

Robert Schuman Centre
for Advanced Studies

Valorising the Virtual Citizen: []
Death, Gender and []
Citizenship in Ireland

Patrick Hanafin

RSC No. 2003/6
Gender Studies Programme

EUI WORKING PAPERS



EUROPEAN UNIVERSITY INSTITUTE

Robert Schuman Centre for Advanced Studies

The Gender Studies Programme

The Gender Studies Programme was established in the Robert Schuman Centre for Advanced Studies at the European University Institute in October 2000, building on more than a decade of work in this field at the Institute. The programme's general aims are to support and to help develop the scholarly work of research students, fellows, academic staff and visitors in the study of gender, and to stimulate interdisciplinary work across the departments of the EUI. The programme holds regular seminars and workshops organised around various themes. The main themes to date have included: Gender Studies – The State of the Art, Women in/and the Law, Welfare states and social policy, Feminist Economics, Masculinities, Migration, 'Race', and Identity. In addition, The Ursula Hirschmann Annual Lecture Series on Gender and Europe seeks to stimulate research which specifically links ideas about Europe and the study of gender. An EC-funded research project on Gender and Migration is the current focus of the research activities of the programme. The programme is co-ordinated by Dawn Lyon. It was directed by Professor Luisa Passerini from October 2000 to June 2002; and by Professor Silvana Sciarra in the academic year 2002/03.

The EUI and the RSC are not responsible for the opinions expressed by the author(s).

For further information:
Gender Studies Programme
Robert Schuman Center for Advanced Studies
European University Institute
Via delle Fontanelle, 19
I-50016 San Domenico di Fiesole (FI)
E-mail: dawn.lyon@iue.it
<http://www.iue.it/RSCAS/Research/Gender/Index.shtml>

**Valorising the Virtual Citizen:
Death, Gender and Citizenship in Ireland**

Patrick Hanafin

ABSTRACT

This piece advances a reading of postcolonial Irish citizenship which is premised on a form of citizenship as self-sacrifice. Despite substantial political victories for a liberal politics of citizenship in recent decades, there continues to remain lodged within the national psyche traces of a societal formation which privileges virtual citizens over fully realised ones, myth over history, and male violence over female autonomy. The sacrificing self is urged in her role as citizen to forego aspects of her individuality in the interests of the postcolonial project of state formation. In particular I want to examine why over and over again it was the body of woman which was the site of much of the symbolic and actual violence in this sacrificial social contract. In the post-independence period it was clear that women would have to repay the sacrifice of men with a sacrifice of themselves to the idealised version of Irish citizenship espoused by the postcolonial elite. The men died for mother Ireland and now mother Ireland must earn her keep, as wife and mother.

Johnny Boyle: I won't go! Haven't I done enough for Ireland! I've lost me arm, an' me hip's destroyed so that I'll never be able to walk right agen! Good God, haven't I done enough for Ireland?

The Mobilizer: Boyle, no man can do enough for Ireland!
(O'Casey, S; 1949, p. 60).

1. INTRODUCTION

In this piece I want to advance a reading of postcolonial Irish citizenship which is premised on a form of citizenship as self-sacrifice. Despite substantial political victories for a liberal politics of citizenship in recent decades, there continues to remain lodged within the national psyche traces of a societal formation which privileges virtual citizens over fully realised ones, myth over history, and male violence over female autonomy. The sacrificing self is urged in her role as citizen to forego aspects of her individuality in the interests of the postcolonial project of state formation. In particular I want to examine why over and over again it was the body of woman which was the site of much of the symbolic and actual violence in this sacrificial social contract. In the post-independence period it was clear that women would have to repay the sacrifice of men with a sacrifice of themselves to the idealised version of Irish citizenship espoused by the postcolonial elite.

The exultation of a symbolic woman was merely a mask which occluded the mistreatment of real Irish women.¹ This sado-masochistic tendency in Irish society is to be found in the life and works of Patrick Pearse the revolutionary most associated with the philosophy of blood sacrifice. Pearse wrote, 'thrashing women is one of the ways of loving' (Cited in Valente, J; 1994, p. 207)². This statement from a practitioner of blood sacrifice did not augur well for the way in which woman was to be constructed in the state which appeared in his wake.

Two recent political events provide evidence of the enduring nature of this sacrificial economy. These events were the reburial amidst excessive media publicity by the Irish Government in October 2001 of ten male nationalist freedom fighters who were executed during the War of Independence (1919-1921); and the Government's attempt at dealing with the issue of abortion by holding a referendum which, if passed, would have given further constitutional protection to the foetus, and would have narrowed further the grounds for legally sanctioned pregnancy termination. It seems to me that these events exemplify the manner in which Irish political and legal discourse over questions

of citizenship in the postcolonial period has privileged the virtual citizen who, although inhabiting the dead zone of non-agency, wields great politico-symbolic power. Such virtual citizens include the dead sons who in their sacrificial act led to the country's birth out of colonial oppression and the constitutionally protected legal person of the foetus. This privileging of such virtual citizens leads to a corresponding sacrificing of the female as a receptacle for national reproduction. Thus, the attempt to overcome the reality of death has moved from the anticolonial postulating of a deathless maternal love (death out of love for Mother Ireland) to, in the postcolonial period, the vanquishing of a death-bearing maternal body (See Kristeva, J; 1976, pp. 160-86).

