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Liberal Frontier: Abortion Referendums in Ireland

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Abstract
Ireland was a conservative outpost on the European periphery for much of the 20th century. From independence in 1922, the state pursued social policies heavily influenced by religious values and indeed the 1937 constitution embedded many of these positions in the framework of the state. The constitution included a prohibition on divorce and a statement which strongly favored women remaining in the domestic sphere. These policies were supported by the majority Catholic population, but social values began to evolve by the 1960s. This can be seen in the shifting narratives in the debates on many social and political issues. This chapter will focus on a single issue—abortion. It will undertake an evaluation of the debates on the six abortion referendum question wordings, campaign narratives and voting patterns. The analysis will provide compelling evidence of remarkable value change in just four decades.

Keywords
Abortion, Referendum, Ireland, Conservative, Liberal, Values

Introduction
In politics values are often discussed as the fundamental beliefs that citizens have about how the world should be organized. Citizens may hold views about social and economic issues and these may be expressed as specific positions on topics such as democracy, the role of religion, accountability, human rights, gender and diversity, and income equality. Fundamental values and beliefs are shaped by the role of religion in a society, its level of economic development, historical evolution and embedded philosophical and political norms (Ingelhart 2003; Coakley and Gallagher 2018). Values tend to change slowly over time and changes can have profound implications for the social, political and economic lives of citizens within a state.

In this chapter, the focus is on value change in the Republic of Ireland (hereafter Ireland) and how this can be identified through the language used in abortion referendum debates over four decades. It will also provide a geographical analysis of voting patterns at the abortion referendums. The chapter is organized as follows: Details on the referendum process are provided in the following section, which considers how referendums are initiated, the phrasing of referendum questions and the rules governing campaigns. The next section provides some background context on abortion policy. It begins with an interrogation of debates around the wording of the abortion amendments and the dominant narratives at each of the abortion votes. The analysis reveals evidence of substantial value change on the abortion issue as well as changes in the political power balance associated with the issue. In the next section a brief overview of how voting patterns changed across the referendum votes is provided using results from each of the votes and mapping of the outcomes. Some concluding comments are provided in the final section.

The Referendum Process in Ireland
Ireland has a written constitution (Bunreacht na hÉireann) which was introduced by plebiscite in 1937. The constitution was a product of its time and its language reflected the social conservatism and values of the era. Clauses such as those in Article 41 on the family give an insight into the belief systems of the majority Catholic population. The family has a hetero-normative definition, marriage was prioritized, divorce prohibited (until 1995) and views on the role of women are perhaps best captured by the clause which states that "… mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home" (Bunreacht na hÉireann [Constitution of Ireland] 1937). This clause had no practical implications, it did not deliver any economic support for women who worked in the home and equally, it did not operate as a constitutional impediment to women entering the labor market.

A national referendum, the outcome of which is legally binding, is required to make any change to the constitution. Referendums are initiated by the government and an amendment bill must be passed by a

majority in parliament for the question to proceed to the people. The constitution is a prescriptive document and contains provisions on the political and legal architecture of the state as well as stipulations on social organization. Referendums were relatively rare in the early decades after adoption of the constitution—no votes took place in the 1940s and just one in the 1950s—but they have increased sharply, and already this decade, there have been nine votes with several more expected.

Debates during referendum campaigns are shaped by the historical context, political environment and the campaign actors, but the precise wording of the referendum question is determined by law and asks citizens to vote Yes or No to a question that asks if they agree with the proposal to amend the constitution contained in the undermentioned bill. Constitutional amendment bills are numbered sequentially. The first abortion referendum was the eighth amendment to the constitution while the abortion referendum of 2018 arose from the 36th amendment bill. Naming of referendums can be contentious, but the most serious controversies are to be found in the wording of the clauses which are proposed to be inserted or deleted from the constitution (O'Carroll 1991; Girvin 1994).

