

## Bodies under the Law: Feminist Artistic Practice and the Struggle to #Repealthe8th\*

Before the Law stands a door-keeper on guard. To this door-keeper there comes a man from the country who begs for admittance to the Law. But the door-keeper says that he cannot admit the man at the moment. The man, on reflection, asks if he will be allowed, then, to enter later. "It is possible," answers the door-keeper, "but not at this moment." Since the door leading into the Law stands open as usual and the door-keeper steps to one side, the man bends down to peer through the entrance. When the door-keepers sees that, he laughs and says: "If you are so strongly tempted, try to get in without my permission. But note I am powerful. And I am only the lowest doorkeeper. From hall to hall, keepers stand at every door, one more powerful than the other."

FRANZ KAFKA, "BEFORE THE LAW"

THE PARABLE "Before the Law," later incorporated into Franz Kafka's posthumous novel *The Trial*, has long served as a powerful metaphor for legal scholars exploring the experience of those subject to the forces of institutionalized law. In the parable the supplicant fails to circumvent and defy the gatekeeper; growing old, the man finds himself approaching the end of his life without ever having achieved the access he so desperately seeks. Just before his death the gatekeeper tells him that the doorway was made exclusively for him and that upon his demise the entrance to the law will be closed (Kafka 197). Intentionally enigmatic, the parable illustrates the profound psychological effect of the law by expressing the duality of how its processes can be experienced. Purportedly objective and impartial, the law

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remains remote from the daily life of the man experiencing it as he lives without access, unable to gain entry. The parable also reveals the illusory character of Kafka's law, which requires the man's cooperation and deference to sustain its power.

Were we to reimagine Kafka's parable with a female protagonist, our understanding of the experience would differ: the law would again exist as a partisan system with only the appearance of objectivity. But more significantly, regendering the parable's perspective would make visible the hidden structures of domination and exploitation, as well as the ideological work of institutional apparatuses, that define the modern capitalist/liberal state. Women's experiences of the law are often characterized by violent intimacy, thereby disclosing the law's embodied consequences and its intersection with institutional and intimate violence. In other words, unlike the male body of Kafka's parable, the female body occupies a space not before the law, but rather under the law—as subject to its domination.

Through the prism of three feminist performances—Sarah Browne and Jesse Jones's *The Touching Contract* (2016), Speaking of IMELDA's *Pro-Choice Proclamation* (2015), and Jones's *Tremble Tremble* (2017), this essay argues that a central theme of women's artistic practice in Ireland envisions the female body as a site of resistance, exposing the law as a force that grants and then restricts access to institutional authority through its power of determination and punishment. Ireland's Constitution or framing legal narrative, *Bunreacht na hÉireann*, haunts such feminist practice as a structuring presence. Each of the three performances explored below offer possibilities for creating new forms of knowledge and resistance, thereby allowing women to move collectively from a position of bodies under the law to bodies against the law and, finally, toward the possibility of bodies beyond the law.

### FEMINIST THEORY REDEFINES THE “BODY POLITIC”

Feminist theorists have long engaged with questions of embodiment as they confront the female body's relationship to the law and the state. They argue that the identification of women with a corrupted conception of corporeal reality has been central to the construction and maintenance of the modern liberal state. Feminists thus challenge

the foundational premises of western political and legal theory and its symbolic focus on the male body by transforming the metaphor of the male “body politic” into a distinct politics of the body. Drawing upon Michel Foucault’s and Giorgio Agamben’s political accounts of the relationship between power and the body, they have developed an understanding of the female body as a colonized space. But both Foucault and Agamben speak of an ungendered (and unraced) body, offering little if any consideration of the ways in which law exercises power differently over the bodies of men and women.

Ann Stoler (2002) reinvigorated Foucault’s challenge to liberal conceptions of modern political identity by arguing that imperial and biopolitical discourses of race, sex, and gender are not marginal but constitutive of democratic liberal states. Ruth Miller develops this argument further, arguing that “it is the womb that has become the predominant biopolitical space, it is women’s bodily borders that have been displaced onto national ones, [and] it is thus the citizen with the womb who has become the political neutral” (149). Similarly, albeit with a more materialist emphasis, the Italian Marxist Sylvia Federici—who has influenced the work of Jones discussed below—challenges the male figure as the universal subject of the modern state. For Federici (2004) “the body has been for women in capitalist society what the factory has been for male waged workers: the primary ground of their exploitation and resistance” (8). She critiques Foucault’s concept of disciplinary power, arguing that he ignores the process of reproduction by folding female and male histories into “an undifferentiated whole” (9). Furthermore, Foucault ignores the explicit violence and terrorism deployed by the modern state to achieve biopolitical agency, tactics that included attacks on the body, and the female body in particular, as in the practice of witch hunts that were conducted for centuries (15). Feminists like Allaine Cerwonka and Anna Loutfi (2011) argue that it is the female reproductive body that represents the universal and paradigmatic subject of law and is therefore the ideal subject for an exploration of the nature of the modern legal state.

