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Hibernian mores: hypocrisy or reality?

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To countries such as Britain with liberal policies in contraception, divorce, and abortion, Ireland's legislation in these matters must seem almost mediaeval. There has been much heated debate about contraception and divorce in Ireland in recent years, and for many the controversy has been a source of moral confusion and anguish. And, of course, moral issues in the Republic have assumed greater political significance since the conflict in Northern Ireland. The government, the Catholic Church, the medical and legal professions, and interested social and religious groups have all contributed to what has often been an acrimonious debate characterised at times by bigoted self-righteousness and a lack of tolerance for conflicting viewpoints. Those calling for liberal legislation are frustrated by lack of progress, whereas the conservative elements of society view the proposed reforms with the gravest concern. Nevertheless, in spite of the doctrinaire differences which exist, it is remarkable how much change has occurred through compromise within the framework of the existing restrictive legislation. To some these changes are little more than hypocritical, but to others they are seen as a subtle way of achieving an end without worrying too deeply about the means.

Sexual behaviour

The last decade has seen quite dramatic changes in sexual outlook and behaviour, particularly among the youth of society and these changes are understandably most noticeable in the

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cities. There is much more tolerance in the censorship of literature and films, and fornication and adultery once shunned by society are tolerated if not accepted; there is even a gay liberation movement.

Pregnancy outside wedlock is no longer the social taboo of yore, and as many as one baby in every 26 now born is illegitimate; last year 1500 women from the Republic of Ireland had abortions in Britain and this figure is on the increase. As many as one-third of women in the reproductive age group are using contraceptives and the increasing numbers attending the family planning centres bear testimony to the change in sexual outlook. This sexual liberation has coincided with a lessening of the Catholic Church's influence and an increasing disillusionment of the younger generation with the principles of Catholicism once so dear to their parents.

Marriage and divorce

The Catholic Church regards marriage as indissoluble *provided it is truly constituted*, and the state legislation does not allow for divorce. A marriage in Ireland is therefore permanent—at least in theory. The Church has been more responsive to reasoned public demand than the state and may grant an annulment if it can be shown that the marriage when constituted could not have been successful. The Church's more relaxed theological interpretation of the grounds for annulment has taken careful account of recent advances in medicine, psychology, and psychiatry. The Church is now placing much greater emphasis on the criteria for marriage, and by so doing hopes to improve the quality of the relationship within marriage so that neither annulment nor divorce will be necessary. Ironically, by making marriage in a sense more difficult, the Church may be encouraging extramarital partnerships.

Nevertheless, an annulment may create more problems than it solves because of one grave legal drawback: an annulment dissolves only the canonical marriage; the civil marriage is unaffected; and any subsequent marriage, although often performed by a Catholic priest, is legally bigamous and poses all the legal problems of succession.

Attempts are being made to change the laws on divorce, but there is little likelihood of change in the near future. Of course, a legal divorce may be obtained in England by an Irish husband provided he can prove separation and an English domicile but an Irish wife cannot do so, as her domicile under Irish law is that of her husband and must be recognised as such by other countries.

Family planning and contraception

Few people in Ireland would disagree with the desirability of planning a family, and the Catholic Church certainly accepts the right of parents to space and regulate their families and has established centres which give advice on how this may be achieved, and it is here that the "contraceptive debate" begins. The natural methods of birth regulation advocated by the Church, and in keeping with its claim that such methods are based on the divine design for the reproductive cycle, are unfortunately not as effective or convenient as artificial methods of contraception and the latter have always rated high in the list of priorities of the Customs and Excise Department.

