



**Maynooth  
University**  
National University  
of Ireland Maynooth

**Social  
Sciences  
Institute**

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**What Now After the March the 8th  
Referendums?  
The Future of Family, Caring and  
Women's "Life in the Home"**

**Professor Linda Connolly, Maynooth University  
Social Sciences Institute.**

# What Now After the March the 8th Referendums? The Future of Family, Caring and Women's "Life in the Home"

**Professor Linda Connolly**

## Introduction

On March the 8<sup>th</sup> 2024, the Irish electorate voted to reject key changes in the Irish constitution, in the domain of personal relationships, family life and women's role in society. The family, marriage and women were all afforded privileged mention and protection in the Irish Constitution of 1937. At the time, Ireland was a predominantly rural society with most of the population engaged in agriculture. Married women were expected to have large families and pregnancy outside marriage was stigmatized and concealed in religious run institutions. The constitution's wording reflected the traditional assumption that women's and men's roles, abilities and positions in society were predefined by biology and 'natural' rather than socially constructed. In Article 41.1.1., the State recognises the family as the natural, primary and fundamental group in society, and as a moral institution possessing "inalienable and imprescriptible rights, antecedent and superior to all positive law." Article 41.1.2. guarantees the State will protect the family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the nation and the State. Article 41.2.1 refers specifically to the role of women: "In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved." The wording explicitly says woman (which means all women) by her "life" as opposed to "women by their work," for instance, which is an important distinction. Women's primary role ("her life") in 1937 was defined as primarily in the home as a mother, based on a male breadwinner model and the economic dependency of women on men that was strongly supported by Catholic leaders but objected to by Irish feminists at the time and ever since. Article 41.2.2. further states: "The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home." The confinement of women to the domain of family caring for decades was bolstered by laws that formally and informally prevented women from continuing to work in certain sectors after marriage. A formal "marriage ban" for instance applied to women working in the civil service until the 1970s, who had to give up their jobs upon getting married. Few protections also existed for women subjected to financial, emotional or physical abuse in the protected "family" and many had no independent means of survival. In Article 41.3.1. the State also pledged "...to guard with special care the institution of Marriage, on which the Family is founded, and to protect it against attack." The definition of what a family is, is explicitly tied to marriage to the exclusion of other family types, such as those headed by lone parents or cohabitees, increasingly in evidence in Ireland today.

## New Family Types and Gender Roles

Much has changed since Irish feminism in the 1970s began to dismantle many of the barriers to women participating in the public sphere including in paid employment and other gender-based discriminations, such as women's right to sit on juries, access to legal contraception and maternity leave. The passing of the Divorce Referendum in 1995, a referendum on same sex marriage in May 2015 and the Repeal of the 8th Amendment in 2018, were all viewed as indicators of huge progress in a country that socially had modernized and secularized late but rapidly in comparison to other European societies. However, constitutional change supported by the electorate was significant in all these instances but in reality Irish people were already long living their lives in more diverse relationships, family situations and ways that are irreversible. Social change does not simplistically revert back to traditional patterns because the constitution or vested interests say so. Today, women are not living their life exclusively in the home and marriage no longer has a monopoly on family formation. Men are also more directly involved in parenting than in the past though women do continue to do more domestic and care work. Central Statistics Office of Ireland data shows the employment rate for women aged 15-64 in Ireland in 2023 was 55.3%, which was just above the EU 25 average of 55%. According to Labour Force Survey data, participation by women in the Irish workforce was 61 per cent in the second quarter of 2023 (compared to 70.6 per cent for men). Before the pandemic in 2020, the participation rate for women was 58 per cent. Greater family diversity is also evident. Almost 220,000 family households (17%) were headed by one parent in the census of 2022, of which the vast majority are female headed households. In 2022 there were 24,754 (43%) of births outside of marriage according to the CSO. 1 in 5 people in Ireland lived in a one-parent family, and 1 in 4 families with children in Ireland was a one-parent family. 86.4% of one parent families are headed by a mother, and 13.6% by a father. A third of children attend childcare outside the home. Reconstituted families and "blended" families co-exist alongside the traditional families based on a one life-long marriage "till death do us part" model.

## The 2024 Referendums

Why did the electorate recently vote to reject change in the constitution in light of such significant changes in family life and in gender roles, since the initial document was written in 1937? Arising from the Final Report and Recommendations of the 2020-2021 Citizens' Assembly on Gender Equality on 8th March 2024, International Women's Day, the Irish electorate was asked by the government to vote on proposed changes to the Constitution. The Citizens Assembly had recommended replacing the wording with language that was not gender-specific and "obliges the State to take reasonable measures to support care within the home and wider community". But different wording for a Care Amendment to the constitution that would result in the deletion of Article 41.2 by removing the text on the role of women in the home and the inserting of a new Article 42b to "strive" to support care in the family was ultimately proposed by the Government for reasons that are a subject of some debate. The wording put forward in the

referendum instead said the State "shall strive to support" the provision of care by family members *to one another*. Wording focusing on internal relationships and responsibilities within families, already premised on gender inequality given that the vast majority of care work in society is conducted by women, was bizarrely offered as a corrective to an existing narrow definition of women as carers in society. A Family Amendment, in addition, was proposed to provide for a wider, more inclusive concept of care and of "durable families" beyond those just based on marriage.