2. VIRTUAL CITIZENS

The resurrection of dead bodies, both literal and metaphorical, has been an enduring feature of Irish political discourse. Indeed the iconography of the dead patriot is inserted in the Preamble to the Irish Constitution of 1937:

We, the people of Eire, humbly acknowledging all our obligations to our Divine Lord, Jesus Christ, who sustained our fathers through centuries of trial, gratefully remembering their heroic and unremitting struggle to regain the rightful independence of our Nation.

In this constitutional rendering of the nation, the citizen-subject was to become a martyr of the everyday, a body which following the example of the iconic martyred figures of the anticolonial struggle and of the ur-sacrificial figure of Christ was to derive redemption through suffering and denial. As the patriots of 1916 and of the War of Independence gave their lives so that Ireland as state could emerge, the citizens of the new state found that their life was to be sacrificed to the ideal of an authentic Irish citizenship, one founded on an ascetic Roman Catholic construction of the individual as living for death. Thus, the sacrificial symbolism of the colonial period was translated into the postcolonial sacrificial social contract.

This country where the dead hero lives on is also the home of another virtual citizen. Indeed today it is the foetus which has become the exemplar of virtual citizenship. In this regard I am adapting an allusion by Jean Baudrillard (2001, p. 115) to the double sense of the adjective 'virtuel' in French, which also has the sense of potential or possible. The foetus like the dead hero is the perfect virtual citizen, carrying with it the promise of regeneration and perpetual life. This valorising of life and the deflection of death has been inscribed in law in the form of a constitutionally protected right to foetal life, which was inserted in 1983 as a result of a constitutional referendum. These virtual citizens in the sense of their potential for citizenship and also in their potential to form a community based on a philosophy of Life, are the iconic figures of

contemporary Irish citizenship, circulating in national discursive space as potential points of suture for a nation in fragmentation. The valorisation of potential life and the endless reproduction of society enacts the apotheosis of what Lauren Berlant calls a 'dead citizenship' which marginalizes the living in order to privilege the dead or the yet to be. In Berlant's view dead citizenship is a means of fixing or stabilising identity within a fantasy of homogeneous nationhood. Dead citizenship:

involves a theory of national identity that equates identity with iconicity. It requires that I tell you a secret history of acts that are not experienced as acts, because they take place in the abstract idealised time and space of citizenship... In the fantasy world of national culture, citizens aspire to dead identities – constitutional personhood in its public-sphere abstraction and supra-historicity, reproductive sexuality in the zone of privacy. Identities not live, or in play, but dead, frozen, fixed, or at rest' (Berlant, L; 1997, pp. 59-60).

One figure that was not to be sacrificed in the sacrificial economy was the foetus, as this would rob the nation of future life, placing the nation in peril as well as the foetus. Unlike dead male fighters the woman who seeks to terminate her pregnancy interrupts the vitalist national narrative. The hero gives his life in the name of the new nation. The woman acts selfishly in putting her wishes in front of this potential life. She must fall within this altruistic model of citizenship and give of herself so that the nation may be perpetually reproduced. Thus, in the discourse of traditionalist groups Irishness is seen as coeval with life and regeneration. Abortion threatens the master signifier Life. Thus, those who practise such an act are constructed as outlaws and are denied the love of the Symbolic Other (God, medical community, society) (Bracher, M; 1993).

3. LAW'S MASCULINE NATION

The honouring of the dead male patriot and the marginalisation of women in political and legal discourse stems the patriarchal nationalism of late colonial Ireland, where the male took an active role in the construction of the nation. In order to confirm their masculinity such males required passive female counterparts against which to construct this fantasy of the masculine nation. As Elizabeth Butler Cullingford has pointed out:

The special place of woman in de Valera's 'theocratic Constitution of 1937' is a legacy of Pearse's insistence that to confirm their 'manliness' Irishmen needed 'feminine' counterparts, and we know how that constitution... has been used to oppress Irishwomen (Butler Cullingford, E; 1990, p. 16).

The representation of the country as a submissive female figure for the purposes of colonial domination did not disappear on the gaining of independence. If anything the masculinist paradigm was reinforced. The suppression of female

identity was continued by a new set of patriarchal colonisers in the form of the new ruling ex-revolutionary elite.

The political elite of post-independence Ireland wanted to create a society which was traditional, irredentist and patriarchal. These values became part of public policy through legislative initiatives and in no small part through the official symbolic recognition granted to them in the founding document of the new polity, the Irish Constitution of 1937. The framers of the Constitution wanted to create a legal framework document for a new Ireland, new in name only, for the patriarchal and traditionalist values of colonial times were to remain. The primary author of the constitutional text, Eamon de Valera, conceived of a utopian nation of the masculine imaginary where cheerful maids and athletic youths danced at crossroads in the half-light.

De Valera's attitude towards the role of women in the public sphere was evident even during the revolutionary struggle. During the Easter Rising of 1916 de Valera had turned women volunteers away from his command post at Boland's Bakery. Coogan (1995, p.67), describes the situation thus: 'He had told Cumann na mBan, the women's Volunteer force, that he would require them not as combatants but as first aid workers and cooks - because, he said, he had no weapons for them. In view of his subsequent attitude to women in public life it is equally likely that he literally did not want to see them in the front line'. Nowhere is de Valera's particular view of the role of women in Irish society more evident than in the constitutional text itself.

