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Editorial

Special Issue on Repealing the 8th: Irish Reproductive Activism

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> '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' (Article 40.3.3, Bunreacht na hÉireann/Constitution of Ireland).

The 8th Amendment to insert Article 40.3.3 (detailed above) into the Irish Constitution was passed by referendum on 7 September 1983 and was repealed by referendum on 25 May 2018. For Irish women the campaign to repeal the 8th began the day after the referendum to insert it in 1983 and framed much of feminist activism for the following thirty-five years. While, as legal scholars Máiréad Enright and Fiona de Londras write, at first glance, 'the 8th Amendment may seem innocuous or merely aspirational' it has 'over time … come to ground a near-absolute prohibition on abortion in Irish law' (Enright and de Londras, 2018: 1). From 1983 to 2018, 'the 8th,' as it was commonly referred to, had a chilling effect on the right to choose, on obstetric care, and access to full reproductive rights for all in Ireland. Over those three and a half decades 'people acting "on behalf of"' the unborn have taken cases to disrupt attempts to access abortion care, while state actors have tried to vindicate the right to life of the 'unborn' by attempting to prevent people from travelling for abortion or imposing unwanted medical interventions on women' (Enright and de Londras, 2018: 2-3). In May 2018, the headlines around the world, reflected, for the most part, the relief felt by feminists and their allies that the 8th would be no more. However, as feminist activist and journalist Una Mullally warned during the post referendum happiness that the 8th was to be removed from the Constitution: 'any analysis that does not place at its centre the feminist, women-led movement is bereft' (Mullally, *Irish Times*, 1 June 2018). Undoubtedly, she was right. Even as the results of the referendum count began to filter through to the waiting crowd on 26 May 2018, the then Taoiseach (Prime Minister), Leo Varadkar of the centre right party Fine Gael, described the poll as the culmination of a 'quiet revolution' that has taken place in Ireland over the past ten years. But this was no quiet revolution nor was it only a decade-long battle, nor had any of the centrist parties campaigned for repeal until the last few months before the referendum. This co-opting of the victory in 2018 by neoliberal centrists is what makes feminist scholarship on the Repeal campaigns, on reproductive rights and on abortion histories in Ireland and globally, so vital.

In 1983 the impact of the 8th Amendment was to copper-fasten the idea that Ireland was, and would remain forever, abortion free. For academic and activist Ursula Barry (1988: 59), the insertion of the 8th Amendment was part of the successful attempt by 'right-wing Catholicism' to formulate 'a constitutional amendment asserting foetal rights and [to] look to the State to "vindicate" those rights'. In effect, she saw the battle to insert the 8th into the Irish Constitution as an 'integral part of an international movement to undermine gains made by the women's movement in the sixties and seventies' where the victory for the right meant that Ireland 'became the first country to enshrine the "right to life" of the foetus in law'. And as Barry (1988) clearly points out the consequences of the insertion of the 8th into the Constitution for pregnant people in Ireland have been severe. For Irish feminists the 1970s had been a long and difficult battle to gain some rights of access to employment and education, and access, albeit quite limited, to contraceptives. The 1980s, a time of recession, high unemployment and emigration became the decade when the politics of the body, particularly the reproductive body, became paramount. It was a decade when, as sociologist Inglis (2002: 7) has noted, 'the economic tide, on the back of which sexual freedom and increased sexual equality had been sweeping through the country, began to recede rapidly' and, as he argues, 'the

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economic recession coincided with the emergence of a new strident catholic morality'. Not only did a deep recession blight the 1980s in Ireland, the continuing rise and power of the right seemed unstoppable.

Even as they celebrated their victory in the 1983 referendum, the proponents of the 8th amendment were determined not to stop there. Travel to the UK for terminations, by women in the Republic and Northern Ireland (access to abortion did not extend there) had been part of the Irish abortion story since the legalising of access to abortion by licenced medical practitioners there through the UK Abortion Act of 1967. Post 1983 access to information on UK clinics, how to travel there and support on taking this difficult, and oftentimes traumatic journey, were needed more than ever. Feminist activists recognised this, and through women's clinics such as Open Line Counselling and Well Woman Centres offered non-directive pregnancy counselling to those who needed it. The right was determined to shut down these limited avenues of choice, and in January 1987, Mr Justice Hamilton, President of the Irish High Court, granted the Society for Protection of the Unborn Child (SPUC), an injunction against both Open Line Counselling and the Dublin Well Woman Centre. Hamilton's ruling held that 'the right to life of the unborn was a "fundamental right" that superseded the right to information regarding abortion in Britain', and in 1988 the Irish Supreme Court upheld this ruling (Earner-Byrne and Urquhart, 2019: 82). In fact, the Supreme Court went further and made it a criminal offence for providers, i.e., the clinics, 'to give practical information to women seeking legal abortion abroad'. These rulings came at a time when the position of women in Irish society was at the centre of discussions, in particular the ideology of the threatening or deviant pregnant body. The womb was understood by the political right as an unsafe space and the State, and its legal and medical arms, were galvanised as the protectors of the unborn foetus.

THIRTY-FIVE YEARS OF CAMPAIGNING TO REMOVE THE 8TH

In 1984, two events: the death of fifteen-year-old Ann Lovett at a grotto of the Virgin Mary in Granard, Co Longford, after giving birth to a baby boy (who also died), and the treatment by the Irish Gardaí (Police) of unmarried mother Joanne Hayes, in what became known as the 'Kerry Babies' case, 'shattered the complacency of a society that had rarely questioned its moral underpinnings and brought firmly into focus the schisms between the "old" and new Irelands' (Maguire, 2001: 336). Lovett's death, when it broke in the national newspapers in January 1984, generated a storm of controversy, an outpouring of grief and stories of similar hidden and unwanted pregnancies from Irish women. Letters from all over the country poured into radio station talk shows, particularly the popular daily talk show, the 'Gay Byrne Show', on RTÉ Radio One. The death of this pregnant teenage girl gave many the courage to talk about their unwanted and/or problematic pregnancies in a country where silence, stigma and shame still dominated when speaking of the reproductive body. Stories of unplanned, coercive, or hidden pregnancies, some the result of rape or incest, and the inability of women to get help or care in their own country, filled the airwaves. As the then Minister for Women's Affairs and Family Law, Nuala Fennell, said of the Lovett case, 'there is little indication that a caring society has emerged fully in the wake of the three-year pro-life debate we had just gone through' (Earner-Byrne and Urquhart, 2019: 80).

