

**Speech by Chairperson, Ms. Justice Mary Laffoy,  
at the first meeting of the Citizens' Assembly  
on the Eighth Amendment of the Constitution**

**The Grand Hotel, Malahide, Saturday 26 November, 2016**

**Introduction**

Móra daoibh, a chairde, agus fáilte romhaibh ar maidin chuig an gcéad chruinniú den Tionól Saoránach. Is mian liom fáilte ar leith a chur roimh an 99 ball atá tar éis taisteal as an uile chearn den tír le bheith anseo inniu. Tráth crúógach den bhliain é seo agus an Nollaig beagnach buailte linn, mar sin, táim an-bhuíoch gur thogair sibh freastal ar an seisiún seo, mar a mbeifear ag cur tús le plé an-tábhachtach. Tá sibh anseo as an uile chearn den tír agus sibh ag cur bhur gcuid ama ar leataobh go deonach chun fónamh don stát. Tá súil agam go mbainfidh sibh sásamh éigin as an dualgas sibhialta seo a chur i gcrích.

Good morning everyone and welcome to the first meeting of the Citizens' Assembly. A particular welcome to my fellow 99 members who have travelled from all corners of the country to be here today. At what is fast becoming the busiest time of year as we approach the festive season, I am very grateful that you have chosen to attend what is the beginning of a very important exercise. You have come from all across the country to be here, giving your time freely in the service of the state and I hope you will take some fulfilment in this expression of civic duty.

I also wish to extend a special welcome to those who are tuning in online. All of the Assembly's public proceedings will be live streamed on our website [www.citizensassembly.ie](http://www.citizensassembly.ie). Proceedings are being streamed on three separate channels, in English, as gaeilge and with Irish sign language.

I would like to take the opportunity to thank the management and staff of our venue, the Grand Hotel in Malahide, which will be our base for the duration of the Assembly's lifespan. I know that Matt Ryan and his team have done a great job in preparing the facilities to meet our needs. We have all been made to feel very welcome here and I'm sure the members will echo my sentiments.

We are all here this morning because the Houses of the Oireachtas passed a Resolution approving establishment of the Assembly to consider five discrete topics;

- the Eighth Amendment of the Constitution;
- how we best respond to the challenges and opportunities of an aging population;
- fixed term parliaments;
- the manner in which referenda are held;
- and how the State can make Ireland a leader in tackling climate change.

Under the Resolution, the Assembly will first consider, make recommendations and report to the Houses of the Oireachtas on the Eighth Amendment of the Constitution. The Assembly will then consider,

make recommendations and report on each remaining matter as soon as it has completed its deliberations.

We have one year to complete this task.

### **Eighth Amendment of the Constitution**

Today we will begin considering arguably our most difficult topic, the Eighth Amendment of the Constitution.

In 1983, the Eighth Amendment introduced Article 40.3.3° into the Constitution which acknowledged the right to life of the unborn, with due regard to the equal right to life of the mother.

One of the most fundamental aspects of the amendment is that it was introduced by the people at referendum – the only way in which our Constitution, Bunreacht na Éireann, can be changed.

The Constitution is the foundation of our legal system. Under the Constitution, the people are sovereign. The people are the ultimate decision makers in terms of what provisions are inserted in or removed from our Constitution and what changes are made to it.

It is important that the Eighth Amendment is examined within the wider constitutional framework in which it is situated. In this regard, the separation of powers between the Executive, the Legislature and the Judiciary must inform our discussions and ultimately our recommendations.

### **Approaching our work: this weekend**

The Eighth Amendment has been the source of much controversy since its enactment. It is a complex and contentious issue which requires a reasoned, sensible and compassionate approach.

There are many, many aspects to this topic which will require our attention over the coming months.

In structuring the programme for this weekend, however, I felt it was very important that our considerations are grounded in the current state of the law on the Eight Amendment and the factual situation which exists on the ground in Ireland today concerning termination of pregnancy.

At this point, we will not be hearing any comments or observations on, or criticisms of, the current regime. Perceived advantages and disadvantages of the law as it stands, and of any potential changes to it, will be presented in subsequent weekends we consider this topic.

This morning, we will hear from Professor Eoin Carolan about “Article 40.3.3° and the law on abortion: a history”. Professor Carolan will explain how the law has evolved from before 1983 up to and including the Protection of Life During Pregnancy Act 2013.

This afternoon we will have two sessions on current practice in Ireland.

