requests from Savita and Praveen of having a termination, the midwife explicitly expressed her perception of the issue as “a catholic thing”, therefore impossible to deal with in the way the patient wanted³¹. In an interview following the death of his wife, Praveen expressed all his suffering and frustration with these words: “It was all in their hands and they just let her go. How can you let a young woman go to save a baby who will die anyway?”³².

This is the core question that perfectly illustrates the cruel paradox implicit in Article 40.3.3 and in the principle of the protection of the “unborn”. Within the equation between the two lives, the one of the foetus seems always to matter more than the one of the pregnant woman, even though – as shown in Savita’s case – the foetus will inevitably

Invisible woman

die. Indeed, the non-viability of the foetus outside the womb (either due to natural miscarriage or for a fatal abnormality that will not allow it to survive after birth) does not lessen its status of equality with the life of the woman carrying it. In these cases, when pregnant women's lives are considered worth the same as non-viable foetuses or dying newborn babies, it is very hard to perceive such supposed equality.

On the contrary, it appears very evident, as Duden points out, that such policies see pregnant women's bodies³³ as mere life support systems for the foetus. The biological existence of this latter deprives the woman of her subjectivity and downgrades her to be its servant³⁴. Indeed, as already mentioned, the only exception to a total ban on abortion is represented by such situations where there is a "real and substantial" threat to women's life: pregnant women in Ireland are only "visible" as passive reproductive machines carrying foetuses, a duty that only biological fatal dysfunctions can dare to interrupt. Otherwise, they are totally 'invisible' in their *agency* and their will of self-determination over their own body.

To affirm themselves as *personae*, as subjects and owners of their lives, women in Ireland are faced with two options, one legal and the other illegal: escape or act clandestinely.

Invisible women (2). Exiled for their choices

*Sail away,
Sail away,
Sail away,
12 women a day
across the Irish Sea
Ireland sends them away...
but shhhhh!
Ireland thinks it's abortion free³⁵!*

As illustrated in a previous section, the Irish quasi-total ban on abortion can be lawfully avoided by travelling to another country to have

a termination of pregnancy. Indeed, this represents the most common way to escape from what can be provocatively called a ‘State of forced pregnancies’³⁶, which totally disregards women’s will and right to decide and have control over their bodies. What is more, this is what allows Irish politicians to keep the *status quo*, since

*one of the main reasons that abortion remains illegal is because they can export their problem, because women can travel. [...] The availability of safe abortion services in other EU countries [...] has played a significant role in allowing the Irish Government to abdicate its responsibility to protect the human rights of women who require access to abortion*³⁷.

Indeed, allowing such freedom seems to represent an implicit recognition by Irish politicians of the reality that a huge amount of women will anyway seek to undergo such operation³⁸.

This well-established phenomenon, known as the Irish “abortion tourism”³⁹, has incredibly massive proportions. According to an Irish Family Planning Association research⁴⁰, between 1980 and 2013 “at least 159.779 women travelled from the Republic of Ireland for safe abortion services abroad”⁴¹. This is of course an underestimation, since it is based only on the women that gave an Irish residence address at the abortion clinics abroad, while a lot of them usually do not reveal it for confidentiality, or provide a different one⁴². Therefore, it can be calculated that this phenomenon of ‘temporary migration for reproductive reasons’ involves an average of more than 4.000 Irish women per year, namely 12 per day, “which means that one woman every two hours is forced to pack and leave”⁴³. To help women facing this difficult journey, several associations, both Irish and British, offer financial, psychological or logistic support⁴⁴. Referred even by Irish politicians as the “English solution to an Irish problem”⁴⁵, this situation has also become the main focus of several awareness-raising initiatives⁴⁶, has inspired books⁴⁷ collecting the stories of women who “took the boat” and is the subject of several documentaries⁴⁸.

