

Family / care referendums - Reflecting on the Rejected Referendums in Ireland

Sunday 24 March 2024, by [O'DWYER Diana](#) (Date first published: 21 March 2024).

On International Women's Day, Friday 8th of March, voters in the Republic of Ireland delivered two of the largest defeats in history for referendums put forward by the government. The Family referendum, which proposed extending the constitutional definition of the family to include families based on other "durable relationships" as well as marriage, was rejected by a margin of 68% to 32%. The Care referendum, which proposed replacing a sexist clause in the Constitution about women's "duties in the home" with a gender-neutral clause pledging the state to "strive" to support family care, was defeated by a record 74% to 26%. Both referendums had been backed by the ruling Fine Gael-Fianna Fáil- Green Party coalition and supported, to varying degrees, by all the major opposition parties. The far right and conservative Catholics claimed credit for the outcome but so have progressive disability rights and carers' activists. So who is right? Was this a victory for reactionary or progressive ideas, or is the truth more complicated?

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Polling data shows that the Family Referendum was rejected by a significantly higher margin in rural areas, ranging from 80% in Donegal to 61% across Dublin. There was less of a clear urban-rural pattern with the Care Referendum but in Dublin, No votes were higher in working class than middle class constituencies for both referendums. An exit poll found that the majority of Fianna Fáil, Sinn Féin and (mostly right wing) Independent voters voted no to both referendums; Fine Gael, Green Party and Labour voters voted Yes-Yes and most People Before Profit and Social Democrat voters voted Yes to the Family referendum but No to the Care referendum. The 6% difference between the No votes in the two referendums suggests that around 6% of voters voted Yes to the Family Referendum and No to the Care Referendum. This compares to 68% of voters who voted No-No and 26% who voted Yes-Yes.

No new rights on offer

The government's failure to give people any real, material reasons to vote yes was undoubtedly a major factor in the rejection of the referendums. Recognition of families not based on marriage would have had a mainly symbolic effect as unmarried families largely already have similar rights to married families and the impact on any remaining differences was uncertain. Unlike with the successful 2015 referendum on marriage equality for LGBTQ+ couples, there were no tangible new

rights or entitlements that the government could point to as being granted by the new wording.

Despite this, People Before Profit and representative organisations of lone and unmarried parents like Treoir, One Family and SPARK advocated for a Yes vote. Irrespective of its likely minimal direct or material impact, we believed it was correct to vote yes to remove archaic Catholic language put into the Constitution in 1937 that had helped to legitimise decades of discrimination and mistreatment against unmarried mothers and their children.

For the Care Referendum, the best argument the government could come up with for voting yes was that people could use the amendment to sue the government for failing to provide them with services. The obvious response - why not just provide the services? - was difficult for the government to answer without admitting that they had no intention of providing women, carers or people with disabilities with the services they need and that this referendum was a purely symbolic gesture with no real world impact. This was also clear from the Attorney-General's advice, leaked and published at the last minute on the Ditch news website, which revealed that an unusual Irish language translation of the word "strive", meaning "aspire", had been chosen to try to ensure that the amendment would not give people additional rights. The Irish language version of the Constitution trumps the English version and so is likely to have been relied on by the courts.

Another nail in the coffin came in an interview with the then Taoiseach [the Irish Prime Minister], Leo Varadkar, in the final week of the campaign where he said that looking after family members was the responsibility of families, not the state. This drove home to many people how little real change the government intended with these amendments. It reinforced the arguments being made by an inspiring grassroots Yes-No movement of people with disabilities and carers. Focusing on the wording of the amendment on care, they argued that it would constitutionally enshrine care as confined to the family, and that the wording was insulting to people with disabilities because it implicitly portrayed them as merely the objects of care, rather than as equal bearers of human rights. Varadkar has since resigned as Taoiseach. The referendum result was likely more an illustration of his already obvious unpopularity with voters, rather than the reason for his resignation, however, especially as voters for his own party endorsed the changes.