The patriarchal model, evident in the Constitution's provisions in relation to women was by no means accepted wholeheartedly by the majority of Irish society. The Constitution itself was only narrowly passed by 685,105 votes in favour to 526,945 against. 31 per cent of those who had the vote abstained from voting in the referendum on the Constitution. Foremost amongst those who opposed the passing of the Constitution were many of those women who had been prominent in the nationalist struggle. Thus, groups such as the National Council of Women of Ireland, the Womens' Graduates Association and the Joint Committee of Women's Societies and Social Workers vented their disapproval of the way in which the role of woman as mother was to be glorified in the Constitution. Dorothy Macardle, an ardent and respected republican summed up the frustration of many republican women towards the new Constitution in a private correspondence to de Valera in May 1937:

The language of certain clauses suggests that the state may interfere to a great extent in determining what opportunities shall be open or closed to women, there is no clause whatever to counterbalance that suggestion or to safeguard women's rights in that respect... As the Constitution stands, I do not see how anyone holding advanced views on the rights of women can support it, and that is a tragic dilemma for those who have been loyal and ardent workers in the national cause (Coogan, T.P; 1995, p.497).

One notable and perhaps significant absentee from criticism of the Constitution was Cumann na mBan, the republican women's movement. Cumann na mBan decided to remain aloof from the debate on the Constitution as they demanded a thirty-two county republic and did not recognize the Irish Free State. As Ward (1989, p.244), has put it:

as orthodox Republicans first and foremost, they wanted a Constitution of the Republic, and that constitution was not the one formulated by de Valera. The Republic had still not been declared, partition continued, and the new state was to be named 'Eire'.... For Cumann na mBan to have entered into the debate concerning [the Constitution's] impact on women would have entailed, in their eyes, a compromise with their status as a Republican women's organisation.

Yet despite the opposition from women's groups de Valera remained steadfast in his views on the constitutional position of women. Despite claims to equality of all citizens in general terms, 'woman' was singled out for special attention in the Constitution. Thus in Article 41 entitled The Family, it is provided that:

1. 1 The State recognises the Family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.
2. The State, therefore, guarantees to protect the Family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the Nation and the State.
2. 1 In particular, the State recognises that by her life within the home, woman gives to the state a support without which the common good cannot be achieved.
3. 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.

Not content with the patriarchal subtext in Irish society of the time, the framer of the Constitution had to inscribe the role perceived by patriarchy for women into the constitutional text. Thus the cultural notion of woman as (m)other informs the way in which woman is to be perceived in constitutional discourse. The language used favours the conception of the patriarchal family. Eamon de Valera, during the parliamentary debates on the Constitution, referred specifically to criticism of the way in which women were portrayed in the Constitution. He claimed 'There is no distinction made in this Constitution, in regard to political rights, between men and women. I took out that phrase 'without distinction of sex' [which appeared in the Constitution of 1922] because it had no meaning in the context of the Constitution, and in the general atmosphere... as far as women's rights politically are concerned' (67 Dail Debates 64, 11 May 1937). He went on to argue in relation to the symbolic representation of women in constitutional discourse:

This Constitution has been attacked on the ground that it is taking away women's rights. What it is doing where women are concerned is that, where their rights are, they are equal. Therefore, where they are referred to here, they are referred to by way of protection and the protection which the State is bound

to give... [W]e ought to try [to] prevent the economic system from driving women into avocations unsuited to their sex or strength or age (67 Dail Debates 64, 11 May 1937).

It is clear then that the intention of the framer of the Constitution in this regard was paternalistic. He was of the view that there were certain roles to which women were suited and others to which they were not suited. This leads one to conclude that these roles were in the main in the private sphere and connected to biological function as well as the traditional or stereotypical roles which women were forced to fill in the public sphere. That such a blatant form of gender differentiation was couched in the language of protecting women from economic reality made it even more calculated and invidious.

The country of de Valera's imaginary is no place for real women, only for the iconic female Hibernia of masculinist nationalist myth. Only the image gains respect. Woman, this dispensable cipher becomes, in constitutional discourse, indispensable to the welfare of the state, 'the common good'.

The constitutional text refers to 'woman' as if referring to an inert mass, without soul, or character. The association of woman with reproductive function is clear in the way in which the words 'woman' and 'mother' are used interchangeably in Article 41.2. (M)others shall not be obliged to labour outside the home but are laden with duties within the home. The words 'State', 'Family' and 'Nation' are all capitalized as all three are synonymous with patriarchy, the dominant discourse. Woman is secondary an object living in the interstices of masculine legal discourse. As MacKinnon (1987, p.55), has noted:

We notice in language as well as in life that the male occupies both the neutral and the male position. This is another way of saying that the neutrality of objectivity and of maleness are coextensive linguistically, whereas women occupy the marked, the gendered, the different, the forever-female position. Another expression of the sex specificity of objectivity socially is that women have been nature. That is, men have been knowers, mind; women have been 'to be known', matter, that which is to be controlled and subdued, the acted upon.

