

Please see below key points from the submission of the Irish Catholic Bishops' Conference to the Citizens' Assembly on the topic of the Eighth Amendment. The full text, which follows, was submitted to the Citizens' Assembly in December 2016:

- The *Constitution* celebrates the equality of the mother and the unborn child in its Eighth Amendment.
- We have an obligation to be at our most compassionate, our most merciful, if and when the expectant mother and father and their unborn child require support during a crisis pregnancy.
- Supporting and sustaining a culture of life is in the interests of every generation and it defines us as a society.
- We believe that human life is sacred from conception until natural death and that Article 40.3.3 reflects the appropriate balance of rights.
- There is no such thing as a human life without value.
- The deletion or amendment of Article 40.3.3, would serve no purpose other than to withdraw the right to life from some categories of unborn children. To do so would radically change the principle, for all unborn children and indeed for all of us, that the right to life is a fundamental human right.
- For us, as Christians, there is no conflict between faith and reason. Just as reason leads us to recognise the continuity of every human life, from fertilisation to natural death, so faith allows us to see each person as having his or her origins in the intention of God and his or her fulfilment in eternal life.
- We are concerned that language is being used with the intention of depersonalising certain categories of unborn children in a way which seeks to normalise abortion.
- Many thousands of Irish people are alive as a direct result of the enactment of the Eighth Amendment, who might otherwise never have been born.
- We believe that every unborn child, irrespective of his or her medical condition or the circumstances of his or her birth, has the right to be treated equally before the law.
- Where a seriously ill pregnant woman needs medical treatment which may, as a secondary effect, put the life of her baby at risk, such treatments are always ethically permissible provided every effort has been made to save the life of both the mother and her baby. Abortion, by contrast, is the direct and intentional destruction of an unborn baby and is gravely immoral in all circumstances. It is not a medical treatment.

1. Introduction

Having consulted carefully with members of the lay faithful, both women and men, the Irish Catholic Bishops' Conference has decided to respond to the invitation of the Citizens' Assembly and make the following submission on the topic of Article 40.3.3 of the *Constitution of Ireland (Bunreacht na hÉireann)*.

The Catholic Church has just concluded a Jubilee Year of Mercy. This initiative of Pope Francis was celebrated by the universal Church and it called on us to be open both to God's mercy in our lives and to ways of being more merciful to others especially those

who are vulnerable. While the *Constitution* celebrates the equality of the mother and the unborn child in its Eighth Amendment, we have an obligation to be at our most compassionate, our most merciful, if and when the expectant mother and father and their unborn child require support during a crisis pregnancy. This support must be more than words. Public resources should be applied in a practical and in a creative way. Supporting and sustaining a culture of life is in the interests of every generation and it defines us as a society.

We make our submission in the hope that we can be of assistance to the Citizens' Assembly in its task of reflecting on the right to life. We believe that human life is sacred from conception until natural death and that Article 40.3.3 reflects the appropriate balance of rights. We recognise the significant responsibility that has been placed on the shoulders of each Assembly Member and we ask God's blessing and guidance on you and on the work that you do.

Some people argue that the right to life of the unborn should be a matter of personal choice on the part of the mother. Others argue that, while they are opposed to abortion as a general principle, they believe that there are some children to whom the right to life does not apply either because they have been diagnosed with a serious medical condition or because they have been conceived as a result of rape. We wish to state our firmly held belief, based on reason as well as faith, that there is no such thing as a human life without value. We accept, of course, that death is part of our human condition. What we reject is the suggestion that any person can decide when it is time for another person to die.

2. The Right to Life as a Fundamental Personal Right

Article 40 of the *Constitution* has the heading "Personal Rights" and is situated in a section entitled "Fundamental Rights". In this way, long before the *Universal Declaration of Human Rights* was promulgated by the United Nations, the Irish people recognised the fundamental nature of rights such as the right to life, the right to liberty, the right to the privacy of one's home and the right to freedom of speech.

