

## THE SUNDAY TIMES

ESTABLISHED 1822

## Agonising over abortion is over — now the choice is clear

When the Irish public voted to legalise same-sex marriage three years ago, the sense of righting a wrong was palpable. As the flags carried by the victors on the day correctly suggested, it was a rainbow moment. This life-affirming event was a landmark in Ireland's social evolution. The outcome of this week's referendum on repealing article 40.3.3, the eighth amendment to the constitution, will be less of a cause for celebration, regardless of the result. A vote to repeal, allowing for the introduction of abortion on demand, will not culminate in the scenes of celebration witnessed at Dublin Castle. A vote for the status quo, maintaining the 1983 amendment that recognised the equal right to life of the mother and the unborn, will anger those who have argued passionately that women are entitled to decide on their bodily autonomy and that the constitution should have no say in the matter.

In the referendum, voters are being asked if they want to remove from the constitution the protection afforded the unborn under article 40.3.3 and to allow the Oireachtas to legislate for abortion. In a judgment published in March, the Supreme Court ruled that "the only right of the unborn child as the constitution now stands which attracts the entitlement to protection and vindication is that enshrined in article 40.3.3, namely the right to life, in other words, the right to be born". That might seem definitive but the best legal minds are divided as to whether this means that removing the amendment will remove all constitutional protection for the unborn in all circumstances.

If the referendum to repeal article 40.3.3 of the constitution is passed, the international press will declare that Ireland has voted for abortion. While that is true, it is not the whole story. Irish women have been getting abortions for decades, thousands of them every year. The vast majority have travelled to England, many of them alone, to end their pregnancies. Others have secured abortion pills online and taken them at home without medical supervision. Abortion may not be visible but it is a grim reality. By offering women in Ireland the same facilities as they can

get abroad but with the addition of medical assistance at home, legalising abortion on demand can be seen as bringing an end to the hypocrisy that has allowed the authorities to turn a blind eye to crisis pregnancies.

The repeal referendum is the most divisive to be put before the people since article 40.3.3 was inserted into the constitution in 1983. That was passed by a 2:1 majority. The social environment has changed beyond recognition in the 35 years since, but arguments are as vociferous as ever. Both sides of this debate have been advanced in this newspaper, principally by Justine McCarthy and David Quinn. Those in the middle ground who find themselves sympathetic to the plight of women but uneasy at the prospect of removing constitutional protection for the unborn must envy their certainty. The middle-ground voters, represented by the "don't knows" and standing at 19% in today's Sunday Times/B&A poll of voting intentions, may yet play a vital role in the final outcome but that looks increasingly unlikely. All the indications are that the amendment will be repealed — and that will signal the start of new hostilities.

In the absence of 40.3.3, the Protection of Life During Pregnancy Act 2013 will prevail. That will remain the case until the Oireachtas passes legislation. It is unlikely that unrestricted abortion in the first 12 weeks of pregnancy, as planned under proposed legislation, will pass smoothly. Fianna Fail, in particular, will not add many votes to the proposal given the number of its deputies and senators opposed to repeal. Throw in a possible general election, and passing the legislation is complicated further. But that is for another day. All that is required now is to put the repeal issue to bed.

The choice is clear. If you believe abortion should not take place anywhere under any circumstances, and fear there is nothing to prevent future legislators moving beyond the 12-week limit for abortion on demand, vote no. If you believe abortion is already part of Irish life, we have failed as a nation to live up to our responsibility in this regard and that it is safer and more honest to manage crisis pregnancies at home rather than export our problems, vote yes.

## Now Europe will have to pull off the Italian job

Italian governments come and go but the latest manifestation of Rome's famously unstable political system has significant implications for the rest of Europe. After elections that were held as long ago as March 4, a populist coalition is attempting to form a government, an unholy alliance of the far-right League party and the anti-establishment Five Star Movement.

The coalition's programme includes mass deportations of about 500,000 illegal immigrants, a universal basic income and a reaching out to Vladimir Putin's Russia. Unfunded tax cuts and spending would require eurozone rules limiting budget deficits to be scrapped and there was initially a call for the Italian debt held by the European Central Bank to be written off.

It reads not so much a manifesto for government as a cry for help, supported by voters who have lost hope. Italy is failing and many of its problems go back to its fateful decision to join the euro at the currency's inception in 1999. It did not require a strict interpretation of the rules of membership to conclude that Italy should not have been allowed into the single currency; its government debt was roughly twice the so-called Maastricht ceiling of 60% of GDP.

At the time, however, it was unthinkable to exclude a founder member from

the European Union's most ambitious project. Politics intervened. Italy got a short-term benefit of funding its debt cheaply — but at a cost. Today the country's per capita GDP is lower than in 1999. The days of an industrial powerhouse — with Germany, Italy once accounted for half of continental Europe's industrial production — are now a distant memory.

While Germany prospered, Italy got poorer. Its leading position as a producer of white goods — washing machines, fridges and the like — has gone. Fiat no longer dominates the European car market. Italy has an unemployment rate of 11% and youth unemployment of nearly 32%.

None of this was sustainable. If there was a surprise after the financial crisis it was that Greece, not Italy, almost brought down the eurozone. Now Italy poses a risk to the euro — hence the currency's fall in recent days — and to the EU. Its populist coalition challenges the very basis of the EU since the Maastricht treaty and that it is acceptable for some members to struggle while others lead the life of Riley.

In the nearly two years since Britain voted to leave the EU, the other 27 members have left it to the Brussels bureaucracy to cope with Brexit. Catalan separatism, populism in the east and Italy's plight are a few reminders that the EU has plenty of problems of its own.

## An end to pain-in-the-neck claims

Meet Whiplash Willie was a 1960s comedy starring Walter Matthau as a conniving lawyer aiding and abetting a false insurance claim. Now the British have decided they've met enough Whiplash Willies.

Concerned at the level of awards for "whiplash", and other controversial "soft tissue" injuries, the UK insurance industry has welcomed the new Civil Liability Act, which will cap whiplash compensation from next October.

