

Macro- and Micro-Political Vernaculizations of Rights: Human Rights and Abortion Discourses in Northern Ireland

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Abstract

How abortion is dealt with in law and policy is shaped through the multiple political and societal discourses on the issue within a particular society. Debate on abortion is constantly in flux, with progressive and regressive movements witnessed globally. This paper examines the translation of human rights norms into discourses on abortion in Northern Ireland, a region where abortion is highly restricted, with extensive contemporary public debate into potential liberalization of abortion law. This paper emanates from research examining political debates on abortion in Northern Ireland and contrasts findings with recent civil society developments, identifying competing narratives of human rights with regard to abortion at the macro- and micro-political level. The paper identifies the complexities of using human rights as a lobbying tool, and questions the utility of rights-based arguments in furthering abortion law reform. The paper concludes that a legalistic rights-based approach may have limited efficacy in creating a more nuanced debate and perspective on abortion in Northern Ireland but that it has particular resonance in arguing for limited reform in extreme cases.

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Introduction

“Culture wars” on abortion refer to the battle over the meaning of abortion and abortion legislation.¹ We argue (in conjunction with authors such as Ferree and Feltham-King and MacLeod) that who says what about abortion contributes to the outcomes that we will see in law and policy.² In particular, we are concerned with *how* women’s needs and interests with regard to abortion are represented in political and public civic discourse. Literature on abortion in Ireland has illustrated the largely anti-abortion rhetoric perpetuated by political elites and the conservative Christian churches.³ However, there is a gap in our understanding of the evolving plurality of abortion speak. In Ireland, north and south, the culture war over abortion is reaching a critical juncture with an almost constant media focus and public discussion on legislative restrictions and reforms. Accordingly, with legal reform on the political agenda, this is a timely period to address the framing of abortion rights in one of the legislative jurisdictions of Ireland, Northern Ireland, and the potential limitations and opportunities going forward. In addition, with abortion rights being continually challenged internationally, it is imperative to consider contextually how rights-based arguments can further or limit legislative change on abortion law.

Human rights offer a contested yet universal and global set of rights and freedoms, providing a framework to argue for justice and legislative reform when breached. Human rights as a legal tool are based on the premise that states intervention in their citizens’ lives must be regulated and contained through universal, global human rights principles and respect for individuals’ rights.⁴ Human rights can be contended to be an emancipatory tool for vulnerable people; for women, it can help to contextualize and provide legal recognition of the various injustices resulting from gender inequality. However, core global norms must be contextualized to local settings in order for them to be viewed as both relevant and legitimate, and subsequently, to become a driver of social and legal change. Processes of vernacularization and indigeni-

zation take place, firstly, to package the language of human rights in a relevant contextual language, and secondly, to define strategies of action and make ideas and arguments persuasive.⁵ International human rights norms have been successfully mobilized in the Northern Ireland context primarily for conflict-related abuses, and accordingly, the architecture of human rights was mainstreamed into the peace agreement. Consequently, the language and potential of rights-based arguments as a mechanism for social change or justice has a high level of resonance in this context. Understanding the historical and social understandings of rights in specific contexts is key to comprehending the “frames” that rights-based discourses take. Analyses of human rights-based abortion discourses have largely taken place in regions where abortion law is more liberal; such discourses have had less analysis in regions hostile to abortion law reform.⁶ A notable exception to this is analysis of religion and human rights discourse in Latin America.⁷

This paper is based on research conducted on political discourse on abortion in Northern Ireland. Thematic content analysis of political debate on abortion in Northern Ireland identified a growing use of human rights-based language when discussing both liberalizing and restricting abortion rights. We contrast the presentation and vernacularization of international human rights norms at the macro-political level (defined by the authors as elected political representatives and parties) with that of civil society actors (referred to here as micro-political actors). We illustrate that despite the centrality and long history of human rights-based arguments surrounding inequality and conflict in Northern Ireland, a rights-based framework to understanding and lobbying against abortion restrictions is a process which has only recently started and which is currently ongoing. The paper therefore contributes to understanding how human rights are translated at a local level (both at a macro- and micro-political level) and to appreciating the complexity of articulating human rights-based discourses around abortion. The paper concludes that there are dualistic understandings and framings of rights at the macro- and micro-political

level that conflate with global discourses on abortion rights, and questions the potential of human rights to drive substantial legal change and provide a more nuanced context within which to discuss abortion. We will show that rights have high resonance in extreme cases, such as fatal fetal anomaly (FFA) and sexual crime, in the Northern Ireland case study, but are less effective in arguing for liberal abortion laws.