Referendum campaigns have changed over recent decades and have been influenced by the emergence of a more diverse media environment and social media. Campaign communication has become quite heavily regulated, although social media remains outside the remit of many of the campaign laws (Reidy and Suiter 2015). This is an important point as this chapter looks at referendums over four decades. The most important regulations date from the 1990s and early 2000s which means that the earliest abortion referendums (1983, 1992) did not have the strict requirements present today. Following Supreme Court judgments in the late 1990s, governments were precluded from using public funds in support of a specific proposal and broadcasters were required to give equal broadcast time to both sides in the debate. Partly in response to these decisions, the Referendum Act (1998) provided that a referendum commission be established at each referendum with a specific role to provide information to voters and to promote turnout (Suiter and Reidy 2013). Financial transparency was improved in a series of electoral amendment acts and a requirement for campaign participants to register with the political watchdog agency was also introduced.

Abortion Law in Ireland

Abortion has bedeviled politics in Ireland for 40 years. Six referendum questions were put to the people on four dates between 1983 and 2018. Abortion first emerged on the agenda in the early 1980s. The momentum behind its appearance came from conservative Catholic groups with support of the institutional Catholic church. The Pro-Life Amendment Campaign was established in 1981 and it began campaigning for insertion of an anti-abortion clause in the constitution (O'Leary and Hesketh 1988). Ireland was a conservative state and abortion was already a crime on the legal statutes. But the people involved with the Pro-Life Amendment Campaign were concerned that Supreme Court activism of the type witnessed in the U.S. *Roe v Wade* case could lead to introduction of abortion in Ireland. Although Irish social attitudes had been moving in a more liberal direction, it remained a predominantly conservative country with strongly traditional values in the early 1980s (O'Carroll 1991; Lee 1987). Elites within the conservative majority feared any diminution of their control over the social agenda. The main political parties were persuaded on the side and commitments to deliver a referendum were given, and then subsequently delivered by the Fine Gael and Labour coalition in 1983.

The 1983 pro-life amendment passed with a two-thirds majority and abortion moved off the conservative-liberal fault line of politics for a time. In 1992 the case of a pregnant rape victim convulsed politics (Girvin 1993). In what became known as the X case, the parents of a pregnant 14-year-old rape victim approached the authorities about whether DNA evidence taken during an abortion procedure in the UK could be used in the subsequent prosecution of the rape case in Ireland. A legal order was secured to prevent the rape victim travelling to the UK. An appeal to the Supreme Court resulted in a decision with two important aspects. It ruled that there was no absolute right to travel to procure an abortion but also that the threat of suicide was grounds for provision of a legal abortion in Ireland within the wording of the 1983 pro-life amendment (Girvin 1993; 1994).

This case brought abortion back onto the political agenda and led to demands for a second referendum to copper-fasten the absolute anti-abortion intention of the 1983 pro-life (eighth) amendment. The court ruling on travel was a further complicating variable because Ireland, as a member of the European Union,

was committed to free movement of people, and as Brian Girvin (1993) discussed, there were arguments expressed in the months after the Supreme Court judgment that a travel control scheme for women of fertile age would have to be introduced as a result of the Supreme Court ruling. Ultimately, the government went ahead with three further abortion referendums in November 1992. The first question dealt with the right to travel, and proposed that "the State will not restrict the freedom to travel between the State and another state." The second question related to whether it should be lawful for information pertaining to abortion to be made available in the state, and the third question dealt with the availability of abortion, known in public discourse as the substantive issue. The wording made it clear that abortion would be legal in certain life-endangering circumstances, but strictly prohibited in all other cases, including the threat of suicide. This proposal was rejected while the propositions guaranteeing travel and the right to information were approved.

A further abortion referendum on the substantive question was put to referendum in 2002. The wording varied slightly from the 1992 proposal, but the thrust of the proposal was the same: to roll back the 1992 Supreme Court judgment. The proposal failed. The general consensus was that it was defeated by a coalition of liberals who had always opposed the pro-life amendment and arch-conservatives for whom the proposal was not restrictive enough (Kennedy 2002). The direction of debate on abortion changed in the ensuing years and momentum shifted to the pro-choice side with growing calls for liberalization as support for rolling back the 1992 decision faded. Two pivotal points were to significantly push the liberal agenda forward (see Field 2018 for a more detailed discussion of this timeline). In 2012, Savita Halappanavar died in a Galway hospital following complications from management of a miscarriage. Uncertainty about the point at which her life was endangered sufficiently to allow legal medical intervention was a core contributing factor to her death (Health Services Executive 2013). Much as in 1992, when the case emerged there was public tumult. Action was demanded by women's groups, left-wing political parties and a wide spectrum of public opinion.