First, we will hear how the legal position is reflected in the medical sphere on a day-to-day basis, including how the Protection of Life During Pregnancy Act 2013 operates in practice. Professor John Higgins from Cork University Maternity Hospital and Professor Anthony McCarthy from the National Maternity Hospital, Holles Street, Dublin, will provide us with these insights from the medical profession’s perspective.

Secondly, Janice Donlon from the HSE Sexual Health Crisis Pregnancy Programme will provide us with more information as to what happens on the ground. The existing constitutional rights to information and travel will be looked at. She will also give some statistics around the numbers and demographics of women seeking terminations. Finally, Dr Brendan O'Shea from the Irish College of General Practitioners will give us insights into the experiences of members of the Irish College of General Practitioners supporting women with crisis pregnancy in Ireland, in the context of the Eighth Amendment.

To complement our consideration of the current legal position and how it applies in practice, I also felt it was appropriate that we consider why ethics is important in the discussion of this topic.

Tomorrow morning we will be given an introduction to ethics by Dr Mark Sheehan from Oxford University. The information to be provided by Mark will allow the Assembly members to develop a way of thinking about complex issues which have distinct moral implications.

I would like to take the opportunity to thank each of our speakers who has agreed to present this weekend and share his or her knowledge and expertise. Some have travelled long distances to be with us this weekend and I am most grateful to them. I would also like to thank the Expert Advisory Group established pursuant to the resolution of both Houses of the Oireachtas to assist the work of the Assembly in terms of preparing information and advice for the invaluable help given by them to me and to the secretariat over the past two months.

### **Deliberative Democracy**

All the presentations we hear will be supplemented with private roundtable discussions which will provide the opportunity to reflect and discuss what we have heard. Deliberation is a cornerstone of this exercise and we endeavour to ensure adequate time for this to occur across this weekend. Each roundtable discussion will be followed by a Question and Answer session. You, the members, will be assisted during the roundtable discussions and the Question and Answer sessions by facilitators, who will be accompanied by note-takers. I would like to welcome them to this first meeting of the Assembly.

We are also joined by Professor David Farrell today who is going to be supervising a research element to the proceedings over the coming year, in terms of how deliberate the process is.

Finally, tomorrow you will deliberate on what issues you wish to discuss as part of their consideration of the Eighth Amendment and this will form the basis of our work programme for the coming meetings.

I have already given this considerable thought and have reflected on it with the assistance of the Expert Advisory Group and the Secretariat. It is however important that the members themselves can input into the work programme. That engagement will be ongoing; we will need to continue to engage with you to make sure that you are being presented with all of the information you need to make an informed recommendation to the Oireachtas.

### **Submissions**

I would like to take the opportunity at this point to refer to our submissions process.

We are actively seeking submissions from representative groups, citizen organisations, other interest bodies and members of the public on the topic, the Eight Amendment of the Constitution. There has been a high level of interest in the submissions process and to date the Assembly secretariat has received almost 600 submissions from groups and individuals at home and abroad.

Submissions can be made online on the Assembly's website [www.citizensassembly.ie](http://www.citizensassembly.ie) and by post to the secretariat's offices.

The submissions are integral to the work of the Assembly and I would encourage people to have their voices heard, in particular our Diaspora and young people under 18 years of age, who are not directly represented in the Assembly membership.

The submissions will form the basis of the selection of advocacy and other organisations that will make presentations in future weekend sessions, in accordance with our rules and procedures.

### **Supporting Documentation**

All of the papers presented this weekend will be posted on the Assembly's website. While I am conscious of the risk of overburdening the members with too much detail this weekend, the Expert Advisory Group has prepared three documents for reference purposes, which I believe may be of some assistance to the members.

The first (Appendix A) is an outline of the provisions of the Constitution under the heading "Fundamental Rights" within which the Eight Amendment was enacted and the amendments to it since 1983. The objective is to highlight the importance of all of the provisions of the Constitution on Fundamental Rights.

The second (Appendix B) is a chronology of what has happened since 1983 to bring the law to its current state. It outlines the various matters which have occurred since 1983, for example, decisions of the courts, referenda, reports of Committees and Expert Groups, and the enactment of legislation.

The third is a paper prepared by the Expert Advisory Group entitled ‘Current law on Article 40.3.3 of the Constitution’.

All three are intended to supplement Eoin Carolan’s presentation we are about to receive in order to reinforce our understanding of what is a complex area of law.

### **Conclusion**

In conclusion is evident that this weekend there is much to do, to hear, to learn, to consider and I am heartened by the energy and collegial spirit evident in the room this morning. We will now begin proceedings and it is my pleasure to introduce Professor Eoin Carolan for the Assembly’s first presentation on “Article 40.3.3° and the law on abortion: a history”.