The text of the Irish Constitution makes many of these concerns explicit, for as Siobhán Kilfeather astutely observed, “The major revelation about sexuality in Ireland is not what happened but how it was cast into words” (759). Appearing in different and varied forms,

the most public and regulatory expression of these attitudes was the writing of the 1937 Constitution. This deeply conservative and gendered document promoted the institutions of marriage and elevated the “special” role of women in the family, assigning the private home as an ideal setting for them. Legal scholar Daniel Farber reminds us that a constitution plays a unique role in a nation’s culture, “being not only a set of instructions but literally constitutive of national identity” (qtd. in Hanafin 249). It is the text within which we live our lives and which establishes our identity— “the text in which we are born and in which we die” (Goodrich 2). Ireland’s patriarchal historical and cultural narratives were intimately woven into this constitutional text in which the trope of woman as (m)other was central.

Significantly, Ireland became the first country in the world to insert a fetal-rights amendment into its constitution. The forty-three words of Article 40.3.3°, known as the Eighth Amendment, established the “equal right to life” of the mother and the child, dissolving the dichotomy between mother as symbol and woman/mother as person.<sup>1</sup> Taken together, the consequences of these legal texts were profound, serving as legitimate justification for state violence enacted upon the bodies of women, with recent revelations showing how widespread and systemic these practices were throughout the twentieth century. Such violence might be considered as well in the context of Ireland’s legacy as a postcolonial partitioned state. As Joe Cleary argues, partition itself was an act of violence, the consequences of which do not simply evaporate: “the attempt to manufacture ethnically homogeneous states . . . cannot be accomplished without extraordinary communal violence. This violence does not end with the act of partition; violence is not incidental but constitutive of the new state arrangements thus produced” (11).

1. Article 40.3.3° of the Irish Constitution includes the following: “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.” The amendment includes no mention of the word “abortion,” but by subordinating the life of a pregnant woman to that of the fetus she is carrying, it renders abortion illegal in all circumstances except, technically, where a termination of pregnancy is considered medically necessary in order to save the life of the woman. The exceptional circumstances where a life-saving abortion was permitted would not be clarified legally until the passage of the Protection of Life During Pregnancy Act in 2013 following the death of Savita Halappanavar in October 2012.

## WOMEN SPEAKING OUT THROUGH FEMINIST ARTISTIC PRACTICE

The emergence of the Irish Women's Liberation Movement in the 1970s created a space for women to discover new languages and forms—to speak and think about themselves and their bodies without Catholicism's emphasis on motherhood and self-denial. The resulting backlash against these possibilities, made visible and material by the Eighth Amendment, would serve as a powerful reminder to the nation's women that their bodies were not in fact their own but exist in a liminal space under the law. In this challenging period for Irish feminism, as art became one of the few possible sites to explore female desire, a new generation of women artists emerged. They rejected conventional forms of artistic practice overladen with art history's disciplinary traditions from which they were often excluded. Sarah Kelleher describes the Irish art scene of the 1980s and early 1990s as one of "market-driven Neo-Expressionist painting" that cultivated and promoted "a distinctly male subjectivity . . . characterised by a raw, almost brutish approach to figuration" (30). Drawing on Griselda Pollock's work of feminist art criticism, *Vision and Difference* (1988), Kelleher argues that the sexualized female body became the territory across which male artists typically engaged with questions of Irish sectarian violence and repressed sexuality—while simultaneously making a claim for modernity on an international stage (30–31).

Women artists thus wrestled with more than an artistic culture that marginalized the significant contributions that they had made to the development of modern artistic practice in Ireland.<sup>2</sup> They also negotiated the traditional signifying function that women's bodies had long occupied through the idealization of the Irish nation as female. As Ailbhe Smyth observes:

In postcolonial patriarchal culture, naming strategies have an overdetermined role, invested with an irresistible double force and double meaning. The long-denied power to name, to confer meaning and thus (illusion?) to control material reality is all the more powerfully experienced and pleurably exercised when finally acquired. It is a

2. Women were among the leading proponents of modern art in early twentieth-century Ireland. Artists such as Mainie Jellett, Evie Hone, and Nano Reid were essential to the emergence and development of Irish modernism through the introduction of cubist abstraction. See O'Connor (29–31).

