

JYVÄSKYLÄN YLIOPISTO

Tiedekunta – Faculty Humanities and Social Sciences	Laitos – Department History
Tekijä – Author Jemina Lakka	
Työn nimi – Title “—society is changing and, if divorce is introduced, it will merely be a reflection of those changing values in our society—“ The changes in perceptions of divorce in the Republic of Ireland through the public divorce discourses between 1986 to 1995	
Oppiaine – Subject General History	Työn laji – Level Master’s Degree Thesis
Aika – Month and year 05/2017	Sivumäärä – Number of pages 89
Tiivistelmä – Abstract <p>In 1995, the Republic of Ireland’s government decided to hold a referendum on divorce. This was the second time this referendum was to be held, the first being held in 1986. At that time, the proposed divorce legislation did not go through with over 60 % voting against it, but in 1995 the legislation passed with a difference of 9 000 votes.</p> <p>Ireland had been a religious society with a Constitution that stated that the State would protect the family as the main unit of the Irish society. This was due to a close relationship that the Irish state had with the Catholic Church. The relationship between the Catholic Church and the State was first legalized in 1937, when Catholic Church’s special position was written in the Constitution. It held that position until 1973, when it was removed after a referendum. What this special position of the Catholic Church meant in relation to family was that only families that were based on marriage were perceived to be proper ones. It also meant the subordinate role of the wife and mother. Woman’s place was deemed to be at home taking care of the family, and there were different restrictions on employing married women. This relationship between the Church and the State started to gradually change from the 1970s, when Ireland joined the EEC and mass media became more popular. Also, foreign companies started to come into the country, and with them hiring married women, the women’s position changed.</p> <p>These changes had an effect on the marriage institution. Desertions were becoming regular, and with no legal divorce available, separated spouses started to form new illegitimate second families that had no legal protection. On top of that, annual marriage rates had started to decrease due to young people not seeing marriage as a favorable option no longer. That was when the Irish government decided that something must be done to secure the marriage institution once again.</p> <p>What this study will show is how and why the concept of divorce changed between the referendum years. For this to happen, three different discourses have been used. These discourses are religion, women and children, and economy. With these discourses, it was visible that women’s emancipation, the growth in economy and religious fading all effected the divorce discourses in such a way that the legislation could pass. The sources used were consisted of public debates, where parliamentary debates and the Catholic Church’s statements have been the primary sources.</p>	
Asiasanat – Keywords the Republic of Ireland, divorce, marriage, Catholicism, secularization, Catholic Church, economy, religion, woman’s position, discourse, conceptualization, contextualization	
Säilytyspaikka – Depository JYX	
Muita tietoja – Additional information	

Tiedekunta – Faculty Humanistinen ja Yhteiskuntatieteellinen	Laitos – Department Historia
Tekijä – Author Jemina Lakka	
Työn nimi – Title “—society is changing and, if divorce is introduced, it will merely be a reflection of those changing values in our society—“ The changes in perceptions of divorce in the Republic of Ireland through the public divorce discourses between 1986 to 1995	
Oppiaine – Subject Yleinen historia	Työn laji – Level Pro Gradu
Aika – Month and year 05/2017	Sivumäärä – Number of pages 88
Tiivistelmä – Abstract <p>Vuonna 1995 Irlannin tasavallan hallitus päätti pitää jo toistamiseen kansanäänestyksen avioeron laillistamisesta. Ensimmäistä kertaa kansanäänestys oli pidetty asian tiimoilta vuonna 1986. Tällöin lakiehdotus ei mennyt läpi yli 60 % äänestäessä sitä vastaan. Vuonna 1995 tilanne oli kuitenkin toinen, ja lakiehdotus meni läpi vajaalla 9 000 äänellä.</p> <p>Irlanti oli ollut hyvin konservatiivinen valtio, jonka perustuslaki oli taannut valtion suojelevan perhettä yhteiskunnan tärkeimpänä instituutiona. Tämä johtui valtion ja katolilaisen kirkon hyvin tiiviistä suhteesta. Katolilainen kirkko oli varmistanut asemansa Irlannissa vuonna 1937, jolloin sen erikoisasema kirjattiin perustuslakiin. Tätä ei muutettu kuin vasta vuonna 1973, jolloin sen erityisasema poistettiin kansanäänestyksen jälkeen. Mitä tämä katolilainen erityisasema tarkoitti suhteessa perheeseen, oli että ainoastaan avioliiton kautta muodostettu perhe oli oikea. Se tarkoitti myös naisen alisteista asemaa perheessä. Naisen paikan koettiin olevan kotona äitinä, ja oli olemassa erilaisia rajoituksia koskien aviollisten naisten palkkaamista. Tämä suhde katolilaisen kirkon ja valtion välillä alkoi muuttua 1970 -luvulla. Silloin Irlannista tuli osa EY:tä, ja massamedia alkoi levittäytyä. Myös ulkomaalaiset yritykset kiinnostuivat Irlannista, ja heidän palkatessa naisia, naisten asema alkoi myös muuttua.</p> <p>Näillä muutoksilla oli myös vaikutus avioliittoon. Avioliiton mieltäminen pyhäksi asiaksi oli murroksessa. Perheen hylkäyksistä tuli arkipäivää, ja laillisen avioeron ollessa mahdoton, eronneet alkoivat muodostaa uusia perheitä ilman minkäänlaista oikeusturvaa. Myös nuorten kiinnostus avioitua oli laskussa, ja tässä vaiheessa hallitus päätti, että oli aika tehdä asialle jotain.</p> <p>Tutkielmani tarkastelee avioero-käsitteen muutosta ja muutoksen syitä kyseisinä vuosina. Tätä varten on valittu kolme diskurssia, joiden kautta avioeroa ja avioliittoa tarkastellaan. Nämä kolme diskurssia ovat talous, uskonto, ja naiset sekä lapset. Näiden diskurssien avulla pyrin osoittamaan kuinka naisten aseman muutoksella, talouden kasvulla sekä uskonnollisella hiipumisella oli vaikutus avioero-diskurssiin niin että se meni läpi vuonna 1995. Alkuperäislähteinä tässä tutkimuksessa on käytetty parlamenttikeskusteluja sekä katolilaisen kirkon kannanottoja.</p>	
Asiasanat – Keywords Irlanti, avioero, avioliitto, Katolilaisuus, sekularisaatio, diskurssi, käsiteanalyysi, talous, uskonnollisuus, naisen asema, kontekstualisointi	
Säilytyspaikka – Depository JYX	
Muita tietoja – Additional information	

“—society is changing and, if divorce is introduced, it will merely be a reflection of those changing values in our society—“

The changes in perceptions of divorce in the Republic of Ireland through the public divorce discourses between 1986 to 1995

Jemina Lakka

University of Jyväskylä

Department of History and Ethnology

General World History

Master's Degree Thesis

20.5.2017

Contents

1. Introduction.....	1
2. Methodology and Sources.....	3
2.1. Conceptual History	3
2.2. Those who Participated in the Debates	9
2.3. Transnational Perspective	12
3. Marriage Institution Forming in Ireland	15
4. The Politics of 1986 and 1995 - Saving the Marriage by Banning Divorce or by Allowing Remarriage ..	22
5. Three Main Discourses seen in the Debate.....	36
5.1. Break in Tradition of Religious Discourse	36
5.1.1. The Catholic Church’s Stand on Divorce.....	37
5.1.2. Perceptions on Religion.....	43
5.2. The Ones who Suffer – Women and Children	56
5.2.1. Divorce Impacting Children	67
5.3. The Economic Aspect of Divorce	72
6. Conclusion	82
SOURCES.....	85

The statement in the tittle was given by Fine Gael Deputy Fennell, who had previously worked as a journalist, to the Dáil on 14 May 1986.

1. Introduction

The Republic of Ireland was one of the last countries to ban the prohibition on divorce of the Anglosphere in 1995¹. The country was a very closed society with high religious participation right until the 1960s. That was when the republic started to open up and secularization started to happen little by little. The Catholic Church had had a monopoly on the moral teachings of the Irish society that crumbled piece by piece until 1995, when the majority voted to legalizing divorce.

The Constitution, written in 1937, promised that the government would protect family based on marriages. Because of the growing number of separated couples and marriage unpopularity among the youngsters, the government decided that the ban on divorce in the Constitution should be lifted. In 1986, the question was first introduced to the Irish, but due to uncertainty majority voted “NO”. In 1995, the referendum was held yet again, and because of many legislations protecting e.g. economically the spouses, the majority voted “YES”.

The focus of this study is on the referendum years of 1986 and 1995, when the citizens of Ireland were asked whether the Constitution should be changed regarding divorce. What is being looked at is what discourses divorce had in the public debates during both years. With finding the discourses, one can understand how divorce and marriage was perceived at the time, and how the perception changed between the referendum years.

The three discourses that this study will focus on are religion, women and children and financial. Especially the religious discourse is an interesting one in that the secularization of the Irish society was very fast and it is clearly visible on how divorce and marriage were perceived. Women’s emancipation started to happen at the same time as secularization, and with the question of divorce, the role of women in Irish

¹ “No fault” divorce legalized in US starting from 1953, Canada 1968, England and Wales 1969, and Scotland 1974. (Callum, G. (2012) p. 175)

society is questioned. The last discourse is financial, and with it comes clear how family is perceived through economical aspects such as inheritance and dependency.

There have been many different studies done on Ireland and the divorce referendum from many different perspectives. One of the most noted is Michel Dillion's study *Debating Divorce: Moral Conflict in Ireland* (1993) that studies the debates done on divorce in 1986. More studies have been made on the marriage institution in Ireland such as Deirdre McGowan's *Governed By Marriage Law* (2015) and Christine P. James' *Céad Míle Fáilte? Ireland Welcomes Divorce: The 1995 Irish Divorce Referendum and the Family (Divorce) Act of 1996* (1997), which looks what had happened until 1995 with the marriage institution overall. To help understand the divorce debate, the history of marriage institution of Ireland need also to be looked at. This study used Jenny Beale's *Women in Ireland: Voices of Change* (1986) book in helping to draw a clear timeline on the changes.

How this study differs from the others, is the methodology used. When trying to understand the discourses of divorce, this study will use conceptualization. Dillion's work was the only study found that also used discourses to understand the discussions around divorce. But what is lacking in his study, is that it only focuses on the first referendum year of 1986. Nevertheless, his study has good arguments that have also been referenced in this study. With the help of the previous studies made, such as James' and McGowan's, it is easy to make a clear understanding of the happenings and reasons behind the discourses found on divorce.

This study will next introduce more thoroughly the methodology behind the study and the source used. What will then follow, is a chapter on the history of the Irish marriage institution, so that it is clear how it had changed and why the government felt in 1986 that something needed to be done about it. After that, chapter 4 will look at the politics behind the referendum years. This is to help the reader understand better the discourses, which will be introduced in chapter 5. The last chapter will be a concluding one, where all the information will be gathered and the processes to make this study itself is looked at.

2. Methodology and Sources

Combining history with the method of studying linguistics is based on the notion of interpreting the past through the act of speech. The intention with the method is to find out what kind of discourses and meanings a word had, and from that try to analyze the world that people lived in. In this study, the concept is divorce, and the aim is to perceive what was done by the speech acts. Especially the question of why a certain discourse was used, is the interest of conceptual history.

2.1. Conceptual History

There are many ways in which linguistics and history can be combined. This study will go under conceptual history. This historical field can be divided roughly into two different schools.

The first school is the German led school, where the theory of *Begriffsgeschichte* was formed by Reinhart Koselleck. The main principle behind this theory is to look at how concepts have been used to express the social world around them. *Begriffsgeschichte* tries to distance itself from the traditional history of ideas in that the language used is in the main focus and not the speaker itself. To do this, the main method in *Begriffsgeschichte* is to analyze the shifting meanings of a concept.²

The other school in history of political thought was founded in Britain, where Quentin Skinner and J.G.A. Pocock are the most noted theorists in this school.³ The main theory in this school, stated by Pocock, is that men use concepts to constitute their conceptual worlds. By using language, they are able to communicate how they perceive their social world and the authorities managing it.⁴ When they communicate that thought to others, it is when it becomes a historical event, and it is

² Bödeker (2011) p.21; 23

³ Richter (1995) p.124

⁴ Pocock (1989) p.15

the transformation of ideas that is studied.⁵ The political concepts studied differ from regular words in that they are more meaningful with changing connotation.⁶

Both schools agree on the matter, that without understanding the vocabulary used by the historical actors, there can be no real understanding of the situation. The concepts used are as important part of the contextualization as any other.⁷ The greatest difference with these two schools is what is considered to be a good historical source⁸.

This study will follow the British school in that the notion is on why the concept of divorce was used and how were its discourses formed. The social theory that this study is based on Ian Hacking's *The Social Construction of What* (2000), which states that people perceive their surroundings through constructions which they interpret through language⁹. What this social theory does is to help differentiate between the object and the idea. For this study that means understanding what divorce is perceived to be (e.g. Godly sin and neglect of children) rather than what concept means (the right to remarry).¹⁰

Koselleck has stated that, when used, the concepts have various experiences and expectations in them. What sets them apart from technical and professional terms is their controversiality. In relation to politics, Koselleck states that no political behavior can occur without basic concepts that have manifold meanings. That is the reason why the concepts must be interpreted to understand the intentions, meanings and different uses.¹¹ The way to unlock a concept is to look how it interacts with other concepts around it.¹² So, what historians look from the concept is how the concept itself has been modified over the years and what that modification tells about

⁵ Pocock (1989) p.15

⁶ Bödeker (2011) p.28

⁷ Richter (1995) p.124

⁸ Richter (1995) p.136

⁹ Hacking (2000)

¹⁰ Hacking (2000) p. 29

¹¹ Bödeker (2011) p.30

¹² Freeden (2011) p.74

the society using it¹³. Skinner has claimed that only then can a society be said to have integrated a new concept in it, is when the vocabulary used of it is consistent.¹⁴ With regards to this study, the concept of divorce was not consistent even in 1995, which was seen in different discourses used.

What separates historian from non-historical linguistic practitioner is stated by Pocock:

“The non-historical practitioner is not concerned with what the author of a statement made in a remote past meant by it so much as with what he in his present can make it mean—“¹⁵

“But only the historian, --, is interested in the question of how far the author’s use of his words coincide with his modern interpreter’s use of them.”¹⁶

So, the difference with a historian and non-historian is how the interpretation of a concept is made. To understand a concept and its discourses, the historian has to try to distinguish how the meaning has changed over time and not put present day meaning to the past. The main idea with conceptual history is to see how the concepts have changed and how have their use changed.¹⁷

The decision on what concept to take into consideration in one’s study is always the historian’s decision. The decision is also on the historian on matter such as what to take into consideration when studying the concept¹⁸. In this study divorce was chosen due to the reason that it is the opposite of marriage, which was Ireland’s one of strongest institutions and protected by the Constitution.

Marriage and its institution is very interlinked with the divorce concept. Marriage is not looked in to as a concept, because when looking at divorce discourses, the perception on how Irish perceived marriage is visible. The institutional aspect is

¹³ Bødeker (2011) p.24

¹⁴ Ball et al. (1989) p.8

¹⁵ Pocock (1989) p.7

¹⁶ Pocock (1989) p.7

¹⁷ Bødeker (2011) 21, Palti (2011) p.45

¹⁸ Palonen (2011) p.179

interesting in a sense that, in the beginning it was not one of the goals of this study to seek how the marriage institution had changed, but in the end, it became clear that saving the marriage institution was the governments' main purpose when bringing up the divorce discussion. That is why this study also looks how the institution changed, to understand the governments' intentions clearly.

One could say that when studying conceptual change, the focus is on the political changes because the conceptual change will reveal the politics behind it.¹⁹ When studying concept done in political sphere, like in this study, there are special features that need to be looked in to. The research must, for example, understand that political thinker is speaking a specialized version of the public language.²⁰ Political statements can also have many different meanings and implications, and even hide their true intentions.²¹ It is also noteworthy that political statements will evoke different meanings to different listeners.²²

The deathtrap or the savior to historian depending on the situation is that “—a historical document can always be made yield more information than it overtly convey, more even than its maker intended to convey—”²³. If one is not careful with the interpretations made from the historical documents, it is easy to go too far with the interpretations in a way that one starts to analyze the sources only from the perspective of oneself, and forgetting the context that the document was made in.

Also important is to remind oneself that, especially with political language, there can be situations where the political purposefully used a concept in redefined or redescribed form to either justify one's own claim or to diminish the opposing side.²⁴ There were many examples of these in the debates on divorce, such as this: “My comments here this morning may be misconstrued as an attack on

¹⁹ Ball et al. (1989) p.25

²⁰ Pocock (1989) p.16

²¹ Pocock (1989) p.23

²² Pocock (1989) p.17

²³ Pocock (1989) p. 23

²⁴ Richter (1995) p. 142

marriage.”²⁵ This example brings up how the opposing side intentionally interpreted the divorce supporters to attack the family, and how the supporters had to justify the claims not to be true.

Also, when studying concepts tradition is good to keep in mind. Tradition, as in this study case marriage, is an interesting aspect to be studying. Tradition is something that has been formed over the years with the transferring of ideas through language. These ideas then become somehow sentimentalized and to be perceived to be part of one’s identity. ²⁶ The case with divorce is interesting in a sense that the concept has a lot of traditional background in Ireland in being the opposite of marriage. Marriage had been perceived to be the highest moral institution in Ireland, and with divorce, it was seen as crumbling.

To help understand the use of a concept, contextualization must be used. The reason for this is to be able to answer the question of why the concept had been used in a certain way. With the notion of social constructionism, contextualization is very important. It is important to understand why someone perceives the society in a certain way. A good example of this is marriage in Ireland. What was behind the notion that someone constructed marriage to be a religious sacrament that only God could diminish.

There are seven different aspects to be remembered when thinking contextualization; multi-sitedness, historical trajectories, historical body, spatiality & mobility, nexus and discourse cycle.²⁷ All these aspects are in an important relation with this study. They will not be discussed further in the other chapters as such, so for clarity few examples are given here. With regards to multi-sitedness, this study tries to use many different public debates as sources so that clear picture on how the concept was used can be distinguished. This study has a lot of historical trajectories such as the Catholic Church’s position in the Irish society. With historical bodies, the parliamentary debaters have been contextualized to show how they have come to perceive divorce

²⁵ Mrs. Barnes (Fine Gael), Dáil 24/1/86

²⁶ Pocock (1989) p.234

²⁷ Ihalainen (2017) p.16

and marriage in a certain way. With this, spatiality and mobility is also related, in that some of the deputies had been part of the European parliament and because of that, might have been influenced in some ways from outside. With nexus, the debates done in the parliament are a good example. Finally, the discourse cycle is from 1986 to 1995. The years in between are not looked into in this study, but looking at the two years, one should be able to determine how have the discourses changed over the nine years.

The biggest challenge methodologically in this study is to try to explain and justify why and how the concept of divorce was changed from 1986 to 1995. The problem with this is that the time period is relatively small, so no huge difference can be made. Also, the agents giving out the statements had changed quit much, so there is not much continuation. On the other hand, the political parties did not change except on who was in the government and who in the opposition. An interesting issue is that some of the parties who had not wanted legalize divorce in 1986, were in 1995 on the pro-divorce side, which is an indication of how the change of the divorce discourses was very much a political act. The biggest opposition party of 1986, Fianna Fáil, was one of the strongest supporters of divorce in 1995.

“Conceptual change is one imaginative consequence of political actors criticizing and attempting to resolve the contradictions which they discover or generate in the complex web of their beliefs, actions, and practices as they try to understand and change the world around them.”²⁸

The above quote summarizes well what the intention in this study is in the methodological sense. Why and how the discourses changed are the key questions that are tried to be answered by conceptualization and contextualization.

