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FETAL IRELAND: NATIONAL BODIES AND POLITICAL AGENCY*

KATHRYN CONRAD

Unionists must ensure that nationalists don't outnumber them. On the other side, what are we confined to—outbreeding them? What are our choices? Either we shoot them or we outbreed them. There's no politics here. It's a numbers game.

BERNADETTE DEVLIN MCALISKEY, NORTHERN IRISH ACTIVIST¹

Interpreting boundaries . . . is a way to contest them, not to record their fixity in the natural world. Like penetrating Cuban territory with reconnaissance satellites and Radio Marti, treating a fetus as if it were outside a woman's body, because it can be viewed, is a political act.

ROSALIND POLLACK PETCHESKY, AMERICAN FEMINIST SCHOLAR²

INTRODUCTION

BORDERS MATTER. Critical theory has pushed borders, examined borders, realigned them, transgressed them, exploded them. The border is a way to imagine the limits of power, mobility, and the body in space. But borders are, of course, more than abstractions. National borders do exist and, as is clear in Northern Ireland, are often contested and policed.

Another such border is that which defines the limits of a woman's body. Women's bodies, to use a now-hackneyed phrase, are battlegrounds.

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¹ Sean Cahill, "Occupied Ireland: Amid Hope of Peace Repression Continues," *Radical America* 25 (1995), 57.

² Rosalind Pollack Petchesky, "Fetal Images: The Power of Visual Culture in the Politics of Reproduction," *Feminist Studies* 13 (Summer 1987), 272.

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The particular aptness of this metaphor is clear to anyone who has participated in or witnessed an abortion clinic defense/siege. Not only are the street, parking lot, and/or the clinic the ground on which the battle is fought, but the bodies of the women who seek counseling and abortion are besieged, guarded by uniformed escorts, protected, and attacked. Perhaps somewhat more metaphorically, however, women's bodies are the sites of ideological battle—a battle with far-reaching material consequences.

In order to explore the connections between the ideological and the material, I will revisit the debates over the Republic of Ireland's constitutional amendment in the early 1980s, the infamous "X" Case of 1992 and concurrent Maastricht Treaty debates, the subsequent amendments to the Constitution, and the recent and brief debates in the Northern Ireland Assembly over extending Great Britain's 1967 Abortion Act to Northern Ireland. Because the Nation relies on women for the perpetuation of its population, I argue in this essay that there is a more than coincidental similarity between the rhetorical construction of Ireland and the rhetorical construction of the fetus; this similarity points to the necessary but often discursively obscured link between the "private" choices of women and the "public" interests of the Irish Nation/State.³

The abortion debates in the Republic of Ireland reached their peak in the early 1980s, in the period leading up to the 1983 abortion referendum. At stake at the time was not only women's agency over their bodies, but also the permeability of the borders between Ireland⁴ and the rest of Europe, as Laury Oaks has noted.⁵ According to an article in *Magill*, the anti-abortion⁶ forces, represented by the Pro-Life Amendment Campaign

3 By Nation/State, I mean to highlight simultaneously the inseparability of the two terms but also the instability of their connection. As was stated in the Irish Constitution (*Bunreacht na hÉireann*) prior to the Good Friday Agreement of 1998, the Irish nation comprised the whole island of Ireland; the territory of Irish state, however, only comprised the Republic of Ireland. "Nation" here is perhaps the most unstable term, since it now officially (in British and Irish documents) refers to the Republic but in the language of nationalists still refers to the entire island of Ireland.

4 By Ireland, I refer to the Republic of Ireland.

5 Laury Oaks, "Irishness, Eurocitizens, and Reproductive Rights," *Reproducing Reproduction* (Philadelphia: University of Pennsylvania Press, 1997), 132. Hereafter, it will be referred to as "Irishness."

6 I prefer the term "anti-abortion" to "pro-life": as will be clear as this chapter progresses, the "life" that anti-abortion forces are "for" is circumscribed by state interests; and to use the term "pro-life" implies that pro-choice forces are "anti-life," a disingenuous dichotomy at best.

(PLAC), were concerned with “the trends in sexual permissiveness, decline in ethical values and high abortion rates that have developed in other countries.” The PLAC groups were joined by a number of organizations, “mostly Catholic,” that saw the abortion issue as “the last line of defense against the encroaching moral decadence of Europe”⁷—a position that bears a striking similarity to reactions against homosexuality from nationalists earlier in the century and from the “pro-family” group Family Solidarity in 1992.⁸ The anti-abortion amendment, it is worth pointing out, would be legally redundant: the unchallenged 1861 Offenses Against the Person Act, Sections 58 and 59, makes intentional miscarriage a felony act liable to a life sentence of penal servitude, and makes anyone assisting such an act guilty of a misdemeanor.⁹ The amendment was thus intended not to criminalize abortion but to protect “life of the unborn,” in the language of PLAC, from the threat of forces ostensibly outside Ireland. Both pro-choice and queer politics suggested a threat to morality, morality defined primarily through the Catholic Church but also, given the extent to which Europe is here figured as the threat, defined as a particularly Irish kind of morality. As Oaks writes, “in Ireland, reproduction is a medium through which competing national origin stories that focus on Irish national identity and cultural self-determination, indeed visions of ‘Irishness’ itself, are imagined and expressed” (Oaks, “Irishness,” 133). Both the anti-abortion and the anti-homosexual positions imply a desire for the reproduction of a particular kind of Irishness, one that contains Irishness in a tightly circumscribed heterosexual family narrative.