treacherous ambivalent power if the paradigm for its exercise remains unchanged. The liberation of the state implies male role-shift from that of Slave to Master, Margin to Centre, Other to Self. Women, powerless under patriarchy, are maintained as Other of the ex-Other, colonized of the postcolonized. (9–10)

In their turn to the female body as subject, Irish women artists found both a literal and symbolic resource for engaging with the state's regulation of female sexuality, echoing Gayle Rubin's assertion that "we never encounter the body unmediated by the meanings that culture gives to it" (Perry 18; Rubin 276). A significant group of works emerged, all addressing the silencing of the female body after the 1983 referendum: Dorothy Cross's exploration of sexuality and Irish Catholicism in *Mr. and Mrs. Holy Joe* (1986); Patricia Hurl's faceless portrait of the presiding judges in *The Kerry Babies Trial* (1986); Alanna O'Kelly's soundscape *Chant Down Greenham* (1984–88), which joins the female body to a wider politics of resistance; Kathy Prendergast's consideration of the gendered body and the national landscape in *Body Map Series* (1983); Alice Maher's exploration of the relationship between church and state in *The Expulsion (After Masaccio)* (1988); Pauline Cummins and Louise Walsh's collaboration *Sounding the Depths* (1992); and Shelagh Honan's *Untitled* (1994), which visually represented the Irish experience of abortion. This preoccupation with questions of embodiment was not unique to women working in Ireland, for artists elsewhere were engaging in similar discourses. Arguably, however, the nature of Irish society in the 1980s and the precise context created by the 1983 referendum campaign after the insertion of Article 40.3.3° into the Constitution meant that women living in Ireland experienced more immediately what Jones and Browne refer to as the "touch of the law"—an impetus creating a productively urgent tension in their work.

During the repeal campaign a new generation of artists came to prominence, continuing this explicitly feminist engagement with the realities of the Eighth Amendment and interrogating the ways in which the female body is regulated by the state.<sup>3</sup> In contrast to

3. Arguably, the campaign to repeal the Eighth Amendment was a product of three decades of activism, reflecting the work of multiple generations of feminists. However, in the 1980s and early 1990s this activism was often necessarily defensive.

the art produced by the previous generations of feminist artists, this work increasingly gestured toward a more defiant and resilient female body and the growing confidence of the repeal movement. Earlier generations of feminist artists had operated in an openly misogynist social and political climate. Commenting on the specific challenges that feminists living and working in Ireland faced in that period, artist Alice Maher describes the 1980s as a “bad time for women and their rights throughout Ireland,” and notes the relative absence of political or theoretical writing about feminism in the country (408). A feature of the projects emerging during the repeal campaign, however, was the engagement of artists who were a constitutive part of the campaign with an ascending movement challenging the presence of the female body within the body politic of the Irish state.

Furthermore, projects emerging around the repeal campaign engaged explicitly with the practices and protests of previous generations of feminist artists. As Fionna Barber argues, “To identify the associations and affinities between women artists is a means of reinforcing the significance of their practice in ways that defy the silencing strategies that still persist” (14).<sup>4</sup> Such engagement encouraged women to understand the continuity and longevity of struggles for bodily autonomy in Ireland. Sara Ahmed explains the intergenerational relationship of feminist artistic practice through the politics of citation: “Citation is how we acknowledge our debt to those who came before; those who helped us find our way when the way was obscured because we deviated from the paths we were told to follow” (17). This framing of the relationships between women artists is an explicitly feminist pedagogical practice that weaves together past and present struggles to create an embodied history in which new forms of knowledge emerge and challenge the traditional conceptions of the Irish state.

Only with the death of Halappanavar, denied an abortion after her incomplete miscarriage, did women began to organize together with the specific demand of “repeal.” The repeal campaign is therefore usually understood as referring to the period 2012–2018.

4. *Elliptical Affinities*, the 2019 exhibition curated by Fionna Barber and Aoife Ruane at Highlanes Galleries in Drogheda, explicitly explored this intergenerational relationship among feminist-artist practice in Ireland. The exhibit featured the work of a number of artists, including Aideen Barry, Sarah Browne, Amanda Coogan, Dorothy Cross, Pauline Cummins, Rachel Fallon, Patricia Hurl, Jesse Jones, Brenda Lynch, Alice Maher, Alanna O’Kelly, Kathy Prendergast, and Louise Walsh.