At the same time, a small group of women had also been campaigning for removal of the pro-life amendment on the grounds that they could not terminate their pregnancies legally in Ireland following the diagnosis of fatal fetal abnormality. There were also a growing number of challenges to the existing law both in Ireland and at the European Court of Human Rights in Strasbourg. Abortion rights had become a major social justice issue. Following a three-decade delay, in 2013 the Fine Gael and Labour government moved to deal with the 1992 court decision and legislation was introduced that provided for legal abortion in cases where the pregnant woman was suicidal (or her life was immediately endangered). In many ways this legislation galvanized the pro-choice movement and their agitation, supported predominantly by left-wing parties in parliament, led first to establishment of a Citizens' Assembly to review the issue and then to establishment of a parliamentary committee to review the Assembly's report. Finally, the government gave a commitment to hold a further referendum, but one which would propose substantial liberalization of abortion provision in Ireland (Field 2018). The sixth referendum question on abortion proposed to delete the pro-life amendment of 1983 and replace it with a statement giving parliament the authority to deal with the issue. In an interesting symmetry across the decades, the liberalizing measure in 2018 also passed by a two-thirds majority.

Learning from Language: The Abortion Debates

Interrogating the language debates at the abortion referendums reveals a great deal about political and social power and, taking a longitudinal perspective provides key insights into the shifting value positions on abortion over four decades. Language reveals a great deal about the core values, but it is especially important when that language is to be inserted into the constitution of a state.

In 1983, introduction of the pro-life amendment to the constitution initiated a decades long protracted legal and political debacle. Reflecting the dominance of pro-life groups in the debate, the amendment was named after their campaign and known publicly thereafter as the pro-life amendment (Gallagher 2018). The main opposition party, Fianna Fáil, proposed the wording for the clause that would be decided in the referendum. The wording had support of pro-life groups and the Catholic hierarchy. It stated:

> "The State acknowledges the right to life of the unborn and, with due regard to the equal right to the life of the mother, guarantees in its laws to respect, and as far as practicable, by its laws to defend and vindicate that right." (Bunreacht na hÉireann [Constitution of Ireland])

The wording was accepted initially by the Fine Gael party, then in government, and despite efforts to subsequently change it, eventually it became the clause to be decided in the referendum. Following advice from the Attorney General, many Fine Gael members of the government decided to campaign against the referendum. With the benefit of hindsight, like prophecy, the Attorney General warned that the language used in the clause was ambiguous and that it could lead to the introduction of abortion. The Labour Party was also a member of the government but opposed the pro-life wording from the outset. The referendum, and specifically the proposed wording, were also opposed by a number of groups including the leaders of the minority religions, feminist groups and many small radical left-wing parties. These groups variously highlighted the sectarian dimension to the policy and also the wording which equated the life of a fetus with that of a pregnant woman.

As a result of the Supreme Court judgment in 1992, revised wordings of the original 1983 amendment were proposed by governments in 1992 and 2002, and in each case resulted in some contestation (Girvin 1993; 1994; Kennedy 2002). The pro-life movement produced wording in 1992 that was explicitly rejected by the government, which in turn developed its own wording. The final text put to the people allowed for abortion in severely limited cases where there was a threat to the life of the mother, but it excluded suicide. The Catholic Church did not endorse the wording, but it also did not campaign against it. The main opposition party, Fine Gael, was not satisfied and sought a different balance which would also include the health of the mother (Girvin 1993: 121). In 2002 a different approach was taken which minimized some of the discussion of the language on the proposed amendment. The government published a draft law on abortion which would amend the 1983 pro-life wording and set out the conditions under which abortion would be lawful. There was also a condition which required that the draft law would have to be enacted within 180 days and it could only be changed by subsequent referendum. This method of amendment was very unusual but the approach did not minimize the debate and contestation about the precise wording and what it meant (Kennedy 2002).

The wording of the 2018 abortion referendum had a complex path to the ballot paper, but essentially only two options were given serious consideration once a decision to hold a liberalizing referendum had been taken. The first, known as Repeal Simpliciter, intended that the 1983 clause be deleted in its entirety. The second option, which was eventually adopted, was a more robust text which deleted the 1983 clause but included a replacement provision that parliament would have sole authority to make law on abortion. Thus article 40.3.3 now reads as “Provision may be made by law for the regulation of termination of pregnancy” (Bunreacht na hÉireann). It is striking that at this referendum the momentum had moved toward liberalization, the intense contestation about the wording was absent, and the debate was essentially a technical affair among legal experts.