Translating the global to the local

There is extensive and ongoing debate as to whether human rights are a universal concept or a product of Western conceptions of rights and freedoms and consequently not directly translatable within all cultures and societies.⁸ While we do not present a critique or defense of universalism within this article, we do recognize that human rights norms are viewed to be most effective when reframed or vernaculized to local conceptions of justice.⁹ Through these processes of vernaculization and indigenization, ideas can be reframed dramatically and may move away from the international language of human rights to suit local conceptions.¹⁰ However, this is not to say that rights are fixed within particular locales but that local rights consciousness shifts with emerging concerns and awareness, and as such, notions of what are key rights issues may shift accordingly. Understanding processes of vernaculization and indigenization must include an understanding of both historical and contemporary culture and social structure in particular locations.

Vernaculization refers to processes in the 19th century whereby national languages in Europe separated, moving away from transnational use of Latin towards a more differentiated sense of nationhood based on national language.¹¹ In a similar way, human rights language moves from global, universal norms and is vernaculized to local, specific contexts. Indigenization relates to shifts in meaning, how ideas are framed within particular social and cultural contexts.¹² One of the key approaches to translating and adopting rights norms is “framing,” which is the interpretive package surrounding an idea. A theory of social movements, it analyzes ways of packaging and presenting of ideas which

creates shared beliefs and motivates collective action.¹³ Butler’s exploration of framing presents it as a means of controlling or defining the surrounding discourse, and consequently establishing the constraints of reality.¹⁴ The greater the resonance framing has with cultural traditions and narratives, the more appealing it is said to be. However, Ferree reasons that often for activist groups, non-resonant discourses can be more politically radical, and accordingly have more potential for long-term social change, whereas resonant frames, although more successful in the short-term, may be required to sacrifice ideals and exclude particular groups and demands.¹⁵ In our example, a non-resonant discourse would be the complete decriminalization of abortion, whereas a resonant discourse would include abortion in cases of FFA and sexual crime.

Rights are translated through “intermediaries” such as national human rights commissions or community leaders. Those who translate norms are seen to be conversant in both global norms and local contexts and able to move between the two, translating up and down.¹⁶ Such institutions and people are places where global norms merge with local ideologies, and as such are where local definitions and priorities are conceptualized. There are power relations imbued into such relationships; who is seen as able or legitimate to translate global norms to local contexts is an important consideration.¹⁷ Processes of translation are not always successful; there can be active resistance to human rights claims based on a perceived loss of power or conflict with local conceptions of rights or justice. Resistance has been much more heavily documented with regard to the Global South and in particular to conflicts with Islam.¹⁸ In addition, although human rights may be successfully translated to local contexts, articulation and implementation by the state is necessary for the legal and justiciable realization of rights. The perception and articulation of rights at the macro-political level is particularly important in our example, as abortion rights are restricted and resisted through legislation. Western democracies are perceived to naturally adopt human rights norms as they largely conflate with Western justice systems, but the site of abortion law and access is

one where global and local Western norms can in some cases clearly diverge.¹⁹

Global norms on women's human rights constitute particular ideas about gender equity and selfhood. Notions of gender equality often focus on liberal notions of formal rather than substantive equality, that is, making women the same as men through equal political and workforce participation, property and family rights, and equal citizenship. These rights are expressed internationally through the Convention on the Elimination of Discrimination Against Women (CEDAW).²⁰ Although CEDAW has been ratified by 187 of 194 UN member states, it remains the international human rights treaty with the most state reservations, meaning that although states may sign up to the general idea of gender equality, in practice they are not willing to adopt all global norms. Coomaraswamy argues that this is because women's rights have the least resonance globally and that this lack of resonance prevents the effective implementation of women's rights.²¹ Consequently, women's rights are particularly susceptible to arguments of cultural relativism. Such arguments are framed around religion, culture, tradition, and women's "natural" place in society, and are often presented in a bipolar vision of the world, with the Global North being presented as progressive on women's rights and the Global South as backward. Our case study, located in Western Europe, begins to break down binary notions of women's rights in the Global North and South and provides a more complex reading and understanding of women's rights.