Shortly after the founding of the State two laws were enacted effectively banning the importation, sale, and advertising of contraceptives and literature advocating contraception was disallowed. Among the early objectors was W B Yeats, who argued that to expect sexual continence was unreasonable and that the state should not legislate for one religion unless the welfare of the state demanded it. But little was said for many years and in the 'sixties anovulant preparations were introduced to Ireland in packs identical to those being marketed in Britain as oral contraceptives but labelled euphemistically for the Irish market as cycle regulators. This semantic deception allowed the Catholic mother to ask her Catholic doctor for family planning advice and the latter was able to regulate the former's periods, so that in effect the safe period became safer—all the time—and neither offended their conscience. This Irishism will not be permitted to exist much longer, as EEC regulations on the licensing of drugs are strict and one drug company has already challenged the Minister for Health, who will sooner or later—probably later—have to make a declaration on this issue.

The first family planning clinic was opened in 1969 (six clinics are now in existence), and had to import contraceptives secretly. In 1972 a mother of four children with a bad obstetric history had her spermicidal jelly for use with a diaphragm confiscated by the customs. She instituted proceedings against the Attorney General and the Revenue Commissioners on the grounds that the act permitting this action was contrary to the constitution and, though unsuccessful in the High Court, her appeal was upheld in the Supreme Court. The effect of this ruling was that for the first time it was possible to import but not sell contraceptives. There followed the establishment of family planning services and publications designed to inform the public how to obtain contraceptives and the difficulty of selling contraceptives has been overcome by voluntary donations.

Political moves to change the law relating to contraception

initially failed, but in 1973 Senator Mary Robinson got a first reading of her Family Planning Bill in the Senate (Upper House) but withdrew this when the government announced the introduction of its own family planning Bill in the Dail. This Bill proposed the sale of contraceptives under licence to married persons only and carried penalties of £500, a year's imprisonment, or both, for unmarried persons illegally purchasing contraceptives. This Bill was defeated at the second reading after what many in the country regarded as the ridiculous spectacle of the Taoiseach and Minister of Education voting against their own Bill. Strange and indeed comical though these events may seem, it must be remembered that the House was allowed to vote freely according to the dictates of conscience, and, that repressive though the new legislation seemed, it did recognise the existence of family and the need for contraception as a means of family planning rather than as a contraceptive service for the whole population.

Whatever hope of compromise exists with the Church must surely lie in the acceptance of contraception as a means of positive family planning rather than as a licence for permissiveness. Pope Paul in *Humanae Vitae* categorically condemns all forms of artificial contraception (and along with it sterilisation) but there are theologians and priests who consider contraception acceptable in certain circumstances within the framework of marriage *provided* the methods used are contraceptive rather than abortifacient—the IUD may fall into the latter category. Using a barrier to prevent spermatozoa reaching an ovum is regarded by many as no less a moral wrong than abstinence from sexual intercourse during a period of maximal fertility. But the Catholic Church's real fear of liberal legislation on contraception is that abortion is just around the corner. The religions comprising the non-Catholic minority (mainly Church of Ireland) would tend to support contraception and sterilisation but would be against legislation permitting abortion. Strangely enough, sterilisation is not illegal in Ireland and, although vasectomies are being increasingly performed, tubal ligation has not become common practice.

Abortion

Many doctors and about half of the population in Ireland (according to a recent opinion poll) favour legislation permitting the sale of contraceptives, but there is little if any pressure for abortion and the medical profession would totally oppose any form of legislation permitting abortion—not that such is likely to become a reality in the foreseeable future. None the less,

there are female utterances claiming that women should have control of their own fertility and it would be foolish to ignore the change in outlook which permits 1500 Irishwomen to have abortion in Britain in one year. Looking to Britain, the medical profession is concerned that legislation, however wrong, can render what was once morally abhorrent acceptable. There are fears that, as in other countries, contraception will lead inevitably to abortion as a form of failed contraception. The profession, however, realises that with improved techniques for diagnosing genetic abnormalities in utero a reappraisal of therapeutic abortion may be necessary before long.

As to the future in Ireland probably there will be legislation permitting the sale of contraceptives, but this legislation will be restrictive by British standards. Many doctors would prefer to see a national family planning and counselling service set up by the Minister for Health and this he could do at present without any change in legislation. Only by providing such a service, it is argued, will the number of Irishwomen seeking abortion in Britain be reduced. The validity of this argument must await the test of time.