Despite the increasing safety of roads and cars, whiplash claims have doubled in Britain in the past 10 years, to a level that

finally forced the government to act. The average award for whiplash in Britain, the outrageous sum which compelled a legislative response, is £1,850, or about £2000.

In Ireland, the average is €15,000, but sums of €40,000 and higher are not unusual awards for an injury which some experts deny exists at all.

Under the new UK law, "whiplash" awards will range from £225 to £3,275, and will have to be verified by medics from an accredited panel. So how much longer will we continue to meet our own Whiplash Willies with blank cheques?

Justine McCarthy  
I'll vote yes to make this a fairer country

## Informed opinion leaves no option but to back repeal of eighth amendment

The pain of childbirth is the most excruciating pain you will ever have in your lives, my mother used to tell us, her daughters. Coming from someone who likened the exquisite ecstasy of her first kiss with our father to that rare delight of "being hit by a combine harvester", this was rather alarming. She was a woman who believed it best to be prepared for eventualities, arming herself with what, in today's parlance, would be called informed opinions. She was a woman overflowing with love, too, which is probably why she suffered the agony of childbirth four times.

The first time I got pregnant, I bought a card depicting a baby and wrote inside: "Hello daddy. Looking forward to seeing you in nine months." My husband discovered it propped against his dinner plate that night. He looked at me speechless with happiness. I looked back, braced for the body-ripping pain.

It did not come. Into week 12 of the pregnancy, there was blood. On my walk to work, I took a detour to the National Maternity Hospital in Holles Street. "So terribly sorry," I was told, gently. "It's over." I was taken to theatre for a D&C (dilation and curettage) to clear out my womb. That night, a doctor drew a curtain around my bed and talked to my husband and me so kindly that I cried for the first time since walking into the hospital that morning.

I cried for weeks afterwards, on and off. I cried at home in the dark. I cried at work in front of embarrassed colleagues. I cried, not because I had lost a child — because I knew, deep in my marrow, that I had not. I was crying for our shattered dream; for the family that, for a while, we were going to be.

Then I stopped crying. Life resumed and I got pregnant again. This time the pregnancy lasted eight weeks. No surgical procedure was necessary. The kind doctor told us miscarriage was normal; that about one in four pregnancies end that way.

Recently, an irate male reader wrote to me asking "by what divine inspiration did you choose yourself" to adjudicate on the facts of abortion when there are many others with opinions "much more informed than yours". While he was at it, he demanded to know why did I "continue to quote" Peter Boylan, the chairman of the Institute of Obstetricians and Gynaecologists, who has been campaigning for the repeal of article 40.3.3?

I did not tell that reader why, but I will now. I quote Boylan because I trust him. I trusted him when he pulled that curtain around my

bed and talked so softly to my husband and me after the first miscarriage. I trusted him throughout my third-time-lucky pregnancy and when, after our child was born, he seemed nearly as happy as we were. And I trusted him when, clearly devastated, he testified on Christmas Eve 2014 in the NP case, about a pregnant young mother being grotesquely kept breathing by machines after being declared clinically dead, in a vain attempt to save her 15-week foetus.

Boylan is one of 1,323 doctors who had signed up by Friday morning to the pro-repeal cause. As a former master of Holles Street, his word carries great authority. He has been targeted for being a prophet in his own land. The low point came during Monday night's RTE television debate when John Monaghan, a fellow retired obstetrician, called what was done to NP "noble" and suggested Boylan "go back to school" to learn about the foetus.

Mostly, the current debate has been less vicious than the 1983 one, but the magnified bloodlust images paraded outside the National Maternity Hospital. What has not gone away is the undercurrent that women who argue for abortion provision are fundamentally bad mothers. The heavily Sellotaped, anonymous pronouncements that "your punishment awaits in hell" still arrive.

Some years ago, I received a letter, signed by a woman and bearing a printed residential address in Dublin. She said she had heard me discuss abortion on a radio programme and that I was "a hypocrite". Her letters kept coming, a whole series of them culminating in one saying she had reported me to gardai for having had an abortion in a named Irish hospital, having gotten pregnant by my supposed lover, a named — and happily

married — businessman. I reported it to gardai. Two nice officers visited the woman, adjudging her to be "not mentally ill". She made them tea and said she could not remember how she had heard about me, the businessman and the abortion. They told her what she had written was untrue and that it had upset me. They asked her not to write to me again. She promised. The letters stopped coming.

That's the thing about being female, you see. Your anatomy is public property. Your womb is the country's moral bear pit. Your body is not your own. You, who spend nearly 40 years dealing with periods and missed periods, could not possibly be as "informed" as others, including the sort of men who avoid eye contact with tampons in a supermarket aisle.

Right now, servants of the state are trying to justify having withheld information from women about their own bodies in the cervical cancer controversy. Their predicament was precipitated by the heroism of Vicky Phelan, who has shared the most intimate details of her life in pursuit of justice. In its laws and in its practices, our state treats women as imbeciles. It treats raped, pregnant children as incubators. Yet it treats barely there embryos as fully fledged persons. These embryos enjoy the protection of the same constitution that enshrines the relic of a woman's place in the home.

When I was young, a pregnant woman was said to be expecting a baby; not carrying an unborn baby. A first-time expectant girl or woman was pregnant. Now she is "a mother", conjuring up a sweet-scented meringue of joy. It allows no acknowledgment of "the anxiety of reproduction, the oddness of it, and how it feels like dying, pulled inside out", as Anne Enright described it in *Making Babies*: Stumbling into Motherhood, the most beautiful ode to anything that I have ever read.

Next Friday, when I go to vote, I will stand beside Vicky Phelan, Savita Halappanavar, Ms X, Ms Y, Ms D, Brigid McCole, the "fallen women" of the Magdalene laundries, the women who underwent symphysiotomy without their consent, and men who sacrifice their own cosy world for the greater good, men like Peter Boylan.