²⁸ Ball et al (1989) p.25

2.2. Those who Participated in the Debates

“Politics and policies are essentially multi-sited by nature, taking place, being constructed, contested and reproduced on different horizontally and vertically linked levels simultaneously and in different times and places.”²⁹

Public debates were chosen to be the primary sources of this study due to their pervasive outlook on the divorce discussion. When studying the speech acts done in public debates, there are few aspects to be recognized. The first is to understand by whom has done the speech act, is it a representative of the government or some other institution. Then one must recognize the political party that the speaker is affiliated with and does it in somehow affect the way they are representing their case. But most importantly, if we wish to grasp how someone sees the world – what distinctions they draw, what classifications they accept – what we need to know is not what words they use but rather what concepts they possess.³⁰

The primary sources consist of parliamentary debates from both years and the official statements given by the Catholic Church on matter. The politics in the Irish parliament is formed in a way that the party affiliation does not count as much as in other countries, because to win the elections one must also go against their own party members. This has been criticized in that the political parties do not matter as such because the deputies represent firstly their home constituency. This is also visible when debated in parliament, the deputies go for a personal attack rather than attacking the party.³¹

The Republic of Ireland’s parliament is formed by the Dáil and the Seanad. The Dáil is elected through public vote and it has 166 seats. Its tasks are introducing legislations, and electing the Taoiseach (head of the government) and the government. The Senators in Seanad are elected by university graduates, via vocational interests and nominated by the Taoiseach. The Seanad does not hold party

²⁹ Halonen et al. (2015) p.3

³⁰ Skinner (2002) p. 177

³¹ Rees, N. et al. (2009) p. 47

affiliations and it does not have any significant power. The President is elected by popular vote by the Irish and is the guardian of the Constitution. The President does not have significant political power either.³²

The political system of the Republic of Ireland has been shaped by the Irish Civil War of 1920s. The opposing sides were either on the side of ending the War of Independence or against it. What this meant was that the party affiliations were not based on social class, which was the case in most European countries.³³ Single party governments were most popular, usually Fiance Fáil holding power, until the 1980s when coalition governments were started to be favored. When the two biggest parties, Fianna Fáil and Fine Gael both represent center-right³⁴, the smaller parties determine the politics in coalition governments.³⁵

Fianna Fáil was formed by Èamon de Valera in 1921. The Church and the party have had a long history dating back from the revolution. The Church had stood on the side of the Free State, which was the side de Valera was on. The party rose to power in 1932 due to its strong Catholic ethos and by the backing of the Catholic Church. It has been stated that Fianna Fáil did not enact Catholic ethos for political reasons but because they felt it was right.³⁶ The party was on the opposing side of the Treaty that ensured the ending of the War of Independence. It is the most popular party in the State, gathering most votes from middle and working class.³⁷

Fine Gael was the oppose to Fianna Fáil, in that the forming group of the political party was the ones on the side of the Treaty. Fine Gael was founded in 1933 and most of its electorates were large estate farmers and business men. In 1980s, it became the party of the middle class, but Progressive Democrats' party's formation

³² Ree, N. et al. (2009) p. 54; Oireachtas (2016)

³³ Bartley, B. et al. (2006) p. 188

³⁴ Rees, N. (2009) p. 47

³⁵ Bartley, B. et al. (2006) p. 190

³⁶ McCabe, M. (2012) p. 240; 246-247

³⁷ Bartley, B. et al. (2006) p.188

eroded its popularity. The Progressive Democrats was formed in 1985 and it gained popularity especially in Dublin in middle-class areas.³⁸

Labour Party was founded in 1912. It has had a strong relationship with farm laborers from southern and eastern Ireland. Even though Labour party was organized around the social-democratic class principle, its popularity has been based on local popularity of the Labour incumbents.³⁹ Democratic Left was a small political party formed in 1992 and broke up already in 1999.⁴⁰ Their main agent, with divorce, was that the restrictions on divorce should not be written in to the Constitution.

Secondary sources used are political pamphlets, televised political debates and news clips from RTÉ⁴¹. The reason for choosing these were due to their easy access and their reliability. These sources also bring out well how the pressure groups for and against divorce were using the divorce discourses. Also, scholarly literature on Ireland is used extensively, to help in contextualization.

Studying the discourses of divorce is closely linked to gender history because the discourses relate very closely to women and their emancipation. This study does not, however, look at the women's emancipation more closely because good studies have already been done on the subject. Instead, this study will look at women and children as one discourse of divorce. The other two discourses, economic and religious, are also linked to women and their role in Ireland, but will be looked at separately because of the notion that this study will not try to look at divorce only from the gender perspective but as an action happening between both genders.

³⁸ Boyce, D. (2003); Bartley, B. et al. (2006) pp. 189; 190

³⁹ Bartley, B. et al. (2006). p.190

⁴⁰ Democratic Left (2017)

⁴¹ Ireland's National Television and Radio Broadcast; RTÉ was firstly used in propaganda to mold Irish society to become more nationalist. (Rees, N. et al. (2009) p.35)

2.3. Transnational Perspective

When talking of public debates as the main source, a good aspect to also look at this stage is the transnational aspect of the debates as Ireland did not exist in a vacuum with no outside influence.⁴²

“For Ireland to move forward in its relationship with Northern Ireland and to accept comprehensively the responsibilities and benefits of membership in the European Union, the nation has had to reexamine the extent to which its political and legal structures are dependent on a religiously informed vision of the world.”⁴³

With transnationality comes the question of what was the role of the European Union, back then the European Community⁴⁴. Interesting aspect is that the divorce referendum was supposed to be first held in the autumn of 1994, but due to different reasons it was postponed until autumn 1995. It is not clearly stated but some deputies due question that did the government decide to postpone it due to European elections also been held in 1994.⁴⁵

One can't deny also the role of the EU's role in changing the Irish society in a sense that when Ireland joined it in 1972, with over 80 per cent of Irish voting “YES”⁴⁶, many directives relating to equality between genders had to be put in place. For example, women's wages had to be raised, the ban on women working when they had children had to be dismissed and women's work at home had to be recognized. Also with the EU, the Irish social welfare system had to be changed because it clearly

⁴² The Republic of Ireland can be said to be a migrant nation, where people living outside of Ireland think of themselves as Irish even though they might only be connected to Ireland through ancestry. This also effects how the native Irish perceive themselves and others. *Kearney, Richard Postnationalist Ireland (1996) 4.*

⁴³ James (1997) p.179

⁴⁴ From here on will be referred to EU for clarification. The reason Ireland joined the EU was to open up the markets for economic growth. Ireland had been a closed country until the 1960s when the decision was made that foreign investments would be allowed to enter the Irish markets and that it would be actively supported. From the 1960s onwards, Ireland started to lean closer to other western countries. (Rees, N. et al. (2009) p. 4)

⁴⁵ Dáil 13/4/94

⁴⁶ Reese, N. et al. (2009) p. 37

discriminated against married women, for example with them not being able to receive unemployment benefit and assistance⁴⁷.

The power of the Court of Justice of the European Union was mentioned in the parliamentary debates many time in incidents such as the below one:

“The Court of Justice of the European Union, in interpreting the Convention on the Recognition and Enforcement of Judgements in Civil and Commercial Matters, which has been in force in Ireland since June 1988, has ruled that a maintenance order granted in one state, on the basis of the obligation arising out of marriage of one spouse to maintain the other, is irreconcilable with a decree divorcing the spouses granted in the state where enforcement of the maintenance order is sought.”⁴⁸

It was not only the European Union, which was trying to influence the Irish, but also the religious communities especially the Catholic Church. An example of this comes from how some deputies mentioned how the pope had spoken about the Irish society having been strong and on the right path with protecting the family when visiting in 1985. The Catholic Church in Ireland had publicly declared to stay neutral during the campaigns, but it had published a letter written by the bishops in 1985, in which it stated that divorce was wrong⁴⁹.

When talking about transnational history in the context of Ireland, one cannot dismiss the effect of Norther Ireland, and their bilateral relations.⁵⁰ Many of the deputies suggested in the 1995 debate that if the referendum would go through, maybe North Ireland would be more easily convinced of uniting with the southern part.⁵¹ This was denied by other by statements such as that both sides should do what they perceive to be best and when the time is right, the unification will come up. This was counter argued that of course if the Irish now voted that they do not want to

⁴⁷ Beale (1986) p.78

⁴⁸ Mr. Taylor (Labour Party), Dáil 09/02/95

⁴⁹ Irish Hierarchy (1985)

⁵⁰ More information on North-South relations can be found in books such as: *Bew, P. Ireland: The Politics of Enmity 1789-2006 (Oxford, 2007)* and *Kearney, R. Postnationalist Ireland (1996)*.

⁵¹ James (1997) p.181

divorce ban to be removed, it would send a message to North Ireland that they do not respect minorities and religion was still strongly enacted in the state.

When the main method is conceptual analysis, one must keep in mind few factors when applying it to transnational history. The first thing to keep in mind is how the concept translates to other languages. The concept rarely has the same connotation and meaning in different language⁵². Gaelic was the official language of Ireland, but what is interesting is that in the parliamentary debates only few deputies spoke with it. A reason for this might be in that there had been few discriminatory incidents on people speaking Gaelic.⁵³ What is interesting is that the Irish language was not so much part of the Irish national identity. The Irish nationalism was so much based on religious aspects that the aspects that other countries consider to be part of their national identity, was not relevant in Ireland.

In this study, the concept of divorce is usually compared to other English speaking countries such as United States and Britain. An interesting point is that the debaters did not like to compare Ireland with other European Catholic countries, like Spain and Italy, but saw themselves more similar with Anglo-American heritage. Even comparison to North Ireland was not seen relevant.

The next chapter will outline the history of marriage institution in Ireland, and help the reader to understand why the marriage institution was perceived to be secret to Irish society.

⁵² Den Boer (2011) p.216

⁵³ Some instances of discrimination of Gaelic language *Kearney, Richard Postnationalist Ireland (1997)*.

3. Marriage Institution Forming in Ireland

Marriage institution has had a strong impact on the Irish culture, and it secured its position in the Constitution written by Éamon de Valera⁵⁴ in 1937. The Constitution stated in Article 4 that:

The State recognizes the Family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.

The State, therefore, guarantees to protect the Family in its constitution and authority, as the necessary basis of social order and indispensable to the welfare of the Nation and the State.

The reason behind for such a constitution was that after gaining independence, the dominating groups in the society were farmers and tradesman, who were very conservative and were backed by the Catholic Church⁵⁵. The founding father of Ireland, de Valera, had held Irishness, where the Church and the State were intertwined, in high standards. To him, it represented the true nature, in which spiritually pure farmer was put in the center.⁵⁶ Jenny Beale has written in her book *Women in Ireland, Voice of Change* that “To politicians the family was the basic unit of the rural economy; to the Church it was the basis of Catholic society.”⁵⁷

⁵⁴ Founding father also the political party Fianna Feil.

⁵⁵ One reason for the separation for North and South was that the Catholics of North were a sectarian in the minds of the republicans of the South, which was an unwelcome addition to the new republic. (McCabe, M. (2012) p. 195) The Catholic Church had a lot of political power at the time due to backing the political party, Fianna Fáil, into power. (McCabe, M. (2012) p. 240; 246-247)

⁵⁶ James (19997) p.177. De Valera kept the masses under control during the revolution and forming of the republic by claiming their objective to be sacred. When his goals were secured, de Valera distanced himself from the religious aspect. (McCabe, M. (2021) p.239)

⁵⁷ Beale (1986) p.6; The Catholic influence on Irish politics had roots dating back to 18th and 19th century. With no other to lead the rural communities due to persecutions, the Catholic bishops and clergy took the position. During the civil war in beginning of 20th century, the clergy and bishops had strong influence over political matters, even though they tried to cover it to be moral guidance. After the formation of the republic, the Catholic bishops had a collaboration with the State only concerning sexual and moral matters due to some drastic stances taken during the civil war e.g. allowing untried prisoners to be executed for the good of the state. (McCabe,M. 2012 pp. 46; 244; 252)

What this emphasis on family meant regarded only families formed by marriage. In 1947, it was made clear by Catholic bishops that only families based on a marriage were true Christian families⁵⁸.

“Whatever weakens marriage weakens society and endangers the future of civilization. - - Marriage and marriage alone is the true expression of love and the normal condition for the emotional security and maturity of children.”⁵⁹

These religious formed unions were started to be regarded as the key for social happiness.⁶⁰

“Where marriages are being dissolved by civil law they tend to fail in that society with ever increasing ease, and divorce does indeed become a social plague.”⁶¹

The State wanted to protect the society and with that it also protected the Catholic Church. The nationalism that had risen with independence war and the civil war had been mixed up with the Catholic religion so much that, it was seen that there was no difference between the Irish society and the Catholic Church.⁶² This protection and relations between the state and the Church did not crumble until the end of the 20th century, when the Church underwent a damaging sex scandal, in which priest were found out to have molested their pupils and the bishops of knowing about this and turning a blind eye to it.⁶³

⁵⁸ Beale (1986) p.6

⁵⁹ Beale (1986) p.75

⁶⁰ Already in 1925, the then Taoiseach W.T.Cosgrave had stated, when suggested that divorce should be legal in the new Republic of Ireland:

“The majority of people of this country regard the bond of marriage as a sacramental bond which is incapable of being dissolved. I personally hold this view. I consider that the whole fabric of social organization is based upon the sanctity of the marriage bond and any thing that tends to weaken the binding efficacy of that bond to that extent strikes at the root of our social life...” (James (1997) p.182)

⁶¹ Beale (1986) p.83

⁶² Beale (1986) p.5

⁶³ Clerical Child Abuse – An Irish Timeline (2011); ; The percentage of frequent Church goers dropped from being in 1984 87% to 1998 being only 60%. The pedophile scandal was one reason for this because in 1990, when the scandal had not come out yet, 85% were claiming to be frequent Church goers. So, in only eight years the figure dropped almost 30%. It was easy for Ireland to become secular in such a rapid pace due to having ideas already circled from the UK regarding the matters. (Callum, G. (2012) p. 80; 253)

From the 1800th century, marriages had been an economic transaction where the woman's dowry helped to keep the farms going. Arranged marriages were not uncommon, and usually it was the case at least in the country side. The peculiarity in marriages happening in the countryside was that men could not marry before they had inherited the farm from their parents. This led then to the fact that women usually married much older man than they themselves were. Also, a lot of older single men were living in the countryside.⁶⁴

The bride would move to the farm after the wedding and she would have no other possession of her own except the dowry that she brought with her, but which was used for the upkeep of the farm.⁶⁵ The wife was then expected to start bearing children, and if she could not, a "country divorce" could take place, in which the woman was sent back to her childhood family. As legal divorce could not take place and the man could not remarry, with the "country divorce" the man could pass on the farm to his brother and his family.⁶⁶ Women and men lived a very separated life until the end of the 1900th century and in the beginning of 20th century. They usually did not have any socialization together except when trying to produce offspring.⁶⁷

What was peculiar in the Republic of Ireland until the 1960s was that, even though family and marriage was perceived as the most important aspect of the society, it had the most single people in proportion compared to any other European country. One reason for this is given by Jeanny Beale:

"The Catholic Church in Ireland is renowned for its preoccupation with sexual morality. It exalted celibacy as the highest form of human existence, and built on the Celtic tradition of penitence and asceticism in its support of a family system in which sexuality was strongly repressed."⁶⁸

⁶⁴ Beale (1986) p.24-25

⁶⁵ Beale (1986) p.26

⁶⁶ Beale (1986) p.28

⁶⁷ Beale (1986) p.29

⁶⁸ Beale (1986) p.30; This hard sexual repression led to massive incidents of mental illnesses in the 20th century. Men also had hard time to show sexual affection even when married. (Scheper-Hughes, N. (2001) pp. 141; 342)

The expectation of the Church was that marriage was the only proper relationship a man and a woman could have. Sex outside of marriage was a sin, and it was seen as destabilizing the marriage institution. Even sex in marriage was only acceptable if it was for the procreation of children.⁶⁹

The economic pressure was also too demanding for some women, and men could not find a wife with big enough dowry coming with her. Also, the age was a problem in some cases when men and women were just too old when the time could have been right to marry. Either they could not find a partner to take them or they were themselves too tired to start a marriage life.⁷⁰ Emigration has also been named as one reason for the large proportion of unmarried people, and after its decline in 1960s, marriage rates started to rise and catch the other Anglosphere countries.⁷¹

The peculiarity of Irish marriages was the possibility to get it annulled either by the Church or the state.⁷² It was estimated in the 1980s that up to 1000 couples per year applied for the annulment, but only few got it.⁷³ The problem was that it cost a lot of money and that is why it had also been criticized for not giving the people a fair chance. When getting an annulment, the marriage was perceived as having never existed. The children born in the marriage were then seen to be bastards and even though one was not married in the eyes of the Church, civil right did not give to permission to remarry because in their point of view, the couple was still married.⁷⁴ The annulments were called to be “divorce Irish style”.⁷⁵ What is interesting is that annulments were granted by both the Church and the state, but they did not recognize each other’s annulments. This meant that if a person remarried after having the first marriage annulled, they were bigamized either in the eyes of the state or the Church.

⁶⁹ Beale (1986) p.75; With the liberal ideas spreading in the 1960s and 1970s, there were some indications of liberal sexual activities. These activities were noted to happen in Trinity College Dublin, which was forbidden to Catholics by their Church until the early 1970s. (Callum, G. (2012) p. 137)

⁷⁰ Beale (1986) p.30-31

⁷¹ Callum, G. (2012) p. 178

⁷² McGowan, D. (2015) p. 229

⁷³ Beale (1986) p.80

⁷⁴ Beale (1986) p.80

⁷⁵ Dáil 1986

From the 1950s onward, after mass media became popular, the Irish society started changing for good.⁷⁶ Now even in the most rural areas people could start contemplating on their lives more. With this change also came the isolation of people. Before the change in culture, neighbors had helped each other and extended families lived on the same farm. Now, with living standards rising, nuclear families became more popular which meant that married couples were left alone with their children. This led to a new problem with the family, with the fact that the married couple had only the significant other to talk to. In society, where the husband and wife did not have to communicate with each other forming into a one where he or she was the only one to talk to, was a big change. This also meant that the expectations in younger generations rose because marriage was not seen any more as an economic contract but rather as a bond formed by love.⁷⁷

When coming to the 1970s, had marriage had formed to be based on love, but had the restraints of governmental and Church laws. Marriage was started to be seen as a constrain on women⁷⁸, and in one feminist pamphlet it was declared to have been invented to keep women under male supervision.⁷⁹ One reason for this statement was that still in the 1970s there was a marriage ban on some jobs, so if a woman married she would have to give up her job. For example, Civil Services did not employ married women. Second reason was that the taxation system was made in a way that married women paid more taxes than single women. Third reason was relating to banking matters. If a married woman wanted to open a bank account, the bank would require her husband's signature of his approval. The fourth reason was that, if a woman left her husband, no matter what the reason was, she would lose all

⁷⁶ Free second-level education became available in 1966, which led to a more open and diverse society even though Catholic Church was the main provider for education and hospital services from the 1900th century to the 1980s. (Rees, N. et al. (2009) pp. 36; 39)

⁷⁷ Beale (1986) p.44-46

⁷⁸ Foreign companies started to hire women, when they came to Ireland. Also, when joining the EU, Irish government had to make changes to its policies to be more equal. These factors paved the way for women to become more independent. (Beale (1986)). See also chapter 5.2.