“Reproduction” is a key term here, for what are, I would argue, more than metaphorical reasons. The concern over “encroaching moral decadence” masked a concern about Ireland’s seeming inability to keep its population intact and within its borders. As Oaks notes, population loss during the 1845–48 potato blight and mass emigration in the 1980s and

7 *Magill Book of Irish Politics* (Dublin: Magill Publications, 1983). Cited in Tom Hesketh, “The Second Partitioning of Ireland? The Abortion Referendum of 1983” (Dun Laoghaire: Brandsma Books, Ltd.), 6.

8 See Kieran Rose, *Diverse Communities, The Evolution of Lesbian & Gay Politics in Ireland* (Cork: Cork University Press, 1994), 47: the case which Senator David Norris brought to the European Court, which eventually led to the decriminalization of homosexuality in the Republic, was seen as “another example of Europe imposing its ethical values on Ireland.”

9 As cited in the *Green Paper on Abortion* (Dublin: Stationery Office, 1999), 135. This text will be referred to hereafter as *Green Paper*. The punishments are cited elsewhere, including in Hesketh, 8–10.

early 1990s fueled the fear that the Irish nation was in jeopardy, at risk of “dying out.” Long influenced by the Catholic Church’s strictures against contraception and abortion, however, the government prior to this time had not needed legislation officially to prevent abortion. The link between Catholicism and the national interest has ensured that the Catholic Church has a central role in the Irish State, despite the 1972 repeal of Article 44, section 2, of the 1937 Irish Constitution, *Bunreacht na hÉireann*, in which “The State recognizes the special position of the Holy Catholic Apostolic and Roman Church as the guardian of the Faith professed by the great majority of its citizens.”¹⁰ The relationship between reproduction and the State is also reflected in an earlier section of the Constitution: *Bunreacht na hÉireann* officially insists that the woman’s place is in the home and that women bear the responsibility of the family. Although this fact has been much commented upon, it bears repeating. Under the section of “Fundamental Rights” entitled “The Family” (Article 41), the Constitution states the following:

1. 1° The State recognizes the Family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.
- 2° The State, therefore, guarantees to protect the Family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the Nation and the State.
2. 1° In particular, the State recognizes that by her life within the home, woman gives to the State a support without which the common good cannot be achieved.
- 2° The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.¹¹

Ruth Riddick has pointed out that “woman” and “mother” are seen as interchangeable terms in the Irish Constitution,¹² as can be seen from the rhetorical move from 2.1 to 2.2: at least, it is clear that mothers are the only women the State deems worth acknowledging. The combination of the pro-natalist Church and the domestic patriarchy insisted on by the Constitution ensure that the concerns of reproducing the Irish national

¹⁰ *Bunreacht na hÉireann* (Dublin: Government Publications, 1945), 144.

¹¹ *Bunreacht na hÉireann* (Dublin: Stationery Office/Brunswick Press Limited, 1997), 136–38.

¹² Ruth Riddick, “The Right to Choose: Questions of Feminist Morality” (1990), *A Dozen Lips* (Dublin: Attic Press, 1994), 148.

subject rest firmly on the shoulders of Irish women. The debates about abortion have thus never focused on population control, despite the clear nationalist interest in maintaining an Irish population. Instead, the nationalist concern has been framed in terms of the morality—or, more to the point, the immorality—of the individual reproductive choices of Irish women. Those “choices” are clearly circumscribed by the State and are clearly more than just “personal,” private choices, however, given the State’s investment in maintaining a specifically Irish population. As American feminist legal scholar Catherine MacKinnon has argued, the language of “choice” used by pro-choice groups in the US does assume that women have agency within the private sphere—a dangerous naïveté, she argues, since “privacy is by no means a gender-neutral concept.”¹³

The way in which the Irish anti-abortion forces have chosen to speak about abortion is similar to that of American anti-abortion/pro-life discourse. What is usually masked, in both campaigns, is the relationship between the anti-abortion interests and the national interest. In Irish anti-abortion discourse, just as in American anti-abortion discourse, the fetus is seen as the primary concern, the being under threat. Lauren Berlant notes that the process of nation-formation “occlude[s] the centrality of reproduction to the process by which the nation [rejuvenates] itself.”¹⁴ “The reproducing woman,” she argues, “is no longer cast as a potentially productive citizen, except insofar as she procreates: her capacity for other kinds of creative agency has become an obstacle for national reproduction” (153). In Ireland, I would argue, there is a metaphorical and, more specifically, a synecdochic similarity between the fetus’ relationship to the mother and Ireland’s relationship to Europe. The nationalist rhetorical construction of Ireland in the 1990s debate over Ireland’s place in the European Union insisted on the importance of Ireland’s viability and integrity separate from the European Union and, more specifically, from the European Court of Human Rights and the Court of Justice. The European Courts—the same courts that, significantly, ruled in favor of David Norris’ case for decriminalizing homosexuality¹⁵—were consistently constructed as a threat to the integrity of Ireland as a nation.

13 Catherine MacKinnon, *Toward a Feminist Theory of the State* (Cambridge: Harvard University Press, 1989). See esp. Chapter 10: “Abortion: On Public and Private,” 184–94.

14 Lauren Berlant, “America, ‘Fat,’ the Fetus,” *boundary 2* 21:3 (Fall 1994), 152. Later included in Chapter 3 of *The Queen of America Goes to Washington City: Essays on Sex and Citizenship* (Durham: Duke University Press, 1997), 83–144.