## THE VISUAL POLITICS OF THE REPEAL CAMPAIGN

The complex politically engaged work on the female body, and by extension the body politic, by Irish feminist artists has, according to Suzanne Chan, led to “an aesthetic of abortion” (74). Such work stands in direct contrast to the iconic images of the fetus marketed by anti-abortion activists that quickly became part of the visual politics of a global mass culture. Within hours of an official campaign’s beginning, entire urban and rural landscapes are transformed by a cacophony of verbal and visual images, often designed to stimulate the emotional responses of the Irish electorate. When the subject of that referendum is abortion, visual politics become intensely ideological. Anti-abortion politics, particularly from the late twentieth century on, has involved making visible something that is specifically “anti-visual,” manufacturing an “objective” image, according to Lisa Cartwright, out of what is essentially a subjective experience of sight (54). Such visual polemics from the 2018 referendum campaign included red beer mats with the image of a fetus and the question, “Will you remove her only protection from our Constitution?” Other images presented a fetus at eleven weeks’ gestation accompanied by the words “One of us,” a twelve-week-old fetus sucking its thumb with the slogan “A license to kill?,” an ultrasound of a fetus overlaid with the words “I am nine weeks old. I can yawn and kick. Don’t repeal me,” a billboard with three circular images—a fetus at ten weeks, one at eleven weeks, and a black circle at three months—with an accompanying slogan “Growing. Growing. Gone.” Although some of these polemics were directly imported from the anti-abortion movement in the United States, their visual narrative urges viewers to understand these images as both national and universal symbols of innocence, humanity, and vulnerability in need of state protection.

These images stood in direct contrast to the text-based approach that the repeal-campaign group Together for Yes (TFY) adopted: “Sometimes a private matter needs public support” and “A woman you love might need your yes.” No accompanying images appeared on these posters, only colorful text and the TFY logo (see Griffin et al. 159–60). This text-based approach reflected the challenges of translating the complexities of reproductive choice and of accommo-

dating the varieties of women's experience of abortion into a visual image for a poster or billboard.

Fetal imagery, indeed photography itself in its evolution, refuses uncertainty and complexity. Writing in 1971, Susan Sontag notes how the medium has become one of the "principal devices" for creating a "chronic voyeuristic relation to the world which levels the meaning of all events." Photography, she argues, has become an "event in itself" to the extent that "our very sense of the situation is now articulated by the camera's interventions" (11). Before developments in modern technology made fetal imagery possible, the visual shape of the pregnant woman's body substituted for both the representation of the fetus's body and its protection. In discussing Swedish photographer Lennart Nilsson's widely reproduced fetal photography first published in *Life Magazine* in 1965, Lisa Smyth argues that these images represented a new departure in which autonomous fetal embodiment was "narrativized in 'moving-picture' form," thereby reducing the pregnant woman to her maternal function—mother—by separating the womb from the self (28).<sup>5</sup> It is not that photographs lie, but neither are they truth-tellers (Berger 70); rather, meaning is created over time through the discovery of connections.

In *The Production of Space* (1974) Henri Lefebvre argues that one effect of technology is to control the consumption of space and habitat under the appearance of being neutral and apolitical (164). In the context of ultrasound and fetal photography in pregnancy, the body of the pregnant woman becomes isolated from the fetus that she carries—a fetus that is literally part of her body. As Lauren Berlant notes, this new photography expands its role "to human and even superhuman scale within [the] frame of the photograph," shattering "the aura of maternal protection" for the newly vulnerable fetus (108). In the strictest sense the abortion debate pitches the rights of a pregnant woman to bodily autonomy against the right to life of the

5. In creating these fetal images, Nilsson worked with two endoscope experts to create the optical tubes with macro lenses and wide-angled optics that could be inserted into a woman's body. Rarely remarked upon is the fact that Nilsson was able to photograph only one living fetus; this photograph is distinct from the others because it is taken inside the uterus, and the photograph is unable to capture the fetus in its entirety. The more familiar and iconic images were created using either miscarried or terminated pregnancies.

fetus, but the existence of the Eighth Amendment has raised complex questions about Irish society's historic attitudes toward female sexuality. Such questions cannot be accommodated within competing images that attempt to humanize women on the one hand or endow the fetus with self-awareness on the other. But they are issues that art has the potential to transcend.