Fundamental human rights are different from civil rights. While civil rights are the rights given by law to citizens in a particular society, fundamental human rights belong to every person simply because he or she is a person. Fundamental human rights are not "given" by society and they cannot be taken away by society. Fundamental rights are "acknowledged" in constitutions and charters and "vindicated" in the application of the law. They are what the United Nations refers to as the "equal and inalienable rights of all members of the human family".^[1]

Article 40.3.3, sometimes referred to as the Eighth Amendment, reads:

"the State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right".^[2]

The deletion or amendment of Article 40.3.3, would serve no purpose other than to withdraw the right to life from some categories of unborn children. To do so would

radically change the principle, for all unborn children and indeed for all of us, that the right to life is a fundamental human right.

During the current debate some have argued that abortion itself is a human right. We see this view as being inconsistent with an integral understanding of human rights. We would point out that the European Convention on Human Rights requires that "everyone's right to life shall be protected by the law".^[3] The UN Convention on the Rights of the Child defines a child as meaning "every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier". No distinction is made between born and unborn children. ^[4]

We invite the attention of the Assembly Members to a number of aspects of Article 40.3.3, which we believe to be significant:

1. In this Article, the State does not concede the right to life to the unborn, but acknowledges that right as a fundamental right, which belongs to the unborn by virtue of his or her being a person. A person is an individual member of the human family, to use the description given in the *Preamble* of the *Universal Declaration of Human Rights*.

40. Article 40.3.3 describes the right to life of the unborn as "equal" to the right to life of the mother. It quite rightly does not place the right to life of the unborn above that of the mother.

40. Article 40.3.3 does not guarantee, in all circumstances, to be able to defend and vindicate the right to life of the unborn, any more than it can in the case of people who are born and living in our towns and villages. The State does, however, guarantee to respect the right to life of the unborn in its laws, just as it does in the case of other persons.

The right to life is unique, of course, because, in the absence of that right, no other civil or natural right can be exercised, either now or in the future.

3. The Unborn as Persons

We would ask you to be guided in your deliberations by the reality of what happens in the life of each human being, between conception and birth. There is no moment as developmentally significant as the moment of fertilisation, in terms of defining the beginnings of personal existence. There is no logical or scientific basis for considering, on the one hand, a born child to be a person with all the rights that this involves and, on the other hand, an unborn child to be a non-person. The distinct identity of a human individual is already present once fertilisation has taken place. Everything else is simply the process of growth and development of a person who has already embarked on the journey of life.

For us, as Christians, there is no conflict between faith and reason. Just as reason leads us to recognise the continuity of every human life, from fertilisation to natural death, so faith allows us to see each person as having his or her origins in the intention of God and his or her fulfilment in eternal life. This belief, expressed in various ways in the

Bible, is presented very beautifully by Pope Francis in his 2016 publication *The Joy of Love*. He says:

“The gift of a new child, entrusted by the Lord to a father and a mother, begins with acceptance, continues with lifelong protection and has as its final goal the joy of eternal life. So great is the value of a human life, and so inalienable the right to life of an innocent child growing in the mother’s womb, that no alleged right to one’s own body can justify a decision to terminate that life, which is an end in itself and which can never be considered the “property” of another human being.”^[5]

4. The Power of Language

We wish to refer briefly to the use of language with reference to unborn children. Words like “foetus” and “embryo” and “zygote” have specific technical meanings. We question why, in public discourse, healthy unborn children are always referred to as “the baby” while those who, in the opinion of some, do not measure up to expectations are routinely defined as the “foetus” or the “embryo”. We are concerned that language is being used with the intention of depersonalising certain categories of unborn children in a way which seeks to normalise abortion.

5. The Positive Effects of Article 40.3.3 – A Culture of Life

Many thousands of Irish people are alive as a direct result of the enactment of the Eighth Amendment, who might otherwise never have been born. This is partly because there was an inevitable interval between the thought of having an abortion and that thought being put into action. That interval allowed women, often with the support of family members, partners or pregnancy care agencies such as our own Cura, to consider other, more constructive, options.

Quite apart from the numbers of lives that were saved as a result of Article 40.3.3, expectant parents who experience a crisis pregnancy have been culturally supported in making the decision in favour of life and in avoiding a decision which many of them may have regretted afterwards. This cultural support was not simply in the fact that Irish society had made a public statement of principle about the right to life, but also because the structures of society, including healthcare facilities, were not deployed, as they are in many countries, to promote or facilitate the taking of life as an appropriate social response to crisis pregnancy.