15 See Rose, *Diverse Communities*, 39.

The rhetorical construction of Ireland in these early abortion debates parallels rather strikingly the construction of the fetus in anti-abortion discourse: the fetus, like Ireland, is constructed by this discourse as an autonomous entity threatened from without. Both constructions follow the same logic. As Rosalind Pollack Petchesky has argued, fetal imaging techniques take the fetus out of the context of the womb and the woman, thus representing the fetus as an autonomous subject. Petchesky notes that “fetal imagery epitomizes the distortion inherent in all photographic images: the tendency to slice up reality into tiny bits wrenched out of real space and time, which leads to seeing reality as data “divorced from historical process or social relationships” (268–69). The fetus is taken out of the context of the narrative of the pregnant woman of which it is inextricably a part and re-narrativized as a separate autonomous subject—as evidenced, for instance, by the “pro-life” film *The Silent Scream*, in which fetal development in the womb is recontextualized, without the apparently irrelevant pregnant woman, as a kind of life story. *The Silent Scream*, emerges from the history of the popular use of fetal imaging that can be traced, as Petchesky notes, back at least as far as an article in *Look* magazine publicizing a book entitled *The First Nine Months of Life*, in which the fetus is constantly pictured as a solitary entity and is referred to as “the baby” (268), and includes such representations as the Star Child of 2001: *A Space Odyssey*, an autonomous being floating in empty space.¹⁶ Fetal technology has meant that the pregnant woman is reduced to “the maternal environment” (277), a kind of passive landscape of fetal growth and “life.” The Society for the Protection of Unborn Children (SPUC), an initially London-based anti-choice group, relied and continues to rely on this imagery in its pamphlets. In one pamphlet, SPUC goes so far as to picture “a baby only six weeks after conception” in an amniotic sac, dangling from male hands, in order to impress upon viewers the human development of the embryo. The image reinforces the notion that the fetus is an

16 Petchesky cites Barbara Katz Rothman’s observation that “the fetus in utero has become a metaphor for man in space, floating free, attached only by the umbilical cord to the spaceship. But where is the mother in that metaphor? She has become empty space.” (Rothman, *The Tentative Pregnancy: Prenatal Diagnosis and the Future of Motherhood* [New York: Viking, 1986], 114, cited in Petchesky, 270). Zoe Sofia notes the connection between 2001 and the “cult of fetal personhood,” noting that the Star Child is one enactment of the “perverse myths of fertility in which man replicates himself without the aid of a woman” (Sofia, “Exterminating Fetuses: Abortion, Disarmament, and the Sexo-Semiotics of Extraterrestrialism,” *Diacritics* 14 [1984], 47–59, cited in Petchesky, 270).

autonomous entity; dangling there in its entirety, no comment is made about why it has been removed from the mother's womb and whether it is a viable fetus. The text comments that "at about 24 days after conception the baby's heart begins to beat and will continue until the end of his or her life," not noting that the fetus pictured cannot be "the baby" whose heart the text describes as beating.¹⁷

The threat comes not from the male hands that dangle "the baby" here: it implicitly comes from the "maternal landscape," typically constructed by anti-abortion discourse as a hostile one. Ruth Riddick points out that "during the [Irish anti-abortion] amendment campaign, and subsequently, it was claimed that the womb . . . was no less than 'the most dangerous place in the world to be'—this in a world with the nuclear capacity to annihilate all life many times over" (148).¹⁸ Berlant notes the tendency in American anti-abortion discourse to construct the fetus in the language of the marginalized: "the pro-life movement has composed a magical and horrifying spectacle of amazing vulnerability: the unprotected person, the citizen without a country or future, the fetus unjustly imprisoned in its mother's hostile gulag" (150). The SPUC pamphlet described above works on this assumption, asking its audience to "VALUE YOUR VOICE—VALUE YOUR VOTE. make it count for those with no voice and no vote." The "you" is, of course, not the pregnant woman; the audience is exhorted to speak for the imprisoned fetus in a clear mimicking of civil rights discourse employed by politically disenfranchised and/or marginalized peoples. Women's bodies, Berlant notes, are useful only insofar as they reproduce stable identities; the pregnant woman becomes "an identity machine for others" (147). Women's agency is either erased or seen as threatening; in the Irish context, women are either the landscape for Ireland's "unborn citizens" or the primary enemy of the fetus, depending on which argument the anti-abortion rhetoric is being used to advance. In neither case can the anti-abortion forces allow women's agency.

17 Society for the Protection of Unborn Children pamphlet, "Value Your Voice—Value Your Vote" (c. 1990s).

18 Nell McCafferty and Margo Harkin, among others, also cite this claim ("The most dangerous place to be at the moment is in the mother's womb"), which is attributed to Bishop Joseph Cassidy. See *A Woman to Blame* (Dublin: Attic Press, 1985), 10, and *Hush-a-Bye Baby* (Derry Film and Video Workshop, 1989), respectively. SPUC's Northern Ireland branch (Newtownabbey, Co. Antrim) also appropriates this quotation for one of its pamphlets, published after the "X" Case and the Standing Advisory Committee on Human Rights (SACHR) report on abortion. The pamphlet pictures a fetus with the headline "Threatened by a 'Human Rights' Body."

A woman with agency over her fetus has control over the “potential citizen” and, given the logic of the fetus-as-individual, the pregnant woman also threatens to become a double subject, I would argue. She can speak both for herself *and* with and for the fetus—the latter a position currently assumed by doctors, celebrities, and politicians, as Berlant notes and the Irish anti-abortion discourse emphasizes. The corporeal contingency of pregnant woman and fetus—the fluidity of the boundary between them—potentially gives women double weight and threatens the fixity of boundaries. The mother who “speaks for two” challenges the fixity of boundaries and identities—a challenge that threatens more than anti-abortion discourse, but also a national discourse that depends on women’s silence and passivity to ensure its perpetuation.

The fetus alone, however, is pure potential citizen, a sign of the reproduction of the Nation/State.¹⁹ The fixing of the fetus as an autonomous entity by Irish nationalist, anti-abortion discourse is a symbolic fixing of the borders of Ireland as a similarly autonomous entity, secure from outside attacks. As goes the fetus, so goes the Nation; all of the hopes of the latter are pinned on the purity and security of the former entity, uncorrupted by “foreign” politics.