Most people who will vote yes are not in favour of abortion per se. Many will do so reluctantly, because an informed opinion leaves no option. I will stand beside these people to make the future a fairer country for all the children yet to be born, including, I hope, the future children of my own miracle baby.

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**In its laws and in its practices, our state treats women as imbeciles**

Conor Brady  
Ireland looks other way while Israel does as it will

## The shocking scenes in Gaza provoked words of condemnation but little else

For a people who so excel in science, literature, music, philosophy and the many other spheres in which the human genius can soar, the apparent inability of Israelis to learn from history is a paradox and a tragedy.

It is impossible not to admire the resilience, courage and endurance of this race. Persecuted down the centuries, most terribly in the Holocaust of the Second World War, its surviving members and their descendants constructed a place of safety for themselves in their historic homeland.

They have armed and readied themselves to secure it, vowing never again to be left defenceless or dependent upon others to come to their aid.

No fair-minded person could say this is wrong, any more than it was wrong for the Irish, repressed, scattered by famine and war, and humiliated by English rule, to want to create their own state. But where many people sympathetic to Israel qualify their support is in its use of tactics against Palestinians.

Irish people admire Israel in many ways. However, anti-Israeli sentiment grows when its security forces use disproportionate violence against the very much weaker Palestinian population.

Every Jewish schoolchild knows the story of how the Roman emperor Caligula drove the people of Jerusalem to insurrectionary fury by decreeing that his statue should be erected and venerated in the Holy Temple, the most sacred place in their religion. Caligula died before his order could be executed, and the bloody revolt that would have resulted did not follow immediately.

Yet many historians trace the origins of the catastrophic uprising that occurred 30 years later, leading to the destruction of the temple and the violent dispersal of the Jewish people — the diaspora — to that needless provocation.

What Israel, supported by a bull-headed Washington administration, has done, in

transferring the US embassy from Tel Aviv to Jerusalem, mirrors Caligula's policy in AD40. It is a calculated provocation and humiliation to Muslims for whom Jerusalem is the sacred city where Muhammad ascended into Heaven. It has long been shared, albeit uneasily, but with an underlying tolerance, between Christians, Jews and Muslims. Israel's purpose in having it recognised as their diplomatic capital is to show the Palestinians who is in charge. Just as it was Caligula's intention, in having his statue erected in the temple, to ensure that the Jews could not fail to understand that they were a subject people.

This is grist to the mills of Hamas, which has orchestrated the rioting along the border between Gaza and Israel to coincide with the opening of the Jerusalem embassy.

And the Israeli security forces, with the political wind at their back and with US president Donald Trump's daughter and son-in-law taking pride of place at the opening ceremony, have turned a riot into a massacre, using gunshot rather than non-lethal weaponry. Sixty people have died. They included not only members of Hamas but also children and first-responder.

Reports of terse exchanges at cabinet during

the week between ministers Simon Coveney and Finian McGrath illustrate the near total impotence of outsiders to influence these events. The headline, coalition government of Benjamin Netanyahu can ignore world opinion while it has the sort of backing from the United States that is reflected in the bizarre assertion by America's ambassador to the United Nations, Nikki Haley, that no other country would "act with more restraint than Israel has".

There is almost unlimited support in armaments and finance for Israel's military machine from the US. Thus "calling in" the Israeli ambassador to Ireland or even expelling him would be a mere irritant. Yet there is a strong public sense that it is wrong for a country that has had its own historical experience of repression to stand idly by.

Some Dail members have already called for economic sanctions against Israel. Even more so than Ireland, the Mediterranean nation's vibrant economy depends on trade. And trends on social media suggest that more people here now are questioning the propriety of dealing on normal trading terms with Israel.

Last year Senator Frances Black introduced a bill to support the Boycott, Divestment and Sanctions (BDS) movement, which was established in 2005 to put economic pressure on Israel. But it failed to pass in the Seanad. And governments across the western world have shied away from BDS, some describing it as anti-semitic.

Western governments, such as our own, will argue that Israel adheres to generally democratic values and freedoms in a region characterised by despotism and gun-rule. And business is business. EU-Israeli trade was worth €34bn in 2016. We should not hold our breath, waiting for some dramatic intervention by our own government or by the EU.

Israel will continue to do what it does, because it can.

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**Israeli security forces have turned a riot into a massacre**

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## Costs are mounting up for INM as data scandal rolls on

Next week promises to be a pivotal one for Independent News & Media when the Office of the Director of Corporate Enforcement (ODCE) goes to court on April 16 to secure the appointment of a High Court inspector to probe corporate governance at the country's biggest publisher.

In the two weeks since we first reported this impending court appointment, a drip-feed of leaks from the 200-page affidavit prepared by the ODCE has appeared in newspapers owned by INM. As such, we have no way of knowing how much damaging material is contained in the affidavit, but what we have learned so far is alarming.

All the indications are that potentially serious events have taken place at the company. In 2014, Leslie Buckley, until recently the chairman of INM, is alleged to have sanctioned an operation that involved accessing data from the company's server that was then distributed to third parties for analysis. The operation was carried out by IT consultants who were paid by an Isle of Man company controlled by Denis O'Brien, a 29.9% shareholder in INM. Mr O'Brien has not made any comment on the controversy since it entered the public domain.

The affidavit details attempts by Mr Buckley to convince INM to purchase Newstalk in 2016. The loss-making radio station is owned by Mr O'Brien. There are also issues surrounding INM's €121.3m disposal of APN, a publisher with assets in Australia and New Zealand. Following its sale in March 2015, Mr Buckley attempted to secure a "success" fee for Island Capital, another company controlled by Mr O'Brien, equivalent to 0.9% of the transaction proceeds.

The proposed takeover of Newstalk was abandoned and the request for a success fee for Island Capital was withdrawn. For that the shareholders in INM – other than Mr O'Brien – can thank Robert Pitt, the former chief executive. Mr Pitt was so alarmed at the prospect of being told to buy Newstalk for €35m when his advisers believed it was worth €14m at most, that in late 2016 he made a protected disclosure under whistleblower legislation to bring the matter to

the attention of the ODCE. The High Court inspector will probe both these cases, but most attention, inevitably, will centre on the data breach.