Within a short few months of Lovett's death, in April 1984, another story of pregnancy and death gripped the nation. On 14 April 1984, the body of a new-born baby boy was found on a beach near the town of Caherciveen in County Kerry, on the southwest coast of Ireland. The post-mortem found that the baby had been stabbed multiple times and a murder inquiry was launched which, as Inglis notes, 'involved one of the most comprehensive investigations into the morals and lifestyles of transgressive, especially single, women who were potentially, or known to be, sexually active' (Inglis, 2002: 8-9). Casting their net wide among 'suspect' women, the Gardaí soon decided that Joanne Hayes, who lived almost 50 miles away from Caherciveen, was a likely suspect. Unmarried, pregnant for the second time and rumoured to be having an affair with a married man, she fit the profile of what was considered the deviant Irish woman. By the time detectives called Hayes in for questioning she was no longer pregnant and, under duress, signed a confession that she had 'given birth to a baby boy … and had stabbed the baby to death with a carving knife', thrown the body in the sea, which detectives then argued was the body which had washed up in Caherciveen. The next day a body of a new-born baby was discovered buried on the Hayes family farm, leaving Gardaí with two bodies and one suspect. Hayes then admitted that she had given birth at home to a stillborn baby and had, with her family, buried it secretly. Despite this, detectives spent months trying to connect Hayes to the Caherciveen baby, even when blood tests demonstrated that Hayes could not have been the mother of that baby[1].

Charges were eventually dropped against Hayes, and no-one has ever been changed with the murder of the Caherciveen baby. While the treatment of Joanne Hayes during the investigation enraged many, it was her

[1] In 2020, the Gardaí (through the Police Commissioner) and the State (through the Minister for Justice) formally apologised to Joanne Hayes and her family and awarded them substantial compensation. All findings of wrongdoing made against them by the 1985 Tribunal of Inquiry (the Lynch Tribunal) were accepted as unfounded and incorrect.

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treatment at a public inquiry into the behaviour of the Gardaí during the 'Kerry Babies' investigation that galvanised feminists. The Tribunal of Inquiry into 'The Kerry Babies Case' or the Lynch Tribunal, as it's commonly called, under Mr Justice Kevin Lynch, which opened on 7 January 1985, was established to inquire into the treatment of Hayes and family by Gardaí, the extreme questioning they endured in the police station and the withdrawal of any charges in relation to the death of a child. What was an inquiry into the behaviour of the Gardaí turned very quickly into a demonisation of Joanne Hayes. As part of the *Feminist Judgements* project, legal scholar Vicky Conway examined the treatment of Hayes at the inquiry. As Conway noted Hayes spent five days on the stand 'the longest that anyone had spent on the stand in Ireland up to that point'. Over 200 questions, including many dealing with very private issues 'including a previous miscarriage, the size of blood clots, previous sexual partners, her menstruation and her contraceptive practices', were put to her, while others were questioned about Hayes, for instance, 'a gynaecologist was questioned about the size of her uterus and her breasts' (Conway in Enright et al., 2017: 199). The violently sexist questioning of Hayes brought an immediate response from women on the island of Ireland, north and south. Yellow flowers were sent to her at the courthouse as she faced more and more intrusive questioning over long days, while hundreds of women and men travelled from all parts of the island to stand in solidarity with her. As feminist and journalist Nell McCafferty said of the feminist outrage over the treatment of Hayes, 'There [was] a sense among them of womanhood itself being on trial here, and the traumatic echoes of the amendment debate in the recurring phrases of the legal and medical practitioners about sex and wombs and babies done to death' (McCafferty in Maguire, 2001: 351).

Even worse was to come, and the report of the Inquiry, when it was released, was a study in misogyny. It was, as Inglis noted, 'the final stage in the process of shaming Joanne Hayes and her family', when Justice Lynch found, contrary to all evidence, that Hayes had killed her child (Inglis, 2001: 508). These events, the death of Lovett, the Kerry Babies scandal and the Lynch Tribunal, did however, slowly open the space in which women could begin to demand that the State recognise the real lived impacts of the 8th on their lives. By 1987, feminists, in Ireland and among the Irish diaspora in the UK, began to organise in response to the Hamilton judgement, and defend the right of Irish clinics to provide information on travel and access to terminations outside of the State. That year the Women's Information Network (WIN), an underground network of like-minded feminists, was set up and 'sought to provide non-directive information to women facing crisis pregnancies' (Earner-Byrne and Urquhart, 2019: 83). WIN linked with the UK organisation the Irish Women's Abortion Support Group (IWASG) 'to provide women with both information and practical help with travelling arrangements' (Bacik, 2013: 386). By 1987 SPUC began to go after the student's unions, the National Union of Students in Ireland (USI) and the unions in two Dublin universities, Trinity College Dublin and University College Dublin (UCD), who were providing information on travel in their student handbooks. Student officers had legal suits brought against them by SPUC, in the High Court and the Supreme Court, 'prohibiting them from distributing this information'. In many ways this galvanised a generation of younger activists who chanted a contact phone number which provided information on travel on marches, printed it on t-shirts and wrote it on the doors of women's bathrooms around the country. Through the late 1980s and into the 1990s, as Pauline Jackson wrote 'these prolonged, tortuous and very expensive court cases invariably ended up in overseas tribunals in Luxembourg (EU) or Strasbourg (Council of Europe) calling into question Ireland's obligations under international treaties to allow freedom of movement of persons across Europe and access to information on abortion services in other European countries' (Jackson, 2015: 45).

In the 1990s the spectre of the 8th continued to loom large over reproductive bodies. The decade began with a win for the women of Ireland with the election of Mary Robinson, who had been a prominent lawyer in the anti-amendment campaign in 1983, as President of Ireland. It was a decade in which the power of the Catholic Church was challenged in ways it had not faced before. In a more open and slowly secularising society, it was dealt several self-inflicted blows by its secretive and weak responses to clerical child sex abuses scandals, as well as revelations of the abuses of women and children in coercive, carceral institutions that religious congregations had operated, namely Magdalene Laundries, Industrial Schools and Mother and Baby Homes. One of the biggest stories of the early 1990s directly concerned the 8th–this was the 'X' case. In 1992, a newspaper report broke that the High Court had granted an injunction against a fourteen-year-old rape victim (Miss 'X'), preventing her from leaving Ireland, with her parents' consent, to have an abortion in England. As Smyth (1998: 61) has argued it changed the narrative on abortion as 'the degree of state control over women, through control over women's bodies, became suddenly visible through [this] X case'. Feminists and allies took to the streets and as Earner-Byrne and Urquhart (2019: 85) note 'the mood was one of rage and a sense of gender discrimination was central to it'. Subsequently the Irish Supreme Court overturned the High Court injunction in the X case, while in the European Court of Human Rights the appeal by Open Door Counselling of the Hamilton ruling was heard and Ireland was found to be in breach of the European Convention on Human Rights information rights. All of this paved the way for a referendum in 1992 in which the Government put forward three amendments to the Constitution–the right to travel outside the State for an abortion (the 13th Amendment), the right to obtain information on abortion services

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outside the State (the 14th Amendment), both of which passed, and to roll back the X case judgement in order to remove suicide as a ground for abortion in Ireland, (the 12th Amendment) which failed.