4. FOETAL CITIZENSHIP

The politics of foetal citizenship is born of an anxiety, bordering on hysteria, on the part of traditionalist groups in relation to the fracturing of a monotheistic Irish State. This is a politics of sexual morality which values the yet to come over the here and now, purgation over pleasure, the transcendent over the material. This totalitarian politics of Life is premised on the policing of women's desire, which in such a discourse, is an unstable and chaotic element which disrupts their disciplinary politics. This politics of Life requires that the

foetus is represented as a viable proto-citizen deserving of legal protection and rights, and as one to whom duties are owed. In a discourse where citizenship is premised on denial and self-sacrifice for some transcendent cause the construction of woman as mother plays a vital symbolic and productive role. Woman as vessel for the reproduction of the race is intimately linked with the nationalist ideology on which the state was founded. The foetus and the nation were homologised into a figure faced with death from a threatening force, in this case the self-determining woman. For pro-life groups this politics of foetal life acts as a means of suturing together a nation which for them no longer has a unifying ideology. The foetus in this discourse becomes the *objet petit a*, that which will suture together Ireland's fragmented self. As Lauren Berlant has written of the politics of foetal personhood:

Because it appears to be personhood in its natural completeness, prior to the fractures of history and identity, the fetus is supposed to be a solution, from the origin of human existence, to the corporeal, juridical, intimate violence that plagues [society] today. (Berlant, L; 1997, p. 104).

In 1983, certain traditionalist pressure groups in Irish society fearing a liberal turn in Supreme Court thinking on abortion sought to introduce an amendment to the Constitution which disregarded any claim of Irish women to reproductive autonomy. The proposed amendment to the Constitution on the abortion issue guaranteed a right to life to the unborn. It read as follows:

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, to vindicate that right.

This acknowledged in law that the ideal Irish legal citizen was indeed virtual, living for the future but never in the present. The fully realised female citizen was deprived of agency so that the foetus incapable of agency was given the symbolic status of honorary agent to come.

If the foetus is recognised as being capable of having rights, in this case a right to life, it has no concomitant obligations, while the fully realised citizen carries the obligations. This creates a literally and symbolically split subject, one subject in two bodies. This strange relationship or duty to the other becomes particularly problematic when the other is not yet born, reducing the life of the mother to that of the not yet dead rather than a fully valued living citizen. This strange reinterpretation of the notion of rights discourse creates a case of subjectivity as purgatory. As Lealle Ruhl has pointed out:

On what grounds could one possibly argue that the fetus is an individual with rights? In liberal theory, rights are irretrievably tied to obligations; an individual gains certain rights and with them corresponding obligations. But how can the foetus have obligations? Indeed, what we witness in this description of pregnancy is not two liberal subjects in one body, but rather *one* liberal subject in two bodies. The

pregnant woman has all of the obligations of a 'normal' or typical liberal subject but none of the rights. The fetus, on the other hand, has all of the rights of a typical liberal subject but none of the obligations. A strange situation indeed (Ruhl, L; 2002, p. 39).

The amendment was carried in a referendum in 1983. However, the amendment was revealed to be of merely cosmetic effect, and did not alter the trend of Irish women seeking abortions in England (Tomkin and Hanafin, 1995, p.183). The most prudent response on the part of politicians would have been to avoid this divisive referendum, to avoid the pressures exerted on them by pro-life groups. The amendment was entirely unnecessary in legal terms as abortion was already outlawed by statute in the form of sections 58 and 59 of the *Offences Against the Person Act* 1861. The need to place the issue of abortion on the public agenda was brought about by the actions of pro-life pressure groups in Irish society who feared that the judiciary might somehow derive a right to pregnancy termination in a manner similar to the United States Supreme Court in the case of *Roe v Wade* (1973 410 US 113). It was also a reaction by these groups to a growing liberalism in Irish society on social issues. The politicians who acceded to the requests of these pressure groups to institute a referendum on the issue of the right to life of the unborn acted rather naively, in trying to placate a section of Irish society which appeared to wield more political clout than it actually possessed. As the political scientist, Brian Girvin (1986, pp.70-1), has observed 'the issue brought to light one of the major failings of the Irish political system: that pressure can be brought to bear on politicians during an election to make concessions to interest groups. [The pro-life pressure groups were] well placed to maximize this pressure as three elections took place between June 1981 and November 1982'. Thus, it was the Constitution which was used to impose further burdens on women, something which was entirely in keeping with the original intent of its framers in this regard.

The success of the pro-life lobby in this referendum in 1983 was founded on constructing the foetus as a virtual citizen with rights. This legal fiction depended for its success on constructing a notion of the foetus as a person and one who was in potential danger of death. As Lauren Berlant has put it:

The success of the concept of foetal personhood depends on establishing a mode of 'representation' that merges the word's political and aesthetic senses, imputing a voice, a consciousness, and a self-identity to the fetus that can neither speak its name nor vote. This strategy of nondiegetic voicing has two goals: (1) to establish the autonomy of the fetal individual; and, paradoxically, (2) to show that the fetus is a contingent being, dependent on the capacity of Americans to hear *as citizens* its cries *as a citizen* for dignity of the body, its complaints at national injustice (Berlant, L; 1997, p. 98).

In the case of *Attorney-General v X and Others* ([1992] 1 IR 1), the Irish Supreme Court held that the constitutional prohibition on abortion contained in Article

40.3.3. of the Constitution was not absolute. The case concerned a fourteen-year-old pregnant rape victim, who had been prevented from travelling to England to obtain a pregnancy termination. A permanent injunction to this effect was granted by the High Court. The defendants appealed this decision to the Supreme Court. The Supreme Court held by a majority of four to one that Article 40.3.3 of the Constitution permitted pregnancy termination, when it was established as a matter of probability that there was a real and substantial risk to the life of the mother, including the threat of suicide as was present in this case, if the termination were not carried out.

As a result of the case, the Government decided to hold referendums on the issues of the right to life of the unborn,³ the right to travel⁴ and the right of access to reproductive health information.⁵ The result of these referendums demonstrated a perceptible shift in societal thinking on these issues. Thus, 62.4% of those who voted in the referendum supported the right of the pregnant woman to travel and 59.9% supported the right to obtain information on pregnancy termination services outside the jurisdiction. The proposed amendment regarding the right to life was defeated with 65.4% voting against.