Feminist scholar Ailbhe Smyth has commented on the ways in which Ireland has been figured in “extreme-right ideology and politics” as under threat:

An important strand in extreme-right ideology and politics in Ireland since the 1970s has been the emphasis on Ireland as the last bastion of moral and sexual purity and of the traditional family in the Western world. In this scenario, Ireland plays the heroic role of the tiny beleaguered State staunchly defending the Faith of Our Fathers (and the invisibility of our mothers) by holding out against the global wave of depravity which threatens to engulf it, and thus (somewhat illogically) Ireland shines as a beacon for all those in need of salvation. . . . Those—especially women—who go the way of all flesh and “choose” divorce, contraception, or abortion are therefore traitors to both Church and State.

The message is that Ireland must and *can* save the world from dissolution and destruction. This would be merely ludicrous if it did not so wit-

19 This language of potential is reflected in the Catholic Press and Information Services’ “The Catholic Church and Abortion” (Dublin, 1983): “The case against abortion is profoundly positive: It is that innocent human life has an intrinsic value. This is so because the unborn child is a member of the human community, thoroughly dependent, to be sure, but with potential for growth and development that is undeniable” (Hesketh, 49).

tingly appeal to a need for status and self-importance in the collective Irish psyche. For whatever Irish people may like to think, the fact is that Ireland is an insignificant geographical, economic, and political entity in the European and, *a fortiori*, global scheme of things.²⁰

Smyth's comments suggest that Ireland's needs for "self-aggrandizement" come from its status as "an ex-colonial state, with an insecure sense of national identity," one which finds itself in an uncertain relationship with a strengthening Europe. She notes that its need for a *raison d'être* in this context is "understandable but disturbing when one of the chief ways, *de facto*, it has achieved a distinctive identity within Europe is through its denial to women of full citizenship rights" (120). The woman as agent with a fetus that is contiguous with her, I would argue, parallels the position of Ireland in Europe, inseparably linked with European cultures and economies, and thus erases the vision of the autonomous Irish-fetus-as-Irish-citizen, the pure and unsullied hope for future Irish potential, "uncorrupted" by adult politics (such as economics, reproductive rights, and political agency). Women's agency threatens the secure reproduction of this pure potential "protected" by nationalist patriarchy; the latter thus cannot allow female agency in its narratives, its stories about itself. Changing the narratives means acknowledging simultaneously that the narratives both of fetus and mother *and* of the Irish nation and the rest of the world are linked. In order to ensure the uncomplicated perpetuation of the Irish State, then, women's agency over their bodies must be contained both by perpetuating a particular heterosexual familial paradigm and by limiting women's access to reproductive choices: the narrative of women's lives and the future of the State are inextricably linked.

The year 1983 thus saw the passage of the Eighth Amendment to the Irish Constitution, following the long and intense campaign on behalf of that "fetal citizen":

ARTICLE 40 ("PERSONAL RIGHTS")

1. 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.

20 Ailbhe Smyth, "And Nobody Was Any the Wiser": Irish Abortion Rights and the European Union," in *Sexual Politics and the New European Union: The New Feminist Challenge*, ed. Amy Elman (New York: Berghahn Books, 1996), 119.

The Amendment passed by 66.45 percent.²¹ The debate was, however, far from over: the abortion debates were linked with a number of controversial cases including the death of Sheila Hodgers, who died without painkillers of a cancer that doctors did not treat because she was pregnant; fourteen-year-old Ann Lovett's death in childbirth alone at the grotto of the Virgin Mary at Granard; and the infamous "Kerry Babies Case." All of the cases concerned the tension between the private and the public and the silencing of women's voices in the discussion of women's agency over their bodies. The death of Ann Lovett in particular inspired an outpouring of creative responses from Irish writers. Elizabeth Butler Cullingford cites Paula Meehan's poem, *The Statue of the Virgin at Granard Speaks*; Nuala Ní Dhomhnaill's poem *Thar mo Chionn*; Sinéad O'Connor's and Christy Moore's song, *Middle of the Island*; and Leland Bardwell's short story *The Dove of Peace*²² as works conceived in response to that tragedy, all of which pointed to the troubling relationships between Church, State, the family, and individual women.

The collaboration of community, church, and institutional authority to keep the myth of the normative "healthy" patriarchal family intact was reflected in April 1984, when a dead baby boy washed up onto the White Strand, three miles from the town of Cahirciveen in County Kerry. The ensuing "Kerry Babies Case" not only reinforced the gendering of the privilege of privacy, but demonstrated the State's fear of women's agency—and suggests the close relationship between the territory of women's bodies and national territories. After the baby was brought in, the State's pathologist pronounced the baby murdered, and the *gardaí*, or police, immediately began to search for parents of the child. The search included canvassing the neighborhoods and questioning doctors and clergy in the area. With the help of a breach of confidentiality by a doctor, the guards decided that a twenty-four-year-old woman named Joanne Hayes might have given birth to the Cahirciveen baby. She had been pregnant but there was no baby officially registered. The guards gathered confessions from each member of the family that suggested that Joanne had given birth to her child and then stabbed the baby to death; her siblings then drove the corpse to Sleah Head and threw the baby into the sea. But as the confessions were being taken from the family, Joanne told her sis-

²¹ Cited in Riddick, 143.

²² Elizabeth Butler Cullingford, "Seamus and Sinéad: From 'Limbo' to *Saturday Night Live* by Way of *Hush-a-Bye Baby*," *Colby Quarterly* 30:1 (1994), 46.

ter Kathleen where to find her baby, to which she had silently given still birth, on the family farm. The baby was found.