Abortion is a complex issue to frame in human rights terminology. There is no particular right to abortion in international law; for example, while the European Court of Human Rights (ECHR) has articulated that abortion must be provided within the limits of the law in several cases (concerning Poland and the Republic of Ireland); it has not conceded to abortion as a right per se.²² However, there has been an expansion of international and regional human rights standards and jurisprudence that support women's human right to abortion.²³ More severe cases, usually regarding fetal anomaly and sexual crime, are framed around the right to be

free from inhumane and degrading treatment, with wider access to abortion framed around the right to private life or social and economic rights, such as the right to health or equality in health care treatment. There is also increasing recognition that the criminalization of abortion is a human rights issue. Alongside this are the competing rights claims that those who are opposed to liberal legislation on abortion make—for example, that the fetus has an equal right to life as a woman and that by restricting abortion, the rights of the vulnerable are being protected. Such arguments often take on a dualistic, binary nature positioning a woman against a fetus, and result in what has been described as a zero-sum game attitude to recognition in abortion rights debates.²⁴ We illustrate the complexity of framing abortion rights in our case study example showing how, despite current and ongoing vernacularizing of abortion rights in Northern Ireland, the macro-political level continues in the main to perpetuate an anti-abortion discourse based on the manipulation of human rights discourse, in contrast to a more complex discussion within wider society on abortion rights.

The case study: Northern Ireland, abortion, and human rights

Northern Ireland is commonly referred to as a divided society. It remained a region of the United Kingdom after the Republic of Ireland gained independence in 1921. Antagonism and inequality between the Catholic and Protestant populations of Northern Ireland resulted in a conflict commonly referred to as the Troubles, which lasted from the late 1960s to the paramilitary ceasefires of 1994 and the Good Friday/Belfast Peace Agreement of 1998.²⁵ Northern Ireland governance operates on consociational (power-sharing) principles including a cross-community, power-sharing executive with minority veto rights and cultural respect for both Protestant and Catholic communities.²⁶ In Northern Ireland, ethno-national identity is specifically linked to religious affiliation. In effect, party political structures have developed on ethno-religious grounds and voters are positioned as solely focused on protecting

ethnic interests.²⁷ The right to veto legislation based on the parity of community consent model positions all issues along the ethno-national divide and makes passing legislation more difficult.

Northern Ireland has woven human rights into its vocabulary of conflict and post-conflict peace-building. It is a core yet contested feature of the cultural landscape of discussions about peace and conflict. Before the outbreak of conflict, the creation of the Northern Ireland Civil Rights Association in the 1960s prompted mass civil rights marches calling for reforms from three predominant sources of inequality: the gerrymandering of local council constituency borders to facilitate a Unionist majority vote, the allocation of public housing, and the high level of unemployment. With the outbreak of violence in the late 1960s, it is argued that human rights had little role in the understanding or management of conflict. Dickson reasons that by 1981 (a high point of the Northern Ireland conflict) human rights had become a propaganda tool for all sides to the conflict.²⁸

International and regional bodies did, however, highlight human rights abuses related to the “management” of conflict. The policing method in Northern Ireland of counterinsurgency tactics and a process of criminalizing political violence has been formally judged on several occasions to be outside the limits of the law and in contravention of human rights standards. For example, in 1978, the European Court of Human Rights found the British government guilty of using inhumane and degrading treatment through police use of hooding and food and sleep deprivation during interrogation of suspects.²⁹ International organizations such as Amnesty International and Human Rights Watch have also criticized actions such as the 1971 introduction of internment without trial.³⁰