If, on the one hand, this burning question of the Irish abortion tourism, mostly towards the United Kingdom, is a safe way to escape the homeland ban, on the other hand, it entails several difficulties and poses women in front of further violations of their rights. Indeed, as it was recognised even by the European Court of Human Rights, it puts a severe psychological, physical and financial burden on women in Ireland⁴⁹.

Firstly, the option of travelling can be psychologically and emotionally very painful. In general, one woman every two hours leaves her home to receive a treatment in a foreign country, within an unfamiliar environment and mostly without the support of the family in a moment of need⁵⁰. Forcing thousands of women, every year, to live such situations represents a huge interference in their family and private lives. In particular, women carrying foetuses with fatal abnormalities experience during the journey a “deep sense of feeling abandoned”⁵¹ by the Irish State in an extremely difficult time, when a much wanted pregnancy results in a non-viable life. As testified by a woman of the Termination For Medical Reasons group⁵², it made an already traumatic situation infinitely worse we fall into a category that the Irish State chooses to ignore and, worse, to stigmatise”⁵³. Leaving the country feeling “like criminals”⁵⁴, without the family support, once the operation is done women “have to leave the foetus’ remains behind and may receive the ashes by commercial courier”⁵⁵. This undermines “women’s ability to mourn the loss of their pregnancy”⁵⁶ and causes extreme pain and mental suffering and anguish.

Secondly, the option of going abroad to have a safe and legal abortion can have a severe impact also on women’s health. Indeed, the time needed to make the travel arrangements might cause unnecessary delays in the performance of the medical procedure that can jeopardise their health in several ways. On the one hand, women needing an abortion for illness-related issues might experience deteriorations of their already precarious health conditions. On the other

hand, women wishing to have a termination for other reasons could be forced, due to the delay, to undergo more invasive operations at advanced stages of their pregnancies⁵⁷. Furthermore, time, costs and stigma play a major role during the journey in increasing health risks, since in order to accelerate the procedure and shorten the stay, women generally avoid or limit pre- and post-abortion care, and request more often surgical abortions, quicker but more invasive than the medical (non-surgical) ones⁵⁸.

Thirdly, the economic burden put on women who want to travel to get an abortion is striking. Indeed, the total cost of the journey includes several factors: the operation fee – which grows as the pregnancy progressively advances – the direct costs of flight and accommodation, and the possible further indirect costs of childcare for other previous children, loss of income for the amount of days of leave or the additional costs for an accompanying person. According to estimates made by Human Rights Watch⁵⁹, the Irish Family Planning Association⁶⁰ and a personal research on the fees charged by the Marie Stopes International clinics in the United Kingdom⁶¹, the total amount of money necessary for the trip goes between 1000 and 2000 euros, depending on the combination of the aforementioned factors. Several women need time to earn or collect the money, further delaying the operation – whose price in the meantime increases – and others are forced to borrow loans to afford the situation⁶².

Invisible women (3). Guilt and danger: the destiny of the 'trapped' women

Although in theory all women are equally entitled to the right to travel, as it can be seen from the previous section, it does not represent an easy choice. Furthermore, some vulnerable or marginalised groups face additional practical obstacles that can prevent them from enjoying this right. Therefore, the Irish restrictive framework on abortion disproportionately affects some categories of women and

girls, for their impossibility to bypass it by travelling abroad, which creates a deep disparity within the female population.

The first barrier to the accessibility of this option is the financial one. Indeed, recalling the aforementioned analysis of costs, as Human Rights Watch points out, even just considering the lowest option, “for someone living under the poverty line, the cost of an abortion could easily represent more than a month salary”⁶³.

Furthermore, besides this general economic concern, there are some groups that have legal restrictions to travel, such as women in state of custody, minors, undocumented migrant women and asylum seekers. These latter, for instance, have the possibility to leave, but would need to get a visa and emergency temporary travel documents, with additional costs for women receiving only an allowance of less than 20 euros per week⁶⁴. However, regardless any other obstacle, the asylum-seekers generally “fear the consequences of seeking permission to leave the country to have an abortion”⁶⁵ on their possible future legal status.