⁷⁹ Beale (1986) p.74

her rights to the house or the husband money. The problem with this was that when women were not allowed to work when married, the only income she would get was from her husband. The last reason why it was encouraged that women should not marry was that when women married, it was claimed, that they received the status of property rather than an individual subject. For that reason, many feminist groups did encourage women to live in sin rather than submit to male dominance.⁸⁰ Beale writes in her work that there was a large contradiction on the marriage relationship. On the one hand, women and men were perceived to be equal partners, then on the other the State assumes that women are dependent of their husbands and the Church expects the women to put their husband's needs first of their own.⁸¹

The State liked to keep the marriage institution strong, because even though it had put some social welfare schemes in place, dependent spouse was their main tactic for a long time. When the wife and mother was the caretaker of the family, state does not have to take that role. That is the reason why daycare was still very new and not very popular. The State also held for a long time that the domicile of the wife is automatically the same as the husbands.⁸² Also until the 1990s, the wife's social security number was formed to be the same as the husbands with only difference being that in the end there was the letter "W".⁸³

In the 1970s, deserted wife's allowance was introduced by the state. Ever since it was introduced, the number receiving it had been on the rise. The name perpetrates the picture of wives being the victim, with husbands leaving them, but the truth was that many marriages broke down on a mutual consent and that women were not always the victims. Of course, many women were, for men it is easier to leave the country and go abroad, usually to England, and file for divorce. The task was more difficult for women, because they had less money and children to take care of.⁸⁴

⁸⁰ Beale (1986) p.74

⁸¹ Beale (1986) p.75

⁸² Beale (1986) p.75

⁸³ McDonough (1994) p.654

⁸⁴ Beale (1986) p.79

The fact that Irish marriages did fall apart was not seen by many as a permanent cycle. In 1985, it was estimated that 70 000 married people were living separately. That is the reason why some did not think divorce was a necessary action to be taken, but instead with supportive measures to marriage, the problem would disappear. This number did increase by 41% between the years 1986 and 1991.⁸⁵ The basic notion on the divorce discussion was whether people saw the contract part of marriage as more important, as had been in the early 20th century, or did they regard marriage as a relationship⁸⁶.

What the government started to realize in 1980s was that the marriage institution had to be somehow saved, due to young people not getting married as much as before and illegitimate families being formed. That is why the notion of divorce was introduced.⁸⁷ What is interesting to note here is that the marriage rates were not actually decreasing at such a pace that the government was announcing. The marriage rate was on about the same level that it had been before 1960s, when the marriage rates had started grow.⁸⁸

The next chapter will now look at why the government made the decision to put divorce on referendum and what kind of debates it sparked.

⁸⁵ James (1997) p.180

⁸⁶ Beale (1986) p.83

⁸⁷ McGowan (2015) p.225-226

⁸⁸ The marriage rate in Ireland was apx. 15 000 annually in 1960s and in 1980s the figure was apx. 10 000 annually. In 1995, the figure had stopped to around 6 000. In comparison, USA has had over 20 000 marriages annually ever since 1920s. Callum, G. (2012) p. 178

4. The Politics of 1986 and 1995 - Saving the Marriage by Banning Divorce or by Allowing Remarriage

The Irish Constitution of 1937, stated in Article 41:

“1. The State recognizes the Family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.

2. The State, therefore, guarantees to protect the Family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the Nation and the State.

3. The State pledges itself to guard with special care the institution of Marriage, on which the Family is founded, and to protect it against attack.”⁸⁹

The State was thus bind to protect family institution because of the Constitution. What the concept family meant was one which was formed through marriage.

Catholic religion and the Irish State had a strong bond ever since Ireland gained independence. The Irish nationalism was mixed with Catholic ethos so that in the end there was no distinction which was which. The newly independent Ireland benefited from this relationship because it had the backing of the Catholic Church in exchange for the State to back the Church⁹⁰. For de Valera, the constitution represented a document which showed how the Irish society perceived itself and how it was conducted. That is why he did not see any reason why the Church and the State should be separated.⁹¹ Another factor, brought up by C. James, is that the attempt to erase all traces of the British rule from the Constitution was also one reason why

⁸⁹ Beale (1986) p.6; Constitution of Ireland

⁹⁰ One reason for the Church's strong support for the State after independence was its fear of Vatican interfering with Irish Catholic Church. The Irish Catholic Church wanted to appear strong in hopes that Vatican would not send a permanent delegation to Ireland which would then have a strong control over the national Church. Vatican had also close ties to Britain, so the fear of British influence through Vatican was strong in the 1920s. (McCabe, M. (2012) pp. 102; 111)

⁹¹ James (1997) p.178

divorce was abandoned from it.⁹² The Irish wanted with the newly gained independence to create totally new Irish state that had no traces of the imperial rule of the British. Good to note here is that when the Irish were making their new Constitution with ban on divorce, in Britain the divorce laws were being formed to be simplistic and expanding.⁹³

Change to this relationship started to slowly happen from the 1960s onwards. There were three different indicators for this change, which lead to Ireland becoming more secular. The first was that liberal ideas started to spread. This was helped by the introduction of mass media such as national television and radio⁹⁴. Also, foreign companies started to become interested in Ireland, and with them came the liberal ideologies from other Western countries. The second indicator was the slow decline in the religious population. The reason for this is with the liberal ideas circulating and with the third indicator, which was the strengthening of the religious conservatism in the Church. The Church was losing followers, even if in small numbers, and the ones who stayed were usually the ones, who were the most conservative and religious. This lead the conservative followers to demand for a more conservative commitment to the Church, which then scared off the more liberal followers. This trend was also visible in other countries, but in a larger scale.⁹⁵

The first notion of secularization was in 1972 when the Catholic Church's special position was removed from the Constitution by a clear vote⁹⁶. Then came the Family Planning Act of 1979, where it was permitted to sell contraception to married women. The next wave of liberalization came in 1983, when the Abortion Act was put

⁹² James (1997) p.182

⁹³ James (1997) p.182

⁹⁴ A wide censorship had been in effect in 1940s and 1950s including sex and anti-Christian materials. (Callum, G. (2012) p. 31)

⁹⁵ The trend was stronger in the US, UK, and Canada. Indications of this is e.g. homosexuality and abortion became legal in many of these countries in the 1960s with the liberal movement. Ireland legalized homosexuality in 1993 when European Court of Human Rights ruled it to be decriminalized. Callum, G. (2012) pp. 124; 130; 173

⁹⁶ 83.1% voting "YES" and 16.9% voting "NO". (Emery (2012) p.594)

on referendum. Decriminalization of abortion did not go through the electorate, but nevertheless, it was an indicator that more liberal values were being expressed.⁹⁷

Women were one reason for the change. Marriage bars, that had been in place ever since independence, were lifted in the 1970s because of the pressure coming from the EU. This meant that married women could start to work outside of home, if they wished to do so. They were no longer economically dependent of their husbands and did not rely solely on the support of the Church in the life outside of home. This breaking of the women's and the Church's relationship was especially devastating to the Church's authority because with women, they lost their influence on children. This then lead to the distancing of the Irish people and the Catholic Church. What Beale has noted in her study was that the institution of marriage in Ireland was based on assumption that woman was the dependent one and that she should have been the one to put her children's and husband's interests before her own.⁹⁸ With women becoming more emancipated, it started to change.

A committee had been formed in 1985, where marriage breakdowns were studied. After the publications of the committee's results, the government decided to hold a referendum, to see if the electorate would want the government to change the Constitution on the matter of divorce.⁹⁹ In 1986, the question of should the ban on divorce be removed from the Constitution was put by the coalition government of Fine Gael and Labour Party forward in the parliament. The Labour Party had previously tried to put the divorce question on referendum but failing in that.¹⁰⁰ What the parties proposed was that the Article 41.3 should be removed and be replaced by the following:

⁹⁷ O'Leary (1988) p.69

⁹⁸ Beale (1986) p.75

⁹⁹ The Committee's task was to determine how marriage breakdowns would affect the Irish society. Three aspects were found which were decrease in the standard of living of the separated couple, State's growing financial burden in social housing and legal aid, and that couples might want to stay together because of financial necessity. The conclusion of the report was that the phenomenon of marriage breakdown was more concerning than its practical effects. (McGowan, D. (2015) p.226)

¹⁰⁰ Dillon (1993) p.31

“Where, and only where, such court established under this Constitution as may be prescribed by law is satisfied that: (i) the marriage has failed; (ii) the failure has continued for a period of, or periods amounting to at least five years; (iii) no possibility of reconciliation exists between the two parties to the marriage, and (iv) any other condition prescribed by law has been complied with, the court may in accordance with law grant a dissolution of the marriage provided that the court is satisfied that adequate and proper provision having regard to the circumstances will be made for any dependent spouse and for any child, or any child who is dependent on, either spouse.”¹⁰¹

Also with this introduced changes, the prime minister proposed new additions to the family law such as raising the minimum age for marriage, family court system and institutions to help in marriage breakdowns.¹⁰²

At first, the law seemed to be favored by all. Not only the government parties but also the minority parties accepted the proposed changes, and the biggest opposition party declared that they would not oppose of it in the Dáil. Opinion polls were also made and apparently, according to the Irish Times, the law had 61 percent majority behind it. The only ones not in favor of it were over 65 years and farmers.¹⁰³

When the divorce legislation was put forward, some thought that it was the start for crumbling the society, because the law would smash the traditional family values. Also, concepts such as unhappiness and sorrow were mentioned when divorce society was discussed.¹⁰⁴ Many examples were given on how divorce would destruct the Irish society. This was even expressed by the members of the governmental parties proposing divorce.¹⁰⁵ For example, , former Carpenter, Deputy Flanagan from Fine Gael claimed that

¹⁰¹ Dillon (1993) p.1

¹⁰² Dillon (1993) p.1

¹⁰³ O’Leary (1988) p.71

¹⁰⁴ Mr. O.J.Flanagan (Fine Gael), Dáil 15/5/86

¹⁰⁵ A clear example of the nature of the politics in Ireland. The party affiliation does not matter as much as the personal and local connections. That is why there was no party whip used when deputies voted for divorce, but they could solely base it on their conscience. (Dáil 1986)

“If a divorce law is introduced we will be back to the position which pertained before the Middle Ages when marriage was a private arrangement. We talk about modern times, being up to date and trying to overtake prosperous countries but in this area it is towards the Middle Ages that we would be headed. The system in the Middle Ages led to a legal and social mess of the highest order.”¹⁰⁶

The divorce legislation was also described to be a “constitutional Frankenstein” that would first lay low and unexpectedly attack the society in the end. Also, the opposing deputies made scary future scenarios where the first family would be left hanging and would not have any Constitutional rights¹⁰⁷. What the opposing deputies were trying to do was to convince young people to vote against the legislation with the claim that would they want their relatives forced divorces on their own consciences. It suggested that even though the young people might feel pressure from their peers to vote “YES” in the referendum, they could still listen to their conscience in the secrecy of the ballot box¹⁰⁸.

The questions of why there were no other alternatives suggested, for example more marriage counseling or raising the minimum age for marriage, instead of divorce were also asked. Some deputies also claimed that divorce would not solve the problems in the marriage, but just able the people to leave from it without solving them. If marriage was to be only regarded as a temporary contract, people could start leaving each other without other person having any say on it.¹⁰⁹

The supporters of the legislation used the concept of remarriage as their justification for their stand. The strongest argument concerning this was the fact that all other mechanisms for separation were already taking place. The supporting deputies saw it strange that the last step to properly separate and give the people the right to remarry should not take place¹¹⁰. What the opponents of divorce, then, claimed with the discourse of remarriage was that it was the sole reason why divorce

¹⁰⁶ Mr. O.J.Flanagan (Fine Gael), Dáil 15/5/86

¹⁰⁷ Dr. Woods (Fianna Fáil), Dáil 15/5/86

¹⁰⁸ Mr. Faulkner (Fianna Fáil), Dáil 14/5/86

¹⁰⁹ Dáil 14/15/86

¹¹⁰ Miss. Flaherty (Fine Gael), Dáil 24/1/86

should not be legalized, because then people could marry as many times as they liked because second unions were also studied to fail frequently¹¹¹. To this claim, Senator Lanigan, from Fianna Fáil and a former company director, from the pro-divorce side that it would not be the case, because people would learn from the so-called first mistake and would seriously think about marrying again¹¹². Former school teacher, Deputy Flaherty, from Fine Gael, also asked should not the quality of the marriage matter more than how long it lasts. This was backed up by a statement, where the deputy expressed that marriages had become more about the personal pursuance of one's own happiness instead of marrying just for status¹¹³.

The marriage institution in Ireland had started to change from being a lifelong contract to be regarded as a relationship. If the relationship broke down, the couple did not feel the need to stay together anymore even for the sake of children because of the notion that children might be harmed more in an atmosphere that was tense and negative. An indication of this is the state allowance for deserted wives which was introduced in 1970. In 1986, it was stated that around 7 300 women were receiving it, even though the rules for applying for it were very tight.¹¹⁴ It depended on which side one was on was the number seen as big or just representing the minority.

Deputy Flanagan stated:

“Through the media, that 6 per cent of marriages which are broken have been given the power, through agitation, to force the Government to provide divorce.—that 6 per cent are putting at risk the marriages of 94 per cent of couples in Ireland. That will happen if the Irish people are foolish enough to pass this law.”¹¹⁵

Which was answered by Independent Senator McGuinness, barrister-at law:

¹¹¹ Mr. Faulkner (Fianna Fáil), Dáil 14/5/86

¹¹² Mr. Lanigan (Fianna Fáil), Seanad 23/5/86

¹¹³ Miss. Flaherty (Fine Gael), Dáil 24/1/86

¹¹⁴ Beale (1986) pp 66;79 ; Alice Glenn on Divorce (2017)

¹¹⁵ Mr. O. J. Flanagan (Fine Gael), Dáil 15/5/86

“In a situation where public opinion polls show that well over half the population feel that divorce should be granted in certain limited circumstances, are we going to describe over half the population as a mere pressure group?”¹¹⁶

The statistics on the need for divorce were under a debate many times. This was because the government was not able to show clear statistics on marriage breakdowns because they had not been recorded. For example, people might have moved to separate places but did not put it on record. This then brought the confusion and questioning of the extent of the problem. Former dress designer Deputy Glenn, from Fine Gael, for example used statistics of the deserted wives as indication that there was no marriage breakdown problem if one compares the 7 300 women receiving deserted women’s allowance to 500,000 marriages¹¹⁷. The fear that the society was to be changed because of minority was one of the key issues to the opponents of divorce. This was a negative aspect to some because giving rights to minorities seemed to them as unbalancing the whole Irish society.¹¹⁸ Senior Council Deputy Andrews, from Fianna Fáil, also claimed that there was no public demand for divorce and that the Government was trying to implement their own personal views on the society, without the society wanting it.¹¹⁹

The question of minority rights brought up the underlying notion of should the individual rights be respected over the rights of the society. Dillon states in his book that even though the Irish people would have wanted to grant the minority the right to remarry, they did not want to undermine the lifelong commitment of marriage, which they saw as the greater good for the society.¹²⁰ So, the Irish people were willing to sacrifice the minority right’s in trying to save their society.

With the question of morality brought up, Deputy Flaherty, Fine Gael, asked is it morally right that the Constitution binds people in unhappy marriages by

¹¹⁶ Mrs. McGuinness (Independent), Seanad 23/5/86

¹¹⁷ Alice Glenn on Divorce (2017)

¹¹⁸ Dillon (1993) p. 67

¹¹⁹ Mr. D. Andrews (Fianna Fáil), Dáil 15/5/86

¹²⁰ Dillon (1993) p.76

force? The deputy did acknowledge that family was the most important unit in the society, but questioned would Irish society really benefit from marriages where people were unhappy.¹²¹

The issue of changing the Constitution was also seen degrading for some. Arguments such as protecting Irish society and morality through the Constitution was the key job for legislators, and that the youngsters should be taught the values in it instead of taking pieces out of it when times change, were heard.¹²² Also the question of whether divorce law is in fact a matter to be put on the Constitution was debated. Statements such as no other country has divorce guaranteed as the civil right and that why Ireland should then put it as a civil right were made in the discussions¹²³. The problem with divorce becoming a civil right was how divorce can be then controlled and how can one person be denied divorce and other to get the right¹²⁴. This refers to the fact that for example Catholic's could not get a civil divorce due to religious rules.

The Anti-Divorce Campaign was launched soon after the prime ministers proposition. Their doctrine constituted only on constitutional and legal basis with no reference to Catholic doctrine. Their claims were based on the notion that the first family would suffer the most in that it would lose all their benefits to the second family, and that future governments would have the power to even broaden the terms under which to get a divorce. Their work was very organized and it was recorded that their leaflet was sent to every post address in Ireland. Fianna Fáil, the biggest opposition party, was their strongest supporter even though they had previously

¹²¹ Miss. Flaherty (Fine Gael), Dáil 18/17(6)

¹²² Mr. O. J. Flanagan (Fine Gael), Dáil 21/5/86

¹²³ Dr. Woods (Fianna Fáil), Dáil 21/5/86

¹²⁴ Dáil 21/5/86, Dillon (1993) p.63

promised to stay neutral.¹²⁵ The Pro-campaign was much more scattered in that the governmental parties did not work together in promoting their cause.¹²⁶

When the polling day arrived, 62.7% of the electorate turned up. The votes went 63.5% against the amendment and 36.5% for it. The astonishment was great since no opinion poll had predicted for the amendment not to go through. Particularly women and susceptible urban elite had changed their mind during the campaign¹²⁷. Even the biggest governmental party, Fine Gael, had its party members outside of Dublin going against it. This led it to a great turmoil. Another interesting thing about this turnout was that for a second time, the coalition government lost¹²⁸ the referendum to a pressure group backed by the Catholic Church.¹²⁹ From this, the assumption that Catholic values were still cherished very deeply can be made.

Dillon has come up with two obstacles that the pro-divorce campaigners faced during that time. The first obstacle was how to argue for divorce without undermining the strong religious connotation of marriage, and it being a lifelong commitment. The other one was how to argue against the claim that the state needs to be the one protecting families.¹³⁰ The Constitution had previously separated strictly the public and the private, and morality and values of the society followed Catholic guidelines.¹³¹ When the proposition for a change in the legislation was made, the key factor was the asking of the electorate not to associate common good with Catholic ethos.¹³²

¹²⁵ The Anti-Divorce Campaign (ADC) was an independent group, which led the opposition for divorce in 1986. It was formed after the government announced its intent on holding the referendum, and its supporters were mostly Catholic lay people. Most of its leaders were men and had experiences opposing the 1983 Abortion Act. Even though ADC was an independent group, one of its chairmen was a Fianna Fáil senator with close ties to Vatican. (Dillon, M. (1993) p. 31, 32)

¹²⁶ O'Leary (1988) p.71-72; Divorce Action Group (DAG) was formed in 1980 to lobby divorce in Ireland. Most supports it received from Dublin, which were usually separated persons themselves. DAG had no connections with political parties. Unlike in the Anti-Divorce Campaign, most of the leaders in DAG were women. (Dillon, M. (1993) p.31; 32)

¹²⁷ Darcy et al. (1990) p.6

¹²⁸ The first was the Abortion act.

¹²⁹ O'Leary (1988) p.73

¹³⁰ Dillon (1993) p.35

¹³¹ Dillon (1993) p.23

¹³² Dillon (1993) p.40

The ones on the side of divorce could not use religious examples, as the against side could, because of them trying to separate the Church and state. They then had to use more intellectual approach in their arguments¹³³. Senator O’Leary, from Fine Gael and a barrister-at-law, criticized people on his side for trying to justify divorce because minority Church would allow it. In his mind, the state and the Church should be totally separated, no matter what religion or Church was in question, and that arguing for minority Churches rights was the same as the opposing side using Catholic Church as the justification for their claims¹³⁴.

The opponents of divorce did recognize that marriages failed in Ireland, but the opposition was more based on the idea of divorce.¹³⁵ They undermined the role of the first family, especially concentrating on women and children. They claimed that even though the government had stated divorce not to be on-demand, it would become one in the following years if the amendment passed. The government had to make new promises about measures how they would protect the first family in case of divorce during the campaign, and in doing so, they undermined their own proposal which lead to public uncertainty.¹³⁶

In 1995, divorce was put yet again on referendum. Like in 1985, in 1992 there had been a study made titled *Marital Breakdown: a Review and Proposed Change* done by the government and stating that due to inspecting marriage breakdowns from all aspects, referendum should be held again. Three years from that, Fine Gáel and Labour coalition government held a referendum again.¹³⁷

The situation in Ireland was very different in 1995 when compared to 1986. The economy had started to grow from the recession of 1980s¹³⁸. The difficulties

¹³³ Dillon (1993) p.68

¹³⁴ Mr. O’Leary (Fine Gael), Seanad 23/5/86

¹³⁵ Dillon (1993) p.75

¹³⁶ Darcy et al. (1990) p.13

¹³⁷ The Oireachtas (2017)

¹³⁸ Fianna Fáil won the elections of 1987 and started to tackle the recession problem in coalition with Progressive Democrats by cutting expenditure and making deals with the labor organizations to reboot economy. Economic growth started to be visible after 1993 when the GDP grew over 7 % each year. This lasted until 2000. Ireland also benefited from the completion of the European single market and the US expansions of 1990s. (Botetzagias, I. (2011) pp. 5; 8)

that the pro-divorce side faced in 1986 had already been corrected with new legislations such as the Family Act (1994), in which the marriage age had been raised from 16 to 18 years and a three month notice to be given before the marriage was put in place. The divorce legislation now put to referendum had taken into consideration everything that was questioned about it in 1986. The grounds for divorce were as such:

“ (i) at the date of the institution of the proceeding, a couple have lived apart from one another for a period of, or periods amounting to, at least four years during the previous five years.