After 1992 the centrality of the debate on reproductive rights for Irish women, among feminist activists, was no longer in doubt. The right, feeling the slipping of its dominance in these debates, resisted any loosening of the complete ban on abortion provided by the 8th, and the provision of access to information on travel and services abroad, every step of the way. In 1997 the Eastern Health Board obtained an order from the District Court to take a young teenage girl in its care, Miss 'C', who had become pregnant because of rape, to the UK for a termination. Her parents opposed this, but the District Court ruled that as Miss C was judged to be suicidal, she had a right to travel for a termination by virtue of the Supreme Court ruling on the X case. In 2002, another referendum was held which asked the Irish people to consider another amendment on abortion which would remove the threat of suicide as a ground for abortion and increase the penalties for helping a women have an abortion. Irish voters narrowly voted against this amendment. By 2002 the issue of women accessing information on and traveling outside of the State for abortions was considered settled, and the numbers travelling to the UK and elsewhere remained constant. However, within the State care and services for pregnant people still operated under the strictures of the 8th. In 1983 anti-amendment campaigners had said that the 8th, if accepted and enacted, would be damaging to women's health and lives, and so it proved to be.

As Bacik (2015: 113) has noted, after 2002, abortion slipped off the political agenda altogether for some years, although the courts continued to deal with the human impact of the 8th Amendment. In 2007, Miss 'D,' a seventeen-year-old, who was in care, and was pregnant with an anencephalic pregnancy, wished to travel for a termination but refused to say she was suicidal (which would have opened permission to travel). Her legal guardians, the Health Service Executive (HSE), asked Gardaí to arrest her if she attempted to travel, in the subsequent case in the High Court, it was ruled that a court injunction could not be imposed against her to prevent her travelling. Other cases were taken to the European Court of Human Rights, where in 2009, three Irish women, 'A,' 'B,' and 'C', argued that 'Ireland had breached their human rights under Articles 2 (Right to Life), 3 (Prohibition of Torture), 8 (Right to Respect for Family and Private Life), and 14 (Prohibition on Discrimination) of the European Convention on Human Rights' (Quilty et al., 2015: 6). All the while the lived realities of women with unplanned pregnancies and no funds, or, in the case of asylum seeker or migrant women, no visas to travel, or those who lacked access to information on full reproductive rights, those with fatal foetal abnormalities which could not be terminated by their own health care team in their own country, those with pregnancies as a result of rape or incest, or simply those with pregnancies they did not wish to carry to term for personal reasons, were played out against the backdrop of the 8th.

In 2012 another story of pregnancy and death broke in Irish newspapers. On 20 October 2012, Savita Halappanavar, a young Indian dentist living in the west of Ireland, sought treatment in University Hospital Galway; she was 17 weeks pregnant and experiencing back and pelvic pain. At the hospital she was told she was miscarrying. What unfolded over the following week was a tragedy wrought by the cruelty of the 8th Amendment and its pitting of the mother's life against that of the foetus. Savita's condition took a turn for the worse as she experienced a spontaneous rupture of the membranes. She was extremely unwell at this stage, and she and her husband asked about a termination of the pregnancy. An abdominal scan had confirmed the presence of a foetal heartbeat and the consultant informed them that the legal situation in Ireland prevented terminating the pregnancy at that time. Savita's health continued to deteriorate, and she was showing signs of sepsis. While the consultants in charge of her care were clearly hampered by the legalities of the 8th Amendment, this was compounded by the lapses in the standard of care she received, with inadequate monitoring, and delays in examinations and test results. Halappanavar's life was at risk and the decision was made to deliver the foetus regardless of whether there was a heartbeat: nonetheless, pre-surgery scans showed the foetus had died. Savita spontaneously delivered a female foetus, whom the couple named Prasa (Evers, *Dictionary of Irish Biography*). Dr Peter Boylan, former Master of the National Maternity Hospital, stated: 'The real problem was the inability to terminate the pregnancy prior to Ms Halappanavar developing a real and substantial risk of death. By that time, it was, effectively, too late to save her life' (Holland, 2013: 212). Savita was transferred to intensive care where, at the age of 31, she died of a septic miscarriage on the 28 October.

Savita's husband Praveen returned to India to bury his wife. Whilst there, friends in Galway assisted him to approach the *Irish Times*. On 14 November 2012 journalist Kitty Holland broke the story of Savita's death, which met with a huge outpouring of public anger and sadness. Across Ireland there was an immediate response with candlelit vigils and protests: Savita's story gave a face to decades of repressed experiences. Indeed, the outcry was global with the story carried by international news outlets. Holland suggests that 'If she [Savita] had been Irish, I believe the international reaction would have been more muted. The domestic sense of shame would not have been so great.' (*The Guardian*, 17 Nov 2012). Savita's experiences exposed the impracticability of ensuring safe reproductive care under the 8th Amendment and thus the dangers of being a pregnant person in Ireland. Shame had served to silence women's abortion experiences but once Savita's story broke, there was no going back. The

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government faced pressure to address Ireland's abortion laws, resulting in the Protection of Life During Pregnancy Act (2013) which permitted abortion where the life of the pregnant woman was at risk. With an unworkable distinction between physical and mental health, and criminal penalties of up to 14 years in prison for doctors and women who had illegal abortions, it fell woefully short of the change needed. Galvanised by the response to Savita's death, activists across generations mobilised to fight for nothing less than Repeal of the 8th Amendment.

A new phase of direct action was gathering intensity and it was generated through feminist grassroots activism. Abortion Rights Campaign (ARC), grassroots, women led, feminist, all-volunteer group, was established in 2012 to address the lack of free, safe and legal abortion. Pregnant people had been using abortion pills, made more easily available through the internet (see Women on Web), or were forced to travel to UK clinics for abortion services. However, these were not options for all women, due to financial and/or travel restrictions. They provided 'an Irish solution to an Irish problem' and broader support to recognise the inadequacy of this was amassing. The first annual March for Choice took place that year. Social media was employed to gather supporters and #RepealThe8th was started on Twitter. Following the death of Savita, the necessity of developing a broad based, critical mass of groups and organisations was realised with the foundation of the Coalition to Repeal the 8th Amendment in 2013, which comprised activists, political organisations and Non-Governmental Organizations (NGOs). A substantial number of abortion activists campaigned for a yes vote in the Marriage Equality referendum on 22 May 2015. With 62.07% of voters supporting the legalisation of same-sex marriage, Ireland made clear the demand to realise a more equitable and progressive future for the country. Pro-choice campaigners were bolstered by the result and, crucially, many gained valuable campaign experience. In March 2017, tens of thousands of people took part in Strike4Repeal on 8 March, International Women's Day. The strike demanded the government call a referendum to repeal the 8th Amendment. Grassroots activism and people out on the streets were putting the political establishment under serious pressure; they could no longer ignore the widespread support for these demands. The Citizens' Assembly, a group of 99 citizens, considered changes to abortion legislation from November 2016 to June 2017, finally recommending significant and far-reaching changes. In June 2017, the Taoiseach announced the government's intention to hold a referendum on abortion.