The resounding rejection of both amendments has been a jolt to the body politic, including the Fine Gael, Fianna Fáil and Green Party coalition government who supported the new wording. The National Women's Council of Ireland pragmatically supported what were considered imperfect amendments as "better than nothing" while many other feminists aligned with disability activists who claimed the new wording on care in the family was ableist and still sexist. Politicians (including outgoing members of the Seanad standing for re-election in the NUI and TCD constituencies currently) and others more aligned with the right on matters concerning gender, motherhood and sexuality, as well as traditional family values campaigners, are claiming credit for the referendum outcome but in reality a number of different factors combined to produce this result. The term "durable families" in the Family Amendment was considered wholly unclear and open to challenge in the courts. Simpler wording, such as "diverse families," might have sufficed. For a minority it was feared the wording would devalue families based on marriage or fail to regulate an imagined out-of-control promiscuity leading to potentially multiple reconstituted families that would create legal chaos. But in reality families based on marriage are still by far the most common family unit in Ireland and cohabitation is often a precursor of marriage rather than a permanent rejection of it. The divorce rate in Ireland is also comparatively low in comparison to the UK, for instance, where about 1 in 3 marriages end in a divorce. The marriage equality referendum can be interpreted as a reassertion of more marriage as a basis for family life and personal relationships.

In the proposed amendment on care, the deletion of the existing clause on women's life in the home was inseparable from the insertion of a new clause defining care exclusively within the family, with no reference at all to the State's *own* duty of care to support care in families, or to the right to access care in the community including in particular for disabled citizens. The reason why this was the final wording proposed in some quarters has been viewed very cynically. Was the State derogating its responsibility to also provide and pay for care out of an exchequer that includes many taxpayers who are also overburdened carers? Was accepting this new clause as a condition for the deletion of the already sexist women in the home clause the only choice given, in order achieve this? A simple option to delete Article 41.2 separately from the alternative wording on care in the family being introduced was not provided and may well have produced a clear rejection – but we don't know that for sure. Some mothers groups are arguing to keep Article 41.2 on the grounds that it provides recognition for the work predominantly women do in the home. The gender breakdown of votes in relation to a clause that exclusively relates to women is not available to us. Nonetheless the replacement of an out-of-date sexist clause that only mentioned

women was potentially going to be replaced with a clause that re-replaced the burden of care in society on the family alone, where in practice the vast majority of carers are women, with no mention of the State's obligations. At no point in the referendum campaign was a comprehensive debate on the role of men in relation to the proposed amendments in evidence either. The wording "strive to" was also considered too weak.

Women as the vast majority of carers in Irish society clearly saw through this as did disability activists. An amendment on care that was sexist, ableist and only concerned about care within the family alone was destined for rejection. A hard-nosed exchequer response was a tactical error in the Government achieving its objectives. But glaring exclusions remain evident in the Constitution as a consequence and a traditional view of women's life as solely in the home with a concern for declining fertility has emboldened the catholic right. Irish mothers now engaged in the labour market who want dual mention in the constitution have been let down by the government's chosen words in the 2024 referendums as have non-marital family units who are not explicitly recognised in the constitution. Conservative family values campaigners and some Irish senators have argued that preserving Article 41.2 values and protects motherhood, and insist it is not a threat to other legal and political rights gained by Irish women since the 1970s. Nonetheless, it would have been a huge symbolic and meaningful step forward if new wording was inserted in the Constitution, to reflect the more diverse reality of all and not just some mothers' "life" now rather than in 1937. An opportunity to modernize the wording and to co-respect the dual rights of stay at home and working mothers, whose life is inside and outside the home as carers and workers, was squandered. The caring obligations of fathers were also elided. But we must also acknowledge the damage the Care Amendment would also have caused to care recipients who do have a human right to an independent life and to much better supports beyond family support, which in the main is women's free, undervalued and unpaid care work. The option of deleting the reference to women's "life" in the home should have been put to the electorate entirely separately from the question of care in the family. The amendment on care should never have incorporated a dereliction of duty on the part of the State in relation to disabled citizens. Despite what "No" campaigners argued, the constitution is a living document that does not need to be set in stone after being written by founding fathers in nations. New, more inclusive and modern wording in the Constitution is still required to untangle and better reflect the complex relationship in contemporary Ireland between family, marriage and gender. Social change has long preceded constitutional change in Ireland. The wording in the constitution is out of step with the sociology of Irish society. I hope more carefully thought through constitutional change and inclusive wording comes more swiftly for my daughters than it has for my generation, who have lived our lives with a Constitution designed in a different time and place. The possibility of the political unification of the island will necessitate a new constitution and this will generate rancorous debate especially if change is completely avoided in the interim.



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Linda Connolly  
Professor of Sociology and  
Director, Maynooth University Social Sciences Institute,  
Maynooth University,  
Ireland

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