(ii) there is no reasonable prospect of a reconciliation;

(iii) proper provision having regard to the circumstances exists or has been made for the spouses and any dependent members of the family, and

(iv) any other condition prescribed by law has been complied with.”¹³⁹

Another difference in the way the government was handling the referendum was its campaigning for the referendum to go through. A booklet stating what the government was proposing with divorce, and what would it mean if people voted “YES” or “NO” was distributed to every household in Ireland.¹⁴⁰ The money for this came from the collected taxes and it was debated on was this form of action legal.¹⁴¹ This government interference also led to two lawsuits filed by private persons, in hopes that the referendum’s outcome could be nullified. The Supreme Court ruled that the government had the right to educate the electorate on referendum matters.¹⁴²

In the parliament, the debates that were relating to the divorce legislations were concentrated on whether the rules of divorce need to be written in the Constitution. The opposing side on the Constitutional discussion claimed that when divorce legislation was put in the Constitution it was a disgrace to the minorities, and that in the future that parliament would have again a problem with the divorce when

¹³⁹ The Oireachtas (2017)

¹⁴⁰ The Oireachtas (2017)

¹⁴¹ Dáil, 5/12/95

¹⁴² McDonough (1996) p.668

the society changed. The opposing side also debated that the Constitution should not be tampered in this way that modern legislations were put in, but that it should rather be regarded as a foundation on the Irish society.¹⁴³ This was especially the view of the Democratic Left party that had been formed in 1992.¹⁴⁴

Fianna Fáil, which had been the opposition on divorce in 1986, was now on the side of divorce. The reason for this was that the terms of divorce were to be written in the Constitution. That is why the governmental parties were also on the side of writing the terms in Constitution, because they wanted the backing of Fianna Fáil on this issue.¹⁴⁵

Marriage was no longer seen as a religious sacrament as it had still been seen in 1986. The aspect of the quality of the marriage being more important than the sacredness of marriage was the notion of many.¹⁴⁶ Another indication of secularization in terms of how marriage was perceived was that no one argued anymore based on religion. There were no more deputies expressing, based on religion, their stand on divorce. Also, as Mr. Cullen stated:

“—the Church recognizes there are certain circumstances in which people have the right to have their marriage annulled under Church law, and because of that, have the right to remarry under Church law.”¹⁴⁷

The Church was now used as justification for divorce because of its annulment laws. This interpretation was possible since the Church had been silent concerning divorce due to its unpopularity at the time until right before the referendum was held. That was when the bishop's statement was published which claimed that it would never accept divorce and it was against the Catholic ethos.¹⁴⁸

¹⁴³ Miss. Harney (Progressive Democrats), Dáil 3/10/95

¹⁴⁴ Democratic Left (2017). Broke up in 1999.

¹⁴⁵ Dáil 3/10/95; The Labour Minister for Equality and Law Reform, Mr. Taylor, announced publicly that the prohibitions concerning divorce would be written in the Constitution. He did this without addressing his fellow governmental partners, and when Fianna Fáil stated its support on this matter, Fine Gael could not do anything but support the proposal. (McGowan, D. (2015) p. 286)

¹⁴⁶ Ms. F. Fitzgerald (Fine Gael), Dáil 3/10/95

¹⁴⁷ Mr. Cullen (Fianna Fáil), Dáil 3/10/95

¹⁴⁸ Irish Times, Oct. 27, 95

What the government was trying to perpetrate was that it was not undermining the marriage institution, but was in fact trying to save it. The biggest misconception in 1986, in their mind, was that with banning divorce, it would slow marriages from falling apart, but that had not happened. On the contrary, people were no longer getting married with a decline of approximately 2 000 people per year.¹⁴⁹

“The referendum is about restoring marriage to a central place in society, in that separated people will gain the legal right to remarry if the divorce referendum is passed. The common good will be better served by cautions and prudent change at this stage. There is also the issue of the civil rights of minorities and the compassion that society is prepared to show towards those who have serious problems.”¹⁵⁰

When the referendum came near, the decline was visible on the “YES” side. This led the government to take drastic action in that the Taoiseach, John Burton, first held a press conference, and then appeared on the RTÉ radio and appealed to the electorate to be compassionate and stating that he was a faithful Catholic, who still was on the side of divorce.¹⁵¹ This shows that even though the Church had been left out of the decision making in the parliament, the electorate still needed to be reassured that the Catholic values had not faded¹⁵².

All the major parties supported the referendum campaign, and that is why it was a surprise that when the referendum was held on November, only 50.28 % voted in favor of the legislation. From the referendum, the process continued in that the parliament debated on the Family Law (Divorce) Bill in 1996, which was then enacted in 1997. The Family Law (Divorce) Act consisted the points that had been introduced in 1995.¹⁵³

So, what the government was trying to achieve was the saving of the marriage institution. It was not the problems of the marriage breakdown itself that

¹⁴⁹ Mr. Creed (Fine Gael), Dáil 3/10/95

¹⁵⁰ Mr. B. Ahern (Fianna Fáil), Dáil 3/10/95

¹⁵¹ Bradley, A. (1997) p. 284

¹⁵² Data shows that the most liberal area was Dublin in 1980s and early 1990s, but that ideas started to spread in accelerated motion from the 1990s onwards to the rural areas. (Callum, G. (2012) p.124)

¹⁵³ The voter turnout was 62.15 %; McGowan, D.(2015) p.289; 291

was the focus, but on the marriage breakdown as a phenomenon. This is visible from the divorce debates in that the emphasis was mainly on marriage and not on the effects of marriage breakdown. The next chapter will now look at what discourses divorce had in the debates of 1986 and 1995.

5. Three Main Discourses seen in the Debate

With the divorce debates going on in 1986 and 1995, the concept of divorce was understood many different things depending on who was speaking and at what time. Three discourses were chosen for this study: women and children, economy and religion. These discourses were especially found in arguments stating how the society had and would be changed if divorce was to be legalized. With the help of these discourses, clear distinction can be drawn on how Irish perceived the family dynamics and marriage.

What is interesting with these discourses is how much they changed from 1986 to 1995. For example, economic discourse was somewhat lost in 1995 because of the many economic reforms made by the government in the between years of 1986 and 1995. The gender aspect also changed from the statements of 1986, where women were clearly mentioned as the victims of divorce to 1995, where the gender was hidden with the term spouse. The last discourse, religion, also changed from the perception of marriage being a sacred religious bond to a more liberal view.

5.1. Break in Tradition of Religious Discourse

This sub-chapter will look in to how the religious discourse was used and changed during 1986 and 1995. The first part of this chapter will first focus on the stand that the Catholic Church had on the issue and after that the debates will be looked at. The reason for this is that especially in 1986 the Catholic Church had a great influence on the debaters and the Irish society, so their impact on how people would perceive divorce is unquestionable. The situation did change in 1995 due to different reasons and that will also be elaborated more on the following sub-chapters.

5.1.1. The Catholic Church's Stand on Divorce

The bond between the Irish and the Catholic Church was strengthened with the 1937 Constitution, in which the Catholic family was cherished and promised to protect. This family type did not regard family to be anything other than those based on marriage and “any threat to the Catholic family was a threat to the stability of society as a whole.” The Catholic Church also announced that the greatest sin there could be was sexual relations outside of marriage.¹⁵⁴

After the economic growth of 1960s and 1970s and Ireland becoming part of the EU in 1972, things started to change. Women started to work outside of homes and mass media became available to even the rural parts of Ireland. The Catholic Church started to lose its hold on Irish, especially women, which can be said have been one of the most damaging things to the Catholic Church's authority. The Church¹⁵⁵ had been living in a symbiose with the Irish women, in which women had relied on the Church's teachings. The women would then pass on these teachings to their children, but now with women not relying solely on the Church, that relationship had diminished. The most visible sign of Ireland becoming secularized was in 1972, when a referendum was held where the special position of the Catholic Church was removed from the Constitution. The bishops also publicly acknowledged that the State was not obliged to secure the Catholic teachings in state legislation.¹⁵⁶

When the divorce debates started in 1986, The Catholic hierarchy did stay neutral, officially, during the campaigns before the referendum¹⁵⁷, but the Church's belief was that their teachings brought the greatest social good, and as the protectorate of the society, they saw themselves having the duty to support those who did not believe in divorce.¹⁵⁸

¹⁵⁴ Beale (1986) p.5-8

¹⁵⁵ Here on out the Church will refer to the Catholic Church

¹⁵⁶ Beale (1986) p.9-19, Andersen (2010) p.23

¹⁵⁷ Dillon (1993) p.6

¹⁵⁸ Dillon (1993) p.40

The Catholic Church published a *Love is for Life* pastoral letter in 1985, which had different sections concerning religion's connections to different aspects. One of the topics was what the Church's perception on divorce was.¹⁵⁹ The Catholic Church never really mentioned why they published the letter, but one can assume that the Church might have wanted to affect the deputies from an early stage on even when they were just discussing whether there should be a referendum or not. Another reason could have been that with the growing liberalization, they wanted to remind the Irish of the Catholic stand on different matters.

The section about divorce started off with the notion that the Catholic Church did not want its laws¹⁶⁰ to be enacted as the civil law. Nevertheless, it saw its duty to inform and guide its members on what religion thought of marriage and divorce. This guidance it justified with the claim that the Church was the moral guide for people.¹⁶¹

From the pastoral letter, the Church's biggest fear seemed to be that with the introduction of divorce, family and marriage would lose its significance. With marriage, the problem was that it would no longer be a lifelong commitment, but more as a temporary contract that could be ended whenever. This then would lead to the breakdown of the Irish society.¹⁶²

"Their first concern as legislators, however, is for the well-being and the common good of society as a whole. Few will deny that the stability of the social fabric and the well-being of society are closely linked with the stability of marriage and the family."¹⁶³

Justifying the influencing the public and the deputies was brought up with the claim that law affects the peoples' morals. The law could be one where it

¹⁵⁹ Irish Hierarchy 1985

¹⁶⁰ The Canon Law of the Catholic Church were first formed in 1917 and which was reformed in 1983. (Keenan, M. (2012) p. 288) It states that separation of the spouses is in some cases acceptable but remarriage in civil law is always considered adultery. (Vatican (2017))

¹⁶¹ Irish Hierarchy 1985

¹⁶² Irish Hierarchy 1985

¹⁶³ Irish Hierarchy 1985

would be easier for people to make morally good decision or a one where it would not be that easy. The law would also represent how the Irish society would be perceived from other countries, because it shows what the Irish society sees moral and socially acceptable. With this claim, there were examples given from different countries where divorce was introduced and where the society had started to accept divorce and remarriage more and more. The worst-case scenario, painted by the pastoral letter, was that divorce would become fashionable. Divorce legislation could also become to be a sign of “civilized” and “tolerant” society, which would mean that the countries banning divorce would be seen as backward.¹⁶⁴ This, the Church, saw unjustified.

The question that divorce would be only used by small minority and that Catholics in their strong faith would not be affected was also talked about in this pastoral letter. With the mention of society’s perception changing with the legislation, all marriages would then start to be looked as dissoluble. No marriage, religious or not, would be safe. This was because when people would get married, they would know that if there would be problems, they would be able to leave. This then made people get married more easily, and in that way more divorces would appear. Also, when difficulties would arise in marriages, people would not deal with them but just give up. This claim was also backed up with statistics from different countries. Also, the fear that cohabitation without marriage would increase, was also brought up.¹⁶⁵ So, the Catholic Church did not trust its segregation to stay true to their faith if another option was possible. This is interesting because no real indication of decline in e.g. the mass attendance was visible in the 1980s¹⁶⁶.

After these claims, the pastoral letter continues to the question of who suffer the most in the case of divorce. According to the letter, they were women and

¹⁶⁴ Irish Hierarchy 1985; This could have been the greatest fear of the Catholic Church in Ireland, with that it was the last country in Europe to have a ban on divorce. Other Catholic countries, such as Spain, in 1981, and Italy, in 1974, had legalized divorce. Ireland was also relatively new to the EU, so the Catholic Church might have feared that the government wanted to portray Ireland as a liberal country. One indication of this had been the 1983 debate on abortion to be legalized, which in the end did not go through (Beale, J. (1986) p.15).

¹⁶⁵ Irish Hierarchy 1985

¹⁶⁶ Callum, G. (2012) p. 80

children. The letter does acknowledge that women are the ones who usually tend to apply for divorce in the countries where it is possible, but then goes on to state that children suffer because of this. The letter states that empathy towards women, who suffer for example in abusive marriages, should be felt, but does not really give an answer what should be done to help those women. A little contradictory to this perception of women being the ones applying for divorce is the claim that the real “winners” of divorce are men. Also, according to Catholic Church, there had been studies made where the conclusion was that children would prefer a difficult family life than divorced parents. The child would also suffer from new parents that would come with remarriages.¹⁶⁷ This portrayal of children as victims was also used by opponents of divorce in the parliamentary debates.

The Love for Life letter also dealt with the question of annulment. It stated that when a marriage is broken, the Catholic Church can look at the situation which the marriage was under, and see if there are factors that would able the marriage to be dissolved. The events and factors that happened during the marriage could not be considered, and that was the major difference between divorce and annulment. Annulment sought that the marriage was invalid from the start, and for that reason did not fail because of the people in the marriage. The letter also claimed that divorce would not be the answer for the problems in the marriages, because it would only concern the minority.¹⁶⁸

The issue of dissolving a valid marriage was brought up in the letter, but the Church’s power to do that aroused from being the representative of God. To deny someone divorce was perceived by the Catholic Church, according to the letter, as protecting human love and human happiness. It is very interesting that the letter does acknowledge that the Church’s position on divorce in broken marriages might cause the people in them to lose faith, but that the Church’s task then is to remind them of God’s love and protection.¹⁶⁹

¹⁶⁷ Irish Hierarchy 1985

¹⁶⁸ Irish Hierarchy 1985

¹⁶⁹ Irish Hierarchy 1985

Even with the claims and statements of the pastoral letter, some deputies argued in the Dáil that Catholic Church's stand on the matter of divorce was unclear.¹⁷⁰ The reason for this is twofold. On one side, the hierarchy claimed to take no stand on the matter, and on the other hand the Church takes a clear stand with the pastoral letter. The Church used a lot of moral arguments, and the reason for this was that there were no empirical reasons to oppose them¹⁷¹.

In 1995, the situation was a bit different. The Catholic Church had not brought up its position on divorce as clearly as it had in 1986 until the very last moment. In October 26th, the Bishop issued a statement that was titled "*Fidelity is possible; marriage promise means what it says*". The statement was very radical taking in to account that the Church had been relatively silent on the matter. Now, right before the referendum was to be held, did this coming out happen. The statement was declared by Irish Times to have "not held any punches in urging Catholics to vote No".¹⁷²

The statement first begins describing how marriage vows state that it is for life, and that even in hard times, the vow should not be broken. The bishop then goes on to the main point of divorce, which was the right to remarry. He claims to know people who have formed second unions because of the first marriage having failed, but makes the notion that allowing the people to remarry would not do anything other than damage the marriage institution and marriage vows. By allowing people to remarry, he states, would undermine the whole reason why marriage was deemed to be so sacred in the first place.¹⁷³

¹⁷⁰ Dáil 20/5/86; The Anglican Church of Ireland announced straight away that it would be on the side of divorce in a public television debate. The reason for this was that it saw that it was the only solution to the separation problem. It declared that from the possible options of broadening of nullity or allowing divorce, divorce would be the better option. (Divorce Discussion – 1986 Referendum (Part 2))

¹⁷¹ Dillon (1993) p.150

¹⁷² Irish Times Oct. 27, 1995, The relationship of between the Catholic Church and the press in Ireland had been close one with the press publishing Church sermons and statements from the beginning of 1900th century. This gave power to the Church on temporal issues. (McCabe, M. (2012) p.17)

¹⁷³ Irish Times, Oct. 27, 1995

“The standing of marriage in society is due precisely to the fact that it is founded on an unconditional promise which endures as long as both partners live.”¹⁷⁴

In regards, to the question of did people not deserve a second change, the bishop stated that by giving people a second chance, they would also get third or fourth chance also and that would Irish people really want to give second chances to violent husbands.¹⁷⁵ This is of course a very interesting argument in that the bishop does not mention should the wives of violent husbands be allowed for a second chance. One could argue that the bishop saw the battered wives as collateral damage on the way of keeping marriage sacred, and he did state that even though remarriage would be a relief to some, it would be damaging to many more.¹⁷⁶

What the bishop also mentioned in his statement was that marriage institution would also suffer even if only some could remarry. In his mind, the married couple should have the whole community’s backing and have the same notion of marriage as a lifelong commitment. The bishop also noted that even though the government had promised that easy divorce would not be possible, even the notion of divorce to be available would lead to people leaving their spouses easily. In the bishop’s mind, what would happen if divorce would be legalized would be that of the crumbling of the Irish society. What he also said was that there should be caution on trying to be a pluralistic society, because in the end it could be damaging to the society as in the case of allowing divorce because of some minority groups.¹⁷⁷

The bishop only shortly mentions nullity but then states that the Church does not believe that nullity is the solution for marriage breakdowns or that it should be enacted in the civil law.¹⁷⁸ This is a very different view from 1986, where even some deputies claimed that nullity was the solution to marriage breakdowns and should be

¹⁷⁴ Irish Times, Oct. 27, 1995

¹⁷⁵ Irish Times, Oct. 27, 1995

¹⁷⁶ Irish Times, Oct 27, 1995

¹⁷⁷ Irish Times, Oct 27, 1995

¹⁷⁸ Irish Times, Oct. 27, 1995

broadened. Now the Church had publicly stated that nullity was not the answer or to be used in the cases where marriages breakdown.

“The proposal that is now before the people is a proposal about changing the civil law. It is not a question of whether or not the teaching of the Catholic Church should be removed from the Constitution. The simple fact that something is in harmony with the Church’s teaching is not in itself a reason to keep it in the Constitution, but neither is it a reason to remove it.”¹⁷⁹

What the bishop was implying with the above quote was that even though the Irish Constitution had religious connotations in it, the connotations, as in this case the sacredness of marriage, should not be removed from it solely because they were religious. What one can interpret from the statement is that the Church had the same fear as in 1986 in that the government was pushing the Irish society to be more secular and liberal than it might have been.

What the bishop stated in the end was that even if divorce would be legalized, the Catholic Church would not accept remarriage, because it was not part of its teachings. He also gives praise to the people who have been deserted but had not given in to new relationships. The bishop does not give any straight solutions to the marriage breakdowns but just remarks that more aid and advice should be given the married couples. What the bishop did state in the very end was that the proposed amendment was “false kindness, misguided compassion and bad law.”¹⁸⁰

5.1.2. Perceptions on Religion

“Just as the Irish Constitution in 1937 reflected the finite ultimate viewpoint of Irish Catholic sociology, today we are trying to draw back from that global

¹⁷⁹ Irish Times, Oct. 27, 1995

¹⁸⁰ Irish Times, Oct. 27, 1995

enshrinement. The proposal is being vigorously and trenchantly opposed in a very definite way by the Catholic Church.”¹⁸¹

With these two public statements given out by the Catholic Church, it is good to start to look at how they and the teachings of the Catholic Church were reflected on the issue. Of course, it is good to note here that Catholicism was not the only religion in Ireland, but it was the most dominant one and that is why it was given so much attention in the parliamentary debates.