The “Kerry Babies Case” was thus intended to be a tribunal of inquiry into police conduct in the case—given the startling existence of several somewhat contradictory statements from a woman and her family “confessing” to being part of the murder of a newborn baby to whom the woman in question could not have given birth. The inquiry was anything but an inquiry into police conduct, however. Instead, the investigation turned toward Joanne Hayes: though charges against her had been dropped, the tribunal, consisting entirely of men, asked whether Joanne Hayes was perhaps so “loose” in her morals that she could have been impregnated by more than one man and thus been pregnant with two fetuses and given birth, on different days, to two children with two different fathers.

Journalist Nell McCafferty recounts the events leading up to and including the tribunal in *A Woman to Blame: The Kerry Babies Case*.²³ McCafferty’s text suggests an awareness of the ways in which narratives can be formulated and wielded by the State to secure heteronormative “family values” and erase, or attempt to erase, indictments of the State’s ideological hegemony. McCafferty’s text serves as intervention into this narrativization by providing a counter-narrative, one that explodes the distinction between the “public” and the “private.” By re-narrativizing the events, McCafferty suggests the larger narrative of which Hayes was a part, answering, to some degree, the question asked by the judge with which she ends the book: “what have the women of Ireland got to do with this case?” (169).

The tremendous outpouring of support by women across the country which McCafferty records also answers the judge’s question: women throughout Ireland saw in Joanne Hayes a potential image of themselves. Kate Shanahan, a Dublin activist involved in a group called Women for Disarmament, commented that the experience of seeing Joanne Hayes and her mother made her and other women realize “how close we all are to disaster if the public should be given a look in at us” (130). Her statement suggests that women are always already not included in “the public,” that the public interest is not the same as a woman’s interests. Her comment speaks volumes about the lack of women’s “place”: not protected by

²³ Nell McCafferty, *A Woman to Blame: The Kerry Babies Case* (Dublin: Attic Press, 1985).

privacy, not acknowledged as part of the public sphere, women are the landscape on which the State's interests are written.

PART(UR)ITION

That landscape—the landscape of Ireland and of Irish women—remained a site of contestation throughout the 1980s, and the two were linked in fairly concrete ways. The 1983 abortion referendum symbolically fixed even more solidly the border between North and South. Before the election, several politicians, religious leaders, and others, North and South, opposed the amendment on the grounds that it would serve to reinforce the Northern Unionist assumption that the South was a Catholic state. The issue was one of political boundaries, not women's political agency. In the South, Capuchin Father Brendan O'Mahony expressed early opposition to the amendment on the grounds that to "impose the view of the majority religion" was "moral and religious imperialism" (quoted in Hesketh 64–65). On 3 July 1982, the editor of the *Irish Times* wrote that the amendment "should be dropped forever—for, whatever the motives of the originators, it is not only inappropriate among all the gush we have had about ecumenism, but is inimical to the interests of a united Ireland" (quoted in Hesketh 101). The Irish Council of Trade Unions (ICTU) backed the Anti-Amendment Campaign (AAC) and Tom Bogue, president of the Local Government and Public Services Union and staff officer with the Cork County Council, expressed concern that the amendment would "reinforce the views of those who believed that the Republic was a Catholic state" (Hesketh 93). But perhaps most surprising was a memo on Haughey's proposed amendment from the Department of Foreign Affairs, dated 20 September 1982, and written on behalf of the Minister:

Given the Government's commitment to fostering reconciliation between the two major traditions in Ireland, it is necessary to examine carefully any proposal which attracts the unanimous condemnation of Unionist politicians who will see in it the introduction of a sectarian provision into the Constitution and confirmation thereby of the view that the State is a Roman Catholic State which aspires to Irish Unity, so as to impose domination on the Protestant people of Northern Ireland. Reservations have accordingly been expressed about the proposal by Roman Catholics in Northern Ireland (including Senator Seamus Mallon). (quoted in Hesketh, 151–52)

The AAC's support came from many circles, including feminists and other pro-choice supporters such as David Norris and Bernadette Devlin

McAliskey, but also including many who believed that the amendment was unnecessarily politically divisive. An editorial in the *Irish Times* (30 August 1983) entitled “The Second Partitioning of Ireland” made it clear that the anti-abortion amendment was a symbolic reinforcement of the border between North and South:

The First Partitioning we had to accept under the threat of ‘immediate and terrible war’. The second has been made possible by Leinster House politicians, led by Garret FitzGerald and C.J. Haughey. We cannot blame anyone else this time. Not the British, not the Unionists; we cannot blame the Irish either—just the Twenty-Six County lot. What we are working at now is freedom from the Six Counties, freedom from the promises down the generations. (quoted in Hesketh, 334–35)

The Irish Protestant response to the amendment suggested that the amendment was unnecessarily divisive and not conducive to protecting the lives of the unborn. The Irish Council of Churches, the Church of Ireland, the Presbyterian Church of Ireland, the Religious Society of Friends, the Methodist Church of Ireland, the Irish District of the Moravian Church, and the Salvation Army all issued statements suggesting that the amendment was unnecessary; and some, not surprisingly, made reference to the issue of the North (Hesketh, 385–90). As Hesketh points out, doctrinal differences did exist, but the churches, Catholic and Protestant, did have a history of working together in the North against abortion. Protestants North and South saw that the amendment defined Ireland as the Republic and as Catholic. Again, what were at stake in the abortion referendum were not so much the medico-legal and religious definitions of fetal “life” but rather political territorial boundaries. The Constitution purports to cover both “Nation” and “State,” terms that refer to Ireland and the Republic of Ireland, respectively. Fetal Ireland’s autonomy required ignoring that troubling political contingency, the North, instead fixing the State’s borders and securing its agency at the cost of the so-called Nation—and, of course, at the cost of Irish women’s agency.