Distrust of a Hated Government, Uncertainty and a 'Culture War'

Both the Taoiseach's interview and the Attorney General's leaked advice reinforced the deep rooted sense of distrust that ordinary people rightly feel towards this government. Without any strong reasons to vote yes, a huge sense of uncertainty emerged around both referendums and fuelled a feeling of "If you don't know, vote no", reinforced by a deep anti-government sentiment. A sense that people were being played for fools by the government became widespread. The far right and conservative No-No side capitalised on this distrust and spread a vast array of lies and bullshit on social media, including that people would lose their child benefit/carers' allowance if there was a yes vote, that women were being erased from the Constitution, that Mother's Day (which fell two days after the vote) would be "cancelled"; that the Family referendum would allow for family reunification for polygamous immigrants and for your husband's mistress to inherit the family home, or, worse yet, the family farm.

It's hard to say definitively what relative weight distrust of the government, uncertainty, and anti-government sentiment had, compared to racist, transphobic and sexist arguments, or the progressive arguments of the Yes-No campaign. However, the fact that 68% of voters voted No-No compared to 6% who voted Yes-No and that No-No was dominant among Fianna Fáil and (mostly right wing) Independent voters suggests that reactionary arguments had a bigger impact on the

overall result. It seems that the “culture wars” have finally taken root in Ireland, after many unsuccessful attempts to implant them in the past. Along with the rise of anti-immigration sentiment, this is likely to be an increasing obstacle to socialist attempts to unite the working class. When an opportunistic weathervane like former Fianna Fáil Minister, Willie O’Dea, responds to the result by saying it’s time “to stop playing to the woke gallery”, you know something has shifted. Ten years ago, O’Dea was standing beside socialist feminist banners on abortion rights protests and complaining that the Gender Recognition Act, which allows trans people over 18 to self-declare their gender, didn’t go far enough, now he’s recycling far right talking points.

Attempts to change the referendum wordings

The role of the far right and the Catholic Church in pushing for a No-No vote was one factor in People Before Profit’s decision to adopt an “unenthusiastic Yes-Yes” position after our amendments to the referendum wordings were rejected by the Government. When the government’s legislation for the referendums came before the Dáil [Irish Parliament] last December, People Before Profit proposed amendments that would have gone further than the recommendations of both the Citizens’ Assembly on Gender Equality and the Joint Oireachtas Committee on Gender Equality. Both bodies had been set up by the government to advise it in this area and both of them had recommended that the state should take “reasonable measures” to support care within the home and wider community.

People Before Profit advocated that this wording be strengthened so as to oblige the State to “provide the necessary resources to support care”. We also proposed an additional referendum to reform Article 40.1 of the Constitution as had also been recommended by the Citizens’ Assembly on Gender Equality but ignored by the Government. The current wording of that article states that “All citizens shall, as human persons, be held equal before the law. This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function.” We proposed that the second archaic and offensive sentence be deleted and replaced with: “The State shall in its enactments have due regard to the principles of equality and non-discrimination.” This was intended to combat all forms of discrimination, including sexism, racism, LGBTQI+-phobia and ableism and to strengthen the rights of all oppressed groups, including people with disabilities, women, ethnic minorities and the LGBTQI+ community.

Once our amendments were rejected by the Government and they pushed ahead with their own wording, People Before Profit stated that we marginally favoured a Yes vote in the Care referendum but we did not “campaign” for a yes. Unlike other opposition parties, we did not put up posters, leaflet or canvass. We chose instead to devote our limited resources to raising demands for increased resources for care and services, for the government to enact the Optional Protocol on the Rights of People with Disabilities and to continue to fight on all the other issues on which we are active on a daily basis, including the genocide in Gaza and the housing and homelessness crisis.

