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Outdated traditions, modern realities

On 8 March, Irish citizens will vote in a referendum to finally replace the 1937 'woman in the home' clause in their constitution

On March 8 – International Women's Day – Irish citizens will vote in a referendum on whether or not to replace the so-called 'woman in the home' clause in the Irish constitution.

This clause, which dates from 1937, specifies that: '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.' It goes on to say that: '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.'

Originally, the purpose of the provision was to acknowledge the importance of care in the home, which was then provided almost exclusively by mothers. The purpose was to ensure that mothers could remain in the home and would not be forced to work due to financial reasons.

However, the state help implied by the wording was never actually put into practice — women were never supported to provide care in the home. Worse, the constitution was often used to bolster arguments that a woman's place was in the home and that policies which excluded women from work were acceptable.

Now, as part of a double referendum, Irish citizens will have the chance to change the constitution to a more gender-neutral wording. This is alongside another vote on whether to change the constitution's definition of 'family' to expand it beyond marriage.

The power of words

Some confusion seems to have arisen ahead of the referendum, with some groups arguing that removing the reference to women will mean

removing any right of women to stay at home and raise their children.

However, the reality is that the provision has never resulted in any rights for women to remain in the home. Nor has it resulted in any economic duty on the state to provide for those who wish to do so. This is primarily due to the wording, which only requires the state to 'endeavour' to provide such support.

That effectively means the government only has to make an effort — not that it is obliged to help. In fact, any attempts to use the provision to provide for such rights have failed in the courts. So, the current provision is not only an anachronism but a useless one. It has never had any positive legal effect. We are instead left with the declaration, in the most basic law of the state, that women (and not men) have duties they are expected to attend to in the home.

This part of the constitution has long been controversial and there have been many recommendations to either delete or replace it. The most recent of these came from a citizens' assembly established for the very purpose of advising on the fate of the clause.

The assembly also wanted the words to have meaning rather than just being symbolic, so it proposed a wording that would oblige the state to take reasonable measures to support care.

In 2022, this assembly voted to replace the clause with a gender-neutral alternative. But the assembly also wanted the words to have meaning rather than just being symbolic, so it proposed a wording that would oblige the state to take reasonable measures to support care, drawing on similar wording from the South African constitution. A parliamentary committee set up to consider the proposals also endorsed this wording.

However, the Irish government has decided to put a watered-down version to the people. The amendment being proposed in the referendum reads: 'the State recognises that the provision of care, by members of a family to one another by reason of the bonds that exist among them, gives to Society a support without which the common good cannot be achieved, and shall strive to support such provision.'

Ireland is essentially being asked to replace a non-operative clause containing outdated and

The wording is a disappointment for those who had pushed for reform. While it replaces the gendered language and removes the implication that a woman's proper place is in the home, it fails to commit the state to providing support

patronising language with a new non-operative clause with slightly more acceptable language.

for people who work in the home caring for others. They can no more expect to receive benefits or rights that compensate them for this essential work than they would have before the referendum.

The proposed text merely replaces the word 'endeavour' with the word 'strive'. This means it is unlikely to lead to any concrete rights or any legally recognisable duty on the part of the state.

So, while one historical anachronism looks set to be corrected in this referendum, Ireland is still essentially being asked to replace a non-operative clause containing outdated and patronising language with a new non-operative clause with slightly more acceptable language.

But disappointing though it may be that no positive rights or duties are likely to ensue, the removal from the constitution of a 1930s mentality that does not reflect in any way the reality of Irish life in the 21st century is at least an improvement — and surely worth a yes vote.

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