To date it is known that 19 people were targeted by the IT consultants hired by Mr Buckley. There appears to be nothing random about the choice of individuals who were chosen. Broadly, they seem to fall into two camps. Several of them were involved in, or reported on, the Moriarty tribunal, which concluded that Michael Lowry, a former minister for communications, assisted Mr O'Brien in acquiring the state's first private mobile phone licence in the mid-1990s. The tribunal said it was "beyond doubt" that Mr Lowry gave "substantive information to Denis O'Brien of significant value and assistance to him in securing the licence". Mr O'Brien, who disputes the findings, did not enjoy media coverage of the tribunal and was particularly incensed at the reporting of Sam Smyth, a former journalist with the Irish Independent whose name was searched for on the database.

The other group of individuals targeted in the data breach can be seen as allies of Gavin O'Reilly, who stepped down as chief executive of INM in 2012 following a prolonged feud with Mr O'Brien. Given the bad blood that existed between the two men and their mutual belief that connected parties on both sides were circulating damaging stories about them, it is not difficult to see why the opportunity would have been taken to source internal emails after Mr O'Reilly's departure.

When first approached about the data breach, Mr Buckley claimed that external consultants were given access to INM emails as part of a "cost-reduction exercise". Not only does that make no sense, but all the indications are that this "cost-reduction exercise" could prove to be an extraordinarily expensive fishing exercise. With the ODCE – and possibly other agencies – becoming involved in the growing scandal, the costs to INM could run into millions. Legal fees aside, individuals who can prove their personal data has been compromised may be entitled to seek compensation. There may also be action from shareholders if they can make the case that INM has suffered as a result of the actions of its former chairman.

## Macron gives France a dose of Thatcherite medicine

Emmanuel Macron studied the speeches of former British prime minister Margaret Thatcher while on his path to power but concluded that her doctrines could not be imposed in France, with its long tradition of class war. Now the French president has made the test of his reforms a pitched industrial confrontation with the toughest unions on the block. Trains came to a halt across France last week in a sequence of strikes intended to paralyse the nationalised railways for the next three months. This weekend holiday flights are disrupted as pilots and staff at Air France pursue their industrial action over pay.

A symbol of postwar regeneration, the Société Nationale des Chemins de Fer, known by its initials SNCF, remains a bastion of unionised labour, heavily subsidised and influenced by politicians. It carries nearly 5m passengers a day, a number that is growing by about 10% a year. That is testing the resilience of a network renowned for its flagship high-speed trains but which dates, in part, to the 1930s and is struggling to cope with modernisation and commercial change.

The SNCF labours under more than €47bn of debt. Its glory days are in the past. Competition is coming under a European Union directive and, as a good European, President Macron is bound to

accept it. The trains in Germany are – dare one say it – more apt to run on time, while a new generation of trains in Italy is more stylish. The Italians have even part-privatised their railways, a taboo in France.

In theory Mr Macron's reforms are modest. They would shake up working practices, end privileges for new employees and raise their retirement age. In practice both sides know this is a moment of truth. Reform of the railways has constituted a third rail for French politicians. The unions still glory in their defeat of Jacques Chirac in 1995, a rout from which his presidency never recovered.

There are echoes here that many will recognise. Mr Macron made his first reforms by stealth, changing restrictive labour laws and lifting a Socialist wealth tax with only minor protests.

Now, like Mrs Thatcher, he has opted to defy the fainthearts and go for broke. Retreat would put in doubt changes to pensions, unemployment benefit and the bureaucracy, all vital to his grand project of fixing France's public finances and modernising the relationship between citizen and state.

There is no doubt that France needs the Macron medicine. If the government gives in, it can say "adieu" to its whole reform programme.

## Teachers skipped class on irony

A student who told a pregnant teacher he would "kick the baby out of her" was back in the classroom the following day, a teachers' union conference was told last week, and it was three weeks before the school took action against him.

Stress-related absenteeism is rife in the education sector, the conference heard, because of schools' failure to implement codes of acceptable behaviour. By all accounts, teachers are regularly subjected to verbal abuse and disruptive behaviour.

So some must have been able to empathise with the education minister last week when he was heckled during his address to the Association of Secondary Teachers of Ireland. Sarcastic laughter and jeers occasionally drowned him out as he struggled to hold the attention of a roomful of adults.

The irony of the same adults' complaining of the same behaviour from those young people to whom they should be setting a good example was clearly lost on our highly educated educators.

Justine McCarthy  
Our star-struck state is helping O'Brien

The billionaire has been courted by Irish politicians, despite investigations

Reputation is a funny old thing. I have long suspected that those who shout the loudest in defence of theirs do so because, in their hearts, they know they don't get the love.

One cannot say that about the feared libel litigant Denis O'Brien, of course. The Irish state has been lavishing love on the billionaire ever since the Moriarty tribunal found he gave money and loan support worth more than €1m to Michael Lowry, who was communications minister when a massively lucrative state phone licence was up for grabs in the mid-1990s. O'Brien's enrichment of Lowry, according to Moriarty, was "demonstrably referable" to the then minister's conduct in helping him win the licence that formed the foundations of O'Brien's phenomenal wealth. He sold his phone company four years later for €2.4bn, netting more than €300m for himself.

O'Brien and Lowry deny Moriarty's findings. In the intervening seven years, esteem for O'Brien has oozed out of every pore of our obsequious little state. The steam was still rising off the report when the telecoms mogul pitched up with then taoiseach Enda Kenny on the platform of the New York stock exchange for the traditional St Patrick's Day bell-ringing ceremony.

The following year, the Broadcasting Authority of Ireland made a formal determination that O'Brien's position as the biggest shareholder in the country's largest private media company, Independent News & Media (INM), and his ownership of the Communicorp group of radio stations did not give him "undue influence", something disallowed by law.