January 2018 saw the formation of the Together for Yes, a broad-based civil society campaign which was led by three organisations: The National Women's Council of Ireland (NWCI), the Coalition to Repeal the 8th Amendment (Coalition), and the Abortion Rights Campaign (ARC). On the ground, they were supported by large numbers of volunteers: some with canvassing experience during Yes Equality, while others were campaigning for the first time. Organisations like Doctors for Choice and Lawyers for Choice provided expert advice that proved influential in social media and face-to-face canvassing, and informed messaging in general. The campaign strategy cohered around building an inclusive alliance, as reflected in the name Together for Yes, and through moderate messaging. Emphasis was placed on a pregnant person's right to make their own decisions with regards to abortion, and this was situated firmly within healthcare. Sinéad Kennedy's article in this issue outlines how the messaging was shaped by research that confirmed the electorate trusted most two groups of people to talk about abortion: doctors and women who'd had an abortion. Groups including Termination for Medical Reasons Ireland (TFMRI), a group made up of parents who received a diagnosis of a fatal or severe foetal anomaly during pregnancy, were essential to the collective sharing of women's abortion experiences. Social media played a vital role, including the *In Her Shoes* Facebook page which amassed a huge following. The promotion of social change through cultural means led to a range of work across art forms which addressed Ireland's reproductive laws. Artists Cecily Brennan, Alice Maher, Eithne Jordan, and Paula Meehan set up a collective in 2015: The Artists' Campaign to Repeal the 8th Amendment. Many informal and temporary groups also formed to support canvassers, speakers, and other activists. Because Ireland's laws require voters to be present in their polling area to cast a ballot, some activism took the form of financial and logistic support for the Irish abroad who needed help to return through the *#HomeToVote* movement. Similarly, residents in Ireland without Irish citizenship could not vote in the referendum, and so appealed through *#BeMyYes*. Though there had been speculation that rural areas would vote against repeal, twenty-five of the twenty-six counties in the Republic voted for reform. After the 25 May votes were counted, 66.4% were for repeal and the next stage of abortion rights in Ireland began.

The mobilisation of feminist grassroots support for Repeal was across the island of Ireland and so following the referendum outcome, activists rallied behind 'The North is Next'. Abortion was decriminalised in Northern Ireland on 21 October 2019, although this was not the result of a victorious campaign: it happened due to the failure of the Northern Ireland Executive to form. The Executive had collapsed in January 2017 (attributed to the Renewable Heat Incentive scandal) and as a result, the Executive were given a deadline to re-form by 21 October 2019. Failure to do so would result in the extension of the powers of the Secretary of State for Northern Ireland, crucially with conditions including the liberalisation of abortion law and legalisation of same-sex marriage. The Executive did not re-form by the deadline and both issues were passed into law. The legal framework was passed in Westminster in March 2020, but full abortion services are still not available in Northern Ireland. The Northern

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Ireland Human Rights Commission has started legal proceedings against the Executive for failing to commission and fund abortion care. The need to travel from the North to England to access abortion services persists.

Subsequent to the referendum result in the Republic, new legislation was enacted on 1 January 2019. Laws in Ireland retain its criminal condition but specify the circumstances under which abortion is legally permissible. The legislation allows access to abortion up to a 12-week period from the first day of a pregnant person's last missed menstrual cycle without account to reason. Information about abortion remains unclear and many restrictions apply. The government refuses to use the word abortion in its information, policy and, legislation and those seeking access must decipher government euphemisms about unplanned pregnancy, unintended pregnancy, crisis pregnancy, and termination of pregnancy. Restrictions include a mandatory medically unnecessary three-day waiting period, permissible unregistered conscientious objection, a mandatory reporting requirement to the Department of Health, and support as a matter of criminal law. It remains a criminal offense to assist a person to obtain an abortion outside of these terms, though the law no longer criminalises the pregnant person. Abortions at later gestation dates are available, with the agreement of two medical practitioners, in cases of risk to health or life, or severe foetal anomaly. At later gestation dates, there is no provision in the legislation for those requiring permission to travel and return to Ireland, such as asylum seekers, undocumented workers, and international students (Side, 2020: 18). Changes to the legislation, however, are only the beginning. Many obstacles remain to those seeking abortion care including a lack of information about legally available abortion care, a lack of medical professionals in the area willing to perform abortions, lack of equipment able to verify that a pregnancy is less than 12-week gestation, and stigma against pregnant people seeking abortion, particularly in small communities (ARC and Grimes, 2021). People seeking asylum, those without homes, those from Mincéir or Traveller communities, people with disabilities, those who cannot travel efficiently and those with low incomes all continue to face difficulties in becoming informed about and accessing abortion care.

In order to deliver safe and accessible abortion services, promises were made that safe access zones, where women and pregnant people, are free from intimidation and harassment, would be legislated for; yet this has not happened. Medical professionals in Ireland have the right to conscientiously object to providing service in their practice and must then refer a patient to a doctor on the public register (Oireachtas, 2018: 23). Some doctors refuse to refer, meaning a patient may be in a situation in which a mandatory two visits (to comply with the waiting period) becomes three or four visits. In cases where a patient has work or caring responsibilities, lives far from larger urban areas, or struggles to travel or to navigate the complex Irish healthcare system, this becomes an increasingly impossible burden and too often the process extends beyond the 12-week limit even if the patient sought care immediately upon discovering the pregnancy. No exceptions are made for those failed by the healthcare system, or those who acquired an abortion via medication that subsequently failed. The state's reliance on medication abortion, except for gestation periods after 10 weeks, limits the choices available to pregnant people. According to Calkin and Berny (2021: 3), the legislation's standards for termination after 12 weeks are 'unworkable and arbitrary', with requirements creating 'a chilling effect around certifications of fatal foetal anomaly' where physicians fear prosecution under the unclear terms of the law.

Mobility is a key determiner of access to abortion care in practice. The National Women's Council of Ireland found in 2021 that only one in ten GPs provide early medical abortions, while surgical care is available at only half of maternity hospitals. Additional legal barriers may be in place for asylum seekers, who sometimes require state permission to travel and often must overcome language differences. Side (2016, 2020) discusses the presumption of mobility that operates to prevent legal abortion care at length in her 2016 and 2020 articles. Add to this the cost of transportation, child-care, loss of work, private fees for consultation and/or scans, and uncertainties around the need for multiple visits to multiple locations, and 194 abortion-seekers in 2020 still chose to access care in England (Department of Health and Social Care, 2020). It is clear that the 2019 legislation, under review at time of writing (Oct 2021), has not fully delivered accessible abortion care and the rights of women and pregnant people over their bodies are still in the hands of the Oireachtas. As de Londras (2020: 41) notes,

> The failure to engage seriously with these questions of constitutional rights has produced a law that fails to deliver decisional security; a pregnant person simply does not know what she is *entitled* to.