Vigorous debates around the specific texts for many of the referendums underscore how contentious the issue was. It also highlights the evolution of power balance in the debates. In 1983, it was the conservative pro-life groups which led the debates and pushed their preferred text. By 1992, government had moved to take more control of the agenda; it rejected the wording of the pro-life lobby and developed its own text. Yet in a sign of the ongoing authority of the Catholic hierarchy, Girvin (1993) documented the dynamics at play with the government hopeful that the church would not oppose the amendment. By 2002, values and beliefs had changed sharply and government was at the fore; it engaged in a consultation process and published a green paper on abortion before proceeding with its mixed constitutional-legislative approach. Finally, by 2018, the core of the debate had moved and the precise wording was not contested all that much; the substantive issue was front and center with the pro-life movement more concerned with salvaging the pro-life amendment and those on the liberalizing side able to accept both options that were under consideration.

The wordings of the constitutional clauses provide some insight into key areas of debate, but it is also useful to investigate the referendum campaigns themselves. Most particularly, documenting the key campaign messages and slogans demonstrates how the debate on abortion evolved over some decades and how power ebbed away from conservative pro-life groups.

Paddy O’Carroll described the 1983 referendum as “characterized by an incessant campaign of unparalleled divisiveness, bitterness and rancour” (O’Carroll 1991: 55). In his analysis he asserted that the pro-life side took an absolutist position and that traditional belief systems were at the core of this dominant view. Furthermore, he argued that the political culture of the day did not tolerate opposing

views. The absolutism of pro-life campaigners was especially evident in their campaign slogans, the most prominent of which was “abortion is murder.” But their dominance in the campaign was also clear from the broader campaign themes which suggested that a social apocalypse awaited the state with the breakdown of normal social behaviors if the referendum was not passed (O’Carroll 1991). Campaign literature claimed that abortion was never needed to save a woman’s life and that the floodgates would open to widespread abortion if the amendment was not passed (all campaign literature was sourced from https://irishelectionliterature.com/).

The initiative lay with the pro-life campaign from the outset; it had demanded the referendum and it ensured that the debate took place on its territory. Anti-amendment groups were often accused of having an “abortion mentality” and desiring a “permissive society.” Their posters foretold controversies ahead and included slogans such as “Catholic State or Irish Nation,” and “Raped, Pregnant, No Choice” but they failed to get significant traction in the debates. The complexity of the issue was not fully considered and debates were dominated by pro-life views.

The 1992 Supreme Court judgment upended the absolutism of the abortion debate. Hard cases which had not been given adequate consideration in 1983 were at the forefront of debates. The pro-life movement, although still a powerful social group, had their position eroded by the failure of the 1983 campaign to deliver the complete prohibition on abortion it promised. Furthermore, the pro-life amendment had done nothing to stop the thousands of women who were travelling each year to the UK to avail of abortion services there. Yet, their core arguments remained very similar and they received support from the institutional Catholic Church and indeed, even the pope, in their campaign to roll back the court judgment (Girvin 1993; 1994). Campaign leaflets continued to proclaim “Abortion is the deliberate and intentional killing of unborn babies” and they also argued that the “law against abortion does not prevent mothers from receiving all necessary care and treatment for any and every illness during pregnancy.” Pro-choice groups were more visible; they were empowered by a number of events which included the court decision, the election of a liberal woman president in 1990 and growing support for liberal causes. However, the debate remained aggressive with pro-life campaigners suggesting that allowing suicide as grounds for legal abortion would present a slippery slope to widespread availability of abortion. Pro-choice advocates arguing for a No vote included slogans like “Don’t put women’s lives and health in danger” and although the proposal was defeated, the balance of power remained with the pro-life side and no government would legislate for the 1992 decision until 2013.