Peace negotiations in the mid 1990s culminated in the Good Friday/Belfast Agreement of 1998. Strand 3 of the agreement (British–Irish intergovernmental relations) relates to rights, safeguards, and equality of opportunity, and the ways in which both the UK and Irish governments will ensure they are protected.³¹ The agreement cemented human rights into the institutions and structures of

governance of Northern Ireland through the incorporation of the European Convention on Human Rights into Northern Irish law, and the creation of the Northern Ireland Human Rights Commission (NIHRC) as a non-departmental public body and the national human rights institution for Northern Ireland. The commission’s role is to promote awareness of the importance of human rights in Northern Ireland and specifically to advise on the scope for a bill of rights to supplement the European Convention on Human Rights. However, despite a lengthy consultation process, reaching agreement between stakeholder groups proved divisive and ultimately impossible. As a result, the bill of rights remains unimplemented some 16 years after it was announced. Abortion has not been recognized as a right in any draft of a bill of rights for Northern Ireland.³²

Despite the mainstreaming of human rights in Northern Ireland, it continues to have a conflicted status within the region. The weight that is afforded to human rights within Irish nationalist political agendas furthers a zero-sum game approach to politics wherein the extensive protections afforded to rights in the agreement were viewed by many British unionists to primarily reassure Irish nationalists (Irish nationalists support the reunification of the island of Ireland and are commonly Catholic, British unionists support remaining as part of the UK and are commonly Protestant).³³ Rights-based arguments are also viewed apathetically within many British unionist communities because of their failure to solve contested issues. Women’s human rights tend to be marginalized in an understanding of equality to mean equality between Protestant and Catholic communities.³⁴ Within the Good Friday Agreement, women’s rights are only mentioned once, and only because of lobbying from the Northern Ireland Women’s Coalition. The “right of women to full and equal political participation” comes last on the list of rights, and to date, has had no specific implementation mechanisms attached.³⁵ The structures of governance, based on an ethno-national power-sharing arrangement, also work to marginalize concerns that are not ethno-national in focus.³⁶

It has been argued that women’s rights, and in particular, international norms, have little traction

at the macro-political level.³⁷ Politicians demonstrate a lack of understanding of the applicability of international norms; an example of this occurred during a justice committee meeting on abortion law, when politician Alban Magennis (who is also a qualified barrister) stated without opposition from other committee members that “CEDAW is not justiciable in this jurisdiction.”³⁸ The Northern Ireland Executive has also displayed outward antipathy toward UN human rights bodies. For instance, it failed to send a representative to the review of the Committee on Economic, Social and Cultural Rights of the UK in June 2016. Other devolved administrations were present, as well as the UK government and civil society organizations from Northern Ireland. No reason was offered as to the lack of representation from the Northern Ireland Executive.³⁹

Legal abortion is highly restricted in the Northern Ireland context. The British 1967 Abortion Act, which provided greater access to abortion for women in England, Scotland, and Wales, has not been extended to Northern Ireland. The region remains under the 1861 Offences Against the Person Act and subsequent case law, which renders abortion a criminal act unless to save the life or long-term health of the mother. Official guidelines for health care practitioners on interpreting the law have gone through a series of legal challenges, which has had a “chilling effect” on many health care providers’ willingness to consent to provide abortion services.⁴⁰ As a result, an average of 39 abortions are performed in Northern Ireland per year on the National Health Service, with approximately 1,000 women per year traveling to England to have the procedure performed privately (at their own expense). Other unknown numbers of women travel elsewhere, obtain the abortion pill from an online provider, or access abortions from Marie Stopes International Clinic in Belfast.⁴¹

Repeated public opinion polls indicate that there is appetite for at least limited reform of abortion laws in the region, yet politicians continue to block legislative change.⁴² For example, in March 2016, when two amendments to the criminal justice bill were put forward to allow for abortions in the most limited circumstances (FFA and sex-

ual crime), they were voted down. Although there are very few openly pro-choice politicians in the Northern Ireland Assembly, more have been vocal about extending the law in this area, particularly drawing on personal experience.⁴³ Outside of devolved assembly, politicians in Westminster (who have legislative power over human rights issues) have taken few steps to attempt to liberalize abortion law in the region and have backed away from the issue when Northern Ireland politicians declare that any change to abortion law would be “a threat to the peace process.”⁴⁴