Moreover, even health conditions can be factors undermining the possibility to travel, for example regarding women whose health is severely at risk, but not (or not yet) life-threatening, or disabled women, both mentally and physically. For them, the journey could be a non-feasible option.

Therefore, one could affirm that the opportunity to access a safe and legal abortion abroad is more a privilege than a right, or, to put it in other words, “the right exists if you can afford it”⁶⁶. The consequences of this difficult accessibility are that these vulnerable women are normally forced either to continue their unwanted pregnancies, or to turn to backstreet clandestine abortion, or to self-induce it without medical supervision through abortifacient tablets bought over the internet⁶⁷. According to the Irish Medicines’ Board, for instance, in 2009, the Irish Customs Authorities seized 1.216 illegal packets of abortifacient drugs, providing strong evidence that the practice

of illegal abortion in Ireland is well established⁶⁸. Usually women undergoing illegal abortions are afterwards not likely to seek any post-abortion healthcare in case of complications, which could put their health and lives severely at risk. This is due to the fear that, if discovered, they could face up to fourteen years of jail.

Such criminal punishment, considered jointly with the possibility to travel, produces a further serious discriminatory effect. Indeed, it creates a criminal differentiation between the innocence of those women who can afford the journey and the guilt of the poorest and most marginalised and vulnerable ones, who, on the other hand, are forced by the circumstances to consider having an unlawful clandestine abortion as last desperate resort⁶⁹.

As it is evident, the Irish legal framework on abortion completely neglects certain categories of the Irish society, creating “series A” and “series B” citizens among the female population.

Conclusions

*You lose your rights basically when you are pregnant here*⁷⁰.

As it has been widely shown in the present article, the Irish legal framework on abortion can be considered, as Foucault would say⁷¹, as a system of *biopolitics* exercising control over pregnant women, considered as mere living bodies, and as a system that produces and creates strict “life hierarchies”.

In general, all pregnant women who do not want to continue with their pregnancies are considered as “invisible citizens”. As such, they do not exist as right-holders, except for when their biological existence is at stake. Only as *bare lives* – to use the words of Agamben⁷² – as lives exposed to death, as mere biological existences (*zoé*) to be saved, pregnant women can access safe and legal abortions within the Irish borders; not as *bios*, namely as political and social subjects⁷³.

As Fassin points out, in our contemporary society “a higher recognition is accorded to bodily integrity rather than to the integrity of

the person or, to put it in other words, the recognition of the person passes through the recognition of an altered or suffering body⁷⁴. In Ireland, biology shapes and produces pregnant women and their rights. They do not have rights as *personae*, with their own biographies, families, wishes and decisions, but merely as lives that need to be saved: the *bare life* emerges as the main strategy of control shaping power relations⁷⁵. In this sense, we are facing “the re-foundation of the political life in the biological life”⁷⁶, and this so-called “*bio-legitimacy* uses life or -to be more precise- survival, as last justification for intervention”⁷⁷.

In the specific situation analysed in the present article, the Irish society condemns pregnant women who want to terminate their pregnancies to exist only as biological beings at risk and not as “full citizens” who are subjects of their choices⁷⁸. The dying body manifests itself as the ultimate – and unique – resource, supplanting all other social or personal justifications (such as risk for health conditions, being victim of rape, carrying a non-viable foetus or a free reproductive choice) for pregnant women to get an abortion on Irish soil⁷⁹.