That fixity was in name only, as Margo Harkin’s groundbreaking 1989 film *Hush-a-Bye Baby* suggests. Set in the North in 1984—after the referendum, the death of Ann Lovett, and the Kerry Babies Case—Harkin’s film foregrounds the juxtaposition of North and South, political and personal agency, sex and national politics. The film suggests that the border is only one of many ways in which women are contained. More to the point, women’s reproductive choices are constrained by religious, economic, and political discourse regardless of whether they live North or South of

the border; women's personal agency is anathema in the context of the perpetuation of political systems.

Hush-a-Bye Baby provides an image of women's problems contained under glass—literally in the visual language of the film, but also, of course, metaphorically. Harkin's film suggests in particular that unwanted pregnancy is always already a public spectacle in Ireland, a screen onto which the anxieties of others are projected. By ending without resolving the crisis of the protagonist Goretti, a fifteen-year-old girl faced with an unplanned pregnancy, Harkin forces the viewer to accept that every possible end to the pregnancy narrative, every "choice" she might make, is shaped by political and religious discourse. The momentary freezing of Goretti's image on the screen, the film's final image, further emphasizes the paralyzing nature of Goretti's dilemma. Not conceding to marriage to a young man she barely knows, with no other viable options, she is frozen as a static image, forcibly removed from narrative possibility: her face represents the stagnation that results from the mapping of competing religious-political narratives onto women's lives.

The boundaries between Fetal Ireland and Europe were challenged again in 1991 in an appeal to the European Court of Justice on a 1986 Supreme Court case, *SPUC v. Grogan*, a case in which SPUC tried to prevent a student group from circulating information about abortion clinics abroad. According to the *Green Paper on Abortion*, the Court's ruling established that information about abortion services, when "distributed 'on behalf of an economic operator established in another Member State,' by agencies having a commercial relationship with foreign abortion clinics or by the clinics themselves" (41) could not be prevented by a Member State. The student group lost the case because the members were not commercially related to the abortion clinics, but it became clear that information, when identified as a commercial service, could not be restricted. The disturbing implications of this—that women's right to information was only guaranteed when part of a commercial service—were not of major concern to anti-choice activists; rather, it made clear that Europe challenged Irish sovereignty with respect to its decisions about Irish morality. This challenge was made further in 1992 when Open Door and Dublin Well Women Counselling won an appeal to the European Court of Justice based on the claim that "their freedom to impart and receive information concerning abortion facilities outside the jurisdiction of Ireland breached their right to freedom of expression as guaranteed by Article 10 of the Convention" (*Green Paper*, 36), a stronger implicit challenge to Irish sovereignty.

FETAL IRELAND: NATIONAL BODIES AND POLITICAL AGENCY

The silence surrounding the exportation of women seeking abortions to England was shattered in 1992, when a fourteen-year-old young woman from Dublin sought termination of a pregnancy that resulted from her rape by a classmate's father. The "X" Case brought again to the fore the State's manipulation of "information" for its own purposes. The Irish police were informed of the young woman's intent to abort when the father of the young woman asked whether tests could be performed on the fetal tissue to aid in the prosecution of the rapist. The Attorney General was informed, and the police presented the family, in England at the time, with a court order forbidding termination of the pregnancy. The family canceled the procedure and returned to Ireland, where the Irish High Court ruled that the young woman could not leave the country for nine months. The young woman spoke of suicide several times to her parents and to her doctor, but High Court Justice Costello stated that her intent to commit suicide ". . . is of a different order of magnitude than the certainty that the life of the unborn will be terminated if the order [to prevent travel] is not made."²⁴ The Irish Supreme Court eventually voted that she could travel on the grounds that she was suicidal. Oaks states that the young woman eventually miscarried ("Irishness," 8-9).

The "X" Case tested the solidity of the borders of Fetal Ireland drawn some ten years earlier. The referendum had ensured a "don't ask, don't tell" policy concerning travel about abortion, again strategically reinforcing the connection between "privacy" and the interests of the State. That connection became even clearer when the "X" Case exposed the consequences of making the "private" public: the Supreme Court voted three to two that a woman seeking to travel for an abortion could be detained under the pro-life amendment. The young woman in the "X" Case thus had to threaten to end her own life in order to have any control over its direction. The irony seems to have been lost on the judiciary. The Supreme Court's ruling on the "X" Case complicated the months leading up to the June 1992 referendum on the Maastricht Treaty, which would decide whether Ireland would become part of a united Europe. Many in Ireland and Great Britain trumpeted the Court's decision to allow the young woman to travel as a first step in bringing down "the Berlin wall of

²⁴ Cited in Glenn Frankel, "Abortion Case Touches Nerves Across Irish Society," *Washington Post*, 19 February 1992, A4. Also cited in Oaks, "Irishwomen, Euro-citizens and Redefining Abortion" (paper delivered at New England Regional American Conference for Irish Studies, Westfield, MA, 15 October 1993), 18; this essay will hereafter be referred to as "Irishwomen."

Northern Ireland,” in the words of one reporter.²⁵ But Ireland had not yet decided that the wall should come down. The Maastricht Treaty included a clause, Protocol 17, that protected the Eighth Amendment from European law. Thus, pro-choice activists campaigned against the treaty because it would mean Irish women did not have the same access to reproductive choices as the rest of European women; but the anti-abortion activists campaigned against the treaty because it saw the Maastricht Treaty, despite Protocol 17, as evidence of the aforementioned “encroaching moral decadence of Europe,” not sufficiently held at bay by the Eighth Amendment given the outcome of the “X” Case.