#### FEMINIST ARTISTS ORGANIZE: THE CREATION OF A MATERIAL CULTURE FOR REPEAL

The Artists' Campaign to Repeal the Eighth Amendment, established in 2015 by visual artists Cecily Brennan, Eithne Jordan, and Alice Maher and poet Paula Meehan, was arguably one of the more significant interventions in the repeal campaign—and one of the most controversial. The decision to set up the campaign arose from conversations among a group of artists in 2015 about the consequences of the Eighth Amendment for women. These artists invited many working in architecture, dance, film, television, literature, music, theatre, and the visual arts to sign a call for repeal; it eventually garnered over 3,500 signatures, which transformed into a movement with its own material culture. The imagery created between 2015 and 2018 by the Artists' Campaign was a direct response to the wider repeal movement, but it was also influenced by the preoccupations of feminist art practitioners with the Irish politics of embodiment. One of the campaign founders, Alice Maher, stated, "We're very aware of the power of imagery. When you reclaim imagery, you take the power back" (qtd. in Saner). For those associated with the campaign, recognizing and articulating the complexities of human situations were central to their understanding of the artist's role. Members were invited to participate in EVA International (Ireland's biennial); in their performative action "Repeal! Procession" on 13 April 2018, they marched through the streets of Limerick past the city's School of Art—once the site of a Magdalen laundry—carrying vibrant banners that depicted Ann Lovett and the church and state battling over a woman's body.<sup>6</sup>

6. On 31 January 1984, less than six months after the 1983 referendum, Ann Lovett, a fifteen-year-old schoolgirl from Granard, Co. Longford, was found dead along with her newborn son after giving birth completely alone in the town grotto in the middle of winter. The death of Lovett and her son ignited for the first time

Oana Marian observes how these late twentieth-century artists reimaged Limerick's 1920 and 1930 medieval-era confraternity marches that had groups of "penitent" women accompanying them. This performance sought to highlight how a systematic and gendered state violence was endemic in Ireland.

The Irish church-state nexus sought to maintain its authority through the deployment of an authoritarian regime of state censorship, a key feature in the new nation's treatment of women (see Kennedy 118–24). The censorship of literature exploring women's experiences—in particular, female sexuality—as well the control of information on contraception and abortion were an obvious manifestation of such authoritarian polices. But as Maeve O'Rourke notes, censorship of statistically revealing data about the levels of violence and abuse suffered by girls and women also contributed (1).<sup>7</sup> During the repeal campaign a state censorship that many confidently believed to be consigned to Ireland's dark past was resurrected. The street artist Maser's mural featuring the words "Repeal the 8th" at the Project Arts Centre in Dublin was removed by order of the charities regulator in the run-up to the referendum. Dublin City Council canceled an event at Dublin's International Literature Festival that featured a number of artists discussing Una Mullally's anthology *Repeal the Eighth* (2018). Theater producers Grace Dyas (THEATREclub) and Emma Fraser (Nine Crows) had their plans for a nationwide tour of *Not at Home* disrupted after a number of arts organizations and exhibition spaces canceled over fears that hosting such a "political" piece of work would put their funding at risk. The work of Dyas and Fraser was particularly noteworthy because it was designed to give voice and space to the experiences of women forced to travel abroad for abortions. As Dyas observed, "What [the country is] basically saying is 'yes, you can have an abortion, but not at home.' We wanted to ask women: what are the consequences? . . . The reality of people's

a public conversation about sex, motherhood, and the misogynistic nature of Irish society. The banners were created by Alice Maher, Sarah Cullen, Rachel Fallon, Áine Phillips, and Breda Maycock.

7. The Irish state, for example, declined to publish the full 1931 Carrigan Report that it had commissioned and that had revealed an "alarming amount of sexual crime" in Ireland (see Smith 3–7). Furthermore, state censorship can also be understood to include the physical incarceration and extreme punishment of women and children in Magdalen laundries, industrial schools, and psychiatric institutions.

experiences transcends polemical debating language. Art can show the humanity and help people find the nuance in their own opinions” (qtd. in Saner). In a 2018 paper prepared for the Irish Council of Civil Liberties (ICCL) during the repeal referendum, O’Rourke concluded that “a view is clearly forming among state bodies and the arts sector in response that, during the referendum period, artistic expression that was previously recognised as art and deemed worthy of funding or charitable status is now ‘too political’ to be allowed” (2). Arguably, however, what made these works “too political” was not their advocacy for repeal but rather how feminist artistic practice over the course of the campaign utilized the regulated female body to expose the structural and gendered nature of the legal agenda of the body politic.

### THREE UNRULY PERFORMANCES

Browne argues that the “law is not a straightforward force. It is present as a set of representations and practices across different temporalities and jurisdictions that requires diverse tactics of response” (“Law Is a White Dog” 36). Focusing on three feminist artistic performance pieces—Browne and Jones’s *The Touching Contract* (2016), Speaking of IMELDA’s *Pro-Choice Proclamation* (2015), and Jones’s *Tremble Tremble* (2017)—this essay considers how these performances not only interrogate women’s bodies under the law but also challenge the very terms of the discourses defining them. Elin Diamond writes about how performance might be understood as an “unruly body or [a] material other, . . . a site where the performer’s and the spectator’s desire may resignify elements of a constrictive social script” (ii, iii). For Diamond the space of performance allows for the oldest questions of theatrical representation to be understood alongside key questions explored by feminist theory: “Who is speaking and who is listening? Whose bodies is in view and whose is not? What is being represented, how, and with what effects? Who or what is in control?” (ii). In situating the female body “under the law,” these performances create a space allowing alternative forms of knowledge and resistance against the law.