The main reason that we marginally favoured a Yes vote on the Care referendum was that we did not believe it would have a negative impact on people with disabilities or carers and we thought the new wording was slightly better than the archaic and sexist “women in the home” clause it was replacing. Our analysis was that the substantive effect of both clauses was the same but that the care amendment was at least gender neutral and didn’t contain sexist language. Both confine care to the home and contain vague aspirations by the state to support care in the home - but one had sexist language and the other didn’t. People with disabilities are invisible in both clauses. We certainly would never have even unenthusiastically supported a Yes vote in the Care referendum if we thought it would have a negative impact on people with disabilities or carers.

Our track record - and indeed our reason for existing - has been to fight for the rights of everyone who is marginalised or exploited by this oppressive capitalist system. Our People Before Profit candidate in Dublin Bay North, Bernard Mulvany, is a full time carer and well known disability rights campaigner with the Access for All group. Bernard and a host of other PBP reps have organised countless local meetings and campaigns to demand better public health and education services for people with disabilities, carers, and parents and for the government to ratify the optional protocol to the UN Convention on the Rights of Persons with Disabilities.

This is not something we only started doing during or since the referendum campaign. We have been doing it for years, alongside carers and people with disabilities. In the past year, People Before Profit has been to the forefront in the Dáil in opposing the Government's proposed Green Paper on Disability Reform. Last September, Paul Murphy TD, likened it to the British Tories' so-called "welfare reforms" depicted so horrifically in the film, I, Daniel Blake. The Taoiseach's tone deaf response was that people should also watch Benefits Street because "the truth lies somewhere in between".

What we got right and what we got wrong

An additional factor in People Before Profit's position was that we did not believe that a No vote would lead to a further referendum and the opportunity to put better language on care and rights for people with disabilities into the Constitution. We have been proven right on that at least, as both the Government and Sinn Féin have now said that they will not hold another referendum.

All voting no would do, we thought, was keep the woman in the home clause in the Constitution and copperfasten the status quo where neither mothers, carers or people with disabilities are supported. Worse, it would make it seem as though the woman in the home clause had widespread popular support because people would be voting to keep it in the Constitution in 2024. We were worried about the impact this would have in boosting the far right and Catholic conservatives who campaigned for a No-No vote from the very beginning and were by far the most visible and high profile campaigners for a No vote in the Care referendum at the start of the campaign.

Where People Before Profit got it wrong, in my opinion, was that we did not take enough time to debate what position we should adopt, and not enough space was created to hear people with disabilities and carers, before adopting our position on the Care referendum. That includes some of our own members who argued for us to adopt a Yes-No at a National Council when we faced significant time pressure. That is a mistake we should not repeat.

I think we were wrong in not anticipating the huge impact that a grassroots campaign of carers' and disability rights activists demanding a no vote in the Care referendum would have on the whole debate. They succeeded in shifting the narrative towards the real, lived experience of carers and people with disabilities and how they are systematically mistreated and betrayed by a State that sees them as liabilities to be minimised and managed. They had an impact within our own party with countless members and election candidates stating publicly that they would be voting Yes-No. When this emerged, despite the tight timeframe, we should have reconvened a National Council to allow members to decide.

What next?

The impact of the progressive Yes-No campaign has been recognised in the media coverage of the

result and has made it impossible for the far right and conservative forces to claim the rejection of the referendums as their own. That in itself is an important political victory. An even bigger positive and by far the most important development as a result of these referendums is that the experience of fighting for a Yes-No has empowered carers' and disability rights campaigners and forced their concerns into the mainstream of Irish politics in a way that has rarely, if ever, been achieved before. Campaigners here have staked their place as part of a growing worldwide disability rights movement that is having an ever-increasing impact.

People Before Profit must champion the rights of people with disabilities and of carers at every possible opportunity into the future. Most importantly, we promise to listen and learn from them about what demands we should put forward. That way, we hope we can work together into the future to fight against ableism and for equality and liberation for all.

DIANA O'DWYER

P.S.

- IVP. THURSDAY 21 MARCH 2024:
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