In 2002, suicidal ideation entered the lexicon of public debate as a mainstream phrase. Many of the debates from 1992 were repeated and there were frequent interventions in the debate by mental health specialists who argued variously that suicide never occurred in pregnant women, that it was never seen in Ireland because suicidal women travelled to the UK to procure abortions, and that suicidal ideation was a very real condition for a small number of women. Kennedy (2002: 114) acknowledged the evolution in the abortion debates and discussed how it had moved from an absolutist argument to “a set of moral conundrums” and this was very clear from the way in which complex medical evidence and mental health terminology dominated the debates on both sides. The campaign was also notable for the combination of extreme pro-life groups and pro-choice advocates on the same side. Adding to the confusion for voters, vote No posters included messages which read “Don’t let them legalise experimentation on babies” (Youth Defence) and from the pro-choice Labour Party “Let’s Trust Women, Protect Women’s Right to Life, Vote No”, some further examples are included in Table 1. The pro-choice campaign was more established by 2002 and had more support across the party-political spectrum as well as in society generally. The campaign was notable for the growing complexity of the issues discussed; medical care for women, mental health, and also the role of new medical technologies such as *in vitro* fertilization. The absolutism of “abortion is murder” no longer dominated. Changes in campaign laws also influenced the parameters of the debate, broadcast debates were required to be balanced equally, and some financial regulation yielded small improvements in the transparency of campaign participation and finance.

The absolutist strains of the pro-life movement were still present in the abortion referendums of 1992 and 2002 (Girvin 1993; Kennedy 2002), but the debate was transformed by 2018. The “hard cases,” as they were described, dominated public discussions. Broadcast media allocated significant time for discussion of individual women’s stories which involved rape, fatal fetal abnormality, delayed cancer treatments, as well as those dealing with unplanned pregnancies (Field 2018). The narratives were balanced on both sides, but “abortion is murder” was relegated to the campaign dustbin as the pro-choice campaign used

their political momentum and public support to structure a campaign focused on women's rights and human dignity. On this occasion, the pro-choice campaign won the campaign-naming battle and the referendum was known as the Repeal vote in public discussion, in reference to the wording of the proposal, which was to delete the pro-life amendment.

The main campaign group on the Yes side was called "Together for Yes"; it drew a great deal of its campaign strategy from the successful marriage equality vote of 2015 (Elkink et al. 2015). The pro-choice campaign messages and themes included "a woman's right to choose," but the complex medical and emotional cases dominated with the personal testimonies of individual women being especially influential (RTÉ and Universities Exit Poll 2018). The pro-life campaign groups were Save the Eighth and Love Both. Their campaign message objectives were the same as those at earlier referendums, but with some tempering of the language involved. They retained a complete intolerance of abortion in any circumstance. Ultimately, this left the campaign struggling to resonate with voters now fully aware of the legal and medical complexities of the issues (RTÉ and Universities Exit Poll 2018). Absolutism was replaced with complexity and the pro-life cause was lost. Table 1 provides a sample of the campaign messages used on posters and campaign literature by groups on both sides of the referendum at each of the referendums and underscores the evolution in the messaging of both sides.

Table 1: Sample poster and leaflet messages from the referendum campaigns

Referendum	**Pro-life campaign**	**Pro-choice campaign**
1983	Abortion is Murder Every Child is a Wanted Child	Catholic State or Irish Nation? This Amendment Could Kill Women
1992 (substantive issue)	Vote No, To Protect Life, and To Reject Abortion	Don't Gamble With Their [women and children] Lives
2002	Babies Will Die, Vote No Abortion, two victims, one dead … one wounded	Protect Women's Right to Life Don't Step Backwards, Vote No
2018	A Licence to Kill, Vote No to Abortion on Demand Vote No, Love Both	Repeal the Eighth, Save Women's Lives Trust Women, Vote Yes

Voting Patterns

Voting patterns at each of the referendums are summarized in this section. Figure 1 provides an overview of the results for each question. An important explanatory note for this figure is that the votes have been coded to fit a restrict-liberalize schema. Therefore, those who voted Yes in 1983, voted to *restrict* abortion provision while those who voted Yes in 2018 voted to *liberalize* abortion provision. 1983 was the highpoint for the restrictive vote on abortion. In all subsequent votes, a majority of voters favored a liberalizing position. In 1992, the two liberalizing positions which attracted majority support were those on the right to travel for an abortion and the right to access information on abortion. In both 1992 and 2002, the substantive questions were not supported. Both questions had sought to undo the Supreme Court decision which provided that abortion was legal in certain limited circumstances. In 2018 it is clear that

the value position of Irish voters had swung significantly and a two-thirds majority of voters now supported the liberal proposition.