O'Brien was a repeat VIP guest at the biennial Global Irish Economic Forum, an insultingly patronising wheeze where rich folk networked and took in an All-Ireland final at Croke Park while purporting to fix the economy.

The Maltese tax-resident was a guest of the nation for its official celebration of the Easter Rising, commemorating patriots who died for the ideal of a republic that would guarantee equal rights and equal opportunities for all its citizens. He was also a guest at Dublin Castle for the state banquet when Queen Elizabeth II became the first British monarch to visit the Republic of Ireland.

He bought the loans of Siteserv, at a €119m write down, and the Topaz filling stations, at a writedown of about €150m, out of state ownership. He appointed Brian Cowen, the taoiseach who had led Ireland into the EU/IMF

bailout, to the boards of Topaz and Dublin's Beacon Hospital.

O'Brien was one of 17 prominent individuals who produced a document entitled Blueprint for Ireland's Recovery after the financial collapse and were among the first into Government Buildings to lobby the new government in 2011.

Eamon Gilmore, as the tanaiste and leader of the Labour Party in 2013, participated in a photocall with O'Brien at a human rights conference backed by the billionaire at Dublin Castle, the jewel in the state's property portfolio. Gilmore's party colleague and communications minister Pat Rabbitte hosted a black-tie dinner at the same venue the next year for O'Brien and his fellow dignitaries on the UN Broadband Commission for Digital Development. Kenny, still taoiseach, popped into the Shelbourne Hotel to schmooze the international advocacy group, which O'Brien headed at the time.

Kenny again rubbed shoulders with O'Brien at the World Economic Forum of global power-

wielders and the 1% wealth club; a precedent honoured by Leo Varadkar when he made his first trip to Davos as taoiseach this year where he informally met O'Brien.

This starry-eyed dalliance with Ireland's richest native-born citizen has gone on, not just against the backdrop of Moriarty, but while the businessman pursued legal proceedings against various arms of the state, including Revenue, RTE and the Oireachtas. It has continued while he wrote privately to individual politicians such as Renua Ireland founder Lucinda Creighton, after she urged that action be taken on Moriarty's findings, and to former Labour leader Joan Burton, accusing her of "vindictiveness" when she expressed "unease" about O'Brien popping up at public events in the wake of Moriarty.

It persisted as O'Brien accused Moriarty of setting out to produce "pre-determined" conclusions and of creating "a work of fiction". He accused the judiciary of bias, saying the reason he lost court challenges against the tribunal was because the judiciary put "a ring of steel" around their judicial colleague, knowing he was not "up to the job". Not one judge publicly responded to the slur.

And it went on and on as he issued writs like confetti against individual journalists and news organisations. I know of one colleague who transferred the ownership of his family home out of his own name to safeguard it against an O'Brien writ. Ted Harding quit as editor of the Sunday Business Post after O'Brien sued his paper. Sam Smyth, who O'Brien sued when he was writing for INM, lost his Today FM programme after Communicorp acquired the station. The media magnate threatened to sue Vincent Browne personally.

Now we know that, while the state and its politicians were courting O'Brien, one of his offshore companies paid for an interrogation of INM executives' and journalists' emails. The upshot is that, in addition to a seven-year long investigation by the Criminal Assets Bureau of Moriarty's findings, the Office of the Director of Corporate Enforcement and the Office of the Data Protection Commissioner are both carrying out inquiries.

The silence emanating from the ruling establishment tells its own story. The state is levelling serious accusations at an individual with one trembling finger while embracing him with both arms.

There is a wise saying that, if you look after your character, your reputation will look after itself. O'Brien has enjoyed a double indemnity, courtesy of a yellow-bellied state. *justine.mccarthy@sunday-times.ie*



The state is levelling serious accusations at an individual with one trembling finger while embracing him with both arms

Conor Brady  
Ireland is left to wobble by Brexit scaffolding

Losing leverage as the effects of UK's deal remain unclear should worry us

Fianna Fail leader Micheál Martin may have a point, and possibly a significant one, in his assertion that the government has made "a major strategic error" in allowing the border issue to slip down the timeline of the Brexit negotiations. "The government's original position was that the island of Ireland had to be sorted first before we get into the next phase, the transition and the overall trade agreement," he said during the week. But now, he argues in a newspaper interview, the government has unwisely allowed the transition process to go ahead while leaving the finalisation of the border arrangements until October. "I think they should have held back on the transition arrangement."

Overall Brexit negotiations have, in fact, advanced considerably. Obstacles that initially seemed insuperable have been overcome, in almost every case with the British choosing to climb down. The so-called "divorce bill" has been agreed. There is clarity on reciprocal rights of residence and employment. The United Kingdom will continue to recognise the jurisdiction of the European Court of Justice to some degree. The UK has finally and unambiguously declared that it is leaving the customs union and the single market and European leaders have accepted this. The stage is being set for the negotiation, in due course, of the all-important future trade arrangements. Meanwhile, the management of the border across this island, with the customs union and the single market operating on one side but not on the other, remains the outstanding issue.

Significantly, it does not figure as much these days in the public conversations about Brexit in the UK. The focus in the British media now is on future trading deals with the EU and other states. Liam Fox, the trade secretary, says the UK will have deals in place with 70 countries by the end of the transition phase in 2020. All of these have already been "spoken to" he says, and "they have all given

agreement." One suspects that beleaguered British business organisations might be somewhat sceptical of this cheery news in the absence of much corroborative detail. But along with Theresa May's claim, similarly unsupported, that after Brexit there will be more money for the National Health Service and for education, it reflects a strengthening, upbeat Tory narrative that the road leading to a bright, prosperous future for all citizens of the UK is now open.