International bodies, in particular the CEDAW committee, have noted the UK’s non-compliance with international standards with regard to abortion. Since 1999, CEDAW has made repeated statements on Northern Irish abortion law in their recommendations to the UK, and has become more forceful in its approach. In 1999, they noted “with concern that the Abortion Act 1967 does not extend to Northern Ireland where, with limited exceptions, abortion continues to be illegal.” They recommended that “the Government initiate a process of public consultation in Northern Ireland on reform of the abortion law,” while in 2013, they recommended that “the State party should expedite the amendment of the anti-abortion law in Northern Ireland with a view to decriminalise abortion.”⁴⁵ The United Nations Committee on the Rights of the Child replicated this recommendation in its concluding observations to the United Kingdom of Great Britain and Northern Ireland in 2016.⁴⁶ Other international bodies that have highlighted the inadequacies of abortion law in Northern Ireland include the Committee on Economic, Social and Cultural Rights (ICESCR), the Committee on Civil and Political Rights (ICCPR), and the ECHR.

The international community is becoming more aware of restrictions on abortion in Ireland, north and south, and of politicians’ reticence to remove these restrictions. The Republic of Ireland underwent its Universal Periodic Review (UPR) on human rights obligations in 2016. Fifteen of the participating countries made specific recommendations on its abortion laws.⁴⁷ The UK undergoes its UPR in 2017, and based on Ireland’s recommenda-

tions, Northern Ireland's abortion laws will likely be noted by the Human Rights Committee.

The research approach

This paper considers a human rights framework and its impact on political discourse within a devolved region of the UK through detailed examination of policies and political debate between 1998 and 2016. The paper emanates from ongoing research, funded by the British Academy, that offers for the first time critical analysis of policy and political discourse on abortion in Northern Ireland. The methodology comprised analysis of a longitudinal policy and political discourse data set. All major debates, five in total, and policy documents, five in total, produced since the Northern Ireland Assembly was formed in 1998 through to 2016 were included in the study. The five debates included in the study were as follows:

- June 2000: A motion “That this Assembly is opposed to the extension of the Abortion Act 1967 to Northern Ireland.”
- October 2007: A motion to oppose the introduction of proposed guidelines on the termination of pregnancy in Northern Ireland
- March 2013: An amendment to the criminal justice bill that would restrict provision of abortion services to NHS premises
- June 2015: An amendment to the criminal justice bill that would restrict provision of abortion services to NHS premises
- February 2016: An amendment to the criminal justice bill that would allow for abortion on the grounds of FFA.

Content analysis was conducted to identify terminology used to refer to the act of abortion and women seeking abortion. Content analysis allows for quantification of phrasing in documents alongside qualitative analysis of meanings of text.⁴⁸ Each data set was read thoroughly by the two members of the research team, first independently and then again jointly upon identification of thematic areas. This process allowed for discussion of thematic ar-

reas and consensus on the categorization of themes.

In this paper, we focus on one of the themes “interpretations of human rights” in political debate. In considering this, we draw on the material identified in the critical analysis of policy and political discourse and add a further layer to the analysis by considering how civil society has responded to the human rights framework. Here we draw on our observations of civil society documents and public meetings on abortion and human rights and provide an analysis of human rights vernacularizing in Northern Ireland.

Willful misinterpretation? Abortion and political debate

The five debates on abortion that Northern Ireland has held since 1998 have been permeated with an anti-abortion rhetoric occasionally punctuated by lone voices who are supportive of abortion law reform. More recent debates, with the focus shifting to abortion in the case of FFA, have seen those voices growing in number. Thematic analysis of the five debates has illustrated an understanding of rights that is solely concerned with the “right to life” of the fetus, a non-resonance with international norms and the framing of local ideologies as against global norms, and more recently, a protectionary discourse toward women and the fetus through the restriction of abortion rights.