Turnout is not covered in the figures, but it is worth noting that there was a dramatic increase in voter participation in 2018. At the stand-alone vote in 2002, turnout had dropped to just over 40%, but this jumped to 64% in 2018. Many more voters were mobilized by the liberal proposal than had been persuaded to vote on conservative questions.

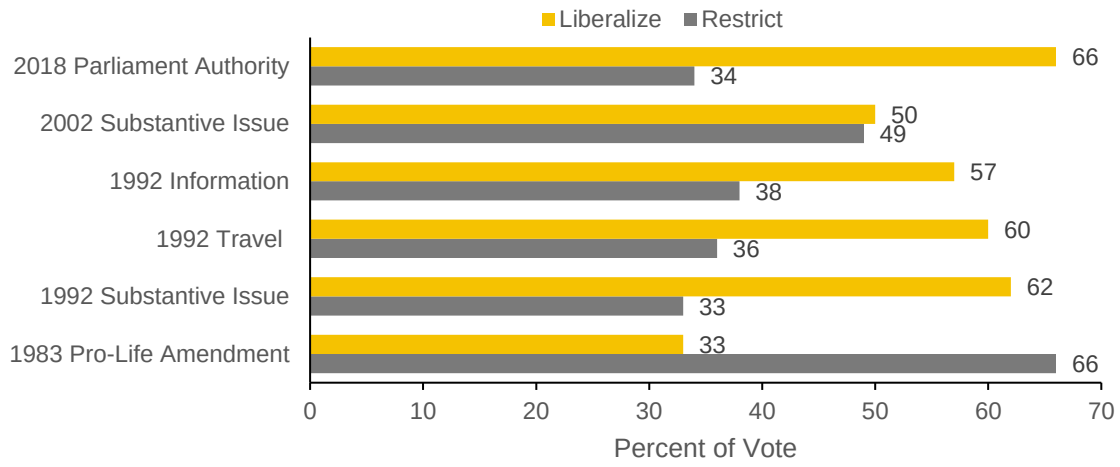


Fig. 1 Outcomes of referendum votes in Ireland 1983 – 2018

Figures 2 and 3 provide more granular information on two of the votes. They present a geographical representation of the Yes votes in 1983 and 2018. Yes was the conservative position in 1983 (Fig. 2), but the liberal position in 2018 (Fig. 3). The section on the right of each figure covers the constituencies in urban Dublin. In 1983, the pro-life amendment garnered majority support in all but five urban constituencies in South Dublin, the most affluent part of the country. The strongest votes in favor of the pro-life amendment were to be found along the western seaboard and in the midlands. These areas of the country were long considered to have stronger traditional values and voted conservatively not just in the abortion votes, but also on many other social issues (Sinnott 1995).