Browne and Jones’s performance piece *The Touching Contract* exposes a consciousness not just of women’s bodies “under the law,”

but of the lived experience of that regulated body.<sup>8</sup> The work offers participants the chance to encounter the material and psychological effects of the “touch of the law” by making the intimacy of physical touch tangible. The piece is part of the artists’ larger project *In the Shadow of the State*, which Enright and Kinsella see as envisioning the female body “as a repository of thwarted legal histories and desires” (4).<sup>9</sup> Performed in the Pillar Room at the Rotunda Hospital in Dublin, Britain and Ireland’s first lying-in hospital,<sup>10</sup> *The Touching Contract* was deliberately scheduled to coincide with the fourth annual March for Choice organized by the Abortion Rights Campaign. The theme of that 2016 event was “Rise and Repeal,” which explicitly invoked the symbolism of the 1916 Rising, a foundational moment in the emergence of the Irish state. As Mary McAuliffe observes, that celebrated historical event encouraged a masculine “patriotic cult” for the emerging Irish nation (23). Many of the attendees at the performance came directly from the March for Choice, an event that explicitly challenged this conceptualization of the Irish state and its self-appointed role in the regulation of the female body and its reproductive capacities. Situating *The Touching Contract* in the space of the Rotunda and in the aftermath of the March for Choice was significant because it guided participants’ “attention towards Irish law’s revolutionary promises, and away from them, to its actual bodily consequences” (Enright and Kinsella 3–4).

The first act of *The Touching Contract* asked audience members to sign a “declaration of consent,” for which participants walked down a series of narrow winding steps and entered a type of official waiting room where they met with stern and official-looking women. Little information was forthcoming and participants were instructed to read and sign the declaration-of-consent form in order to be touched—

8. Images from the performance are available at Browne (“Touching Contract”). The project was developed in collaboration with activist and legal academic Máiréad Enright, midwife and litigant Philomena Canning, composer Alma Kelliher, material-culture historian Lisa Godson, photographer Miriam O’Connor, and the curator Sara Greavu. The project was funded by ART: 2016, the Arts Council’s program for the centenary of the Easter Rising in 2016.

9. *The Touching Contract* (Dublin) was one of four location-specific events that examined the “touch” of the law. The other events were *The Touching Contract* (London), *The Truncheon and the Speculum* (Liverpool), and *Of Milk and Marble* (Derry).

10. In view of its symbolic value, in March 2018 this venue would be selected for the launch of the Together for Yes Campaign to remove the Eighth Amendment.

a condition of entry into the performance. The document required basic information from participants, including whether or not they were pregnant. It was then cosigned by the artists as a “confirmation of consent” and returned in a sealed envelope. Activist and legal academic Máiréad Enright, who worked with Browne and Jones to develop the project, describes the document as “part contract, part consent form,” which informs how a participant chooses to engage with the performance (Enright and Kinsella 5). Each participant has the option to “refuse consent” and instead act as a witness to the performance, permitted to hear but not to see it. The declaration of consent begins by informing them that they “will be Touched by one or more female Performers, nominated by the Artists. That Touch will be improvised, direct, and non-forceful. Performers will exercise their Discretion in deciding how to Touch you.”<sup>11</sup>

The document does more than inform participants that they will be physically touched: it also warns them that certain risks are inherent in that “touch,” including impotence, sensations of embarrassment and awkwardness, and feelings of bewilderment or boredom. But they were also told of “uncommon but more serious risks”: the onset of spontaneous civil disobedience, the risk of radicalization, and a hypersensitivity to the future touch of the state. In the second act of *The Touching Contract*, about a hundred participants were ushered into the Rotunda’s Pillar Room where six performers dressed in uniform-like blue tracksuits awaited them.<sup>12</sup> Through the experiences of touch, participants were encouraged to explore a gendered relationship with the state and to discover what living “under the law” entailed. According to Kate Antosik-Parsons, *The Touching Contract* can be understood as contributing corporeal forms of knowledge that critique the authority wielded by the body politic over female reproductive bodies (159). These experiences suggest dissenting and defiant relationships between the law and the female body.<sup>13</sup>

11. Text excerpts taken from author’s own declaration of consent provided by the artists at the performance in the Pillar Room of the Rotunda Maternity Hospital, Dublin, 25 September 2016. The document was composed by the artists Browne and Jones in collaboration with Enright.