The religious discourse was used by both sides of the parliament throughout the debates. The debates of 1986 consisted of arguing what God would have wanted, what the society’s morality is based on and the question of remarriage. In 1995, religious aspect seems to disappear in that it was not so straightforward as it had been in 1986. For example, there were no longer mentions of God or bringing up the deputies on religious affiliation. Now, it will be examined how the religious discourse was formed, and how the question of state’s relationship with religion was handled.

In 1986, the Catholic Church had stated early on that they did not want the Church law to be enacted as the civil law, and this included the part about divorce¹⁸². Even with that stand, many deputies from both sides of the argument used religious justifications for their arguments. Former solicitor, Deputy Enrigh, from Fine Gael, stated that “Let it be clearly understood that no State, Government or civil power on the earth have the power to dissolve or break that marriage according to the teaching of my Church.”¹⁸³ Also claims such as the Irish society having lost its Christian values that had been around for ages were made.¹⁸⁴

On the other hand, the supporters of divorce argued that no one really knew what God’s perception of remarriage was and that God would not be so cruel as

¹⁸¹ Mr. D. Andrews (Fianna Fáil), Dáil 15/5/86

¹⁸² Mr. J. Doyle (Fine Gael), Dáil 21/5/86

¹⁸³ Mr. Enrigh (Fine Gael), Dáil 21/5/86; Catholic religion had intertwined with Irish nationalism so much that for many it was part of their identity as in this case the deputy speaks of HIS Church.

¹⁸⁴ Mr. O’Mahony (Labour Party), Seanad, 23/5/86

to deny failed marriages the right for divorce.¹⁸⁵ The deputies arguing for the divorce had to, according to Dillon, convince the electorate that even though they were arguing against the Catholic teachings, they were still themselves faithful Catholics. Their main task was to try to break the idea that society and religion were inseparable.¹⁸⁶ This was visible in claims where it was stated, for example, that marriage should have been seen as a legal contract with in addition to being a sacrament of the Church.¹⁸⁷ What the supporters of the amendment claimed divorce meant was “the right to remarry”.¹⁸⁸ Senator Ryan, an Independent and a former lecturer in chemical engineering, clearly stated that “What we are talking about in terms of the right to remarry is the right to the contract of marriage, not the sacrament of marriage.”¹⁸⁹

The State’s and Church’s relationship caused a lot of discussions, and mixed views from both sides in 1986. On the supporting side of divorce, on one hand it was seen as a good idea to consult with the Churches because of their strong role in the marriage ceremony, and on the other side it was seen as mockery to the republic to even think that consulting the Churches was important.¹⁹⁰ The pro-divorce’s strongest claim was that the law should be one which takes into consideration all the people of the republic, no matter what religion or non-religious group they belonged to, because citizenship did not depend on such matters.¹⁹¹ The minority Churches were claimed to be discriminated against with the law at present.¹⁹²

The deputies opposing the divorce law claimed for example that when issues relating to morality and virtue were brought up, the Churches had the right to advice their followers on the issues from the religious aspect.¹⁹³ This Church’s

¹⁸⁵ Mr.D. Andrews (Fianna Fáil), Dáil 15/5/86

¹⁸⁶ Dillon (1993) p.34; This again coming back to the notion of how Catholicism and Irish nationalism intertwined in Independence and Civil Wars.

¹⁸⁷ Mr. O’Sullivan (Labour Party), Dáil 2/25/86

¹⁸⁸ Dillon (1993) p. 34

¹⁸⁹ Mr. B. Ryan (Independent), Seanad 5/23/86

¹⁹⁰ Mr. Taylor (Labour Party), Dáil 2/18/86, Mrs. Fennell (Fine Gael), Dáil 5/14/86, Mr. De Rossa (The Worker’s Party), Dáil 2/26/86

¹⁹¹ Mr. O’Mahony (Labour Party), Seanad 5/23/86

¹⁹² Mr. B. Desmond (Labour Party), Dáil 2/25/86

¹⁹³ Mr. D. Andrews (Fianna Fáil), Dáil 5/21/86

controversial right to guide both normal citizens and deputies was brought up multiple times in different arguments.¹⁹⁴

The biggest problem the Catholics saw in the divorce discussion was that civil law could give a Catholic the right to divorce or remarry. Deputy Flynn, who was a former primary teacher from Fianna Fáil, mentioned that the majority Church had every right to remind the deputies of the fact that Catholic theology did not accept the proposed changes in the Constitution and that it would never change¹⁹⁵. He also claimed that “divorce would give respectability to actions totally at variance with Christian ethics”¹⁹⁶. In one debate, Senator Fitzsimons, from Fianna Fáil, attacked a claim that divorce, seen as the right to remarry, would bring a solution to the failed marriages. He stated that it would not be the case because of the Catholic Church would never recognize the second marriage and would perceive it as adultery. This then would not solve the problem but in fact cause more pain to the participants.¹⁹⁷

From the first debates, the supporter side asked if the Catholic Church had no faith in its congregation since it was appearing to be so afraid of the divorce legislation. For example, Deputy Barnes, a fulltime public representative from Fine Gael, asked:

“Why a Church, based on fundamental and long held beliefs as the Catholic Church claims, would feel that Irish Catholics would so fail in their beliefs, integrity and moral standing that they need to be protected by State law” .¹⁹⁸

¹⁹⁴ Séamus de Brún (Fianna Fáil), Seanad 5/23/86; To some, the representatives of the Churches were only lobbyist, who should not have any political relevance, but to some, they represented the moral guiders, whose duty it was to guide the deputy in right direction. (Dáil 26/2/86) Since party affiliation did not matter in 1986 divorce debates, the deputies could base their decision solely on their conscience. Noteworthy here is that Fianna Fáil had been the political party, which had had close ties with the Catholic Church. In 1986, it was in the opposition, which might be the reason why so many of its members brought up the religious discourse when opposing divorce. The most religious deputies can be said to have belonged to Fianna Fáil, and when, in 1995, the party supported the Divorce Bill, the religious arguments faded.

¹⁹⁵ Mr. Flynn (Fianna Fáil), Dáil 5/15/86

¹⁹⁶ Mr. Flynn (Fianna Fáil), Dáil 5/15/86

¹⁹⁷ Mr. Fitzsimons (Fianna Fáil), Seanad 5/23/86

¹⁹⁸ Mrs. Barnes (Fine Gael), Dáil 1/24/86

Some also pointed the blaming finger towards the Catholic Church, because they felt that majority Church had no right to claim to be taking the high moral road on the issue of divorce. It was stated by numerous occasions that other minority religions had accepted the need for divorce legislation in the civil society even though their theological teaching forbid it.¹⁹⁹ A claim was also made, concerning the so-called high morality of the Catholic Church that in other countries where divorce was available, people, no matter what religion, were applying for it. So, the Catholic Church's fear was understandable, and Deputy Foley, a former rate collector from Fianna Fáil, mentioned that social pressure for divorce would be so strong that even the faithful Catholics would not be able to resist separation²⁰⁰. With that, the claim that the proposed legislation would only affect the minority and being only demanded by the minority pressure groups was argued against.²⁰¹ The cases of Catholic societies that had introduced divorce such as Spain, Italy and Portugal were mentioned as exemplary cases of Catholic societies that had not collapsed after divorce being legalized.²⁰²

The discussion of virtue was brought up in this context. The Catholic Church claimed not wanting to have their laws incorporated to civil law, but stated that civil law could be one that supports virtue or one that makes non-virtue more appealing to the society.²⁰³ This can be interpreted in a way that Catholic religious aspect should be seen in the civil law due to its well intentions. This interpretation was brought up in former company director Deputy de Brún's speech from Fianna Fáil. The claim states:

"The Church has a right and a duty to address itself to the common good. In the course of any debate she would have a two-fold function: (i) to teach the truths of the faith to her own members; (ii) to alert people generally to the moral and social implications of civil legislation."²⁰⁴

¹⁹⁹ Mr. Robb (Independent), Seanad 5/23/86

²⁰⁰ Mr. Foley (Fianna Fáil), Dáil 5/14/86

²⁰¹ Mr. Smith (Fianna Fáil), Seanad 5/23/86

²⁰² Mr. Quinn (Labour Party), Dáil 2/26/86

²⁰³ Mr. O'Mahony (Labour Party), Seanad 5/23/86

²⁰⁴ Séamus de Brún (Fianna Fáil), Seanad 5/23/86

A claim was also made by Senator Smith, from Fianna Fáil and a former farmer, where he first stated that the majority Church does not want its laws enacted in the civil law, but then goes on to say that even though some might see the Church's position as hard and unjustified, the Church only tries to protect the Irish people, especially children, from marriage disintegration.²⁰⁵ The strongest case the Church made was that it is only looking out for the good of the society.²⁰⁶

The problem that arose with the Catholic Church and divorce, in 1986, was also the question of annulments. The Catholic Church recognized annulment as the only justified mechanism for marriage separation. The issue with this was then that the Church's annulment was not recognized by the State. So, if a person got their marriage annulled and remarried afterwards, the State perceived the second marriage as illegitimate. The double standard with the Catholic Church came visible in this. The members of the majority Church, who did not support divorce legislation, failed to see the fact that the Church through nullity, gave rights that the opposed did not want to grant to the State.²⁰⁷

"I have difficulty in understanding how the outright objections being voiced to any form of dissolution of marriage by those speaking on behalf of the majority Church can be reconciled with the fact that the Church itself grants dissolutions of marriage and grant annulments in circumstances in which the civil law cannot do so. We have the odd position in which members of the majority religion here can obtain Church dissolution but are denied the right to obtain civil dissolution which recognizes, effectively, the decree granted by their Church."²⁰⁸

Some deputies also claimed that the fact that there was no legal divorce had forced the courts to broaden the nullity law²⁰⁹. Some of the people opposing divorce

²⁰⁵ Mr. Smith (Fianna Fáil), Seanad 5/23/86

²⁰⁶ Mr. Connor (Fine Gael), Seanad 5/23/86

²⁰⁷ The state and the Catholic Church both had the possibility to grant marriage annulments, but they would not recognize each others annulments. What this meant was that Irish people could not remarry in any case. This debate over annulments brings forward the underlying question of who had the right to claim for marriage institution; the state or the Church. Beale, J. (1986) p. 80

²⁰⁸ Mr. Shatter (Fine Gael), Dáil 5/14/86

²⁰⁹ Mr. Taylor (Labour Party), Dáil 2/18/86

suggested that the annulment process could be modified more to meet the public's requirement on marriage separation²¹⁰. This of course was problematized because no other Church in Ireland, except the Catholic Church, had provision for annulments.²¹¹

Deputy Flaherty, from Fine Gael, brought up the notion that the Catholic Church was ahead of time compared to the State because it provided nullity of marriage in cases where needed. If the question was about only remarriage, the Church had also recognized that, if a person had annulled their marriage, they would have the right to remarry but the only problem with this was that the State, then, did not recognize the new marriage.

“—the Church is ahead of us in acknowledging the problems of marriage breakdown, in annulling marriages where there are children and in allowing second marriages.”²¹²

Others also argued with statements such as

“I do not go for the hypocrisy of annulments, giving a cloak of sanctity to further liaisons. —the annulment process, the criteria used and the ultimate agreement to granting the annulment are, in my view, destructive of marriage. It is the kind of divorce I do not want to see here.”²¹³

In relating to the previous statement, it was also claimed that annulments and nullity were much more devastating than divorce would ever be to women and children²¹⁴.

Deputy Doyle, from Fine Gael, also suggested that both, divorce and annulment should be able to be accessible to people due to their different approaches to dissolving marriage²¹⁵.

²¹⁰ Mr. V.Brady (Fianna Fáil), Dáil 1/24/86, Mr. Dukes, Dáil 2/18/86

²¹¹ Mr. De Rossa (The Workers Party), Dáil 2/26/86

²¹² Ms. Flaherty (Fine Gael), Dáil 14/05/86; This tactic is called rhetorical redescription, where concept is applied to mean something different. What the tactic does in this example is portray the Catholic Church to being modern and ahead of the state. This is very different perception from what Catholic Church was usually deemed to be. (Skinner, Q. (2017) Rhetorical and Conceptual Change.)

²¹³ Mr. B.Desmond (Labour Party), Dáil 5/15/86

²¹⁴ Mr. Dukes (Fine Gael), Dáil 5/14/86

²¹⁵ Mr. J. Doyle (Fine Gael), Dáil 1/24/86

Senator Fitzsimons, from Fianna Fáil, also brought out the question of sexuality in that in a broken marriage presumably there is no sexual intercourse, and because Catholic Church prohibits sexual intercourse outside of marriage, denying the possibility of remarriage would in fact deny the people healthy sex life.²¹⁶ This argument clearly shows in what sorts of ways the Catholic Church effected persons' lives without them even realizing it.

The relationship between the State and the Church was not only seen in the way that the religious morality should be enshrined in the legislation, but that the Church should also have other ways in collaborating with the State. An example of this comes from a former national teacher Deputy Faulkner, from Fianna Fáil:

“—the Churches have voluntary advisory bodies which have got a high level of professionalism but which need money to develop their facilities so as to provide easily accessible and effective counselling services. The State should recognize these voluntary bodies, finance them and co-operate with them so that they can effectively carry out their duties. I do not feel, however, that the State should be directly involved in this work where a delicate and particularly caring approach is needed.”²¹⁷

This statement shows how some deputies perceived the State's and the Church's role in event of marriage breakdown. From this statement, one can see that the State should be the one funding the marriage counseling, but the Church should be the one who organizes them. It is noteworthy that in this statement, Deputy Faulkner is talking about Churches is plural, so he might not only mean the Catholic Church. It is also interesting that Deputy Faulkner does not associate the State to be able to handle the counseling in a delicate and caring approach.

So, in 1986, the majority Church saw itself as the protectorate of the Irish society, but did not want its own religious laws to be also the civil law. It perceived divorce as the factor for society breakdown, but failed to recognize the Catholic

²¹⁶ Mr. Fitzsimons (Fianna Fáil), Seanad 5/23/86

²¹⁷ Mr. Faulkner (Fianna Fáil), Dáil 14/05/86

societies that had legalized divorce and did not break down. The Catholic Church had its own mechanism for failed marriages, for example annulment, but refused to believe that in civil society, the divorce would not be anything else but harmful.

In 1995, the religious discourse was not so evident anymore as in 1986. A good example from this comes with the annulments. The annulment institution was very much discussed in 1986, but had almost completely disappeared in 1995. The institution of annulments was first brought up by marketing consultant Deputy Woods, from Fianna Fáil, in expressing the fear that would that institution completely disappear if people could divorce. The relationship between the State and the Church was in a dilemma during 1995 in that would people be tempted to get divorce even though their conscience would say the opposite. Deputy Woods' suggestion to this dilemma was to make annulments more approachable.²¹⁸ Medical Doctor Deputy McDaid, from Progressive Democrats, brought up the notion again that the Catholic Church had long ago recognized this problem and that if the State would just accept the religious annulments, there would be no need for divorce.²¹⁹

On the other side, it was argued that annulments were becoming “divorce Irish style” and next logical step would be to legalize divorce.²²⁰ “Nullity is disconnected from divorce. In cases of nullity we are talking about a situation where there never was a marriage so the question of divorce simply does not arise in that context.”²²¹ was expressed by secondary teacher Deputy Taylor, from Labour Party, who was in charge in 1995 to get the divorce debate through the parliament. In his arguments, nullity had nothing to do with divorce and that is why it was not taken in as part of the new legislation of divorce when it was questioned. Overall, the nullity had become to be seen as an outdated institution that had nothing to do with marriage breakdowns.²²²

²¹⁸ Dr. Woods (Fianna Fáil), Dáil 01/02/95

²¹⁹ D.McDaid (Fianna Fáil), Dáil 3/10/95

²²⁰ Ms. Keogh (Progressive Democrats), Dáil 01/02/95

²²¹ Mr. Taylor (Labour Party) Dáil 01/02/95

²²² Mr. Norris (Independent), Seanad 15/02/95

Like in 1986, the relationship between the State and the Catholic Church was much discussed. Statements such as this were made: “We are no longer a totally Catholic society, if we ever were.”²²³ What full time public representative Deputy De Rossa was doing with that statement was to separate the State and the Church, and even questioning the Catholic Church’s position in Ireland. One of the reasons for this distancing might be in that the Catholic Church had undergone a major sex scandal. In 1994, Fr Brendan Smyth was sentenced to prison for abuse of children, two Kerry priests were removed from their duties because of child sexual abuse and the government fell due to arguments relating to the Brendan Smyth case. In 1995, more revelations were coming out in that some victims had been paid to keep silent on the abuses.²²⁴ So, the government was trying to put space between the Catholic Church and itself, especially having fallen apart the previous year because of it.

Of course, not all had abandoned the Catholic Church, like Senator O’Kennedy, from Fianna Fáil and a former senior council.

“If we want to exclude – and we can if we wish- the prevailing religious ethos in any society, call it sectarian or something of that kind and say that it is no effect and is no business of ours, we ignore the reality that in all the civilisations throughout the world, be they some of the most sensitive pagan civilisations of Africa, China or wherever else, the prevailing religion in the sense of ethos has a major effect, and rightly so on the law. – in 1995 that we are going to start from today and sweep all that aside, our culture or whatever?”²²⁵

What is good to note from this statement is that even though Senator O’Kennedy is against excluding religion from the State, he never mentions the Catholic Church. He just generally mentions religion and gives examples of non-Catholic countries. The

²²³ De Rossa (The Worker’s Party), Dáil 14/02/95

²²⁴ Clerical Child Abuse – an Irish Timeline (2011); The sex scandal also affected the Catholic Churches of USA, UK, Canada and Australia but nowhere else had it had such strong negative impact on the Church as in Ireland. There had also been a distinct decline in the people regularly attending mass. Also, when coming to the 1990s, the Church had no longer a monopoly on the educational system and its good relations with the media had waned. (Callum, G. (2012) pp. 39; 126)

²²⁵ Mr. O’Kennedy (Fianna Fáil), Seanad 15/02/95

reason for this can be that he either did it unintentionally or that he was also distancing himself from the Catholic Church due to the negative publicity. But Senator O’Kennedy acknowledged how religion was an important aspect in civilization and its culture. He did not accept, like neither did the Catholic Church, that just because something was religious, it should be tossed away.

The discourse of marriage being a question of minorities was even strengthened in 1995. The question was no more should minorities have the right to remarry if they so wished, but more on that if they were not given that right, what would it tell about the Irish society in a negative way²²⁶.

“Many Irish people will say “no” to divorce because they are Catholic and Catholic teaching says that divorce is morally wrong. – Not all people in this State are Catholic and it is not proper that we should legislate for one religion only. While other religions may not like divorce or may not actually support it, or favor it, they do allow the individual conscience to decide.”²²⁷

Differing with the debates made in 1986, there was no real discussion on should the Church be heard on the amendment. In 1986, there had been many discussion on how the Church had the right to advice its segregation and it should be heard on the issue of divorce, because it went against its moral teachings. These were absent in the debates of 1995. No one mentioned or asked if the Church had given a statement on the matter.

Another religious aspect of the debate missing in 1995, which was present in 1986, was the deputies bringing forward their own religious views.

²²⁶ Mr. Flood (Fianna Fáil), Dáil 3/10/95; Since joining the EU in 1973, Ireland had actively integrated European in to the Irish discourse. This also meant integrating European values to Ireland. As previously the Irish discourse had been formed around being a colonized country, it started to form in to an equal to other European countries. (Hayward, K. (2009) pp. 124; 127) This could be one reason why the minorities were becoming a concern in the 1980s and 1990s, because equality was one of EU’s strongest values. McDonough has also brought up the notion, that there was the fear that Irish society was becoming too individualistic, which was deemed to be not good for the society. (McDonough (1996) p.666) The fear of individualistic society could also be one reason why the government wanted to secure the marriage institution.