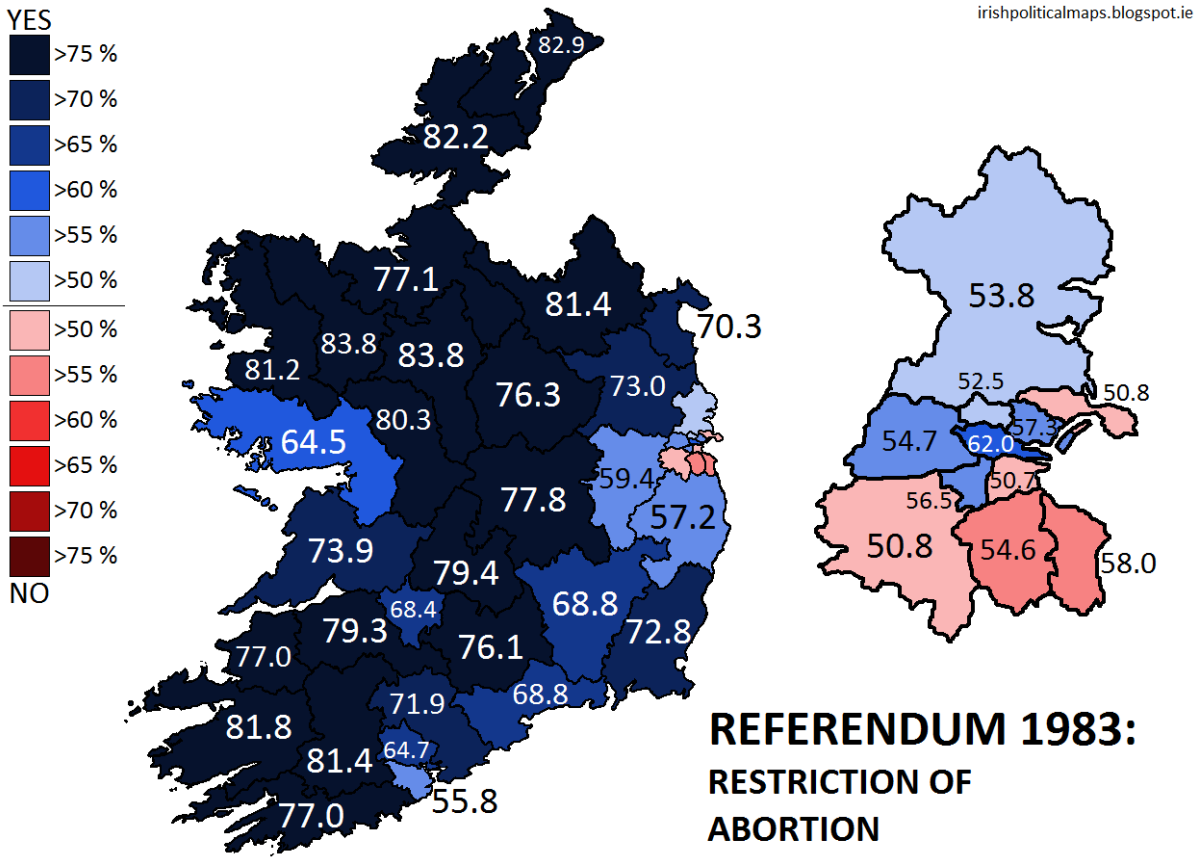


Fig. 2 1983 Referendum Voting Results by County. Source: Jason Kelleher, Irish Political Maps, http://irishpoliticalmaps.blogspot.com/2012/08/referendum-1983-restriction-of-abortion.html

Voting patterns on abortion were transformed by 2018. All but one constituency had majority support for the liberalizing proposal. Donegal, the remaining majority conservative outpost had one of the highest pro-life votes in 1983, but even here it is clear that there had been significant change in values on abortion and just a slim majority opposed the vote. The urban rural divide which was so prevalent in 1983 was still present in 2018, but no longer as pronounced. The most liberal Yes votes were found in the Dublin constituencies shown on the right-hand side of the figure, in other large urban areas (Cork in the South East 68.8%, Limerick in the mid-West 66.9%, and Waterford in the South East 69.4%) and also in the suburban area around Dublin. Nevertheless, the scale of the value change in just forty years is quite remarkable.