The outlines of a likely trade deal may emerge sooner than might have been expected, given the slow start to the negotiations process. Already, some work has been done by civil servants in Brussels and London, modelling various possible arrangements. The aim on both sides will be to keep existing economic corridors as open as possible. German car manufacturers, for example, do not want to lose the big UK market any more than British IT companies want to lose their customer base across the continent. There will be "alignment" in these and other sectors. Divergences are more likely to occur over standards and protections in agricultural produce, food, drink and related processes. And no member-state of the EU is going to be directly affected by this as much as Ireland.

The broad shape of a possible deal will start to emerge behind closed doors over the coming

months. It will take much longer to advance to the stage where it can be considered at parliamentary level in member states. But the various possibilities will be well understood at senior administrative and political level and will be the subject of continuous scrutiny and analysis. Meanwhile, what will happen on the Irish border, where the customs area and the single market meet the UK's home-grown rules, will remain unclear.

The dynamics of a drawn-out, multi-party negotiation process like this, can be a bit like working with wet cement. Layers are formed one on top of another and then harden into a mass that becomes very difficult to change. Those involved may be reluctant to see alterations to the shape of what they have constructed, while resisting and resenting those who complain that it does not meet their particular needs.

This is where Martin's political nose tells him that Ireland could find it has lost some of the leverage it secured before agreeing to allow negotiations to advance to the transition phase. If the scaffolding is in place for a deal, with all the heavyweights more or less in agreement on its essentials, but without any solution to the border issue, will the voice of one small member-state – on the EU periphery – prevail against pressure to accept whatever has been constructed to suit the big players? Ireland could find itself cast as petty, obstructionist and unreasonable if everyone else wants to strike a deal and get on with things. Yes, we could call on our EU allies to honour their words of solidarity and stand with us, as they promised, against the creation of an economic border on this island. But even if they did, and if the whole deal were to unravel, with the UK crashing out of Europe with no agreement, some would try to lay the blame and the obloquy for the ensuing economic chaos, firmly at Ireland's doorstep. And we would suffer for it.

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The focus in the British media is not on the border but future trade

## THE SUNDAY TIMES

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## Kicking digital levy into touch could come back to haunt us

With its shares tanking and outrage at the manner in which 50m customers had their personal details “harvested” to create advertising messages for political purposes, Facebook has had a week to forget. The only good news for the company was that the EU suffered a serious setback in its attempt to impose a 3% digital tax on the European revenues of the world’s so-called tech giants. The proposal to introduce the levy required the unanimous backing of all 28 member states in order to come into force. Instead, it was strangled at birth by a “coalition of the unwilling”, smaller EU countries who, for various reasons, opposed the measure.

Talk about an own goal. Tech behemoths – particularly Apple, Facebook and Google – have been making mugs of governments around the world by utilising tax strategies that result in them paying insultingly small revenues to national coffers. The modest proposal to levy a 3% tax on their European sales would have raised an estimated €5bn, to be distributed to EU member states on the basis of where the tech companies’ customers are located. The measure as proposed was crude, but why should that matter considering the manner in which tech companies, with their seemingly unlimited resources, have stretched tax planning to breaking point? With stock market values greater than the GDP of some countries, Big Tech has swatted aside national governments and devastated traditional industries in their quest for global domination. They play by their own rules, so the EU is within its rights to make up some of its own.

Long before last week’s revelations about Facebook, it was apparent that the tech giants needed to be reined in. That’s easier said than done. Lobbyists working for the tech sector would have assured their clients they had nothing to worry about. When it comes to introducing EU-wide tax measures, Europe has proved to be hopelessly divided. That the digital tax levy crashed and burned at last week’s EU summit was not totally unexpected, therefore. That Ireland was to the

fore in assembling the “coalition of the unwilling” is nothing to be proud of, however. When it comes to facilitating Big Tech, this country has a history of bending over backwards. Our government agreed a tax-avoidance scheme with Apple that resulted in a European Commission (EC) investigation, and a finding that the American company owed €13bn in past taxes, plus negative publicity on an unprecedented scale.

Ireland was within its rights at the time to cut a deal with Apple, and the EC decision is subject to appeal. But the world has moved on, tech companies have become even more powerful, and the public mood has turned. Instead of recognising this shift, Ireland’s establishment remains in thrall to Big Tech. That is why the government did everything in its power to ensure there would be no movement on a proposal that would have boosted the tax income of the European partners who have suffered most from the aggressive tax planning of digital companies.

Leo Varadkar explained his dismissal of the digital levy on the grounds that the issue should be dealt with globally by the Organisation for Economic Co-operation and Development, elevating our national penchant for kicking the can down the road to international levels. There is still a possibility France and other likeminded countries will go ahead with the plan – at least nine countries need to be in agreement to enter into a form of “enhanced co-operation” – but the odds are slim.

Mr Varadkar and this country may have cause to regret his decision to eschew the opportunity to draw a line in the sand. The real tax threat comes from the push by Europe’s biggest players to introduce the consolidated corporate tax base, creating a single set of rules on how EU-based corporations calculate their taxes. It has the potential to destroy this country’s tax base, with estimates that we could lose €4bn of corporate tax following its introduction.

Agreeing a digital levy that would have cost us about €250m would have been the cheapest way of securing powerful allies for more important battles in post-Brexit Europe.

## Taoiseach’s spin machine needs to adjust programme

The Dail’s decision to vote for the disbandment of the government’s strategic communications unit (SCU) does not threaten the future of the Fine Gael-led minority government, but it is certainly an embarrassment for the taoiseach.

The SCU has been under pressure following stories in The Sunday Times and The Times Ireland that highlighted the questionable promotional methods used to publicise Project Ireland 2040, a €115bn capital spending plan, and Creative Ireland, an earlier campaign “designed to promote individual, community and national wellbeing”.

Fine Gael insists that, when it comes to the SCU, its motives are pure. Given the number of messages being promoted by various government departments, there was a compelling argument for having one agency responsible for co-ordinating that output. Strategically, that makes sense. What a pity then that the execution has been such a shambles.

The creation of the SCU was one of Leo Varadkar’s first decisions on becoming taoiseach, indicating where his priorities lay. The opposition immediately dubbed it “Leo’s spin machine” and subsequent events proved them largely correct.