²²⁷ Dr. Henry (Independent), Seanad 12/10/95

Statements such as: “—God — is a compassionate, loving and forgiving —”²²⁸ and “— many of the vows that are taken before the altar of God—”²²⁹ were gone from the debates made in the parliament. There can be few reasons for this. The first is that the deputies were trying to distance themselves from the Catholic Church in fear of unpopularity or the perception on marriage itself had changed. What is meant with this is that marriage was no more seen only as a religious sacrament but also as a relationship that had nothing to do with religion.

“The Church has lost its grip on teaching people about the sacred aspect of marriage. The State is attempting to follow a trend by concentrating on the practical problems. We are trying to legislate for marriage break-up. People will say that the State should not be involved.”²³⁰

This was one of the statements made that questioned why the State should be involved in a religious sacrament. What is noteworthy is that the first sentence gives the answer to that. Because the Church had lost its influence on the Irish society due to the sex scandal, women’s emancipation, and with the loss of the control of the media and the educational system, marriage was no longer a favorable option for younger people. That is why the State then had to step in and try to save the marriage institution, that it had sworn to protect in the Constitution.

This break in how marriage was becoming to be seen was stated by a former senior council Deputy D. McDowell, from Labour Party:

“For many years Irish law reflected and enforced the teaching of the Christian Churches. In effect, the State implemented the social teaching of the Christian Churches, particularly that of the Roman Catholic Church. It is time for this to stop and to re-establish the distinction between the legal nature of marriage and the Christian sacrament. The law must be developed so as to deal with the reality of marital breakdown. Those who accept the teaching of the Church will continue to do

²²⁸ Mr. D. Andrews (Fianna Fáil), Dáil 21/5/86

²²⁹ Mr. Robb (Independent), Seanad, 23/5/86

²³⁰ Mr. Lanigan (Fianna Fáil), Seanad 12/10/95

so and nobody would have it otherwise, but the State has a duty to provide for those who do not accept the Church's teaching, we have a duty to cater for minorities."²³¹

A noteworthy person in the debates of 1995 was Professor Lee. He was an independent member of the Seanad, representing his workplace the National University of Ireland, where he worked as Irish history professor.²³² The reason he is a noteworthy person, is that he was one of the only one who brought up the fact that the Irish society was in fact facing a dilemma in that on the one the one side, people try to distance themselves from religion but still try to save it's one of sacred sacraments. He gave out statements such as these:

"It is fair to say that many of those supporting divorce welcome – some actively work for – a weakening of the role of religion in our society, a weakening of Catholicism in general and the Catholic Church specifically. At the same time, they invoke the ethos inherited from those values as our main bulwark against a divorce culture."²³³

So, the religious discourse changed from the overly religious arguments into hiding the religion. The debates of 1986 were circled around on the fact whether divorce would be good for the Irish society and would the society crumble because of it. Also, questions about nullity and its position in the society were brought up. Then in 1995, the discussion changed to being more on the basis that no matter what religious ethos say, divorce should be legalized because it was seen as a right for the minorities.

This change in the discourse was because of few different things. The first was that in 1995, the Catholic Church had undergone a sex scandal and deputies wanted to distance themselves from the unpopular subject. In the previous year, the government had fallen because of disputes on how the government should handle the situation. The other reason was that people had become more secular. Women, especially, were no more relying solely on the teachings of the Church, but were out

²³¹ Mr. D. McDowell (Labour Party), Dáil 3/10/95

²³² The Oireachtas (2017)

²³³ Professor Lee (Independent), Seanad 12/10/95

working like their male counterparts. This led to that Catholic teachings were not passed on to the children as it had used to be.²³⁴

The Catholic Church also acted very differently to the divorce discussions. In 1985, a year before the official debate, it had published a booklet, which stated its ethos and position regarding divorce. In 1995, the Church was silent until the last minute, when it published the bishop's statement. The statement included, again, the Catholic ethos and clearly stated that Catholic Church was not on the side of divorce, no matter what the case was. In the eyes of the Church, divorce would destabilize the society and weaken the marriage institution.

So, what was visible when perceiving both debates was that the Catholic Church was no longer, in 1995, seen as an equal partner in lawmaking. Marriage institution had been one of the strongest bonds between the Church and the State, but now the State perceived to have the only say on the matter. The reason for this was secularization of the Irish society²³⁵ and one reason for this to have happened was the emancipation of Irish women, which will be more looked at in the next chapter.

5.2. The Ones who Suffer – Women and Children

The view of women and their role in society became very clear with how they were used in the divorce debates. In 1986, especially the anti-divorce side used to represent women as dependents, whose role in society depended on marriage. One of their thesis was that women legitimized their role in society through marriages, and if lifelong commitment was taken out of it, what would then justify women's roles.²³⁶

²³⁴ Beale (1986) p.75

²³⁵ The secularization was visible from negative factors such as seeing personal enrichment more appealing than social responsibility, and increasing numbers of fraud and other crimes. (Bradley, A. et al. (1997) p. 277)

²³⁶ Dillon (1993) p. 78

The Anti-Divorce Campaign even claimed that due to gender discrimination in Irish society, the protection of marriage as a lifelong commitment was the State's way of compensating that.²³⁷

The voices heard in 1995 were very different. Even though the notion was that women would be on the losing side, the statements made were not as radical as in 1986 in associating gender with divorce. An example of this comes from Deputy Faulkner, from Fianna Fáil, who claimed that: "The commitment for life is replaced by a legal commitment to stay with one spouse until one or the other of the partners decides otherwise."²³⁸

The reason the women and children are put under the same chapter, is in that motherhood can be said to be a very dominant discourse in Irish women. The use of children and questioning the effects of divorce on them, is in relation to motherhood and through that to womanhood. The first part of this chapter will look at how the women discourse was formed in 1986 and 1995, and the will go on to see how the effects on children were also debated.

The distinct difference between the debates done in 1986 and 1995, was based on women's roles in the Irish society. In 1986, it was not really questioned that should there be a change in women's roles in should they start becoming more active members of the community and work outside of home. In 1995, the debate had backflipped and the debate now circled on what was the women's role in the society, work away or stay at home.

In 1986, the day after the government had brought up its intent on putting divorce on referendum, there was a televised debate, where representation was from different sectors. This debate showed well how different the two opposing sides were when the concern was on divorce and women. On the opposing side, a statement was made that women would not vote for divorce because it left them on the losing side and with regards to what would be the solution then to the problem if

²³⁷ Dillon, M. (1993) p.69

²³⁸ Mr. Faulkner (Fianna Fáil), Dáil 14/05/86

not divorce, it was stated that to some problems there are no solutions. On the other side, Karen O'Connor, who ran the Divorce Action Group, claimed that it would especially be women, who would vote for divorce because it was in their interests.²³⁹

Since the Constitution had promised to protect family and marriage, it was easy for the against divorce side to try to convince women that they would be better protected in marriages. This was of course true in a sense that, in 1986, women did not have all the same rights as single women or men. The debate of 1986, regarding family, circled around the theme of would the first family be worse off if the other spouse married again.

Fianna Fáil Senator Hillery's statement to the Seanad is a good example of how women were portrayed in 1986 debates: " – the traditional Irish housewife, who is of a conservative frame of mind, religious, loyal to her husband and financially dependent on him, will in most cases, be worse off."²⁴⁰ That was the picture that was being put forward by the opposing side of divorce. The loyal and religious housewives were going to be left to nothing if their husbands were to be allowed to divorce them.

In the representation of women from the opposing side of divorce there was a visible dilemma present. On the one hand women were represented as the greedy actors, who divorce their farmer husbands, and divide the lands and with that cause economic hardship to their ex-husbands. From the other perspective, women were stated to be passive actors, who could be kicked out of their family homes when the husband decides to get a new wife.²⁴¹ This dilemma represents well how the gender is socially constructed in that for every debater it had a different meaning.²⁴²

The women's position of being vulnerable was the dominant perception and was used by the divorce supporters side too. They tried to explain that even though it was still claimed that women and children were best protected in marriages,

²³⁹ Divorce Discussion - 1986 Referendum (Part 2)

²⁴⁰ Professor Hillery (Fianna-Fáil), Seanad 23/5/86, Professor and Head of Department of Industrial Relations. (The Oireachtas, 2017)

²⁴¹ Dillon (1993) p. 56; Mrs. McAuliffe-Ennis (Labour Party), Seanad 23/5/86

²⁴² Hackling (2000) pp.7

the case was that due to having no divorce law, women and children were in more vulnerable position. What they tried to do was to try to convince the electorate that the family structure would not be in any danger, and that even though some might get divorce, for most families there would be no effect.²⁴³

Desertion was used as an example from both sides in 1986 to explain in what kind of position women were or would be in the case of divorce. Both sides acknowledged the hardship that the families faced, but the difference came with which family was the misfortunate one. The ones arguing for divorce tried to bring forward that fact that when a husband left his family, no matter what time had passed from the desertion, the wife was still attached to him.²⁴⁴ If a deserted spouse would, after a while, start a new family, the second family would not be legal. The children born in them would be illegitimate and the spouses would have no rights for each other if death occurred. So, the deputies for divorce stated that to keep the Constitution unchanged, the situation for all the families would be horrible²⁴⁵.

It is interesting that the supporters of divorce decided to portray the women in their examples with women being the ones forming the new family. This does not really fit the picture of vulnerable and passive women. The reason for this tactic might be in that supporters of divorce wanted to raise the sympathies of Irish women to vote for their “sisters” in need.

On the other side, desertion was a good way for the opposing side to scare the women even more. With this, the first notion usually was that the women would be worse off in financial situations²⁴⁶. The against divorce side especially used statistics from desertion to bring out their point. They claimed that about 7 300 women were claiming the deserted wives’ allowance which meant that if women were to separate, they would be in bad situation financially. Also, claim that divorce would cost a lot of money to the government due to divorce being a snowball effect was

²⁴³ Mr. Shatter (Fine Gael), Dáil 21/5/86

²⁴⁴ Mrs. Barnes (Fine Gael), Dáil 24/1/86

²⁴⁵ Mrs. McAuliffe-Ennis (Labour Party), Seanad 23/5/86

²⁴⁶ Professor Hillery (Fianna Fáil), Seanad 23/5/86

brought up with these statistics.²⁴⁷ Statistics were also used by the supporters of divorce side but not to the extent as in the opposing. The usual statistic they brought forward was how many women there actually were in the people who file for divorce in countries where it is legal. With this, they claimed that women would not do so if they had something to lose.²⁴⁸

One of the biggest advocates of against divorce in 1986 was Alice Glenn of the Fine Gael party. Ms. Glenn represented Dublin in the parliament, and she was first elected in 1982. Before that, she had worked as a dress designer and as a housewife. She was part of the Fine Gael party until 1987, when she dismissed herself after disagreeing on how liberal the party should be. She tried to run as an independent in 1987 elections, but was not re-elected.²⁴⁹ She appeared in many different public forums expressing her opinions. She claimed, for example, that if divorce legislation was to go through, it would be a lot easier to get rid of a spouse than of an employee²⁵⁰. With the notion of divorce being about the question of remarriage, in one televised debate, she stated that no man would want to marry a woman that already had seven children²⁵¹. She claimed to be on the side of women and keeping their wellbeing of utter importance.²⁵²

The stigmatizing that Alice Glenn had used on single mothers was also used by other people on the opposing side of divorce in 1986.

“Separated women are subject to attention, from unscrupulous men in the main who take advantage of their weakness, financial plight, loneliness and the terrible pressure they are under to indulge in temporary affairs which cause even more problems and hardship to the families involved.”²⁵³

²⁴⁷ Alice Glenn on Divorce (2017)

²⁴⁸ Miss. Flaherty (Fine Gael), Dáil 24/1/86

²⁴⁹ The Oireachtas (2017)

²⁵⁰ Irish Election Literature: Alice Glenn Report May 1986 (2009)

²⁵¹ Alice Glenn on Divorce (2017)

²⁵² Divorce Discussion - 1986 Referendum (Part 2)

²⁵³ Mr. Skelly (Fine Gael), Dáil 14/5/86

With the above statement, given by Deputy Skelly, a barrister-at-law from Fine Gael, the notion is put forward that the temporary affairs will become a problem.

Noteworthy here is that the problem would involve the whole family. Fineman has found in her study that when divorce is legalized, the problem of single mothers has formed. Motherhood being such a patriarchal concept that there are only certain ways one can practice it.²⁵⁴ With legalizing divorce, the fear was that not only would it effect the marriage institution but also motherhood. This was especially the problem in 1986. In 1995, because of the change in women's positions in the Irish society, the change in motherhood was no longer seen as a major issue.²⁵⁵

The aspect of women's emancipation was already touched upon in 1986, but not in such a depth as in 1995. This again was debated by both sides. Senator Fitzsimons, from Fianna Fáil, not in favor of divorce stated that women's emancipation was a topical issue and because of that, the expectations from life and marriage had changed, but that divorce was not an answer to that. In his mind, the expectations might be unrealistic and too high.²⁵⁶ On the other side, Deputy Fennell, from Fine Gael, said that the women would not want to suffer like their ancestors in unhappy marriages.²⁵⁷ Also Deputy Barnes stated that:

“One of the fantasies which we have felt good about was that marriages was an ideal State which protected women and children. Without marriage women did not fulfil their role. Without marriage women really had no dignity, status or importance”.²⁵⁸

Women did not see themselves as the main target group for divorce, even though they were the ones who were tried to influence the most in the parliamentary debates. This was done mostly by the anti-divorce side with the scary

²⁵⁴ Fineman (1991) p.291; Until 1970s in Ireland, single pregnant women were moved to confinement, where she would give birth and give the child for illegal adoption. (Callum, G. (2012) p. 204)

²⁵⁵ Two weeks before the 1995 referendum, a survey indicated that 77 % of the Irish perceived that working women with small children could be good mothers, only 35 % deemed that women could only fulfil their tasks as mothers at home. (Bradley, A. (1997) p. 293)

²⁵⁶ Mr. Fitzsimons (Fianna Fáil), Seanad 23/5/86

²⁵⁷ Mrs. Fennell (Fine Gael), Dáil 14/5/86

²⁵⁸ Mrs. Barnes (Fine Gael), Dáil 24/1/86

images built in which women would be left alone with nothing but the children. With these kinds of arguments, it is very visible that women's role was not seen as a strong one in the public sphere. They were more like passive actors at home.

One of the strongest arguments for divorce, in 1986, was that family was still seen as the greatest unit in the Irish society, but that the society would not benefit from broken marriages which were forcefully kept together by the State.²⁵⁹ The fact that the government had promised a set of laws that would protect both women and children, if that they would face divorce, was also brought up, but even with all these assurances to women, over 64 percent of women stated to vote against divorce just before the referendum. Even though Irish women had been enthusiastically participated in politics before, divorce was not seen as a gender question.²⁶⁰

The change in the discourse in 1995 was big due to different legislations having been taken place in the between years of 1986 and 1995. The biggest change is visible in that the gender aspect was hidden in many arguments. An example of this comes from Senator Gallagher, from Labour Party and a solicitor, who addressed the Seanad in 1995:

“There is a typical hypocrisy in this country which purports to value the state of marriage but continues to perpetuate inherent inequalities between a married couple, by saying that one spouse can own property while the other is constitutionally expected to voluntarily tie herself to the kitchen sink, a sink which she does not even own.”²⁶¹

The word spouse is used to hide the gender aspect. What then gives out the real notion of which gender is the victim, is the use of referring to them as she. It also brings the notion that women were made to do more than just stay at home, which she might not even legally own.

²⁵⁹ Mr. Taylor (Labour Party), Dáil 18/2/86

²⁶⁰ Dillon (1993) p.72

²⁶¹ Ms. Gallagher (Labour Party), Seanad 15/02/95

Another good example of the use of the term spouse is by Deputy Woods, from Fianna Fáil, who was one of the strongest opponents of divorce in 1986, but who switched his position in 1995:

“Quite often such an arrangement could operate to the disadvantage of one spouse, quite possibly the woman. While the amendment relates to property only I am somewhat concerned that the wife could be driven into a bad bargain.”²⁶²

In again, the first notion of Deputy Woods’ is that either one of the spouses can be in a disadvantaged position in divorce but quite possibly the women. With the hiding of the gender, the term spouse could also refer the men, like in this statement by Senator Honan, from Progressive Democrats and an accountant:

“Since this Bill will probably affect women in particular, access to legal advice is important. If a woman does not have money, she does not have equal access to the law and to the courts and without proper provision, the earning spouse will have an advantage.”²⁶³

So, the similarity between the debates of 1986 and 1995, was that some still perceived women to be the ones who would be worse off after divorce, and would be the ones who would be divorced against their will. But what had changed, was that the position of Irish women had in fact changed. The women were no more restricted to home in such measures as in 1986, where women could be said to having been the passive actors in society. This aspect had changed in 1995, which was seen in that the debates on divorce did not focus anymore on women being the victim, but also being an active part of the problem.²⁶⁴

The women’s changing roles in the Irish society was not seen by all as a positive thing. Some deputies saw that marriage breakdown was partly happening due

²⁶² Dr. Woods (Fianna Fáil), Dáil 01/02/95

²⁶³ Ms. Honan (Progressive Democrats), Seanad 15/02/95

²⁶⁴ A survey done in 1995 indicated that Irish thought household tasks to be divided equally. Presenting women as dependent to be a norm was no longer relevant. (Bradley, A. (1997) p. 293)

to women working outside of the home. This was not brought up in a straightforward way but more in between the lines.

“The self-sacrifice by women in the home has brought about the stability and happiness we have in society. -- All of us, male and female, recognize that none of us could begin to serve the public need were it not for the support and constant stability provided, in this instance, by the wife in the home. -- In my view, even the most enlightened, caring male will never make the contribution to stability in society which the women in the home will.”²⁶⁵

These statements made by Senator O’Kennedy, from Fianna Fáil, are very good examples of the attitudes that perceived that women working outside of home was the sole reason why marriages failed. There is also the clear distinction between what were considered to be men’s jobs and what women’s.

Senator O’Kennedy was very eager at advocating women to stay at home. In his mind, the sole fact that some women worked outside of home undermined the ones who decided to stay at home. He suggested that a solution for this was that the women, who went to work, could somehow promote women’s special place in home. He also said that anyone could be a breadwinner but no one could take the mother’s place.²⁶⁶

Senator O’Kennedy was not the only one who saw women leaving the home as controversial. Another debater stated that even though women can work outside of home, they still rather stay at home on social welfare because home is where they feel satisfied.²⁶⁷ The notion was also brought up that women should be supported to want to stay at home.²⁶⁸ Interesting is that no references were made on men’s changed roles.

²⁶⁵ Mr. O’Kennedy (Fianna Fáil), Seanad 15/02/95

²⁶⁶ Mr. O’Kennedy (Fianna Fáil), Seanad 15/02/95

²⁶⁷ Dr. Woods (Fianna Fáil), Dáil 01/02/95

²⁶⁸ Ms. Honan (Progressive Democrats), Seanad 15/02/95, Mr. Farrell (Fine Gael), Seanad 15/02/95

“The rights of women must be vindicated in the event of marriage breakdown. However, the old concept of family was not just a man, a woman, their children and rights in the event of breakdown – it went far beyond that. Society did not start in 1990 or 1995, although it looks to be close to breaking down at this point.”²⁶⁹

Why Senator O’Kennedy and other deputies saw women changed role as a danger to marriage, comes clear from the above quote. The problem was that they were becoming too individualistic. Families had been to forming stones of Irish society, and one of the key elements of families had been the stay-at-home wives.²⁷⁰ When looking at the statistics of married women in working life, the accusations that that was the cause for marriage breakdowns is interesting.