Furthermore, the legal framework on abortion here analysed creates “life hierarchies” within the female population living in the country: depending on whether their life is at risk or on whether they can afford the journey or not, women’s lives, health and choices are worth different. On the one hand, only an extremely restricted number of them enjoy the possibility of being subjects of their reproductive decisions and owners of their bodies. On the other hand, almost the totality of women and girls, who are excluded from legality, experience daily the control of the Irish State regulating and disciplining their lives and bodies. Within these ‘series B women’, there is a part who can rebuild again with sacrifice some dignity, through using the only legal option allowed by the legislation and travelling abroad to realise their choices. However, there is another portion that does not have in practice such possibility (due to lack of economic resources,

legal status, health conditions and so on) and is therefore pushed to clandestineness, to endanger health conditions and lives and to commit a severe penal offence punished with several years of jail. In conclusion, the Irish legal framework on abortion can be considered as a fundamentally excluding legislation, where life, health and *agency* of some pregnant women are valued more than others, generating implicit “hierarchies of humanity”⁸⁰.

BIBLIOGRAPHY AND NOTE

General Bibliography

AGAMBEN G., *Homo Sacer. Il potere sovrano della nuda vita*. Torino, Einaudi, 1997.

Centre for Reproductive Rights, *Abandoned and stigmatised. The impact of the Irish abortion law on women*. 2014.

COLE D., ‘Going to England’: Irish abortion law and the European Community. *Hasting International and Comparative Law Review* 1993; 17: 113-142.

CONNOLLY S., ENGLISH E., ‘English solution’ to abortion issue will remain says Shatter. *The Irish Examiner*, 9 July 2013, at <<http://www.irisht Examiner.com/ireland/english-solution-to-abortion-issue-will-remain-says-shatter-236328.html>> (consulted on 29 May 2014).

COOK R. J., DICKENS B. M., *Human rights dynamics of abortion law reform*. *Human Rights Quarterly* 2003; 25: 1-59.

DUDEN B., *Il corpo della donna come luogo pubblico. Sull’abuso del concetto di vita*. Torino, Bollati Boringhieri editore, 1994.

FASSIN D., *Entre politiques du vivant et politiques de la vie. Pour une anthropologie de la santé*. *Anthropologie et société* 2000; 24(1): 95-116.

FASSIN D., *The biopolitics of otherness. Undocumented foreigners and racial discrimination in French public debate*. *Anthropology Today* 2001; 17(1): 3-7.

FLETCHER R., *Post-colonial fragments: representations of abortion in Irish law and politics*. *Journal of Law and Society* 2001; 28(4): 568-589.

FOUCAULT M., *Storia della Sessualità I. La volontà di sapere*. Roma, Feltrinelli Editore, 1988.

Galway Pro-Choice, *Submission to the Joint Oireachtas Committee on Health and Children on the Protection of Life During Pregnancy*. Bill, 2013.

Invisible woman

- HANAFIN P., *Defying the female: the Irish constitutional text as phallogentric manifesto*. *Textual Practice* 1997; 11(2): 249-273.
- HERITIER F., *Maschile e femminile. Il pensiero della differenza*. Milano, Laterza, 2002.
- HOLLAND K., *Savita, the tragedy that shook a nation*. Dublin, Transworld Ireland, 2013.
- Human Rights Watch, *Ireland. A State of Isolation. Access to abortion for women in Ireland*. New York, 2010.
- Irish Family Planning Association, *Submission to the Joint Committee on Health and Children. Public hearings on the implementation of the Government decision following the publication of the Expert Group Report on A, B and C*, Ireland, 2013
- NUSSBAUM M. C., *Diventare persone*. Bologna, Il Mulino, 2001.
- QUARANTA I., *Antropologia medica. I testi fondamentali*. Milano, Raffaello Cortina Editore, 2006.
- RHINEHART M. A., *Abortion in Ireland: reconciling a history of restrictive abortion practices with the European Court of Human Rights' ruling A, B and C, Ireland*. *Penn State Law Review* 2013; 117(3): 959-978.
- SHEPER-HUGHES N., LOCK M. M., *The mindful body: a prolegomenon to future work in medical anthropology*. *Medical Anthropology Quarterly* 1987; 1(1): 6-41

Legal Documents (chronological order)

- Offence Against the Person Act, 1861.
- Constitution of Ireland (*Bunreacht Na hÉireann*), 1937.
- Eighth Amendment of the Constitution Act, 1983.
- Thirteenth Amendment of the Constitution Act, 1992.
- Fourteenth Amendment of the Constitution Act, 1992.
- The Attorney General v X* (Ir.S.C., 1992)
- A, B and C v Ireland* (ECtHR, 2010)
- Protection of Life During Pregnancy Act, July 2013.