In order for vernacularization of rights to be successful in realizing rights, those at the state level must also take ownership of this translation. However, from analysis of political debate it is clear that the majority of politicians do not find resonance with rights-based claims towards abortion. Politicians, instead, repeatedly refer to the specific culture of Northern Ireland (or that of the island of Ireland) as being opposed to abortion, in effect arguing that international norms and standards cannot be translated into the Northern Irish context:

The outworkings of that in Great Britain have been that almost 7 million abortions have been carried out since 1967 ... In China, 400 million abortions have been carried out under its one-child policy ...

People say that, if we do not go down this route, we are the backwoods people ... Are you telling me that that is advancement and that we in Northern Ireland are in the backwoods? If this is the backwoods, I am glad that we are in it, because I do not want to go down a route that the places that I have just mentioned have gone already. It is clearly a wrong and a dangerous place to be.

—Edwin Poots, Democratic Unionist Party, 2013⁴⁹

A consistent argument throughout political debate is one that attempts to argue that there is a balancing of rights in abortion. This argument positions the rights of women against the rights of fetuses, with the phrase “unborn child” being used much more frequently than “fetus” within debate. This trend mirrors international trends towards defining and expanding the rights of fetuses.⁵⁰ In the example provided directly below, it is noteworthy that lives lost in the conflict of Northern Ireland or as a result of sectarianism are conflated with lives lost through abortion, and that the SDLP (an Irish Nationalist party that opposed violence related to the conflict) continues to reiterate its civil rights credentials:

As a party that was born out of the civil rights movement, the SDLP believes that the right to life is the most basic right of all. That includes the right to life of the unborn. My party has been consistently opposed to the taking of life, whether it be the life of Paul Quinn, who was so brutally murdered in Monaghan at the weekend; life that was lost during the civil conflict that society has endured for the past four decades; or life that is taken by the state through capital punishment. It is for that reason that the SDLP opposes abortion, upholds the right to life of the foetus and opposes the extension of the Abortion Act 1967 to Northern Ireland.

—Carmel Hanna, Social Democratic and Labour Party, 2007⁵¹

Alongside the right to life of the fetus, more recently the limiting of abortion rights in the region has been positioned as a means of protecting women, mimicking the discourse of anti-choice groups in the region that use the slogan “Love them both.”⁵² Such discourse positions rights as a paternalistic protectionary measure, as opposed to an emanci-

patory framework, and politicians as protectors of the vulnerable. The following statement was made in relation to proposals seeking the closure of the Marie Stopes International Clinic, which opened in Belfast in 2012:

The protection of vulnerable women and unborn children is an issue that transcends normal politics and religious boundaries.

—Paul Givan, Democratic Unionist Party, 2012⁵³

This shift to positioning women seeking abortion as vulnerable reflects global trends.⁵⁴ The frame has shifted from selfish women, too busy with careers or social lives, to one of women who are in need of guidance or incapable of making a rational decision. Within the 2013 debate on abortion provision in Northern Ireland, the word “vulnerable” was uttered 31 times and the word “protect” was used 75 times, compared to 11 times in the 2007 debate.

One of the debates that has facilitated misinterpretation of human rights norms is that which focused largely on FFA (in 2016). Such debate has particularly misused disability rights, indicating that abortion in cases of fetal anomaly (despite the fact that any consultation on legislative amendments has contained the word “fatal”) would inevitably discriminate against those with disabilities. This argument has been put forward by politicians and the Attorney General for Northern Ireland. For example:

Yes, we are subject to the United Nations Convention on the Rights of Persons with Disabilities; yes, that convention sets out principles of which the focus is on the equal protection of the right to life for those with disabilities and those without.