Though abortion has been partially decriminalised, access to it is far from universal and the vagueness of legislative language has a suppressing effect on the exercise of choice. Thus, it is vital to continue the documentation and evaluation of activism surrounding these issues and its results, and the authors of these articles seek to significantly contribute to that discourse. In the aftermath of the long campaign to repeal the 8th Amendment, it is vital to consider the histories, impacts, and legacies of Irish reproductive rights activism in both the national and global contexts. This special issue adds substantially to that growing scholarship.

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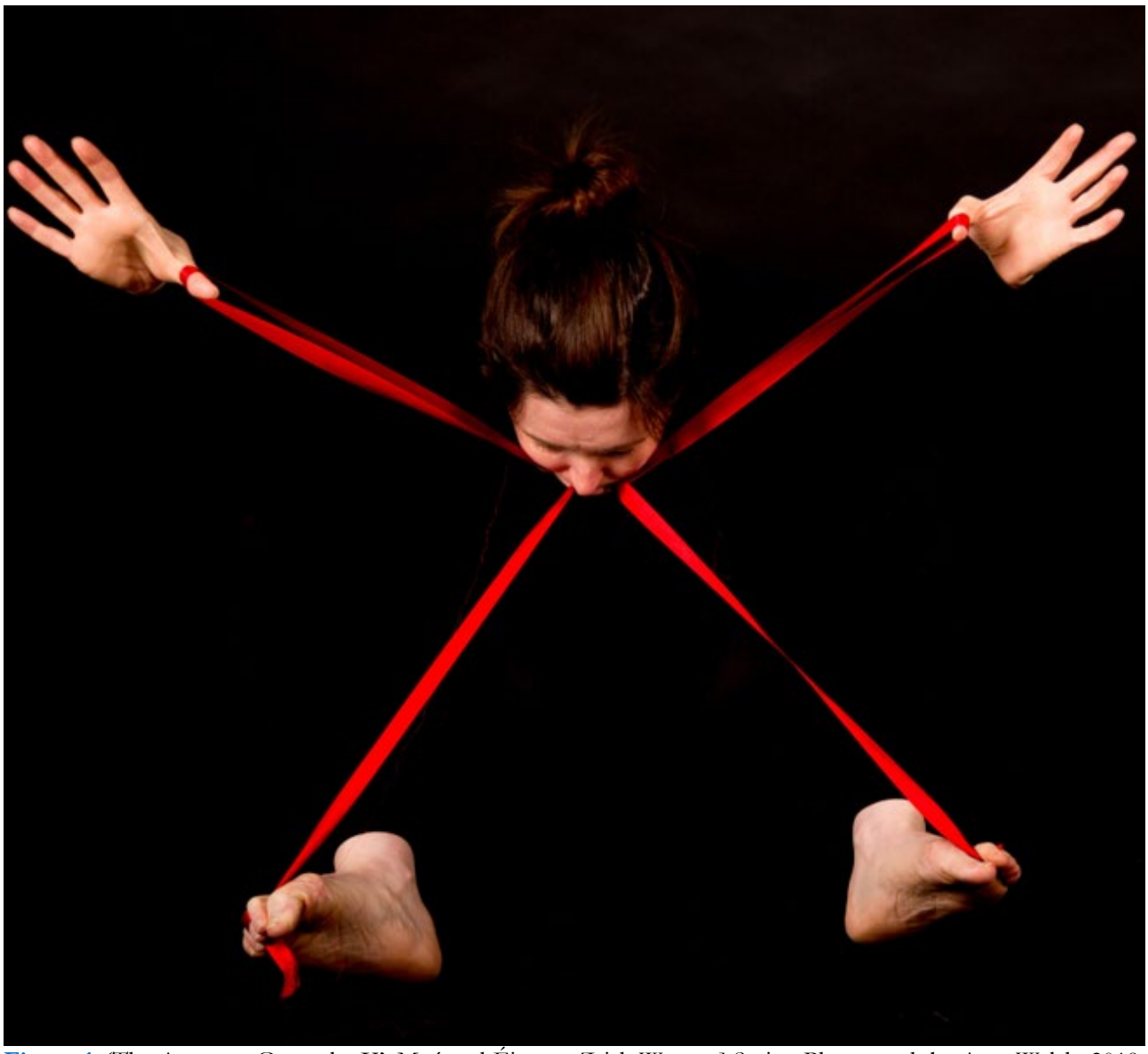

Figure 1. 'The Attorney General v X', Mná na hÉireann [Irish Women] Series. Photograph by Amy Walsh. 2019

SPECIAL ISSUE ON REPEALING THE 8TH: IRISH REPRODUCTIVE ACTIVISM

The 'Repealing the 8th: Irish Reproductive Activism' special issue includes twelve articles, by eighteen contributors, and all but one of which were part of a larger group who made submissions to the *Canadian Journal of Irish Studies*' Fall 2019 call for papers on a proposed Special Issue of the Journal on 'Repealing the 8th Amendment'. It also includes one topic-related article that was not part of the response to this submission. Submissions were made in response to the call for papers announced at the Canadian Association of Irish Studies' conference, 'Irish Bodies and Irish Worlds,' hosted by Concordia University, Montréal, Canada, 29 May to 1 June 2019. Three guest editors, none of whom had any direct associations with the campaign to repeal the 8th Amendment, were also announced at that time. In autumn, 2019, the *Canadian Journal of Irish Studies* (*CJIS*) circulated the call for papers and published it on the scholarly association's website. Submissions were accepted by the journal issue's three guest editors during the winter, 2019, and, at one point, deadlines were extended to accommodate their receipt in light of the COVID-19 pandemic. Contributors received confirmation of their submissions and in early June 2020, the special issue's three guest editors noted that submissions included 'a terrific list of contributors' and the three guest editors indicated their intention to send submissions out for the peer review process.