Websites

- Abortion Support Network (<https://www.abortionsupport.org.uk/>)
- British Pregnancy Advisory Service (<http://www.bpas.org/bpaswoman>)
- Irish Family Planning Association, 'Statistics', at <http://www.ifpa.ie/hot-topics/abortion/statistics>> (consulted on 11 april 2015)
- Marie Stopes International United Kingdom, 'Women Services: Abortion', At Http://Www.Mariestopes.Org.Uk/Fees/Womens_Services/Abortion.aspx (Consulted On 1 July 2014)

Marie Stopes Reproductive Choices (<http://www.reproductivechoices.ie/>)

Women On Web (<https://www.womenonweb.org/>)

1. On this note, the main authors this article will refer to are Sheper-Hughes and Lock, Foucault, Fassin and A gampen.
2. The associations whose material was consulted are: Amnesty International – Ireland (AI-Ireland), Human Rights Watch (HRW), Centre for Reproductive Rights (CFRR), Irish Human Rights Commission (IHRC), Irish Council for Civil Liberties (ICCL), Irish Family Planning Association (IFPA), Doctors For Choice (DFC), Abortion Rights Campaign (ARC) and Galway Pro-Choice (GPC).
3. The associations interviewed are: DFC, ARC, AI-Ireland, IFPA and GPC.
4. HOLLAND K., *Savita, the tragedy that shook a nation*. Dublin, Transworld Ireland, 2013, p. 33.
5. HANAFIN P., *Defying the female: the Irish constitutional text as phallogocentric manifesto*. *Textual Practice* 1997; 11(2): 249.
6. FLETCHER R., *Post-colonial fragments: representations of abortion in Irish law and politics*. *Journal of Law and Society* 2001; 28: 573.
7. *Ibidem*, p. 568.
8. Although the 1937 Constitution was the third of Ireland after the independence (following the 1919 procedural one and the 1922 Constitution of the Free State) it was the first with a proper Irish stamp and without British influence.
9. “The Irish Church is different to the other nations’ Catholic churches, not only by virtue of its intense relationship with the people, but also because of the central role it has had in the foundation and subsequent administration of the Irish State. Its role in the provision of education, healthcare, social services and the alleviation of poverty predate the State’s foundation” (HOLLAND K., see note 4, p. 38).
10. *Ibidem*, p. 35.
11. Constitution of Ireland, 1937, Preamble.
12. *Ibidem*, Article 41.2.
13. HANAFIN P., see note 5, p. 257.
14. NUSSBAUM M. C., *Diventare persone*. Bologna, Il Mulino, 2001 (2000), p. 293, my own translation.
15. HERITIER F., *Maschile e femminile. Il pensiero della differenza*. Milano, Editori Laterza, 2002.
16. *Ibidem*, p. 262, my own translation.