There were few deputies who did stand up to women, like Deputy F. Fitzgerald, from Fine Gael. She stated that the family type some deputies were idealizing, were based on women’s subordination, and the fact that women wanted more of their relationships should be a positive aspect. She also brought up the notion that emancipating women should not only happen in Ireland but should worldwide phenomenon. The stand Deputy F. Fitzgerald was taking for the women can be explained by that she was a social worker in her previous employment. This eagerness to stand against the perception of vulnerable women could possibly also be explained by the fact that Ms. Fitzgerald had been born in 1950, so she was relatively young and new, with being elected for the first time into the parliament in 1992.²⁷¹

““I would suggest that part of the great rosiness in the garden of long ago was due to the fact that the women of Ireland felt their role was very specific, namely, to remain in the home and care for their families.-- Is it that this generation of women is suddenly irresponsible, promiscuous, stupid or could it be that today women have

²⁶⁹ Mr. O’Kennedy (Fianna Fáil), Seanad 15/02/95

²⁷⁰ A survey done in 1994 indicates that women comprised 41 % of the workers in Ireland. In 1984, 22 % of married women stated to work outside of home, and in 1994 the figure was 34 %. (Nolan, B. et al. (1999) pp. 125-126)

²⁷¹ The Oireachtas (2017)

high expectations of marriage and when in spite of every effort the partnership disappears the possibility of rebuilding a new life is seen as a realistic and preferable option? -- Creating an equal society for women in Ireland and world-wide is the task, not frightening women into thinking that divorce is the bogey they need to fear. -- I believe that women are able spot the fundamentally insulting nature of that argument and I think many men resent the insult to them as husbands and fathers which underwrites the view that the only reason they remain with their families is that they cannot divorce.”²⁷²

Not many people stood up for men when claims were made that they would leave their families as soon as they had the chance. This blaming rhetoric had also been used in the religious discourse, where suggestions were made that faithful Catholics would also apply for divorce if it was possible. The difference was that those accusations were counterargued, but this did not happen when applied to gender.

In how to portray women was also a dilemma in 1995 with the opponents of divorce. On the one hand, they wanted to keep the vulnerable woman as the main character, but then had to somehow also present men as victims to ensure that they would also vote against divorce. This male victimizing usually related to women blackmailing men after divorce using their children. A good example is given by Progressive Democrat Deputy O’Donnell, former solicitor, when addressing the Dáil:

“I am sure there are many other cases where women, quite wrongly, use their children as emotional weapons in the tussle and the breakdown of a relationship.”²⁷³

Fieman has done a study regarding women and divorce in the United States and she claims that “The traditional family formation was disrupted but the acceptance of joint custody and the idea of shared parenting has ensured continued male control over children and, through them, over their mothers, even as divorce has

²⁷² Ms. F. Fitzgerald (Fine Gael), Dáil 3/10/95

²⁷³ Ms. O’Donnell (Progressive Democrats), Dáil 25/4/95

become available virtually on demand.”²⁷⁴ This is an interesting notion in that the same case was happening in Ireland in 1995. When the introduction of divorce was made in 1995, one of the key issues was that the spouse should compensate financially in securing the other spouses position. Some could say that what is was, was really the continuation of patriarchal society.

The emphasis on mother and child relationship was stated by Fianna Fáil Senator O’Kennedy in 1995 “The child relates to the mother; there is a natural link between child and mother from the very beginning.”²⁷⁵ In the discussion of women and their role in Irish society, this notion from him does not come as a surprise. The problem with motherhood and family was, as stated by Deputy Taylor-Quinn, from Fine Gael, was that men had not considered themselves to be main caregivers of the child, but at the same time expected someone in the family to look out for the children.²⁷⁶

5.2.1. Divorce Impacting Children

What was first brought up in relation to children in 1995, was the child’s right for father. An interview was aired in 1995 where a man claimed that he did not support divorce due to the reason that women were then allowed to take the children, and as was his case, the father had no legal protection regarding the child.

The governmental parties noted the incident and statements such as this, by an Independent Deputy Foxe, former publican, were made:

“In emotional terms, children in an ideal world have a right to the society of both parents and to a loving and caring home. However, with the incidence of marriage breakdown today, those rights are already being violated. Through providing

²⁷⁴ Fineman (1991) p.294

²⁷⁵ Mr. O’Kennedy (Fianna Fáil), Seanad 15/02/95

²⁷⁶ Mrs. Taylor-Quinn (Fine Gael), Seanad 15/02/95

increased financial resources for mediation the State can try to ensure that the breakdown is managed in such a way that does least damage to the children.”²⁷⁷

What Deputy Foxe was claiming was that a child has a right for both parents. Why this is a good example is because it brings up the notion that State had to start to take initiative on securing children’s rights. It was also suggested in 1995 that State should start demanding parenting counseling for parents, no matter whether they were breaking up or not, on the psychological effects of divorce on children. This parenting counseling would then also advise the parents on legal issues that they might face in regard to children in the case of divorce²⁷⁸

The position on children, regarding divorce, did not change as drastically as was the case of women. Children were seen in both years to be the innocent victims of divorce, but small changes on what was emphasized can be visible. In 1986, an argument was made by a Fianna Fáil Deputy V. Brady, a former accountant, where he claimed that children would prefer their parents’ unhappy marriages instead of them divorcing. He also mentioned that divorce causes juvenile problems, personality disorders, psychological and nervous disorders, and many other relating problems.²⁷⁹ This notion of divorce effecting the children psychologically was popularly expressed by other deputies as well during both years.

The major difference in 1986 and 1995 discussion relating to children was in the question of succession. In 1986, harmfulness of divorce was usually backed up by economic examples on how the children from the first marriages would be left with no inheritance, or that the inheritance would not be as big as it should be due to other siblings claiming for it. Children would also be the ones suffering in the new relationships their parents would form after the divorce.²⁸⁰ Same kind of statements

²⁷⁷ Mr. Foxe (Independent), Dáil 11/10/95

²⁷⁸ Dr. Woods (Fianna Fáil), Dáil 11/10/95

²⁷⁹ Mr. V. Brady (Fianna Fáil), Dáil 24/1/86

²⁸⁰ Dáil 24/1/86

were also given in 1995, in which the question of how damaging the introduction of new spouses would be for the children²⁸¹.

“—while divorce dissolves the relationship between the spouses, it does not diminish their inalienable rights and duties in relation to their children.”²⁸² was reassured by Independent Deputy Foxxe in 1995. This same statement could have been also made in 1986, where many heated discussions were made on parents abandoning their families for new ones. One of the biggest issues that the government faced when debating on divorce, both years, was what was their responsibility to the children involved. The government had promised in the Constitution to protect family, so if the families would be allowed to break legally, would the government have to take bigger role in securing the wellbeing of children in some other way. With the desertions, the government could argue that legally the family was still intact and for that reason it did not have the authority or duty interfere.

One of the biggest issues that was brought up in the debates of 1986 was the claim that with divorce, the parents would lose the rights to their children such as teaching them morality and religion.²⁸³ This was a very conservative statement, and underlines the questions circling around divorce on what would family be regarded to be after divorce. This claim was made in a public television debate and published anti-divorce pamphlets by Fine Gael Deputy Alice Glenn:

“Divorced parents would no longer have Constitutional rights as Guardians of their children and divorced parents would lose all their Constitutionally protected rights to provide for their religious, moral, intellectual, physical and social education of their children as laid down in Article of the Constitution.”²⁸⁴

²⁸¹ Mr. O’Kennedy (Fianna Fáil), Seanad 12/10/95

²⁸² Mr.Foxxe (Independent), Dáil 11/10/95

²⁸³ Divorce Discussion - 1986 Referendum (Part 2)

²⁸⁴ Alice Glenn Report May 1986

The future of the society was also brought up when the effects on children was talked of. The future Irish children were, for example, seen to be in jeopardy in a society that does not hold marriage and marriage vows in the highest position.²⁸⁵

“When one introduces the notion of the children one really need to understand what the welfare of children really means.—that for children, although it is traumatic when the parents separate, it is much better for them in the long run than being locked into a bitter, divisive and sometimes physically threatening marriage.”²⁸⁶

What was interesting in the parliamentary debates was that many sides did mention different statistics made on how divorce effected children, but no real reference to the surveys were made. A good example of this is the statement made by Fine Gael Senator Farrell: “A recent survey showed that children in unhappy homes were much happier than those from broken marriages and divorce.”²⁸⁷

The special position of children regarding divorce comes clear from the fact that the opposition party of 1986, Fianna Fáil, only promised to back the divorce referendum of 1995 if the protection of children would be written in the Constitution. They would not be satisfied with the promise that there would be an own legislation for children to be taken care of, but that it really had to be written in the Constitution.²⁸⁸ “We welcome this amendment particularly since it affords additional protection for children.”²⁸⁹ was stated by Fianna Fáil Deputy Woods in 1995. The amendment proposed in 1995 did not give the right for divorce before a judge had ruled the right benefits were made for children. The problem of succession, which had been much debated in 1986, was not an issue anymore in 1995.

The problem that arouse in 1995 was with jurisdiction. Courts were to have power over granting divorce, and with that power over families. How that was to

²⁸⁵ Mr. Faulkner (Fianna Fáil), Dáil 14/05/86 Mr.Boylan (Fine Gael), Dáil 3/10/95 Mr. Ellis (Fianna Fáil), Dáil 3/10/95

²⁸⁶ Mr. Norris (independent), Seanad 15/02/95

²⁸⁷ Mr. Farrell (Fine Gael), Seanad 15/02/95

²⁸⁸ Dr. Woods (Fianna Fáil), Dáil 11/10/95

²⁸⁹ Dr. Woods (Fianna Fáil), Dáil 01/02/95

affect the families was much discussed. This worry was, for example, presented by Progressive Democrat Senator Honan:

“Many judges in this country are far removed from the reality of marital breakdown and from the lives of women and children in these situations.”²⁹⁰

The position that the Catholic Church had once held with granting annulments, was now being moved to courts with granting divorces. As Senator Honan states, the fear was that the courts would not do favorable decisions in the case of women and children. The reasons for these were lack of education, ignorance and low funding.²⁹¹

So, the discourse on women regarding divorce changed quite much from 1986 to 1995. The main reason for this was that women were no longer in such a vulnerable position in 1995 as they had been in 1986. The reasons for this were that more married women had started to work outside of home, social legislations had been put in place to ensure that in case of separation women would not be left in financial ruins, and the proposed divorce legislation of 1995 guaranteed that the dependent spouse would be guaranteed compensation. This change was seen in the discourse in that the term “spouse” was started to be used in 1995, instead of woman or man. Also, the question of what was the role of women in the Irish society, was debated and discussed. In 1986, it was not a topical issue, with everyone having the main perception on women staying at home, but in 1995 there were different opinions expressed. For some, this change in woman’s role in society was also the key issue why marriages were breaking down.

With children, the notion was on both years that they would be the ones suffering. The reason why the children would suffer depended on which side of the debate one was. The opponents of divorce claimed that children would suffer in divorce because they had to see their families separate, they would have to endure new family members and they would lose the stability of the Irish society because stable marriages would no longer hold it together. The ones on the side of divorce

²⁹⁰ Ms. Honan (Progressive Democrats), Seanad 15/02/95

²⁹¹ Seanad 15/2/95

counterargued that divorce was no more than allowing the parents to remarry, and what the children needed was stable families. With no legal divorcing options, families would not be stable, due to illegal separations and abuse, and the children would suffer because of that. The biggest concern relating to children was who would be the legal successor if new families were to be formed. In 1995, it was declared that the first family's children would not lose their succession rights to the second family.

The next sub-chapter will now look more in depth on how and why financial matters were such an importance to the Irish, and how it was seen in the divorce debate.

5.3. The Economic Aspect of Divorce

Compared to 1986, when the Irish economy had been down for many years and the unemployment rate being at 19.6%, in 1995 the Irish economy was blooming again growing at the pace of 5.14% per year. The names given to these time periods describe well the Irish society, with coming from 1980s as "The beggars of Europe" to becoming "The Celtic Tiger" in 1990s.²⁹² The swift change in the economic situation of the society had a great impact also on the divorce discussion.

Dillon argues in his book that the Irish people were most interested on their economic status, and this can be seen clearly how, especially in 1986, the discussions circled around the financial situation of the divorced spouse. One of the reasons was the low economical period that hit Ireland in the 1980s.²⁹³ The fear that divorce would then worsen the situation of many was brought up in the opposing arguments by the deputies. Independent Senator McGuinness even claimed that the

²⁹² Celtic Countries (2007), The Celtic Tiger is formed by "Celtic" which indicates romanticized past with "Tiger" indicating new aggressive individualism. (Kuhling, C. et al. (2007) p.13) In the beginning of 1990s, the Catholic ideology started to be replaced by institutionalization. (Cochrane, A. (2002) p.224)

²⁹³ Dillon (1993) p.56; Prendiville (1988) p.358

anti-divorce side had abandoned moral reasons to economic statistics, especially when arguing on what would happen to the first family's income level²⁹⁴.

The economic discourse was especially directed to women in 1986, whose financial situation had usually been dependent on their husbands. One way women had gain social status was through marriages, and they were scared by scenarios where they would lose those privileges.²⁹⁵ This situation of women being dependent of their husbands had been the economic policy of the Irish government since 1933, when the ban on married women to work in civil services was put in place. The goal with this was that wives would be at home taking care of the family. The ban was not lifted until 1970s when Ireland joined the EU, which judged the ban to be discriminating.²⁹⁶ With economic policies directing women to be at home, the scaring of that to change through allowing divorce was a good tactic for anti-divorce supporters, which they also used. The statement made by Fianna Fáil Senator Ellis, a public representative, to the Seanad is a good example of that.

“The single parent is not going to be in a position to provide for her family and it is mainly the wives who are left high and dry in those situations. She will not be in a position to provide the upbringing she would be able to provide if she had the maintenance which might be due to her.”²⁹⁷

Also, the fear of the children's inheritance in the first family was mentioned more than once in the discussion by the deputies. This was contradictory in a sense that many people opposing divorce would still go ahead with broadening the Church's annulment in to civil society, in which the child would be perceived as not even entitled to the inheritance due to be seen as born outside of marriage.

This question of inheritance and succession rights was brought up because of the confusion on what family would mean in the future if divorce was to be legalized. The family the Irish society had become accustomed to was that based on

²⁹⁴ Mrs. McGuinness (Independent), Seanad 5/23/86

²⁹⁵ Dillon (1993) p.56

²⁹⁶ Pyle (1990) p.94

²⁹⁷ Mr. Ellis (Fianna Fáil), Seanad 23/5/86

marriage, and if that was to be taken away from it, the fear was that there would be nothing left. So, the question of succession could be said not only to be about the monetary aspect but also on the underlying question of how family was to be defined after marriage.

“Will the Minister provide duplicate pensions or will people have to rely on social welfare payments? Children would lose social welfare benefits because they would be dependents of the divorced wife...The right to benefit on the father’s PRSI will be transferred, under the constitutional amendment, to the wife and children of the second family. The wife and children of the first family will lose the right to these benefits and instead will get social assistance.”²⁹⁸

The question of succession rights and what was to be regarded as family culminated in to the issue of family home. The family home can be said to be somewhat sacred in the Irish society. Until 1970s, there had been no legislation concerning the family home because it had thought to be such a private matter. The Family Home Protection Act of 1976 had been put on place, so that it could not be sold without the other spouse’s consent. Now the problem aroused that if the father, for example left the home, would it still be regarded as family home and if not, would he be able to sell it without his wife’s approval.²⁹⁹ The family home was so sacred that in 1994, the government tried to pass a legislation that would give women rights to their home even if they had not financially contributed to it. This legislation did not go through because the Supreme Court ruled it to be unconstitutional on the basis that it interfered too much with the family life.³⁰⁰

In 1986, the anti-divorce groups tactics were not just only bringing up the numbers that divorce would cost for the people in it, but also what divorces would cost for the taxpayers. The Irish society was accustomed to having the women being financially dependent on their husbands, which had released the government from that duty. With divorce to be legalized, the women would become the problem of the

²⁹⁸ Dr. Woods (Fianna Fáil), Dáil 21/5/86

²⁹⁹ Dr. Woods (Fianna Fáil), Dáil 21/5/86,

³⁰⁰ Galligan (1998) p.104

State, which would financially burden it. For example, Fianna Fáil Deputy Cowen, formerly solicitor, stated:

“In the event of the person who is being granted a divorce not being in a position to provide for his wife and children, the State must step in. If that does not happen we will have divorce for the rich. If divorce is to be for all socio-economic classes the State will have to step in.”³⁰¹

From Deputy Cowen’s statement, one is left with the notion that in any case in relation to divorce, the State is the one paying the financial price for it.

The Irish state had, from the writing of the Constitution in 1937, wanted to ensure that family comes first in the society. Women’s role in relation to that is written in Article 41.2.2:

“The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.”³⁰²

What this leads back to is the relationship between women and work. With having the marriage ban lifted from women, they started to get employment outside of home. Especially foreign companies were keen on taking them due to having no social prejudice against them. The women’s role in the workforce rose from 7.5 % in 1971 to 36.6 % in 1996.³⁰³ In 1986, the Irish society was just getting accustomed to women being more and more away from home. What is interesting about the scaring of the electorate on the State’s financial burden, in case of divorce, was that no one suggested that women should go out and work outside the home after divorce. The debate was more circled around the theme of should the husband still have a duty to provide for the other or would it be the State’s responsibility.

In 1986, the people on the side of divorce would not and sometimes even could not, argue against the claims that divorce would bring poverty to the ones facing

³⁰¹ Mr. Cowen (Fianna Fáil), Dáil 21/5/86

³⁰² Pyle (1990) p. 94

³⁰³ Barry (2002) p.37

it.³⁰⁴ Also, the pro side could not argue in the same economic way as the against side could, due to the fear of trivializing marriage. This was linked to the religious discourse in that by stating the economic factors of divorce, the pro side was careful not to secularize marriage in the eyes of the electorate which was not in their intention.³⁰⁵ Many deputies did bring up the fact that the proposed Bill did have a section on it that stated that in cases of divorce, a special family court would address the financial situation of the parties and then decide on what compensations needed to be made. This would have guaranteed women the availability to stay home and raise children.³⁰⁶ What the pro-side could also argue was that if people were not allowed to divorce and remarry, the second families which at the time were illegitimate, would fall to be the financial burden of the State.³⁰⁷

What the opposing side of divorce had in their advantage was the claim that because of financial difficulties, the married couples were separating. Simplifying the issue into taxation problems, pension schemes and social benefits made divorce seem a radical option. Instead, if financial support and economic policies were to be changed for the married people, there would be no need for divorce.³⁰⁸

In 1995, the economic aspect of marriage was again brought up again in the parliament. This time, though, there had been legislations made in the beginning of 1990s, so that the financial situation of the dependent spouses and children was not as bad as in 1986. Examples of these legislations were Status of Children Act of 1987, Judicial Separation and Family Law Reform Act of 1989, Maintenance Act of 1994 and Family Law Act of 1995. All these acts were in some ways legislating for children's rights for successions and dependent spouse's right for maintenance.³⁰⁹

³⁰⁴ Dillon (1993) p.46

³⁰⁵ Dillon (1993) p.46

³⁰⁶ Mr. Connor, Mr. Dukes (Fine Gael), Seanad 23/5/86

³⁰⁷ Mr. Smith (Fianna Fáil), Seanad 23/5/86

³⁰⁸ Mr. V. Brady (Fianna Fáil), Dáil 24/1/86

³⁰⁹ Irish Family Legislation (2017); With building the nation state of Ireland, the Catholic Church had an integral part in governing the social policy, with it being the main provider of social welfare. The Catholic social policy was based on family with minimum State interference. Even though the State took over the social policy in 1980s, it was still guided by the Catholic ethos. (Cochrane, A. et al. (2002) p. 224; 226) With the different law enactments in between 1986 and 1995, one could claim that they were

“It is important that we do not see women as victims. It is extraordinary that the “no” campaign seems to be expressing the same fears as it did in 1986 and portraying women as dependent and victims.”³¹⁰

The other major difference in 1995 was that the proposed amendment stated that marriage could not be dissolved before a judge verifying that appropriate compensations had been made. Even with all these changes, the financial aspects of divorce were still brought up by both sides to justify their claims.

The biggest issue that the opposing side brought up was relating to the failed Matrimonial Home Act of 1994. The deputies felt that if that law had been ruled as unconstitutional in interfering too much with the family matters, how can the government now promise that women will be protected in the case of divorce because would that not also interfere with family life.