It was surprising then, on 17 July 2020, when contributors received an email message indicating the cancellation of the special issue on Repealing the 8th Amendment. This decision was initially taken by the guest editors without consultation with the journal's Editorial Board. Contributors, who had assumed that their submissions were in the

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process of peer review, demanded some answers. The explanations that were offered through email correspondence carried very little weight. The guest editors claimed that they had been 'advised to seek legal advice' and had received 'unanimous advice that…continuing with the issue could be highly problematic.' Claims about why this might have been the case pushed the boundaries of reason. They claimed that the publication was unfeasible 'in the climate of a global public health crisis.' They claimed that publication would violate Irish defamation laws; when pushed on this, they readily admitted that the submissions–none of which had actually been sent for peer review–did not contain any content that was identified as defamatory. In fact, they acknowledged that 'there was no legal judgment made on the individual articles or scholarship'. They claimed that the publication of the volume could attract 'significantly more attention than we [the guest editors] had initially anticipated.' They claimed that the negative attention would be brought to bear on the Canadian Association of Irish Studies (CAIS). They claimed that negative attention also would be brought to bear on some of the contributors themselves, many of whom have published previously about abortion in Ireland and elsewhere. They claimed that the intended journal issue could serve as a 'blunt instrument for controversy,' 'rather than as a body of articles assessed on the astuteness of their analysis.' They declared the proposed special issue to be 'a problem'. As readers of this volume, we leave it up to you to decide about the allegedly problematic nature of these astute scholarly analyses.

The contributors to this volume, (who found their way to one another through their scholarly and activist connections) assumed that a reasonable conversation with the journal's editor (which changed midway through this process), Editorial Board members (some of whom have since resigned their positions on the journal), and the Canadian Association of Irish Studies Executive members (now under new leadership) would lead to a reversal of the guest editors' decision. This was not to be the case. Members of the journal's editorial boards (comprised of Associate Editors and Editorial Board members, but excluding the guest editors) requested a meeting, but the Association's Executive Committee members declined to meet with them. Exchanges between the contributors of this issue and the Association's Executive Committee went back and forth over a period of fourteen months. There were letters from the contributors who demanded some accountability for the decision and responses from supporters of the decision to censor the issues. One individual, who supported the censorship commented, perhaps naively, that the contributors' tone seemed 'very angry.' After fourteen months, the journal made a vague offer to consider publication, but it refused to answer all questions about the status of the previously sought legal opinion or about the effects of this legal opinion for future publication.

What remains highly problematic about this entanglement is the issue of academic censorship. The topic of abortion has a long history of silence and repression in Ireland. Laws about censorship were deployed historically to silence women and deny them opportunities to know themselves, their bodies, and to share their knowledge with others. Indeed, one of the most significant contributions of the Repeal campaign during the public referendum to repeal the 8th Amendment was the opportunity for a women-led, grassroots campaign, to tell difficult and painful stories and to do so publicly where the stories would be heard. Furthermore, the discipline of Irish Studies has a poor history of engaging with women, including as scholars of Irish history and society. This decision was a missed opportunity to address this relatively poor history of engagement. It seems short-sighted to let this particular journal (*CJIS*) have such a decisive say over what could be said and heard about abortion in Ireland and the contributors worked together to seek a new forum for publication for their analyses. It goes without saying how grateful we are to *Feminist Encounters* for working with us in a wholly professional and transparent manner to publish this collection of articles. As guest editors of this special issue, we are also grateful to all the contributors for enduring an unanticipated and protracted period of acrimony around the issue of academic censorship. We are also grateful to others who have forged ahead during this period to continue to publish comment on the 8th Amendment, the referendum outcome, and its significance for Ireland, Northern Ireland, and for Irish Studies, many of whom are cited within these articles and many others.

We, the editors of, and contributors to, this issue, are galvanised by our belief that these analyses are vital because they represent a variety of academic disciplines and methodological lenses, all working together to understand the full impact of the Repeal the 8th campaign on reproductive rights in Ireland and globally. Moreover, we believe that the process by which this contributors' group has formed contains echoes of the collaborations and tensions that were present during the campaign themselves. Our varied frameworks and experiences inform our priorities and approaches to academic collaboration, and when faced with concerns that the feminism which underpins both scholarship and activism will be 'problematic' it was necessary for us to consider our response as individuals and as a group, and to clarify together what values and priorities should guide us. Within this group are academics at many stages of their careers as well as non-academic activists whose experiences should be acknowledged as valuable insights. Together, we considered what potential damage there might be to our livelihoods, careers, and the organisations to which we belong, and confirmed the priorities that led us to this labour. By collaborating in our responses to the co-editors of *CJIS* and within this issue of *Feminist Encounters*, we push back against the narrative that reproductive choice and the socio-political discourses surrounding it are

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inappropriate topics to address through scholarly analysis. Instead, we again claim that they are necessary topics and require multiple, sometimes conflicting, scholarly approaches.

This dialogue continues to be recognised as important by other scholarly journals, presses, and production companies, including a special issue of *Feminist Review* (Abortion in Ireland, 2020), a special issue of *Éire-Ireland* (Reproductive Justice and the Politics of Women's Health, 2021), and number of books including *After Repeal* (Zed Books, 2020), *In Her Shoes: Women of the Eighth* (New World Books, 2020), *It's a Yes: How Together for Yes Repealed the Eighth and Transformed Irish Society* (Orpen Press, 2019), *In the Shadow of the Eighth: My Forty Years Working for Women's Health in Ireland* (Penguin Ireland, 2019), *Rise Up and Repeal: A Poetic Archive of the Eighth Amendment* (Sad Press, 2019), and films, *The 8th* (Persister Films, 2020) and *When Women Won* (Irish Film Institute, 2020). These analyses sit alongside other efforts, undertaken by scholars, scholar-activists, activist groups and by the Irish government, to reassess the implications of the *Health Termination of Pregnancy Act* 2018. Lorraine Grimes worked alongside the Abortion Rights Campaign to publish *Too Many Barriers: Experiences of Abortion in Ireland after Repeal* (Abortion Rights Campaign, 2021) and the government of Ireland announced that it will appoint an independent expert to review the implementation of the current law. This ongoing issue remains important for Irish Studies and these scholarly analyses are contributions that cannot be silenced easily.

OVERVIEW OF THE SPECIAL ISSUE ON REPEAL

As explained previously this *Feminist Encounters* special issue came about as part of the resistance of feminist scholars and reproductive rights activists, most based in Ireland, to the shutting down by the *CJIS* of their work. Through various channels we found each other, and after realising that we would get no satisfactory response to our work from *Canadian Journal of Irish Studies* (*CJIS*), we contacted *Feminist Encounters*. As the journal is 'committed to argument and debate, in the tradition of historical feminist movements', we felt that there would be a welcome and an understanding of our determination to publish these important analyses of the Repeal the 8th campaign in Ireland. Ireland and its Repeal campaign has become an inspiration and model for many ongoing reproductive rights campaigns, globally, and it is vital that Repeal is contextualised and analysed in all its aspects, negative and positive. This, we, as editors and contributors, see as part of the *Feminist Encounters* aim to provide a 'forum' for feminist theorists, scholars, and activists to communicate with each other, to better educate ourselves on international issues and thus promote more global understanding, and to enhance our critical tools for fighting for human rights. The articles below, feminist scholarship for feminist and activists, all of which had been submitted to *CJIS*, have now been rigorously peer reviewed, and consider the impacts, legacies, learnings, and outcomes of the long fight for reproductive rights in Ireland, in its local and global context. We would like to express our deep gratitude to the editors of *Feminist Encounters* for recognising the importance of this scholarship and for giving this Special Issue a feminist home.