The goal of good maternal care would be to achieve a maternal mortality rate of zero. Sadly this is practically impossible because there are some potentially fatal medical conditions related to pregnancy which cannot easily be predicted for individual women. According to the most recent figures, published by the World Health Organisation in 2015, the maternal mortality rate for Ireland is 8 per 100,000 live births.^[6] This places Ireland in the lowest, or best, category (number 26 out of 190 countries, and consistently ahead of the United States and the United Kingdom, where abortion is readily available).

6. What abortion is and what abortion is not: the Catholic Church’s teaching

Some of those who advocate deleting or changing Article 40.3.3 of the Constitution, have made it clear that they wish to make abortion available on demand in Ireland. Others say that they are opposed to abortion in general, but would want to see it permitted in certain difficult circumstances.

We do not share that view, because we believe that every unborn child, irrespective of his or her medical condition or the circumstances of his or her birth, has the right to be treated equally before the law.

We are concerned that some elements of the Catholic Church's teaching on the right to life tend to be presented inaccurately:

- The Catholic Church has never taught that the life of a child in the womb should be preferred to that of a mother. By virtue of their common humanity a mother and her unborn baby have an equal right to life.
- Where a seriously ill pregnant woman needs medical treatment which may, as a secondary effect, put the life of her baby at risk, such treatments are always ethically permissible provided every effort has been made to save the life of both the mother and her baby. Abortion, by contrast, is the direct and intentional destruction of an unborn baby and is gravely immoral in all circumstances. It is not a medical treatment.
- When, sadly, a baby dies naturally in the womb before birth, there is no question of the mother being obliged to proceed with the pregnancy. There is now only one "patient", the mother. The mother becomes the sole focus of any medical care that is required. Along with the father, the mother is entitled to the best pastoral care that we can offer, as they grieve the loss of their child.

In the confined context of the debate around the Eighth Amendment, it is important to address difficult cases such as those of children with life limiting conditions; and children conceived as a result of rape, neither of which justifies a change in the basic law:

a) Children *with Life Limiting Conditions*

It is very distressing for a mother to discover that the baby in her womb is seriously ill and, in all probability will not live. Her dreams and hopes are dashed. She grieves for the child that she will never have. She struggles to tell others of the loss that faces her. The grief of the father is no less real. Children with life-limiting conditions are frequently spoken of as if they were "as good as dead". The use of words like "fatal" or "lethal" to describe these conditions implies that there is something definite about the outcome and that death is imminent and inevitable. The reality is that every case is different and that, while some babies will die before birth, and some will live for just a few hours, others will live for significantly longer. [7]

Many of us have met parents whose children have been born with life-limiting conditions. They have told us about the support they needed to deal with this very difficult situation. They have emphasised how important it was for them to have the

memory of doing the best they could for their sick child. They have spoken about how helpful it has been to them to have had the possibility of holding and caring for their child for a few hours or even for a few minutes, until death naturally occurred. Others have told us about their joy in discovering after birth that, while their child did have serious health issues, the prognosis was actually far better than they had originally been given to understand. May we encourage you to listen to their own stories on the websites www.onedaymore.ie and www.everylifecounts.ie.

Even taking the worst case scenarios, the situation of an unborn child with a life-limiting condition is comparable to that of a born child or adult at an advanced stage of terminal illness. One of the particular challenges facing parents of unborn children with life-limiting conditions is the lack of coordinated support for them. We believe a lot more needs to be done to provide appropriate perinatal hospice services, which offer warmth, tenderness, nutrition and hydration and, in that way, support parents in caring for their sick children until natural death. This, rather than the repeal of Article 40.3.3, should be the focus of government policy and it is something towards which we can and should all work.

b) Children *conceived as a result of rape*

Rape is an act of violence and a crime. A woman who has been raped needs compassionate care and support. Under such circumstances one can scarcely begin to imagine the physical and emotional stress facing the expectant mother. Society has a moral duty to support her and to do so with the utmost compassion.

A child conceived following rape is also a person. He or she has rights, including that most fundamental of all rights, the right to life. Society must similarly extend its support to the unborn baby.

Some people respond to crisis pregnancy by proposing abortion as a solution. It may even seem like the compassionate thing to do. But these children are innocent and they are entitled to the best support and care that we can provide.