In the wake of these referendums the Government was forced to act on the issue of access to reproductive health information. Legislation in the form of the *Regulation of Information (Services Outside the State for Termination of Pregnancies) Act 1995* was enacted. This piece of legislation allows individuals to obtain information on pregnancy termination services outside the State within strict limits. However, these reinterpretations of the Constitution in a manner less damaging to women do not in reality lead to more justice for women. Thus, even though abortion is lawful *per se*, in practice it is not possible to obtain one in Ireland other than in the very limited circumstances where medical necessity requires a termination in order to save the mother's life. This is due to the interposition of the professional ethics of the medical profession and the unwillingness of successive governments to introduce legislation allowing pregnancy termination.

In 2002, a Bill was eventually introduced. However, this draft legislation would have reversed the decision of the Supreme Court in the X case and introduce even more draconian penal sanctions for those who attempted to have a pregnancy termination within the State. The Protection of Human Life in Pregnancy Bill 2002 proposed to reverse the decision of the Supreme Court in the X case by excluding the threat of self-destruction as a ground for abortion. Those who aided or abetted an abortion would in this draft legislation be sentenced to up to 12 years imprisonment. The only grounds for abortion would be where in the reasonable opinion of a medical practitioner, it was necessary to prevent a real and substantial risk to the life of the woman. Thus, law expected

women to pay the ultimate price, their life, if they were to evade the forced burden of pregnancy. The human life of the Human Life in Pregnancy Bill that appeared to be preferred was that of the foetus. Women, even in extreme cases, were called on to give up something more, to endure forced pregnancy in the name of some notion of idealised citizenship. Thus, the woman is sacrificed for the virtual citizen within, itself a signifier of the life of the nation. As Berlant puts it:

In so recasting the pregnant body as, at its best, a vehicle for the state's 'compelling interest' in its citizens, the pro-life nation that currently exists sanctions the pregnant woman... only insofar as she becomes impersonal and public, committed to submitting her agency to the 'compelling interests' of any number of higher powers (Berlant, L. 1997, p. 99).

The pro-life discourse, which is made up of diverse groupings, ranging from the Roman Catholic hierarchy through the Taoiseach to the artist formerly known as Dana, Ireland's Eurovision Song Contest winner in 1970 and now luminary of the political right, stress the role of woman as mother and the need to reproduce the nation along traditional gender lines. This move falls within the tendency found by Lauren Berlant in American society towards a pro-life model of citizenship, which produces ironically a dead citizenship in its wake. As Berlant puts it:

the normativity of pro-life society dictates that once pregnant the woman loses her feminine gender, becoming primarily a mother ... and therefore becomes *uninteresting* in herself. In protecting the fetus from the woman they divide into a nongenital 'female' part –the maternal womb, which really belongs to the fetus- and a potentially malevolent section, composed of a sexual body (un)governed by a woman's pseudosovereign consciousness (Berlant, L; 1997, p. 99).

For every privileged foetus there is a corresponding dead citizen, whose individuality is consumed by a politics of life which values potential citizens over the resistant body of the victim of male violence. This sacrificial figure can only be valued as a victim either of male violence or as a scapegoat for the moral majority which see her as that which threatens Life. Not only is male violence somehow condoned in this discourse, but the woman must have a life sentence imposed on her by being forced in the absence of legislation to the contrary to carry the pregnancy to term.

This rememorative performance of a dead citizenship proceeds in the rhetoric of contemporary politicians who while claiming to talk of improving the lot of women in society simultaneously attempt to introduce legislation which upholds a patriarchal nationalist view of societal organisation. As the Taoiseach put it in a statement on the eve of the referendum:

We need to change our attitudes and our prejudices and offer support to families of all shapes and sizes. Women must no longer be put in a position whereby their

education, jobs and financial security might be threatened by pregnancy (Doyle and Logue, 2002).

This speech by the primary sponsor of the proposed legal change was disingenuous to say the least. In other words, he was saying what the framer of the 1937 Constitution, Eamon De Valera had said in 1937, when he defended the model of gender relations present in his nascent Constitution. De Valera too spoke of a more egalitarian model of gender relations while at the same time upholding a patriarchal view of society. Thus, for the current Taoiseach, a woman can be a mother and work as well. There did not appear to be a choice. She could either remain in the home and be a mother or have a career and an education and be a mother. Her position in society still remained fixed to her maternal role. This speech merely adds to rather than eliminates the patriarchally assigned role of women in Article 41 of the Constitution.

The Taoiseach seems to be engaged in an unofficial amendment of Article 41, to the effect that the state shall now endeavour to ensure that mothers shall not be obliged to engage in childcare to the neglect of their education and careers.⁶ This reworking of Article 41 of the Constitution merely underlines the residual importance of the family in Irish legal and political discourse. The Taoiseach seems to think that women should be forced to carry unwanted pregnancies to term but that such a little thing should not get in the way of their careers.