The “no expense spared” launch of Project Ireland 2040 last month was, as we noted at the time, nothing less than a Fine Gael election manifesto. The €1.5m publicity that accompanied the launch – including campaigns in national print media, local print media, cinemas and

online – effectively used taxpayers’ funds to promote the government, and in particular the Fine Gael part of the government. When some of the material that found its way into the media was disguised to make it look like genuine editorial coverage, it only compounded public suspicions that the SCU was up to no good.

The controversy surrounding the SCU has been a godsend for opposition parties. Flummoxed by Mr Varadkar’s growing appeal, they have been given a rare opportunity to mount their high horses. The latest Sunday Times/B&A poll shows the taoiseach’s approval rating had risen to 59% even though his party’s ratings fell four points from our poll a month earlier. Mr Varadkar has the X factor; now he needs to make sure it translates into additional votes for his less charismatic colleagues.

Sinn Fein’s successful private member’s motion to disband the SCU was really about cutting Mr Varadkar, the tallest poppy in the Dail, down to size. The taoiseach has already made it clear he has no intention of scrapping the unit, promising instead that there will be greater scrutiny of its operations and management. He has also commissioned a review of the SCU, which is being carried out by Martin Fraser, the state’s top civil servant.

That inquiry report, which will be published this week, is intended to draw a line under recent controversies. Mr Fraser needs to be unequivocal about the SCU’s failings, and highly prescriptive about its future role, if that is to be accomplished.

## Sinn Fein must clip tweeters’ wings

For the second time this year, a Sinn Fein member has been suspended for three months for posting an offensive tweet. And, once again, the party leadership has erred on the side of leniency.

It took 10 days of pressure for Sinn Fein to accept that Barry McElduff had to resign as an MP for posing with a loaf of Kingsmill bread on his head on the anniversary of the eponymous massacre. It faces another prolonged battle after

Mary Lou McDonald’s feeble response to Senator Máire Devine’s endorsement of a post describing murdered prison officer Brian Stack as a “sadist”.

A three-month suspension with full pay doesn’t exactly betoken a new leader keen to wield a new broom. A dismissal might have slapped down any further disciplinary issues. As, indeed, would the imposition of a “parental advisory” filter on the offender’s Twitter account.

Justine McCarthy  
Women are their own worst enemies

Misogyny rules in Rome until we stop harshly judging one another

A letter writer to a daily newspaper recently excoriated former president Mary McAleese for her speech in Rome which labelled the Catholic church an “empire of misogyny”. The correspondent claimed that “none of the many thousands of female saints” had ever challenged the church, and attributed McAleese’s critique to “hubris”. In other words, the canon lawyer, professor of criminal law, former university pro-vice chancellor and, for 14 years, the head of state, had gotten above her station. For a Catholic woman, lack of humility is a big, fat mortal.

What was most demoralising was that the letter was written by a woman. Nor was she alone. Another female correspondent praised the treatment of women within the Catholic church – the same institution that forbids women to be priests, bishops, cardinals, popes or even mere deacons; which deems the purging of female pronouns from its missal to be “progress”; and which runs its own unapologetically sexist state. Not to mention the blessing it gave to the Magdalene laundries, the Tuam babies and symphysiotomy.

How can women be in such denial about the cultural prejudice and institutional discrimination that limits not just their own potential in life but the lives of their daughters, sisters, mothers and friends?

No doubt, those evidently articulate women who took the trouble to write their denunciations of McAleese hold their views sincerely. So too, one must suppose, do the women in America who squeezed into skin-tight, pink T-shirts emblazoned with the slogan “Trump that bitch” and chanted “lock her up” every time Donald Trump, a self-confessed “pussy” groper, mentioned “crooked Hillary” [Clinton] during the presidential election.

Catholic women who denounce McAleese’s constructive criticism would be horrified to be bracketed with Women for Trump. As far as sweeping stereotypes go, you could hardly find a greater contrast than the one between the pious former and the brash latter. Yet they have one crucial common denominator: their protestations facilitate the continuation of injustices against women. Acquiescent women are the glue holding together the increasingly shaky facade of our unfair, patriarchal world.

For every #MeToo movement, there is a critical mass of women who will defend the errant system to the death. For every McAleese or Oprah Winfrey or Margaret Atwood, there are other women who can see no wrong in the status quo.

When George Hook was suspended by

Newstalk last year after suggesting on his radio programme that a raped woman should share the blame, some women complained he was being subjected to “a witch hunt” and being “crucified” on the altar of political correctness.

Women are other women’s harshest judges. Studies have found, for instance, that male-dominated juries are more likely to produce a guilty verdict in sexual-assault trials than juries with a predominance of women. Rape and Justice in Ireland, a 2009 study, analysed the verdicts and gender compositions of 108 trial juries. It found 17% of those juries had more women than men and not one of them resulted in a conviction.

It has been argued that the 32 TDs who voted against the holding of a referendum on the eighth amendment made a fundamentally anti-democratic choice. But what does it say about the four of them who are women? Does it mean they are opposed to women having bodily integrity or exercising the right to choose? Carol Nolan, 39, of Sinn Féin and Fianna Fáil’s Margaret Murphy O’Mahony, 49, Niamh Smyth, 39, and Mary Butler, 51, are modern women smart enough to get selected by their parties and then elected to the national parliament, where female deputies account for just 22% of the total. If faced with a 12-year-old girl made pregnant by a violent gang rape and pleading to have it terminated, I doubt any one of them would lack the compassion to accede. Yet they voted against allowing the people to consider the matter in the ballot box.

What underlies all these issues – the church’s misogyny, women voting for Trump and the resistance to women making decisions about their own bodies – are society’s conflicting definitions of femininity. In recent decades, there has been intermittent debate about the threat posed by liberalism to classic concepts of masculinity, but little attention has

been paid to our understanding of femininity. Compassion, for example, is presumed to be a particularly feminine trait but women often show a cruel lack of it for each other.