12. For a more detailed analysis of the performance of *The Touching Contract*, see Enright and Kinsella 3–7.

13. See Browne’s interview with Anthea McTiernan.

Unlike *The Touching Contract*, which resisted the label of an activist project, the work of the performance-based collective project Speaking of IMELDA exists as a deliberately provocative form of political theater that exposes the gendered nature of state power. Shaped by the growing momentum of repeal activism, it offers a popular and provocative use of the body in performance to interrogate the Irish state's intimate relationship with reproduction. Established in 2013 as the repeal campaign was emerging as a distinctive political force in Ireland, the collective involves direct-action and feminist protest primarily by Irish women living in London. IMELDA is an acronym for "Ireland Making England the Legal Destination for Abortion," but it was also the code word for abortion employed by the Irish Women's Abortion Support Group (IWASG). The term was used in the 1980s, when access to abortion information was heavily censored, to protect women who might be calling on a public or family telephone to make arrangements to travel (Rossiter; Walsh 145).

According to the collective, "performances purposefully play with the insidious and hypocritical culture of silence and shame that exists around abortion in Ireland and deliberately reference earlier forms of abortion-support activism for Irish women traveling to Britain, forcing their audiences to acknowledge uncomfortable truths that officialdom refuses to acknowledge" (Speaking of IMELDA, "Radical Feminist"). The IMELDAs dress in red for their performances, just as members of the IWASG wore red skirts, as a mark of recognition when meeting Irish women who traveled to England for abortions at airports or train stations. As part of the broader repeal campaign, the IMELDAs staged several provocative actions in Britain and Ireland, including wearing red and wheeling suitcases through crowds at the 2014 St. Patrick's Day parade in London while asking for directions to abortion clinics. In the performance *Knickers for Choice* they polished the brass and granite of the Irish embassy building with their underwear and requested their supporters to tweet photos of knickers with pro-choice slogans in public places.

Yet another provocative performance occurred at Dublin's GPO on Easter Monday during the 2015 Road to the Rising event on O'Connell Street, a historical reenactment of life in Dublin a century earlier. Initiated by the national broadcaster RTÉ in advance of the centenary of the 1916 Rising, it was part of the Decade of Centenaries

commemorative program.<sup>14</sup> The Proclamation of 1916 has long been understood as a foundational moment of the Irish state—a document explicitly addressed to both male and female citizens that proclaims a vision of egalitarianism. These aspirations would soon become one of the first casualties of the Irish Free State when, as Maryann Valiulis observes, women’s rights were so curtailed that they were denied any public or political identities (43). In physically chaining their bodies to the GPO, the IMELDAs saw themselves as echoing the male signatories of the 1916 Proclamation who placed their bodies against the power of the British Empire at the same site. Reading their feminist “Pro-Choice Proclamation,” they reference the political possibilities of the 1916 Proclamation while gesturing toward a new imagined future beyond the law:

Just like those who stood on these steps  
Ninety-nine years ago,  
We declare the right of all people in Ireland to ownership of their  
own bodies,  
And to control their own destinies.  
We applaud and stand in solidarity with  
The vibrant pro-choice movement all around the country.  
Ireland is Rising!  
To tell the politicians  
The time to repeal the eighth amendment is now!<sup>15</sup>

The IMELDAs’ simultaneous engagement with both past and present crises refuses standard nationalist representations of Ireland’s past that engender complacency about the country’s history. By placing their bodies against the law, the IMELDAs enact how the current regulation of women’s bodies is closely aligned with the project of national-identity formation—when women’s bodies were “territorially controlled as if they are national property” (Speaking of IMELDA, “Imelda Chains Herself”).

14. The IMELDAs contacted abortion activists in Dublin in advance of their April 2015 event, requesting support for the performance. Irish activists surrounded the IMELDAs and joined in their recitation of the alternative proclamation as a gesture of comradeship and solidarity. To view the performance, see Speaking of IMELDA (“Imelda Chains Herself”).

15. Copies of the “Pro-Choice Proclamation” were photocopied and distributed by the IMELDAs and their Irish supporters outside the GPO on 6 April 2015.