Indeed the abortion issue was a prominent one in the recent referendum in Ireland in 2002 on whether or not to accede to the Treaty of Nice. In the referendum campaign pro-life activists joined forces in a call not to support the Treaty with amongst others, Sinn Fein and the environmental movement. In this regard we can see how the anti-abortion or foetal citizenship advocates form one part of a wider movement against interfering with Irish sovereignty, or to be more precise, a particularistic notion of Irishness, uncontaminated by outside forces, a green island in both senses of the term (untainted by industrial pollution and nationalist) as well as pure from a moral perspective (the stance of the right to life lobby). It is then no surprise that these groups should join forces against the European Other, who might want to dilute this traditionalist, romanticised, and masculinist notion of Irishness.

5. RE-MEMBERING DEAD MEN

The remains of dead heroes are regenerated and are reincorporated into the body politic. We embrace these bones as virtual citizens. Dead patriots are perfect citizens, as eminently manipulable for political purposes as they are silent. Silent citizens who exude the sanctity of sacrifice. The cadaver is the ideal body of

law, the zenith of quiescent regulability. These bodies as well as being carriers of our originary traces, postulate our future as that which is not. Revealed as the cadaveric grounds of legal personhood they must be endlessly resurrected so that the fiction of the perpetual life of the nation is maintained. Hence the need for the reburials, a constant reminder of eternal life which awaits those who live for death. This 'life strategy' (Bauman, Z; 1992, pp. 24-31) combines the need to maintain the state in perpetuity with the potential for immortality. As Blanchot puts it: 'In dying the hero does not die, he is born; he becomes glorious, he accedes to presence and establishes himself in memory, a secular survival... There is no death for the hero but only pomp and ceremony: a superb, a supreme declaration, repose in visibility' (Blanchot, M; 1993, p. 374).

In the wake of the deletion of the original Articles 2 and 3 from the Constitution, which contained the State's aspirational claim to the territory of Northern Ireland, one might think it ironic that the Government should engage in a politics of nationalist remembrance. However, this was a move precipitated by the post-Belfast Agreement political reality as much as it was a form of homage to dead founding fathers. It was an attempt to explicitly divorce contemporary terrorism and Sinn Fein from the aims of the founders. Sinn Fein in the post-Belfast Agreement period has become a potential political competitor for Fianna Fail, tinged as it is with the nationalist politics which Fianna Fail has always espoused. Thus, this move to capture these dead bodies for Fianna Fail's brand of cultural nationalism was another factor in the timing of this particular resurrection. This is as much a question of the political manipulation of the dead as of the manipulation of politics by the dead. It is not without relevance that these funerals coincided with an upcoming general election. It also deflected attention from a government party which had been associated with numerous sleaze scandals. It was an excuse to rally national opinion around a common cause. What better choice than the commemoration of a group of dead sons who gave their lives for Ireland? The feel-good factor meets the traditional Irish funeral fetish.⁷ Thus, in post-Belfast Agreement Ireland the resurrection and remembering of the past remains as important as ever in the service of obtaining political capital.⁸

Performing, not wholly convincingly in the tradition of the nationalist graveside oration, the Taoiseach returned to the past in order to reiterate the foundational legitimacy of the State.⁹ The attempt to appeal to all shades of nationalism can be seen in the Taoiseach's justification of the violence of the dead patriots of 1920 while simultaneously condemning contemporary militant nationalist terrorism. The journalist and cultural commentator, Fintan O'Toole, commenting on the decision to rebury the ten men, noted the Government's distancing of contemporary terrorism from the acts of the volunteers of 1919-1921, a stance which sees 'the only difference between a terrorist and a patriot

[as being] the passage of time' (O'Toole, F; 2001). This blurring of distinctions in the institutional memory speaks to a wider amnesia in Irish society about its founding violence. The terrorists of yesterday are now venerated by the state, while the terrorists of today receive the State's condemnation. The terrorists of yesterday are the sacrificed the terrorists of today the sacrificer. As the Taoiseach noted in his oration: 'The Good Friday Agreement has moved us to a new stage in our history, but that certainly does not mean we forget or repudiate those who founded our State'. In this phrase the Taoiseach is mistaking remembering for memorialising, which excludes a more complicated analysis of the events leading to the state's founding. This political rhetoric wants to appeal to all constituencies, condoning the violence of the past and distancing itself from today's terrorists who have the same objective as these sacrificial heroes. This is a case of blocking out the reality of past violence while using these dead bodies as vehicles for current political purposes. As Katherine Verdery has framed it:

any manipulation of a corpse directly enables one's identification with it through one's own body, thereby tapping into one's reservoirs of feeling... such manipulations may mobilise pre-existing affect by evoking one's own personal losses or one's identification with specific aspects of the dead person's biography. This possibility increases wherever national ideologies emphasise ideas about suffering and victimhood...

Dead bodies... have properties that make them particularly effective political symbols. They are thus excellent means for accumulating something essential to political transformation: symbolic capital (Verdery, K; 1999, p. 33).