—Jim Allister, Traditional Unionist Voice, 2016.⁵⁵

Within the earliest debate on abortion in Northern Ireland (in 2000), rights are only referenced on one occasion, negatively, to state that liberal abortion laws create a right to kill. The evolution of abortion debate to include frequent references to human rights norms indicates that politicians in Northern Ireland are aware of the legitimacy that a human rights-based argument brings to debate. However,

with regard to abortion, international norms have been in some cases dismissed and in others misinterpreted at the local political level. Politicians argue that Northern Ireland (and often the island of Ireland) does not want liberal abortion laws, and that therefore, rights claims can be rejected. The use of rights-based arguments to restrict abortion have moved towards a protectionary framework since 2013, arguing that restriction is necessary to protect women and the “unborn.” Such confusion over rights on abortion filters down to the societal level and muddies the waters for civil society attempting to articulate a pro-choice rights-based framework for abortion.

Late to the game? Civil society and framing abortion rights in Northern Ireland

Civil society in Northern Ireland has not been vocal in its support for the removal of legal restrictions on abortion and has only recently become involved in the vernacularization of human rights norms with regard to abortion. Larger-scale human rights organizations have generally avoided the topic of abortion, arguably for the pragmatic reason of ensuring wider support and promotion for human rights in general (for example, Amnesty International lost its support in certain schools after launching the My Body My Rights campaign). Some have also avoided a focus on abortion due to personal moral stances on the topic by senior figures within organizations. Women’s rights organizations, too, have generally had an ambivalent stance towards abortion; many have opted to remain neutral on the issue, with some larger organizations only recently adopting an overtly pro-choice position.⁵⁶

Since 2014, a number of civil society and activist movements have articulated a variety of rights-based arguments with regard to abortion. These movements have begun the process of vernacularizing human rights-based discourses on abortion in Northern Ireland, and as such, highlighting Ireland’s position as out of step with global norms. Activist campaigns and actions taken in court, however, present a number of framings of

abortion rights which taken together can be read as a confusing discourse of rights for those unfamiliar with human rights vernacular.

As noted above, the Northern Ireland Human Rights Commission, Northern Ireland’s national human rights body, did not include abortion in its draft bill of rights. In 2015, the commission took a judicial review to the Northern Ireland High Court on the basis that Northern Ireland’s prohibition of abortion in cases of FFA and in cases of sexual crime, up to the date when the fetus can exist independently, are incompatible with UK human rights legislation. The High Court ruled in the commission’s favor, stating that current prohibition of access to abortion in cases of FFA was incompatible with the Article 8 right to private and family life under the European Convention on Human Rights.⁵⁷

Cases based on extreme circumstances such as FFA are largely supported by the public, as documented by repeated public opinion polls. Public opinion has also been affected by women who have chosen to speak out on their experience of traveling to England to access abortion. One woman, Sarah Ewart, has been particularly prominent in this debate. This discourse has been highly resonant with the public, who can empathize with a wanted pregnancy and the subsequent inhumane treatment. A difficulty, however, with a focus on extreme cases is that they affect a minority of women and although drawing huge sympathy, may work to reinforce the boundaries of “good” vs. “bad” abortions and “deserving” and “undeserving” women. This means that although limited legislative reform may take place, wider reform may be stifled by the long-term effects of this highly resonant frame.

Amnesty International launched its international My Body My Rights campaign in 2014 in Ireland (north and south) as part of its ongoing global focus on bodily autonomy and the theme of making decisions about one’s body as a human right.⁵⁸ The campaign is primarily concerned with the decriminalization of abortion, as a result removing abortion from the criminal law. As a global campaign, its message is broad in scope, and although this opens space for global cooperation, it also becomes more difficult to vernacularize and

indigenize a campaign in local terms and increase local ownership and resonance. In Northern Ireland, Amnesty decided to align the first stages of the campaign with the limited legal reforms proposed by the minister of justice on grounds of FFA and sexual crime, and commissioned public opinion polls that sought views on abortion provided on these grounds. It did not seek views on abortion more generally. It later joined the judicial review action against the department of justice on legal reforms for FFA and sexual crime. However, this focus meant that the decriminalization focus became lost within the first stages of the campaign.