17. Between the 1800 Acts of Union and the 1927 Royal and Parliamentary Titles Act, this was the formal name of the United Kingdom (UK), unifying the two kingdoms of Great Britain and Ireland.
18. FLETCHER R., see note 6, p. 575. The reference to the US recalls the landmark decision of the US Supreme Court allowing abortion on grounds of right to privacy in the *Roe v Wade case* (1973).
19. RHINEHART M. A., *Abortion in Ireland: reconciling a history of restrictive abortion practices with the European Court of Human Rights' ruling A, B and C v Ireland*. Penn State Law Review 2013; 117(3): 959-978.
20. It was passed by 67% voting in favour and 33% against (percentages personally derived by the Department of Environment, Community and Local Government, 2013).
21. Eighth Amendment of the Constitution Act, 1983.
22. Constitution of Ireland, Art. 40.3.3 as amended on 7 September 1983.
23. "This subsection shall not limit freedom to travel between the State and another state" (Thirteenth Amendment of the Constitution Act, 1992).
24. "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" (Fourteenth Amendment of the Constitution Act, 1992).
25. RHINEHART M. A., see note 19, p. 974.
26. *ABC v Ireland* (ECtHR, 2010).
27. DUDEN B., *Il corpo della donna come luogo pubblico. Sull'abuso del concetto di vita*. Torino, Bollati Boringhieri Editore, 1994, p.106, my own translation.
28. *The Attorney General v X* (Ir.S.C., 1992), para 7.
29. "Savita. The tragedy that shook a nation" is the title of the book written by Kitty Holland, reporter for The Irish Times who first brought the Savita Halappanavar's story to the national attention.
30. HOLLAND K., see note 4, p. 75.
31. Hearings for the Coroner inquest, as cited in HOLLAND K., see note 4, p.174.
32. HOLLAND K., see note 4, p. 75.
33. It is worth mentioning that when talking about women's body, the present article recalls the euristic analysis of the "three bodies" of the critical-interpretative anthropological approach made by Sheper-Hughes and Lock, and in particular refers to the "the body politic, referring to the regulation, surveillance, and control of bodies (individual and collective) in reproduction and

sexuality, in work and in leisure, in sickness and other forms of deviance and human difference” (SHEPER-HUGHES N., LOCK M. M., *The mindful body: a prolegomenon to future work in medical anthropology*. Medical Anthropology Quarterly 1987; 1: 7-8.

34. See DUDEN B., note 27.
35. Performance by the group Imelda (see *infra*).
36. Some academics describe legal frameworks totally banning abortion as contributing to forced pregnancies, since the term refers both to “forced initiation of pregnancy and forced continuation of pregnancy (COOK R. J., DICKENS B. M., *Human rights dynamics of abortion law reform*. Human Rights Quarterly 2003; 25: 11). The use of the term in this context has no international criminal meaning, but is purely descriptive.
37. See Human Rights Watch, Ireland, *A State of Isolation. Access to abortion for women in Ireland*. New York, 2010, p.16.
38. The statistics of women travelling per year (see *infra*) remained almost unvaried since the 1980s.
39. COLE D., ‘*Going to England*’: *Irish abortion law and the European Community*. Hasting International and Comparative Law Review 1993; 17: 117.
40. This research gathered data provided by the ‘UK Department of Health’s Statistics on Irish women accessing abortion services in England and Wales’ and other official records from The Netherlands.
41. Irish Family Planning Association, ‘Statistics’, at <<http://www.ifpa.ie/Hot-Topics/Abortion/Statistics>> (consulted on 11 April 2015).
42. “Therefore unofficial estimations tend to consider the numbers between 150.000 and 200.000 women in 30 years” (interview with Richie Keane, DFC, Dublin, 7 April 2014).
43. Interview with Richie Keane, DFC, Dublin, 7 April 2014.
44. Marie Stopes Reproductive Choices (<<http://www.reproductivechoices.ie/>>), based in Dublin, provides information. The Abortion Support Network (<<https://www.abortionsupport.org.uk/>>) is a CSO based in the UK providing practical financial and logistic assistance for the journey. The British Pregnancy Advisory Service (BPAS) (<<http://www.bpas.org/bpaswoman>>), based in the UK, performs the majority of abortions to Irish women.
45. Justice Minister Alan Shatter quoted in CONNOLLY S., ENGLISH E., ‘*English solution*’ to abortion issue will remain, says Shatter, *The Irish Examiner*. 9 July 2013, at <<http://www.irishexaminer.com/ireland/english-solution-to-abortion-issue-will-remain-says-shatter> 236328.html> (consulted on 29 May 2014).