The funeral of the tenth volunteer was held at his family's request in his home village of Ballylanders in County Limerick. The oration was delivered by the Minister for Justice, Equality and Law Reform. In concluding his speech the Minister recited the following lines from W.B. Yeats's poem 'Easter 1916' (prefacing them with the assertion that 'The story of Ireland's struggle for freedom and self-determination has often invoked images of pain and suffering, self-sacrifice and great tragedy'.¹⁰):

Too long a sacrifice
Can make a stone of the heart
O when may it suffice?
That is Heaven's part, our part
To murmur name upon name,
As a mother names her child
When sleep at last has come
On limbs that had run wild

It is appropriate that such lines should be chosen, but not for the reasons the Minister's speechwriters thought. This poem questions the very act of rebellion itself and the poet's role both before and after this event. It is a poem of

indeterminacy, of questions unanswered and unanswerable. As David Lloyd has noted, this poem is one of Yeats's earliest reflections upon the obsessive rituals of repetition by which nation states assure the legitimacy of their foundations and maintain their equilibrium (Lloyd, D; 1993, pp. 69-70).¹¹

It is ironically appropriate then that the Minister should choose it in performing one of these equilibrium maintaining obsessive rituals of repetition. This is an example of how Ireland, born out of a violent trauma based on a philosophy of blood sacrifice, is a country blocked by its failure to mourn. It looks to an imagined past peopled by dead patriots who live on in the official memory of the state. They live a perpetual life consistent with both the teachings of Roman Catholic dogma and the paganistic strain of hero-worship dating from the mythical heroes of pre-Christian Ireland - Christ and Cuchulain fused in a narrative of never-ending life. Indeed one could go so far as to state that such a sacrificial proto-citizen is a model for political citizenship in the postcolonial period. Indebted as the state is to such figures for its formation, its citizens must engage in a form of citizenship, which pays constant tribute to these dead heroes and in so doing participate in a living for death premised on the redemptive and ascetic principles of sacrificial citizenship.

6. CONCLUSION

Postcolonial Ireland in its deathly foundations appears to accommodate more easily the dead than the living excessive body of the citizen. This has been made manifest in the past year, a year in which dead patriots are accorded the pomp and ceremony of a second burial and further attempts are made to block a woman's right to choose. The proposed legislation would have led to a situation, if passed, where the only act of self-determination a woman could perform in the context of abortion would have been that of self-destruction, as the proposed legislation prevented the threat of suicide as a legitimate ground for obtaining an abortion. Death in the name of the national struggle is valorised as part of the traditional narration of the nation. However, death in another guise the 'sacrifice' of the foetus for the mother as the pro-life lobby would have it is unacceptable, as it acts as a threat to their fantasy of nationhood.

The dematerialization of the body which for the nationalists of the early twentieth century and their claimed inheritors in the ranks of militant nationalism was valorised as a means of political resistance becomes, in this same ideology, problematic when given presence at the site of another body, e.g. the dematerialization of the foetus. The valorisation of the deaths, suicidal or otherwise of patriots does not extend to the bodies of women who may want to give up the 'life', as the law has it, within them, so that they may exercise autonomous choice. Neither may the threat of suicide be a legally acceptable

pre-condition for an abortion, the necessity of which was precipitated by male violence. Thus, the suicidal woman is seen as a threat to the vitalist or regenerative ontology upon which the state is premised, an enemy of the state rather than an officially sanctioned hero.

The corpse of the executed freedom fighter is valorised in nationalist thought because it denotes the right kind of suffering for the right kind of cause. Dying in order to put an end to individual suffering in the case of a pregnancy resulting from rape is not valorised in traditionalist thought. Thus, the outcry by traditionalist groups after the Supreme Court decision in *Attorney-General v X*. In this discourse the pregnant rape victim is a mere vessel to be sacrificed on the altar of Life. Woman here is that absolute non-identity which threatens the paternal law of fictional fixed identity and is in turn contained within the performative of further laws which attempt to contain her desire within the fiction of marriage and the family.

Recent political events have revealed an Ireland which still identifies with a notion of nationhood which entails the sacrifice of some for a transcendent thing, this thing today being a familial nation based on reproductive economy, an endlessly reproducing nation. The politics of foetal life and that of the politics of dead heroes continue to cohabit comfortably in our postmodern polity. This politics of natalist nationalism denies death so that the state may endlessly reproduce itself. In order for this to happen sacrifices must be made. Dead heroes live endlessly in the memory while living women who threaten suicide are forgotten. We still refuse to listen to Juno's injunction in Sean O'Casey's play *Juno and the Paycock*: 'it's nearly time we had a little less respect for the dead, an' a little more regard for the livin' (O'Casey, S; 1949, p. 58).

Patrick Hanafin

Jean Monnet Fellow, Department of Law, European University Institute, Florence, and Senior Lecturer, Birkbeck Law School, University of London.

REFERENCES

Books

- Baudrillard J (2001) *Impossible Exchange* (London: Verso).
- Bauman Z (1992) *Mortality, Immortality and Other Life Strategies* (Stanford: Stanford University Press).
- Berlant L (1997) *The Queen of America Goes to Washington City: Essays on Sex and Citizenship* (Durham: Duke University Press).
- Blanchot M (1993) *The Infinite Conversation* (Minneapolis: University of Minnesota Press).
- Bracher M (1993) *Lacan, Discourse and Social Change: A Psychoanalytic Cultural Criticism* (Ithaca: Cornell University Press).
- Coogan T.P. (1995) *De Valera: Long Fellow, Long Shadow* (London: Arrow Books).
- Foster R (2001) *The Irish Story: Telling Tales and Making It Up in Ireland* (London: Allen Lane: The Penguin Press).
- Lacan J (1978) *The Four Fundamental Concepts of Psychoanalysis* (New York: Norton).
- Lloyd D (1993) *Anomalous States: Irish Writing and the Postcolonial Moment* (Durham: Duke University Press).
- MacKinnon C (1987) *Feminism Unmodified: Discourses on Life and Law* (Cambridge: Harvard University Press)
- O'Casey S (1949) *The Complete Plays of Sean O'Casey, Volume 1* (London: Faber).
- Tomkin D and Hanafin P (1995) *Irish Medical Law* (Dublin: Round Hall Press).
- Verdery K (1999) *The Political Lives of Dead Bodies: Reburial and Postsocialist Change* (New York: Columbia University Press).
- Ward M (1989) *Unmanageable Revolutionaries: Women and Irish Nationalism* (London: Pluto Press).