The Catholic view of female subservience was summarised by St Thomas of Villanova when he said: “Humility is the mother of many virtues because from it obedience, fear, reverence, patience, modesty, meekness and peace are born.” He said the humble “easily obeys everyone, fears to offend anyone”. The words on a recyclable carrier bag spotted at the International Eucharistic congress in Dublin six years ago put it more succinctly. “Use me again and again,” it said. Thus does a divide-and-conquer philosophy sustain a ruling culture of prejudice and bigotry.

By Thomas’s measure, McAleese, Winfrey and Atwood are about as feminine as Clint Eastwood on a stallion in hot pursuit on the Great Plains. Women, like children, ought to be seen and not heard. Their suffering in silence keeps their mouths upstart sisters down.

Fear of being considered unfeminine is an obstacle to women rising up together. Many girls grow out of this fear as life opens our eyes to the reality that, in the greater scheme of things, justice is more valuable than self-effacement. There are other women, however, who remain steeped in the doctrine of victimhood. It is because of women like these that the Catholic authorities feel they can go on treating half the population as simpletons.

Their paralysing condition was recognised by Pope John XXIII when he wrote in a 1963 encyclical about “the long-standing inferiority complex of certain classes because of their economic and social status, sex, or position in the state, and the corresponding superiority complex of other classes”.

Where John XXIII erred was in his belief that the subservience of the oppressed was “rapidly coming to an end”.

Some of McAleese’s critics have accused her of pursuing her own advancement. That she is better qualified than many bishops to run the church strikes fear, not encouragement, in other women who feel the ground crumbling beneath them.

Until we accept that real women care about each other, misogyny will thrive in Rome, Trump in Washington, and inequality in our boardrooms and on our statute books. Women need to stop being each other’s worst enemies. We need to come together. When we do, let the first item on the agenda be agreement that getting above our station is not a sin. It is our ambition.

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**Fear of being considered unfeminine blocks women rising together**

Conor Brady  
Parties can’t play Russian roulette with our security

Leaving defence issues in the hands of securocrats alone is dangerous

There is to be a “security assessment” of Russian diplomats and their activities in Ireland, the taoiseach has said, to assess whether they are working covertly as intelligence agents. Leo Varadkar struck quite a different tone last Friday compared with the statement given just over a week earlier to this newspaper’s security correspondent. Our reporter had asked the Department of Justice whether it had refused permission for the Russian embassy in Dublin to establish an office for its security service, Federalnaya Sluzhba Bezopasnosti, one of the successor agencies to the Soviet-era KGB.

“It is longstanding policy not to comment on the arrangements that the authorities may put in place in this regard as it would be contrary to the public interest,” it said.

The department clearly has no doubt about what constitutes the public interest and what would be contrary to it, which apparently includes any comment on “arrangements” pertaining to security. This is sacred dogma in the Department of Justice.

Once put it to a former senior official there that the Oireachtas ought to have an equivalent of the intelligence and security committees that operate in parliaments elsewhere. He was aghast. Why would such a thing be necessary, he asked. Because there is no parliamentary oversight of security issues, I replied. Our elected representatives have no way of knowing how effectively our security agencies are operating. Can they meet possible threats? Are they adequately resourced and funded?

But, the ex-official insisted, the minister has knowledge of everything and can act if necessary. As Frances Fitzgerald’s evidence at the Disclosures tribunal has shown, this is not quite true. And should a couple of justice ministers – Seán Doherty and Ray Burke – have been trusted with knowledge of anything? It suits the civil servants and the security services to have an absolute blanket of

concealment around their activities. It also suits the government. No question raised on the floor of the Dail or Seanad pertaining to national security will be answered by the minister for justice or the minister for defence.

The Garda commissioner is answerable to the Policing Authority in relation to civil policing matters. But legislation puts security beyond the authority’s remit, so the commissioner cannot be asked questions about it. Similarly, there is no forum or channel through which the performance of the Defence Forces’ intelligence can be evaluated.

The complacency of politicians, of all shades, around these arrangements is curious. There are Oireachtas committees for just about everything else. The Garda commissioner can be brought into the committee on justice and equality, and questioned about traffic policing or the operation of the Templemore canteen. But nobody can ask him if he has what he needs to keep tabs on Islamic extremists, foreign intelligence operatives or cyber-terrorists with the capacity to paralyse infrastructure.

Parliamentarians in almost every democracy across the western hemisphere think differently. The US Congress has both the house committee on homeland security and the house committee on armed services.

Senior officials and security chiefs appear before elected representatives to give an account of their work. At Westminster, the intelligence and security committee oversees the operations of MIS, MI6, GCHQ plus the Defence Intelligence staff and joint intelligence committee. Most of these proceedings are conducted behind closed doors with members bound by official secrecy legislation.

Similar arrangements operate between parliaments and state security agencies across the EU. Further afield, Australia has had a joint committee on intelligence and security since 2001. New Zealand’s intelligence and security committee, comprising representatives of both government and opposition parties, has operated since 1996. Canada has had a national security and intelligence committee at Ottawa since last year. Irish parliamentarians seem to be more or less alone in the western world in taking the view that threats to public security are none of their concern, and that such matters are better left to gardai, the army and civil servants, with no questions asked.

After last year’s terror attacks in Manchester and London, Leo Varadkar spoke about establishing a committee modelled on Britain’s Cobra group. Not much has been heard of it since, and nobody in the opposition seems to think it worth following up. A newly installed taoiseach may not have been aware a national security committee, chaired by the secretary-general of his own department, has operated for many years. But it simply comprises gardai, military and civil servants talking to each other.

Security, as other democracies understand, is too important to be left to securocrats alone. To be able to operate at optimum effectiveness, elected representatives and security professionals need to inform and engage with each other. Sitting in wilful ignorance, knowing nothing and leaving it to the media to ask questions, is a serious and shameful abdication of political responsibility.

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**It suits security services to have a blanket of concealment**