Invisible woman

46. For example, the group of English women called Imelda (Ireland Making England a Lawful Destination for Abortion) performs in the streets of London to raise awareness on the issue.
47. Irish Family Planning Association, *The Irish journey. Women's stories of abortion*, 2000.
48. For instance: "50,000 Secret Journeys" (1994) by Hilary Dully, "Like a ship in the night" (2006) by Melissa Thompson, "Taking the boat" (2013) by Lisa Keogh and a still on-going project called "Take the boat" by Camille Hamet and S  r  na Robin available at <<http://www.touscoprod.com/en/taketheboat>> (consulted on 29 May 2014).
49. *ABC v Ireland* (ECtHR, 2010), paras 128-129.
50. As Amanda Mellet said describing her emotions after the abortion: "I would have wished for nothing more than to curl up in my own bed at home with my family nearby to support" (Centre For Reproductive Rights, *Abandoned and stigmatised. The impact of the Irish abortion law on women*, 2014, p. 17).
51. *Ibidem*, p. 12.
52. It is a group of Irish parents having faced critical situations for the non-viability of their children, who try to raise awareness on the issue through sharing their personal experiences, and fight for the introduction in the Irish legal framework of this ground of legality for having an abortion.
53. Ruth Bowie, in Centre For Reproductive Rights.
54. *Ibidem*.
55. *Ibidem*.
56. *Ibidem*.
57. Generally, only up to nine weeks of gestation women can require a medical abortion (Human Rights Watch, see note 37, p. 31).
58. Irish Family Planning Association, Submission to the Joint Committee on Health and Children. Public hearings on the implementation of the Government decision following the publication of the Expert Group Report on A, B and C v Ireland.
59. Human Rights Watch, see note 37, p. 31.
60. Irish Family Planning Association, see note 58, p. 4.
61. See <http://www.mariestopes.org.uk/Fees/Womens_services/Abortion.aspx> (consulted on 1 July 2014).
62. *Ibidem*.
63. Human Rights Watch, see note 37, p. 31.
64. *Ibidem*, p. 32.
65. *Idem*.

66. Interview with Kelly Mackey, AI-Ireland, Dublin, 14 May 2014.
67. Human Rights Watch, see note 37, p. 38.
68. An increasing number of women order abortion pills online, mostly through a worldwide women's support network called "Women On Web" (<<https://www.womenonweb.org/>>).
69. Galway Pro-Choice Submission to the Joint Oireachtas Committee on *Health and Children on the Protection of Life During Pregnancy* (Heads of) Bill, 2013, p. 3.
70. Praveen Halappanavar, Savita's husband, in HOLLAND K., see note 4, p. 219.
71. FOUCAULT M., *Storia della Sessualità I. La volontà di sapere*. Roma, Feltrinelli Editore, 1988.
72. AGAMBEN G., *Homo Sacer. Il potere sovrano della nuda vita*. Torino, Einaudi, 1997.
73. This paragraph is freely rephrased and adapted to the present article by QUARANTA I., *Antropologia medica. I testi fondamentali*. Milano, Raffaello Cortina Editore, 2006, p. XXVI.
74. FASSIN D., *Entre politiques du vivant et politiques de la vie. Pour une anthropologie de la santé*. *Anthropologie et société* 2000; 24(1): 105, my own translation.
75. This paragraph is freely rephrased and adapted to the present article by QUARANTA I., see note 73, p. XXVI.
76. FASSIN D., see note 74, p. 106.
77. *Ibidem*, p. 105-6.
78. This sentence is freely rephrased and adapted to the present article by FASSIN D., *The biopolitics of otherness. Undocumented foreigners and racial discrimination in French public debate*. *Anthropology Today* 2001; 17(1): 5.
79. This sentence is freely rephrased and adapted to the present article by FASSIN D., see note 78, p. 7.
80. FASSIN D., see note 74, p. 111.

Correspondence should be addressed to:

chiara.cosentino@gmail.com