The first two articles in this issue, by Mary McAuliffe and Sinéad Kennedy, provide an historical perspective and contextualize the campaign to repeal the 8th Amendment. McAuliffe in 'Opening Pandora's Box'; The Anti-Amendment campaign, 1980-1983', traces the transition of framing abortion in Ireland from a moral issue to a healthcare and human rights issue. She shows the long history of the ideology of respectability in a post-colonial Ireland, its use in containing and controlling women's bodies, particularly their reproductive bodies, and the battles by the right, secular and religious, to retain that power and control in the face of a nascent second wave feminist movement. She exposes the history of those who opposed the inclusion of the 8th Amendment in the Constitution and the gradual lead up to feminist campaigning for abortion access during the early 1980s. She details the significant barriers that anti-Amendment campaigners encountered, from Catholic clergy and lay organisations whose agendas were intent on upholding ideas about gendered morality. Women's groups were not fully in support of anti-Amendment campaigns and early feminist movements remained remarkably silent about abortion. Among those campaigns that emerged, feminist efforts were lacked a broad-based campaign and were fractured. Chipping away at morality-based arguments occurred slowly and alongside the persistence of very difficult circumstances for those seeking access to abortion. McAuliffe reminds readers of the relatively low voter turnout that ultimately resulted in the inclusion of the 8th Amendment which led to a retreat from anti-Amendment activism, and which was captioned by journalist Nell McCafferty, as having been a debate about 'women's role' in Ireland in 1983.

As co-founder with Ailbhe Smyth of the Coalition to Repeal the 8th Amendment and as a member of the Together for Yes executive and the head of research for the campaign, Sinéad Kennedy is uniquely situated to offer a comparative study of two referendum campaigns in her article: 'A Tale of Two Referendums: A comparative study of the Anti-Amendment Campaign and Together for Yes'. Kennedy draws on her 'insider/outsider position' to consider two different referendum campaigns: The Anti-Amendment Campaign that organised to oppose the introduction of the 8th Amendment in 1983, and Together for Yes, the 2018 campaign to remove the amendment and legalise abortion in Ireland. The article examines the tensions which troubled the campaigns and the political compromises that both felt compelled to make. The success of the 2018 campaign, which centred the reproductive

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experiences and testimonies of women, offers hope at a time when abortion rights are under attack across the world. Kennedy notes that there is much that the international struggle for abortion rights can learn from these strategies but cautions that 'tensions do not evaporate, and more liberal strategies come with a cost'.

Katherine Side's article, "'Changed Utterly": The Citizens' Assembly on the 8th Amendment', examines the Citizens' Assembly, as a process that preceded the public referendum on the 8th Amendment. Side connects analysis of the model of the Citizens' Assembly as a form of public deliberation, with focussed examination of the opportunities and limitations encountered through the Citizens' Assembly on the 8th Amendment. Through discussion of the participatory nature of the Assembly, Side identifies the weaknesses, including a lack of transparency in decision-making and the exclusion of some voices. Favouring expert opinion over experiential knowledge of those with first-hand experiences of travel and abortion replicated existing ways in which the Irish public and the state relate to one another. Side argues that although the Assembly did not meet the aspirational heights of Chambers' conceptualization of deliberative democracy (2009), it exposed a potentially productive space for more inclusive public deliberations which may aid working towards enhanced, mutual public-state engagement in the future.

Five authors who were key to the Repeal the 8th campaign in Dublin co-present 'Leading Change: Reproductive Rights, Empowerment and Feminist Solidarity in the Dublin Bay North Repeal the 8th Campaign'. This important article weaves together the impact of past and present collectivist activism as it operated to activate not only voters, but key activist methodologies. Centring two collectivist approaches, non-hierarchical 'power with' and the feminist ethics of 'caring with', the Dublin Bay North (DBN Repeal) campaign group garnered significant support among new activists, integrated long-time activists, and forged their own practices and priorities sometimes unique in the nation and on the island. This article theorises the practices of leadership that developed on the ground during this campaign as they activate intergenerational solidarity and attend to other intersections of gender, class, and geography. The deep and detailed research project outlined in this article incorporates data from the authors, representing a significant portion of the campaign leadership, from a survey and social gathering of the group's activist members, and from a series of interviews conducted in partnership with Maynooth University's Department of Geography. This article, then, represents and theorises the labour of the activist/academic group as it seeks to document and evaluate how and why DBN Repeal's application of these approaches influenced the largest voter turnout in Dublin. Its contribution to this issue can be read as a pattern from which other collectivist groups might develop their own approaches as well as an important archiving of the DBN Repeal work.

The three articles which follow focus on visual images and their role in the referendum campaign. Together, they offer close examinations of the posters and murals that became commonplace on street, lampposts and in public spaces during the campaign. One specific visual image is the subject of Orla Fitzpatrick's article, 'Remediating Family Photography: Savita's Image and the Campaign to Repeal the 8th Amendment.' Fitzpatrick examines its photographic elements and traces its iconicity, after her tragic death, of Savita Halappanavar's photographic image. Now recognised internationally, this image straddles the spaces of family photographic album and the public memorial. Fitzpatrick's analysis locates Savita's image in 'the material culture of protest and struggles for justice.' She argues that Savita's image has acquired a wide cultural resonance that places it 'on par with political leaders and rebels' and has come to stand for the injustices of Ireland's pre-Repeal abortion law. It has endured long past the end of the referendum campaign and continues to serve a commemorative purpose.

Fiona Loughnane's article, 'Foetal Images on Political Posters: Bodily Intimacy, Public Display and the Mobility of Photographic Meaning' examines an often-used and overly familiar trope: the foetal image. By examining various campaign images and their contexts, Loughnane demonstrates their complex meanings when displayed on public political posters. Loughnane contrasts the ubiquity of foetal images in Retain the 8th campaign posters and their association with conservative public politics, with a foetal image in Spanish photographer Laia Abril's Dublin-based photographic exhibition, which coincided with the referendum campaign (Photo Ireland, 2018). The contrast between these two images complicates popular meanings of foetal images, demonstrates their visual mobility in the public realm, and situates them in the discourses of 'civility/incivility in the context of states and state politics.