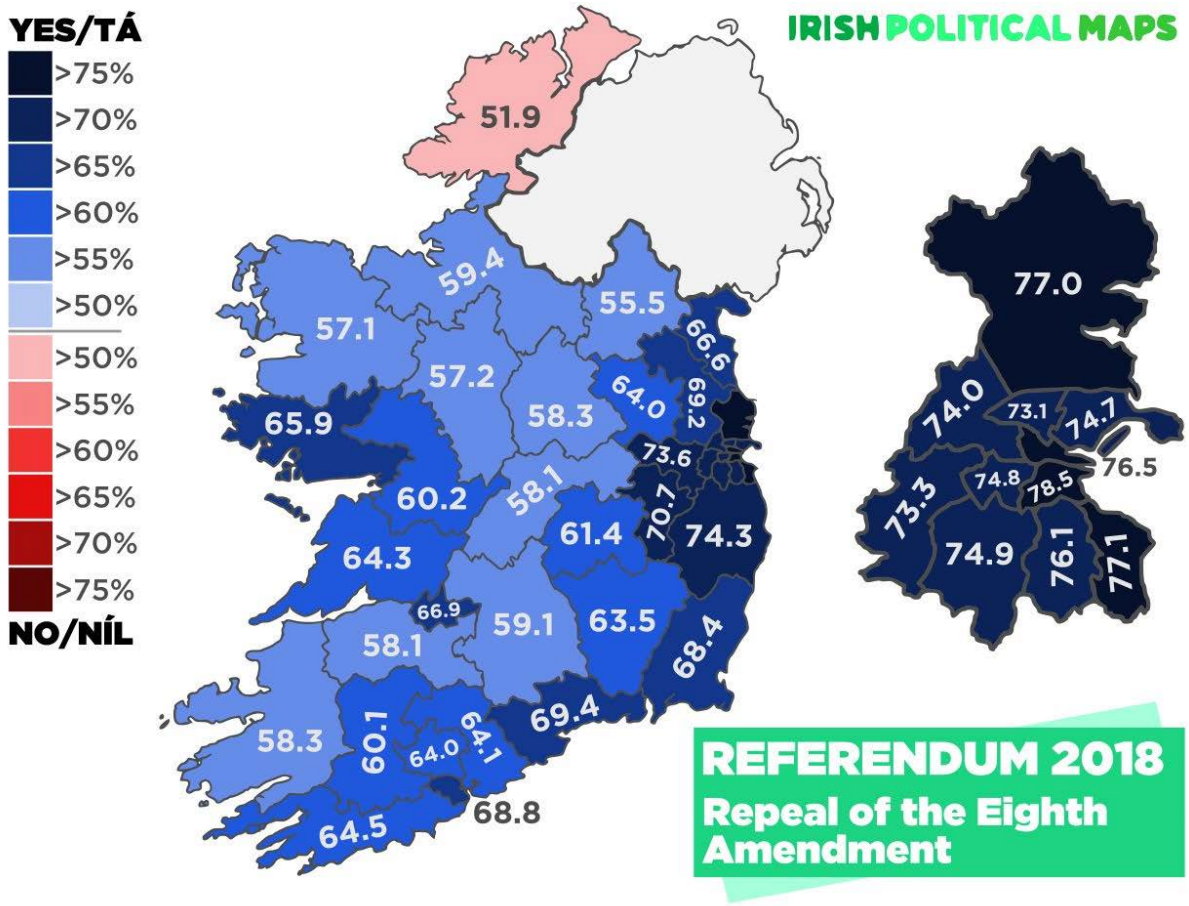


Fig. 3 2018 Referendum Voting Results by County. Source: Jason Kelleher, Irish Political Maps, https://twitter.com/IrishPolMaps/status/1000426907589070849

Conclusion

Abortion was politicized in Ireland in the early 1980s during what were often called the culture wars. A well-organized pro-life campaign maneuvered a referendum which sought to deliver an outright ban on abortion. The 1983 amendment received overwhelming support and two-thirds of voters supported its introduction. Although the referendum passed, it failed in its objective, and in 1992 a legal route to very limited abortion resurrected the issue and it dominated politics at several points in the ensuing decades.

An examination of the wording of the constitutional amendments and an assessment of the campaign narratives reveals a number of important points. First, the issue was enormously divisive and controversial. Second, the constitutional clause wordings, decisions on which wordings to use and the campaign narratives all show changes in the power balance on the issue. Conservative pro-life groups dominated in 1983. They influenced the constitutional amendment wording and dominated the campaign with their absolutist narratives and values on abortion. Thereafter, pro-life groups saw their dominance and influence decline. Their capacity to achieve their preferred wordings was diminished in 1992 and 2002, and by 2018 all momentum was with the liberalizing pro-choice agenda. The X case in 1992 cracked open the absolutist “abortion is murder” position of pro-life campaigners, but it would be the early 21st century before the full legal and medical complexity of abortion would mainstream in debates and, thereafter, referendum campaigns became more nuanced, language more diverse and the personal testimony of those impacted more prominent. Ultimately, the scale of the value change in Irish society is evident in the analysis of the voting results. Over four decades, the conservative majority was replaced with a liberal majority and the 2018 vote marks not just the introduction of abortion provision but also the *resounding retreat of conservative Ireland.

The value change discussed in this chapter is also evident in a number of other referendum votes, including the divorce referendums of 1986 and 1995, children's rights in 2013, and the marriage rights referendum of 2015. These votes are outside the scope of this chapter, but they merit much greater study so that a fuller understanding of value change and shifting power dynamics on social and moral issues can be achieved.

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