As Oaks notes, “debates in Ireland over the Maastricht Treaty publicly exposed competing political and social narratives” (“Irishwomen,” 16). By “narratives,” Oaks means the future of Ireland *versus* the future reproductive rights of Irish women. She continues:

One [narrative] focused on concerns over Irishwomen’s status in a united Europe, and was underwritten by a subtext about women’s responsibility to the Irish nation. . . . The Irish government and European unity supporters constantly attempted to disengage the Treaty from the issue of abortion in Ireland, while others focussed specifically on abortion as the most significant component of the Treaty. . . . Echoing the calls of the leaders of the Irish independence movement in the late 19th and early 20th centuries, in 1992 a pro-EC narrative developed in which “women’s issues” were to be subordinated to the interests of the nation. (17)

The “interests” now heralded by the government were the economic benefits to Ireland if it were to remain a part of the European Union; Fetal Ireland was thus ready to acknowledge, however provisionally, its contingency with Europe. But that new movement toward linking the fates of Ireland and Europe was threatened by concern over the status of women in that new relationship. The subordination of women’s concerns to national concerns is, as Oaks and others note and as I have stressed earlier, a common theme in nationalist movements.²⁶ The attempts by the

²⁵ Eoghan Harris, “Facing down fudge: now Ireland can look itself in the face again,” *Sunday Times*, 8 March 1992, 4. Cited in “Irishwomen,” 14.

²⁶ In the Irish context, see Kathryn Conrad, “Occupied Country: The Negotiation of Lesbianism in Irish Feminist Narrative,” *Éire-Ireland* 31:1&2 (Summer 1996), esp. 123–26; Conrad, “Women Troubles, Queer Troubles: Gender, Sexuality, and the Politics of Selfhood in the Construction of the Northern Irish State,” in *Reclaiming Gender: Transgressive Identities in Modern Ireland*, ed. Marilyn Cohen and Nancy J. Curtin (New York: St. Martin’s Press, 1999); Margaret Ward, *Unmanageable Revolutionaries: Women and Irish Nationalism* (London: Pluto Press, 1983).

State to deflect attention from the abortion issue during the Maastricht debates emphasize that women's lives and future reproductive choices—even their status as citizens who might move freely outside the borders of Ireland—were not of primary interest. Rather, the subject of the debates was indeed Ireland's political agency within that union, not women as autonomous subjects. The former precluded the latter.

Ultimately, the Maastricht treaty passed. Protocol 17 was designed to protect “Irish morality” from the purview of European law. The result, ironically, meant that for a brief time, pregnant Irish women remained, for the sake of the State, more specifically Irish than anyone else, subject only to Irish law. Protocol 17 ensured, in short, that a particular version of Ireland continued to be reproduced even as it linked itself more fully with Europe. However, the “internment,” as political cartoonist Martyn Turner deemed it, of pregnant Irish women did not go unchallenged.²⁷ The debate over the status of the Amendment led to a reconsideration of the abortion amendment. The government eventually proposed three further amendments. The first, the Twelfth Amendment, was intended to prevent situations like that of “X” traveling to England:

It shall be unlawful to terminate the life of an unborn unless such termination is necessary to save the life, as distinct from the health, of the mother where there is an illness or disorder of the mother giving rise to a real and substantial risk to her life, not being the risk of self-destruction. (*Green Paper*, 30)

This amendment first made clear what Doctors Against the Amendment had noted in 1982: “since in the Constitution the ‘right to life’ is quite separate from that concept of health described as ‘bodily integrity,’ the risk to the mother would have to be literally one of death rather than standard of life or health.”²⁸ Further, it suggested that women's agency over their bodies was to be further circumscribed; abortions could only be allowed in this scenario if women's bodies were outside their control. During the “X” Case debates, legal scholar Attracta Ingram argued that the Constitution was incoherent. Accommodation for abortion in Ireland for at least

²⁷ Martyn Turner, “17th February 1992 . . . the introduction of internment in Ireland . . . for 14 year old girls,” *Irish Times*, 18 February 1992. The cartoon pictures a girl standing in the middle of Ireland; the Republic is surrounded by barbed wire.

²⁸ Doctors Against the Amendment, “Briefing Document: Some Medical Implications of the Proposed Constitutional Amendment” (Dublin: The Anti-Amendment Campaign, 9 December 1982), 5.

some cases, she argued, “is necessary because a case for some right of abortion flows from every version of the moral and political theory justifying our claim to self-rule (Article 6 of the Constitution); to democratic equality as human persons before the law (Article 40); and the rest of fundamental rights that help assure the ‘dignity and freedom of the individual’.

This is why opponents of abortion could not trust the Constitution as it stood before the amendment.”²⁹ The Government’s proposed amendment, then, made clear that women were not to be considered individuals in the logic of the Constitution; put another way, individual sovereignty for women was seen as inconsistent with Irish sovereignty.

The Twelfth Amendment, however, failed by a two-to-one majority (*Green Paper*, 166). The other two recommended amendments were passed:

Thirteenth Amendment: This subsection shall not limit freedom to travel between the State and another state.

Fourteenth Amendment: 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. (*Green Paper*, 30)

The 1995 Regulation of Information (Services outside the State for Termination of Pregnancies) Act clarified the Fourteenth Amendment by stating that doctors and advice agencies could provide abortion information as one available option but could not make referrals (*Green Paper*, 31). The law was tested in the “C” case in November 1997. In this case, a thirteen-year-old girl was made pregnant as a result of rape and requested the Eastern Health Board to make arrangements for abortion abroad. Her parents challenged these orders, and the decision was decided along the lines of the Supreme Court’s final decision in the “X” Case. However, Mr. Justice Geoghegan made remarks suggesting that “the amended Constitution does not now confer a right to abortion outside of Ireland. It merely prevents injunctions against travelling for that purpose” (*Green Paper*, 33). As the *Green Paper* notes, the Justice’s interpretation suggests that the Court could decide to restrain travel “by reference to the right to life of the unborn” if, for instance, the child were a minor. In short, the new amendments did not clarify the rights of women in relation to the rights of the unborn, nor did it clarify Europe’s relationship to the Constitution.