Journal Articles

- Bataille G (1990) 'Hegel, Death and Sacrifice', 78 *Yale French Studies* 9.
- Butler Cullingford E (1990) "'Thinking of Her... as Ireland': Yeats, Pearse and Heaney" 4 *Textual Practice* 1.
- Donlon P (1992) 'The State acknowledges the Right to Life of the Unborn', 1 *MsChief* 6.
- Girvin B (1986) 'Social Change and Moral Politics: The Irish Constitutional Referendum 1983', 34 *Political Studies* 61.
- Ruhl P. L. (2002) 'Disarticulating Liberal Subjectivities: Abortion and Fetal Protection', 28 *Feminist Studies* 37.
- Valente J (1994) 'The Myth of Sovereignty: Gender in the Literature of Irish Nationalism', 61 *English Literary History* 189.

Essays in Edited Works

- Kristeva J (1986) 'Stabat Mater', in Moi, T (ed) *The Kristeva Reader* (New York: Columbia University Press).
- Toibin C (1999) 'Introduction', in Toibin, C (ed) *The Penguin Book of Irish Fiction* (London: Viking).

Newspaper Articles

- Doyle K and Logue P (2002) 'Ahern makes personal appeal for Yes vote in referendum', *The Irish Times* March 1 <<http://www.scripts.ireland.com>>.
- Gearty C (2002) 'Yes campaigners have sacrificed purity for a grubby political deal', *The Irish Times* February 27
<<http://www.ireland.com/focus/abortion/comment/o227/comment3.htm>>.
- O'Toole F (2001) 'A grotesque denial of bloodshed', *The Irish Times* October 2
<<http://www.ireland.com/newspaper/opinion/2001/1002/>>.

Cases

- Attorney-General v X and Others [1992] 1 IR 1.
- Roe v Wade (1973) 410 US 113.

Other Materials

- Dail Debates (1937) 67, 11 May, 64.

ENDNOTES

¹ Colm Toibin (1999, p. xxi) has noted the recurrent trope of men killing women in Irish fiction. As for fiction so also with the law. Women killed by men over and over again in fiction were also killed symbolically in the language of the law.

² This is a rather visceral example of Lacan's formulation: 'I love you, but, because inexplicably I love in you something more than you – the *objet petit a* – I mutilate you' (Lacan, J; 1978, p. 263).

³ The proposed amendment on this issue was worded as follows:

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

⁴ This proposal was worded as follows:

Subsection 3 of this subsection [Article 40.3.3] shall not limit freedom to travel between the State and another state.

⁵ The proposed amendment on this issue was worded as follows:

Subsection 3 of this section shall not limit freedom to obtain or make available, in the State, subject to such conditions as may be laid down by law, information relating to services lawfully available in another state.

⁶ As Conor Gearty has noted: 'What is the point of elected representatives if their job is to obey blindly the demands of the electorate in a referendum campaign carried on as vacuously and as misleadingly as this one?' (Gearty, C; 2002).

⁷ What Bataille might call: 'a gay reaction in the face of the work of death' (Bataille, G; 1990, p. 24).

⁸ A fact noted in 1898 by Edward Webb, who, in commenting on the commemoration fever induced by the centenary of another unsuccessful rebellion, that of 1798, wrote: 'The country appears *memorial mad*... What is going on is *talk* about the past, and inaction regarding the present' (Cited by Foster, R; 2001, p. 219).

⁹ In his oration the Taoiseach notes:

'It is no wonder to the people of Ireland then that this day has come. Although we have difficulties of our own time, there is no fair person in this country but thinks that it is good that we bury these men with State honours here today, and indeed that it is time that we did so.

The Irish State today is discharging a debt of honour that stretches back 80 years. Here in Glasnevin stand the memorials to Irish patriots of the past two centuries, statesmen, soldiers, all those who contributed to the onward march of a nation' (*The Irish Times*, Monday October 15, 2001,

<www.ireland.com/newspaper/ireland/2001/1015/hom99.htm>.

¹⁰ Oration at the graveside of Volunteer Patrick Maher by Mr. John O'Donoghue, T.D., Minister for Justice, Equality and Law Reform, on 20 October 2001, <<http://www.justice.ie/802569B20047F907/vWeb/pcSBHN574N66>>.

¹¹ Lloyd goes on to state that:

'The paradox of 'Easter 1916' is that the achievement of such politically symbolic status, the transformation of lout or clown into martyr that brings about the foundation of the nation, is seen not to produce reconciliation but troubled tension. The tension subsists metaphorically between the symbolic 'stone' and the continuing 'living stream' that it troubles; the question posed is the relation between the singular moment in which a nation is founded or constituted and the

future history of the citizens it brings into being. Yeats represents the relationship as simultaneously one of trouble and of anxious, obsessive remembrance. For though the stone, like any symbol, continues to reside 'in the midst of all', its finality as gravestone on which the names of the national martyrs are inscribed would appear to be at odds with the opening of a future history which its function as foundation-stone implies. Its double status obliges a continual recurrence to and questioning of the moment of foundation it represents, with the result that the formerly unificatory function of the symbol is irrevocably ruptured' (Lloyd, D; 1993 pp. 71-72).