In *Tremble Tremble*, chosen as Ireland's entry in the 57th International Art Exhibition of La Biennale di Venezia 2017, Jones develops the exploration of the female body under the law that she had begun in her earlier collaboration with Browne in *In the Shadow of the State* (2016). She now enters an imagined space of possibility beyond the law, a space that Jones terms "the law of In Utera Gigantae," an alternative legal order. *Tremble Tremble* encompasses film, sculpture, sound, and performance in a darkened space dominated by a giant/witch performed on screen by the actor Olwen Fouéré.<sup>16</sup> The performance has had several incarnations since its appearance in Venice, reconceived each time for the particular site in which it is exhibited.<sup>17</sup> Upon entering the space of its Dublin iteration, the visitor immediately focuses on a sculpture of a huge polished bone that is spotlighted and accompanied by a soundscape created by Susan Stenger. The effect of two large screens and floor-to-ceiling transparent curtains bearing the image of outstretched arms and legs draws spectators together in a gentle-seeming embrace where the law will be proclaimed (Enright 62). The installation includes various voices, references to historical artifacts and legal documents, and a fantastical story of "legal" origin.

*Tremble Tremble* foregrounds women's bodies as the primary source of their exploitation, but also as the site of their resistance to the modern state—and by extension to a modern capitalist economy. It invites the viewer into a space where the creation of a new law to supersede man-made laws, "the law of In Utera Gigantae," is possible through a "search for a possible other, a plausible ancient truth" (Giblin, "Curator's Intro" 7) independent of the state and its institutions. Viewers are invited to experience and immerse themselves in

16. The title *Tremble Tremble* was inspired by the 1970s Italian "Wages for Housework" campaign, during which women chanted "Tremate, tremate / tremble, tremble, the witches have returned!"

17. To date, these are the Arsenale in Venice (2017); a huge white cube, the Institute of Contemporary Arts, Singapore (2017–18); a black-box theatre, Project Arts Centre Dublin (2018); and the nineteenth-century former natural-history museum space at the Talbot Rice Gallery, Edinburgh (2018–19), with new elements added or changed each time: "Every time the work is shown, the sequence and scenography is specifically calibrated according to the architectural space and the specific micro-climate of how we might see or understand the history of patriarchy in relation to the female body in that context" (Jones, qtd. Rou).

the history of women's collective unconscious through encounters with Jones's mythological giant (developed from Celtic origin stories) and with the 3.5 million-year-old skeletal specimen, Lucy Australopithecus (a hominid species who predates *Homo erectus*, *Homo sapiens*, and the Neanderthal)—the oldest-known specimen in the world. Jones based the giant white bones in *Tremble Tremble* on the bones of Australopithecus, and it is her story that Fouéré recounts as the camera traverses her body as though it is a sleeping-giant landscape (Giblin, "Curator's Intro" 5). A powerful moment in the piece occurs when from the twenty-meter-high screen the looming figure of the giant/witch peers down at the spectator and declares: "Before the Book of the Law was written in earthly tongues, there existed another law, passed down through generations from mother to daughter. Its letters were written in milk and spoken in whispers." Through this recentering, the maternal body can now convey an alternative understanding of the law—a law that is decidedly female and located in the body. The source of such authority, Enright argues, is "not from the state but from a woman alien to the state and persecuted by it" ("Four Pieces" 116). Furthermore, Kinsella suggests that Jones is excavating emancipatory possibilities that lie buried in the past, "inviting the viewer-as-participator to inhabit the present as a space and place from which a politics in the future can be imagined and invented" ("O Children" 71).

Each of the performances considered in this essay opened spaces in which alternate imaginaries of the law circulate and support new possibilities for transformation. In different ways these artists have sought to challenge the terms of state and legal discourses that used the body to define and confine women. One might best regard these performances as pointing not toward a politics of representation but rather toward what Judith Butler terms the "political possibility that emerges when the limits to representation and representability are exposed" (2).

#### BODIES AGAINST THE LAW

In the feminist reimagining of Kafka's parable we see how the female body occupies a space not simply "before the law" but "under the law." The existence of the Eighth Amendment and the struggle for

repeal made explicit the contours of the relationship between the female body and the law—a relationship articulated in textual language but embodied in the experience of women living in Ireland. The movement for repeal successfully emboldened women to turn themselves into powerful bodies “against the law,” and a new feminist artistic practice has emerged as a central means of conveying such resistance. Speaking at the 2018 opening of *Tremble Tremble* in Dublin, Smyth described the strategies of the performances explored in this article: “It is about understanding that you first have to disturb, you first have to disrupt, there first has to be an upheaval. . . . Where flesh becomes stone and stone becomes flesh, . . . you knew, in witch-like fashion, exactly what we needed to do and to hear and to see and to fear.” (Smyth, qtd. in Giblin, “Curator’s Intro”). As the radical political potential of the repeal movement became more contained and disciplined, and as the struggle was absorbed into the structures of the body politic through the referendum campaign, it was the space created by feminist artistic practice that offered an imagined future for a body “beyond the law.” But as women living in Ireland continue to struggle with the legal reality of a postrepeal state where their bodies remain “under the law,” this potential and imagined future beyond the law has never been more important.

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