Ann Curran's essay 'The Ordinary in the Extraordinary: Making Visible the Operations of Stock Photography in Posters Against Repeal during the 2018 Referendum' examines the visual strategies employed primarily by campaigns against repealing the 8th, arguing that the use of stock photography deploys semiotic and affective techniques to 'manifest social, cultural, and political meanings' under the perception of objectivity carried by photography. Through close readings of the photographs and the way they are framed by graphic design, text, and the locations of their deployment, Curran reveals multiple strategies: some operating to confirm the Irish conceptualisation of motherhood and family as heteronormative, white, and productive, and others functioning to provoke disgust and direct shame towards people who seek abortions. Using innovative analysis of the contexts in which stock photography is developed, searched for, described, marketed and used, Curran follows these threads to connect Irish anti-abortion rights campaigns to others abroad, trace references to larger cultural phenomena such as celebratory 'pregnant belly' photography, and highlight the way stock image sites shape and are shaped by

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cultural and capitalistic motives. Curran's essay builds on Roland Barthes' concepts of relay and anchorage to demonstrate the ways linguistic and other framing devices work with graphic design and the contexts in which they are deployed to influence abortion debate.

The telling of stories through various forms and media was a key factor in determining the outcome of the Repeal campaign, as these essays analysing and exploring the cultural products used or created during that time demonstrate. Shonagh Hill, in her article 'Not at Home: The Affective Labour of Repealing the 8th Amendment', offers a compelling analysis of the detailed and deliberate creation of a cultural product designed through theatre and performance techniques to tell an affective, multi-perspective story of travel for abortion care. This story is affective not only in that it moves the imaginations and emotions of an audience, but in that it physically moves the bodies of audiences through several spaces that use the techniques of theatrical staging to centre the affective qualities of such travel. Sara Ahmed's theorisation of affect as *movement* and therefore as *labour* underpins both the theatrical presentation and its analysis, as Hill leads the reader through her own encounter with the performance. Hill skilfully contextualises that journey in terms of the artistic labour of storytelling that depends on affect as its goal and material, the labour of the pregnant person as they travel physically while often managing and suppressing a challenging emotional journey, the labour of activism as it manages conflict and its associated emotional strain. A particularly valuable contribution to this discourse is Hill's detailing of the often hidden logistical and economic labours undertaken by artists who approach controversial work such as this, trying to find funds and spaces in which to express and engage with deeply affective issues that require significant labour and investment to address.

Two multi-authored articles deal with how the ideologies of respectability, motherhood and reproduction impacted on women's lives, and on the decisions taken during which women were represented in the Repeal campaign. Miriam Haughton, Sarah Hoover, and Ciara L Murphy, in their article, 'Think Outside My Box: Staging Respectability and Responsibility in Ireland's Repeal the 8th Referendum' argue that while the deployment of 'respectability' as a method of discipling female bodies is not a uniquely Irish experience, it does have a long history in the context of Irish reproductive rights. Even within the Repeal the 8th 2018 campaign itself, despite its feminist influences and leadership, certain narratives of 'respectable' and 'responsible' womanhood were deployed in key performative and affective strategies, by both pro- and anti-choice campaign groups. The intent of appealing to the 'middle ground' by deploying images of 'good' heteronormative women demonstrates that even thirty-five years after the 1983 referendum when this image was deployed to insert the 8th, the idealised, respectable Irish woman trope remains influential. However, in a call to 'cut the cord that ties the foundational myths of modern Irish nationhood … to female embodiment', the authors show how this heteronormative norm of respectable Irish womanhood was challenged in creative ways during the Repeal campaign and issue a call for constant attention to the inclusion of the experiences and bodies that actually constitute modern Irish society in feminist campaigns on into the future.

One of the most powerful, and influential, aspects of the Repeal the 8th campaign was the telling of women's stories. In their article, '"Our Darkest Hour": Women and Structural Violence under Ireland's 8th Amendment', Michaela Carrol, Cara Delay, Beth Sundstrom, and Annie Gjelsvik provide an analysis of the 773 anonymous women's narratives of accessing abortion in an Ireland under the 8th, which were shared during the course of the 2018 campaign on the Facebook page 'In Her Shoes'. These stories tell an all too familiar narrative, of forced travel, barriers to care, partner violence, rape and sexual abuse, and the withholding of information by their healthcare providers in Ireland - all a result of the chilling effect of the 8th amendment. A deep dive into and a reproduction here of the narratives told on 'In Her Shoes' suggest, as the authors write, that only by listening to women's narrative and validating their experience of structural, obstetric, and systemic violence can we understand its very real gendered consequences on lived lives. The final article to deal with Repeal in this Special Issue is 'Women's Stories, Transforming Understandings of Abortion,' in which author Amy Walsh recounts how personal stories told by women from the advocacy group, Terminations for Medical Reasons Ireland (TFMRI) shaped how stories were both told and heard in the context of the referendum on the 8th Amendment. Including her own personal story in the analysis, Walsh argues that these stories and their collective force were instrumental in transforming understandings about abortion in Ireland. Their public and collective recounting moved them away from understandings of isolated incidences and towards their location 'firmly in the world of maternity.' They were situated in public discourses about love, care, and loss, all of which had been tangential in previous public decision making about abortion in the Irish Constitution.

An additional, but related, article from Shara Crookston flexes away from the specific context of the Irish abortion rights campaign and its histories and impacts, drawing attention instead to recurrent narratives in television shows produced in the United States and aimed toward adolescent and young adult audiences. Crookston's article was not a part of the original group of contributions to the Canadian Association of Irish Studies' call for papers, but it sits comfortably in this discussion about abortion and its varied public representations. *Jane the Virgin*, *The Fosters*, *Pretty Little Liars* and *Riverdale* all feature storylines that almost always over-exaggerate negative outcomes for those who seek abortions, rarely use the word 'abortion', and often portray

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unplanned pregnancy as a punishment for 'bad' behaviour. Here Crookston centres the post-feminist rhetoric of choice to analyse the ways unplanned pregnancy is framed as exemplifying the liberation of women while simultaneously it is used to curtail and punish a character's lack of empathy or morality. These storylines also reiterate stigma by almost always drawing their characters through painful experiences of silencing, isolation, abandonment, and shame. Additionally, the over-representation of young, white women in their first pregnancies as those most often seeking abortion care (even in television aimed at older audiences) supports the narrative that abortion policy needs to 'protect' a vulnerable, inexperienced population. Crookston's article provides valuable insight into the ways that structural issues surrounding access to abortion are rarely addressed in these shows, particularly those facing mothers who are young, single, or both. By ignoring these barriers, these influential television shows support a post-feminist, neoliberal interpretation of 'choice' in which failures of family cohesion, economic stability, or childrearing are laid at the feet of the individual rather than understood as systemic, endemic, and requiring significant labour to change.

As detailed earlier, this special issue of *Feminist Encounters* has taken a prolonged and unanticipated pathway to publication. On publication it will take its place among the many feminist analyses of Repeal, building on those analyses and adding important rigorous and scholarly interpretations and reflections to these previous works. It is also a firm and defiant response to what its contributors perceived as attempts to censor feminist and reproductive rights scholarship within Irish Studies. No longer can the voices of feminist scholars and activists be marginalised or minimised; indeed, the necessity of this feminist lens is borne out in these articles and in the many publications on, and the continued global interest in, how Irish feminists Repealed the 8th.

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