7. Women, Men, and Unborn Children

The relationship between a mother and her unborn child is not simply physical and biological, but emotional and even spiritual. To hurt her child goes against everything that a mother is. We are aware that there are many factors which may influence the decision to have an abortion and that, in many cases, it is a painful and even shattering decision. The emotional and spiritual wound may take a long time to heal.

There is a regrettable tendency to associate abortion exclusively with women who have had abortions. The clear teaching of the Church is that those who promote, organise and carry out abortions are just as responsible and, in some cases, more responsible. Often the destructive act carried out against the unborn child is compounded by the failure of key individuals or institutions to support the mother in recognising and choosing other possibilities.

We understand that some people, including men themselves, feel that men have no contribution to make to this debate. We are aware that this question has already been

raised in discussions at the Assembly. With due respect and sensitivity to the unique role of the mother who carries the unborn child in her womb, we would want to say very clearly that fathers are also parents, with all the responsibility that this involves. Similarly, when it comes to the right to life, men like women have a responsibility, which cannot be abdicated, to defend unborn children who have no other voice.

Pope Francis, in line with comments made by Pope Saint John Paul II, recently wrote:

“I wish to restate as firmly as I can that abortion is a grave sin, since it puts an end to an innocent life. In the same way, however, I can and must state that there is no sin that God’s mercy cannot reach and wipe away when it finds a repentant heart seeking to be reconciled with the Father.”^[8]

As a Church, for over forty years, through Cura’s professional counselling service, we have been supporting expectant mothers and fathers who find themselves facing a crisis pregnancy. Our hope is for a Church and a society which, while rejecting abortion, reaches out to women who have had an abortion, with a listening ear and an understanding heart. Most of all, we believe that the common good is best served by a Church and a civil society which, while rejecting abortion, continues to offer women real alternatives and real support.

8. Conclusion

Living as we do, in a culture which places such a high value on individual rights, it may seem strange that the most fundamental personal right of all, the right to life, is increasingly being questioned and denied. The problem seems to be that, when respect for the rights of the individual is pushed to the extreme in a society, the result is just another form of individualism in which all rights, even the most fundamental of rights, become relative. As Pope Saint John Paul said: in such circumstances “the ‘right’ ceases to be such, because it is no longer founded on the inviolable dignity of the person”.^[9] The logical conclusion is that the whole notion of human rights is undermined and any rights that remain depend on the will of the majority.

Article 40.3.3 of the *Constitution of Ireland (Bunreacht na hÉireann)* has a particular vision which is based on respect for the right to life of every person. We believe that the deletion or amendment of this article can have no other effect than to expose unborn children to greater risk and that it would not bring about any benefit for the life or health of women in Ireland. We respectfully ask you, therefore, as the Members of the Citizens’ Assembly, to recommend to the Government that Article 40.3.3 should remain unchanged in the *Constitution*.

Thank you for considering our submission.

ENDS

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^[1] United Nations. *Universal Declaration of Human Rights*, Preamble. Paris, 1948.

- [2] *Bunreacht na hEireann*, Article 40.3.3
- [3] *European Convention on Human Rights*. Rome: 1950, Article 2.
- [4] *UN Convention on the Rights of the Child*. New York: 1989, Article 1; cf also Articles 2 & 6.
- [5] Pope Francis. *Amoris Laetitia*. Rome: Libreria Editrice Vaticana, 2016. Paragraphs 83 and 166
- [6] Cf. <http://data.unicef.org/topic/maternal-health/maternal-mortality/>. Maternal mortality rate is defined as the number of female deaths per 100,000 live births from any cause related to or aggravated by pregnancy or its management (excluding accidental or incidental causes). The MMR includes deaths during pregnancy, childbirth, or within 42 days of termination of pregnancy, irrespective of the duration and site of the pregnancy.
- [7] Cf. Simons, Caroline. " 'Incompatible with Life': Does Article 40.3.3 Permit Abortion for 'Fatal Foetal Abnormality'?" in *Medico-Legal Journal of Ireland*, 2015, 1, 2-3
- [8] Pope Francis. *Misericordia et misera*. Rome: Libreria Editrice Vaticana, 2016, paragraph 12. See also Pope John Paul II. *Evangelium Vitae*. Rome, Libreria Editrice Vaticana, 1995, paragraph 99
- [9] Pope John Paul II. *Evangelium Vitae*. Rome: Libreria Editrice Vaticana, 1995, paragraph 20