Smaller women's groups and family planning organizations have taken part in a number of human right-based actions. In 2001, the Northern Ireland Family Planning Association instigated judicial review proceedings to challenge the absence of guidelines from the Northern Ireland Department of Health, Social Services and Public Safety on the circumstances in which termination of pregnancy falls within the law. This review, most recently in the High Court again in 2013, did not seek to challenge the substantive law on abortion but to force the department to publish policy guidelines to improve clarity on the law. In December 2010, the Family Planning Association Northern Ireland, Northern Ireland Women's European Platform, and grassroots organization Alliance for Choice submitted evidence to the CEDAW Optional Protocol inquiry procedure. This procedure grants the committee power to initiate inquiries into "grave or systematic" violations of rights under the 1979 Convention. It provides an international platform for the scrutiny of domestic human rights violations and the making of recommendations by the committee, which are politically significant, although not legally binding.⁵⁹

Activist groups such as Alliance for Choice, the main Northern Irish activist group, has supported the Amnesty campaigns but developed a more radical political approach of "trust women." The extent to which this has had wide resonance on public opinion is unclear; however, its campaign has engaged with all nine major trade union bodies, and other civil society organizations, and activists

have made regular appearances in local, national, and international media outlets. In its campaign #trustwomen and its education program, it has adopted the approach of a lived-experience discourse, using case studies from real women who have been denied access to abortion in Northern Ireland to highlight multiple challenges and discrimination that women seeking abortion encounter. This approach draws on women's situated locatedness, allowing for shifts in understanding of abortion and recognition of the importance of the context in which they are living. It avoids a rights-based discourse due to the problematization of human rights discourse in Northern Ireland, but does refer to abortion as an equality of health issue.⁶⁰ A discourse based on choice for abortion under any circumstances has less resonance than the highly emotive framing of abortion for FFA or sexual crime, but as Ferree argues, non-resonant discourses may have more potential in terms of long-term societal change on how abortion is conceptualized.⁶¹

Discussion and conclusion

This article has sought to consider contrasting articulations of rights-based arguments for abortion in the context of Northern Ireland; the macro- and micro-political level. Adopting a human rights-based approach to abortion framing lends legitimacy to arguments, as they are conceptualized through global, normative standards. In addition, they provide a wider and less radical basis for mobilization and education on abortion than a feminist framework. However, engagement with processes of vernacularization and indigenization of rights in the Northern Irish context has illustrated the complexity of framing abortion rights and the ease with which rights can be co-opted to argue against liberal access to abortion. While human rights literature often emphasizes the positive outcomes of local interactions with international human rights norms, the Northern Ireland abortion case study is problematic, highlighting how the promotion of a rights-based framework to abortion has not translated up to the macro-political level where decision making takes place.

The evolution of abortion discourse in Northern Ireland has resonance with international developments. The growing lobby for the rights of the “unborn” and the framing of restrictive laws as protecting women is a clear reaction to the success of positioning abortion as a women’s rights issue. That these discourses are evolving internationally also points to the resources and political influence of anti-choice groups. In order for human rights arguments to translate into legislative change, they must be accepted and indigenized by those making law. Unfortunately, with an overarching anti-abortion discourse facilitated by a misinterpretation of human rights norms prevalent at the Northern Irish Assembly, change on abortion access has been prevented, even in extreme circumstances. Although there are an increasing number of politicians in the current assembly who support either limited or full legislative change on abortion, there are still many who are opposed to any change in the law and who publicly support anti-choice campaigning groups. In this context, rights become another method of framing abortion as a moral issue, rather than a health care one, with the rights of the fetus pitted against the rights of women.

While internationally there is a growing trend towards liberal abortion laws, at the same time there are regressive movements seeking to restrict abortion access. Within this are countries such as Northern Ireland, where access has always been and remains highly restricted. Movements for change have been ongoing since the 1967 Abortion Act was introduced in Britain, yet the law remains unchanged. Framing abortion within human rights discourse is the latest method that civil society has embraced to argue for abortion rights. While this framework may provide resonance and potential future movement in the case of extreme examples (such as FFA), it has less long-term resonance for promoting wider abortion access and continues to discuss abortion in moral terms. Consequently, while translating human rights norms into local contexts may be important in understanding and articulating abortion rights, without ownership by political elites, it is unlikely to result in tangible legislative change.

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