The “X” Case and the subsequent test of it in the “C” Case suggest the

29 Attracta Ingram, editorial in the *Irish Times*, 26 February 1992, 27.

extent to which the movement of women—and the women’s movement—complicate the political position of Ireland in the European Community. Despite the concern over the anti-abortion amendment in the North and the applause by some over the Supreme Court’s decision to let women travel to obtain abortions in some circumstances, abortion and reproductive rights have not been the concern of those parties working on the continuing issues involved in northern governance.

At the 1993 Northeast Regional American Conference for Irish Studies meeting in Westfield, Massachusetts, Sean Farron of the Social Democratic Labour Party (SDLP) and Unionist politician Ian Paisley, Jr., were part of a discussion of the future of Northern Ireland. After their talks, a fellow scholar from the University of Alberta, Heather Zwicker, and I approached each of the men and asked how women figured in their views of the North and its relationship to Ireland. Both answered the same way: “We’re building a country here; what do women’s issues have to do with that?”—though each pointed out that there were women actively involved in their parties. We pressed them further, asking what were their party’s views of the “X” Case. Farron said that his constituents were Catholic and thus pro-life; Paisley answered similarly regarding his constituency. When I asked Paisley whether he would press for the full complement of abortion rights, given the Unionists’ expressed desire to continue to be part of Great Britain, he informed me that that was not a priority. Each man looked to the other for support across the crowded room.

Their answer reflects the unchallenged assumption that “women’s issues” have nothing to do with the work of building a government and a country; were abortion as readily available in the North as in England, however, the border between North and South would be continually troubled by women who face unwanted pregnancy and who must currently travel to England to obtain abortions. Though abortion information is legal in the North, abortion is by no means easily available; the 1967 abortion law that made abortion available in the rest of Great Britain has not been extended to Northern Ireland.³⁰ The uproar that has greeted

30 “Abortions may be performed where there is serious risk to the life or health of the woman, where a woman has serious learning difficulties, or when there is an abnormality of the foetus. However if a woman is pregnant as a result of rape or incest, or if her health will be in jeopardy by continuing the pregnancy, an abortion cannot be guaranteed.” Susan Strang, “Abortion: Whose body is it anyway?” *Women’s News* 74 (June/July 1995), 7. (The article is printed in full on one page.)

those who have pushed for abortion law reform suggests that Northern politicians are fully aware of the political ramifications of the increased availability of abortion. As feminist writer Susan Strang notes, “the invective delivered by anti-abortion groups against reformists suggests a change in the law would transform the north into the abortion centre for Ireland.” Strang notes the irony that, despite their difficulties discussing other issues related to the future of the North, politicians, church leaders, and anti-abortion groups manage to agree on this issue. Both Farron and Paisley could ignore the issue, therefore, because they rely on the assumption that women will continue to reproduce for the sake of their cause and that abortion is thus unthinkable; this assumption is reflected by Bernadette Devlin McAliskey’s acid comment about the “numbers game” of the North, quoted at the beginning of this essay, a comment that highlights the relationship of “women’s issues” to Northern politics.

The recent debate in the newly formed Northern Ireland Assembly drives this point home. The cross-community Northern Ireland Women’s Coalition has not taken a pro-choice stance as a party because the issue is considered divisive of women, although it did propose an amendment to further examine the subject of women. That amendment was defeated. As Suzanne Breen of the *Irish Times* noted, “the public gallery was packed for the four-hour debate. However, the Assembly chamber itself was half-empty.”³¹ Dawn Purvis and David Ervine of the Progressive Unionist Party and Joan Carson of the Ulster Unionist Party were the only people who spoke for women’s control over their bodies. The motion not to extend the abortion act, proposed by the Democratic Unionist Party, was passed without a recorded vote.

The abortion debates—or lack thereof—reflect Northern Ireland’s desire to remain “fetal”—a political entity unwilling fully to acknowledge its relationship with a changing Great Britain, Ireland, and Europe. Such a desire means that the notion of “self-determination” expressed differently both by nationalists and unionists will remain vexed. In “Self-determination: The Republican Feminist Agenda,” Claire Hackett speaks to her understanding of the connection between republican and feminist self-determination:

This concept is perhaps better known for its nationalist than its feminist connotations. Yet it must be clear that it has meaning for feminist discourse—self determination as the right and ability to make real choices

³¹ Suzanne Breen, “Assembly rejects abortion changes,” *Irish Times*, 21 June 2000.

about our lives: our fertility, our sexuality, childcare, the means to be independent and all the areas in which we are currently denied autonomy and dignity in our various identities as women.³²

Both she and Bernadette Devlin McAliskey³³ recognize the linked history of oppression of Ireland and of women, and recognize that both feminist and republican agendas call for increased agency for the subjects they represent. As I have argued throughout this essay, however, the discourses, which ensure the maintenance of one self, often depend on the erasure of another self. In particular, the self of the Nation and the State have consistently occluded those of its individual subjects, often merely writing the discourse of the individual as a metaphor of the Nation/State—as, for instance, in the oft-cited image of Mother Ireland. Of course, no woman is an island; but until the political groups maneuvering for position in Ireland recognize the contingency of the various subjects that constitute it, women in Ireland, North and South, will continue to be merely the landscape of State and Nation.

³² Claire Hackett, "Self-determination: The Republican Feminist Agenda," *Feminist Review* 50 (Summer 1995), 111.

³³ See especially Anne Crilly's documentary *Mother Ireland* (Derry Film and Video Collective, 1988), in which Devlin McAliskey speaks about the image of Ireland as a woman.