“Protection is especially important in, for example, the case of woman who may have worked within the home – because in general it will be women – for many years to the point perhaps where her earning capacity outside the home is not what it would have been had she been working in outside employment for many years.”³¹¹

Even though there had been legislations on improving the women’s role in the society, the government was still perpetrating the image where women could stay at home and take care of the family. That is why the State can be said not to have legislated properly to secure women’s rights at home.³¹²

A good example of how the State perceived women and men came with the dependent benefits. Until 1986, men could claim their wives to be their dependents no matter how much the wife was earning. This changed over 1984 and

purposefully implemented so that when divorce would be voted again, there would be necessary legislation already in place to help it go through. One reason could also be that the legislators wanted to show the electorate that they were also legislating to protect the family.

³¹⁰ Ms. Keogh (Progressive Democrats), Dáil 11/10/95

³¹¹ Dr. Henry (Independent), Seanad 09/02/95

³¹² Barry (2003) p.46

1986 when equal benefits were made for both genders. This led the State to decide that men could no longer claim their wives as dependents unless they were deemed as poor. What the State then did, in 1986, was that they introduced compensatory payments for married men. This lasted until 1995, when the European Court ruled them to be discriminatory. This was because only married men could have compensation for their wives but no wife could get compensation for her husband.³¹³

The amendment in 1995 stated that the divorce will not be enacted upon persons who have not come up with agreement on maintenance. This also shows a very patriarchal aspect of the Irish society. Like it has already been established, women were perceived to be the ones who would be in financially worse position. Their ex-spouses would then be the ones providing for them. This would lead to the ex-spouse still having power over the woman even though their marriage has ended.³¹⁴ What is interesting, is that this power relationship was to be written in the Constitution. The State was struggling to balance both economic development and keeping traditional family relationships.

In 1995, Senator O’Kennedy, from Fianna Fáil, brought up the fact of why broken marriages would be the ones to be financially supported. In his opinion, which had been popular one already in 1986, was that affirmative action should be put in place so that marriages would not fall apart. With the proper actions, divorce would not be necessary in Ireland.

“The provision in relation to pensions, for example, is an enlightened one in the context of breakdown. The dependent wife, which it is in most cases, must have the rights for which the Minister is legislating and I welcome that. However, why not take the positive step of providing the same right for a family where the unit is not breaking down?”³¹⁵

³¹³ Barry (2003) p.55

³¹⁴ Fineman (1991)

³¹⁵ Mr. O’Kennedy (Fianna Fáil), Seanad 15/02/95

Another similarity with 1986 and 1995 debates was the expression on how divorce would leave people in financial ruins, like in the statement given by Independent Senator Henry, a medical practitioner:

“It must be remembered that there is nothing but tears from everybody’s point of view in the breakdown of marriage. However, while the emotional and social breakdown is tragic we must also look at the financial worries that occur in such situations—”³¹⁶

Also, fortune hunters were brought up in the discussions, but what is noteworthy is that, in 1995, it was no more seen that only women would trick people to gain financially:

“In our society we have many silver tongued ladies and gentlemen. At a certain age men and women who have worked hard and may have a good farm or business, get talked into getting married, and a year later —”³¹⁷

One of the most radical changes happening in the economic discourse, from 1986 to 1995, was that some of the opponents of divorce started to distance divorce from the economic aspect. A good example of this comes from Fianna Fáil Senator Lanigan when addressing the Seanad:

“Divorce is a middle and upper income phenomenon. People who do not have property are not interested in divorce. There has been no discussion on the morality of marriage, divorce and stable relationship.”³¹⁸

In the statement, he does mention the economic aspects of divorce, but dismisses with the notion that divorce would anyway be accessible to rich, so it would have no effect on the whole society. What he then implies is that the morality of marriage should be talked about and how divorce effects stable relationships. So, because the opposing

³¹⁶ Dr. Henry (Independent), Seanad 09/02/95

³¹⁷ Mr. Farrell (Fine Gael), Seanad 15/02/95

³¹⁸ Mr. Lanigan (Fianna Fáil), Seanad 12/10/95

side could no longer use the financial aspects as “scare tactics” there had to be switch back to the question of morality.

The change in the economic discourse of pro divorce side in 1995 was that it now had the advantage on the issue. This comes visible from the statements given, for example, by Independent Deputy Foxe and by Labour Party Deputy E. Walsh, formerly an art teacher:

“It is surprising that the issue of pensions also appears to be surfacing again, despite the fact that there are detailed provisions to ensure that, on a divorce, pension adjustment orders can be made so that a dependent spouse can obtain a portion of the retirement benefit of his or her spouse.”³¹⁹

“The property and social welfare issues have been addressed by legislation: many say they have been adequately tackled but there is always room for improvement.—Counselling and mediation services have received substantial funding increase.”³²⁰

Deputy Woods of Fianna Fáil is a good example of a deputy, who in 1986 was one of the strongest opponents of divorce due to it being damaging to children and leaving women out in the cold. In 1995, he had changed to be one of the supporters of divorce. He had held the position of Minister of Social Welfare between the years 1987 to 1991 and from 1993 to 1994.³²¹ Holding that position might have been one of the key issues why he changed his position regarding divorce. This change could be explained by the economic situation. He might not have changed his perception on marriage itself and divorce being unnecessary, but what had made him support the amendment was that the government had promised to legislate so that marriages would be started to be supported. What this meant was more money was to be put to counseling and mediation services.³²² In the Constitution it was written that no divorce is granted before mediation and appropriate counselling had been gone

³¹⁹ Mr. Foxe (Independent), Dáil 11/10/95

³²⁰ Mr. E. Walsh (Labour Party), Dáil 3/10/95

³²¹ The Oireachtas (2017)

³²² Dr. Woods (Fianna Fáils), Dáil 11/10/95

through. So, what one can argue with the position of Deputy Woods, is that some deputies were willing to support the referendum in 1995 in the hopes that when more money was to be put into counseling services so that divorce could be prevented in the future.

Due to the change in the Irish economy, the economic discourse also changed from the year 1986 to 1995. In 1986, the key arguments for the opponents were that there was no proper provision and financial safeguard made to secure the first family's position compared to the second family. The question of children's inheritance was also brought up in the discussions multiple times, and even though the supporters of the amendment tried to explain that there would be no change in the succession rights, the public did not believe that. It has been claimed that one reason for the referendum not to go through in 1986 was because of the opponents succeeded in undermining the government's economic discourse.

The economic situation in 1995 was very different. The Irish economy was growing at a fast phase and government was putting more money to social welfare. That is why the opponents of divorce could no longer use the bad economic situation as their key arguments, and because of that tried to bring the divorce discourse back to being the question of morality. The government had also passed different legislations and acts to ensure that women and children would not be left with nothing in the case of divorce. Counselling and mediation services were promised more money, and with that one of the strongest argument points of the opposing side in 1986, with the claim that divorce would be evitable if more monetary benefits would be given the families, became invalid.

6. Conclusion

The Irish government decided to put divorce on referendum twice under less than ten years. The first time, 1986, it did not go through with 64% majority voting for no. In 1995, the referendum barely passed with only a difference of 9 000 votes.

Family had had a strong position in the Irish society ever since it was guaranteed to be protected by the State in the 1937 Constitution. With Catholic religion and the State closely intertwining only family based on marriage was deemed appropriate. This lasted until the 1970s, when the Irish society started to change. The changes happened due to Ireland joining the EU, foreign companies coming into the country and mass media becoming more popular. The Catholic Church no longer had the monopoly on education and on the media, and so more and more liberal ideas started circulating.

Marriage was no longer holding the same sacred position that it once had. More desertions were happening, and separated spouses formed new families that had no legal protection. Young people were no longer interested in marrying in the same amount as had been in the 1960s. That was when the government decided that something needed to be done to secure the marriage institution once again.

What divorce meant to the Irish in 1986 was undermining the family that had been the greatest unit in the society. When the government introduced the divorce referendum for the first time, they were not able to convince the Irish voters that divorce would not undermine the family or the marriage institution, but in fact would strengthen it.

The confusion of what family would be perceived to be caused the most confusion in the Irish in 1986. The opposers of divorce used the second families as examples of who would benefit on the expense of the first family. Their strongest claim was that children would lose their succession rights in the case of divorce. On the other side, the supporters of divorce brought up claims that succession rights would

not be effected and no one would be left out in the cold. What the supporters also tried to bring forward, was the notion that Irish people should show compassion towards the people who had broken marriages and not only be afraid for their own. This culminated into the debate of individual rights versus the social good.

The economic situation in 1986 was hard with over 15 % unemployment. That is the reason why the economic aspects, such as succession rights and maintenance issues, were the ones that interested the electorates the most. The government was facing a problem with this in a sense that it had not done any financial preparations to back its claims. That is why the opposing side used the economic discourse in scaring the electorate, especially women.

Women were the main target group in the divorce campaign in 1986. Because their role in Irish society and marriage had been to take care of the family, with the divorce introduce their situation was deemed to become uncertain. Women were represented by two different discourses in the divorce debate. On the one side, they would be the ones who would lose everything when their husbands left them, and on the other side women were represented to be the ones who would divorce their husbands and leave the husband in financial ruins.

Religion was still very important part of the Irish society, which can be seen in the arguments in the divorce debates. Both sides used God to justify their claims, such as not knowing what God would have wanted or that no other can dissolve a marriage except God. This changed drastically to 1995, when no claims were made in the name of God and no one brought forward their religious affiliation.

In 1995, the parliamentary debates no longer went around the issue of whether divorce should be legalized but more on whether the terms should be written in the Constitution or not. The reason for this change is many folded. There had been legislations enacted beforehand, like the Family Protection Act of 1994, where marriage institution was strengthened with raising the marriage age to 18 from 16 and having a three-month waiting period before a marriage could take place. This could have been a tactic on the government's part on that it had first legislated on "saving"

the marriage, so that no one could claim that the government was wanting to wane the marriage institution and was not doing anything to secure it. That is why the discourses also changed.

Women were no longer seen as the vulnerable victims of divorce, but more as the ones to be blamed for the increasing number of separations. This was because women had started to work more outside of home, and to some that meant that they were neglecting their duties as wives. The term “spouse” was also introduced in 1995, in that the deputies were hiding the gender aspect in their arguments.

Economy was growing in 1995, so the opponents of divorce could no longer use economic discourse in the same way as they had done in 1986. In 1995, it was more used by the supporters because different legislations and guarantees had been put in place so that no one would be in a difficult position financially after divorce. Religious discourse changed also. In the beginning of 1990s, the pedophile scandal in the Catholic Church became public, and that is one reason why religiousness declined. Many deputies tried to distance themselves from the Catholic Church, and there were no more statements been given out, where it was questioned what God would have wanted. Even with all these changes, the referendum passed with only about 9 000 vote difference.

To broaden this study, one could also examine the debates happening in the between years, which had been left out of this study. Emphasis on the debates happening outside of the parliament could also focused on such as newspaper articles and material published by the lobbyists. Transnational and gender aspect could also be emphasized more in the future. This study is a good basis when wanting to understand how Ireland’s society changed concerning divorce in the years of 1986 and 1995.

SOURCES

PRIMARY SOURCE

Dáil Eireanne Debate

- (1986, January 24) Vol. 363, No.3
- (1986, February 25) Vol.364, No.1
- (1986, February 26) Vol.364, No. 2
- (1986, May 14) Vol. 366, No. 5
- (1986, May 15) Vol.266, No. 6
- (1986, May 21) Vol. 366, No. 9
- (1994, April 13) Vol. 441, No.2
- (1995, February 1) Vol. 448, No. 4
- (1995, February 9) Vol. 141, No. 16
- (1995, February 14) Vol. 449, No.1
- (1995, April 25) Vol. 451, No. 8
- (1995, October 3) Vol. 456, No. 3
- (1995, October 11) Vol. 456, No. 7
- (1995, December 5) Vol. 459, No. 3

Seanad Eireanne Debate

- (1986, May 23) Vol. 112, No. 15
- (1995, February 15) Vol. 141, No. 17
- (1995, October 12) Vol. 144, No. 4

Irish Hierarchy (1985). *Love is for Life: Pastoral Letter of the Irish Bishops*. Ireland: Veritas Publications.

<https://www.catholicculture.org/culture/library/view.cfm?recnum=5276>

Irish Times (October 27, 1995). www.irishtimes.ie

SECONDARY SOURCES:

Alice Glenn on Divorce (2017). Accessed 28.4.2017.
<https://www.youtube.com/watch?v=ueuw9zbNOrw>

Andersen, K. (2010). Irish Secularization and Religious Identities: Evidence of Emerging New Catholic Habitus. *Social Compass* 57 (1), pp 15 – 39.

- Ball, T; Farr, J; Hanson, R. (1989). *Political Innovations and Conceptual Change*. Cambridge: Cambridge University Press.
- Barry, U. (2003). *Review and Reform of EU Equality Law: Ireland*. Women's Education Research and Resource Centre
University College Dublin
- Bartley, B. & Kitchin, R. (2006). *Understanding Contemporary Ireland: A Geographic Analysis*. Pluto Press.
- Beale, J. (1986). *Women In Ireland: Voices of Change*. Houndmills: MacMillan Education LTD.
- Boyce, D. (2003). *Nationalism in Ireland*. London: Routledge.
- Botetzagias, I. (2011). *Sustainable Politics and the Crisis of the Peripheries: Ireland and Greece*. Emerald Group Publishing Limited.
- Bradley, A. & Valiulis, M. (1997). *Gender and Sexuality in Modern Ireland*. Amherst, Mass : University of Massachusetts Press.
- Bödeker, H. E. (2011) *Begriffsgechichte as the History of Theory. The History of Theory as Begriffsgechichte: An Essay*. From Sebastián, J. F. (edit.) *New Approaches to Conceptual History: Political Concepts and Time*. Santander: Cantabria University Press, 19-44.
- Callum, G. B. (2012). *Religion and the Demographic Revolution: Women and Secularization in Canada, Ireland, UK and USA since the 1960s*. Boydell & Brewer.
- Celtic Countries (2007). *Ireland's Economic Miracle: What is "The Celtic Tiger"*. Accessed 28.4.2017. <http://www.celticcountries.com/economy/32-ireland-economic-miracle-celtic-tiger>
- Clerical Child Abuse – An Irish Timeline (2011). Accessed 28.4.2017. <http://www.irishtimes.com/news/clerical-child-abuse-an-irish-timeline-1.880042>
- Cochrane, A; Clarke, J. & Gewirtz, S. (2002). *Comparing Welfare States*. SAGE Publications.
- Constitution of Ireland (2017). Accessed 28.4.2017. <http://www.irishstatutebook.ie/eli/cons/en/html>
- Darcy, R. & Laver, M. (1990). *Referendum Dynamics and the Irish Divorce Amendment*. *The Public Opinion Quarterly*, 54 (1), 1-20.

- Democratic Left (2017). Accessed 28.4.2017.
<https://global.britannica.com/topic/Democratic-Left-political-party-Northern-Ireland-and-Ireland>
- Den Boer, P. (2011). National Culture, Transnational Concepts: Begriffsgeschichte Beyond Conceptual Nationalism. . From Sebastián, J. F. (edit.) *New Approaches to Conceptual History: Political Concepts and Time*. Santander: Cantabria University Press, 205 – 222.
- Dillon, M. (1993). *Debating Divorce: Moral Conflict in Ireland*. USA: The University Press of Kentucky.
- Divorce Discussion – 1986 Referendum (Part 2). Accessed 28.4.2017.
<https://www.youtube.com/watch?v=Wuc6Xj89fS0>
- Emery, R. (2013). *Cultural Sociology of Divorce: An Encyclopedia*. SAGE Publications Inc.
- Fianna Fáil (2017). Accessed 28.4.2017. <https://www.fiannafail.ie/about-fianna-fail/history-of-fianna-fail/>
- Fine Gael (2017). Accessed 28.4.2017. <https://www.finegael.ie>
- Fineman, M. L. (1991). Images of Mothers in Poverty Discourses. *Duke Law Journal Vol 1991 (2) p.274-295*.
- Freeden, M. (2011). Ideology and Conceptual History: The Interrelationship between Method and Meaning. From Sebastián, J. F. (edit.) *New Approaches to Conceptual History: Political Concepts and Time*. Santander: Cantabria University Press, 73 – 102.
- Galligan, Y. (1998). *Women and Politics in Contemporary Ireland*. Great Britain: Biddles Ltd.
- Girvin, B. (2008). Church, State, and Society in Ireland since 1960. *Éire-Ireland, 43(1&2), 74-98*.
- Hayward, K. (2009). *Irish Nationalism and European Integration: The Official Redefinition of the Island of Ireland*. Manchester : Manchester University Press.
- Hacking, I. (2000). *The Social Construction of What*. USA: Harvard University Press.
- Halonen, M; Ihalainen, P; Saarinen, T. (2015). *Language Policies in Finland and Sweden: Interdisciplinary and Multi-Sited Comparison*. Bristol: Multilingual Matters.
- Ihalainen, P. (2016). *Britti-intellektuellien vai eurooppalaisen poliittisen keskustelun historiaa?*

Ihalainen, P. & Palonen, K. (2009). Parliamentary sources in the comparative study of conceptual history: methodological aspects and illustrations of a research proposal. *Parliaments, Estates & Representation*, 29, 17-34.

Irish Election Literature. (2009). Alice Glenn Report May 1986 – “Women Voting for Divorce is like A Turkey Voting For Christmas.”
<https://iriselectionliterature.com/2009/09/10/the-alice-glenn-report-may-1986/#more-209>

Irish Family Legislation (2017). Chronological Guide to Irish Family Law Legislation and Statutes from 1865 – present. Accessed 28.4.2017. <https://www.lawyer.ie/family-law/irish-family-legislation/>

James, C. (1997). Cead Mile Failte? Ireland Welcomes Divorce: The 1995 Irish Divorce Referendum and the Family (Divorce) Act of 1996. *Duke Journal of Comparative & International Law* 8, 175-228.

Keenan, M. (2012). *Child Sexual Abuse and the Catholic Church: Gender, Power and the Organizational Culture*. New York: Oxford University Press.

Kuhling, C. & Keohane, K. (2007). *Cosmopolitan Ireland: Globalization and Quality of Life*. Pluto Press.

Labour Party (2017). Accessed 28.4.2017. <https://www.labour.ie>

McCabe, M. (2012). *For God and Ireland: The Fight for Moral Superiority in Ireland 1922-1932*. Dublin : Irish Academic Press.

McDonough, A. M. (1996). When Irish Eyes Aren't Smiling – Legalizing Divorce in Ireland. *Penn State International Law Review Vol. 14 (3)*.

McGowan, D. (2015). *The Normalizing Power of Marriage Law: An Irish Genealogy, 1945 – 2010*. Maynooth, National University of Ireland.

Nolan, B. & Watson, D. (1999). *Women and Poverty in Ireland*. Dublin: Colour Books Ltd.

Oireachtas (2016). Houses of the Oireachtas. Accessed 28.4.2017.
<http://www.oireachtas.ie/parliament/about/seanad/>.

O'Leary, C. & Hesketh, T. (1988). The Irish abortion and divorce referendum campaigns. *Irish Political Studies* 3(1), 43-62.

Palonen, K. (2011). Contingency, Political Theory and Conceptual History. From Sebastián, J. F. (edit.) *New Approaches to Conceptual History: Political Concepts and Time*. Santander: Cantabria University Press, 179 – 204.

Palti, E. J. (2011). From Ideas to Concepts to Metaphors: The German Tradition of Intellectual History and the Complex Fabric of Language. From Sebastián, J. F. (edit.) *New Approaches to Conceptual History: Political Concepts and Time*. Santander: Cantabria University Press, 45 – 72.

Pocock, J.G.A. (1989). *Politics, Language and Time: Essays on Political Thought and History*. Chicago: The University of Chicago Press.

Prendiville, P. (1988). Divorce in Ireland: An analysis of the referendum to amend the Constitution, June 1986. *Women's Studies International Forum*, 11(4), 355-363. 28

Pyle, J. (1990). Export-Led Development and the Underemployment of Women: The Impact of Discriminatory Development Policy in the Republic of Ireland. From Ward, K (edit.) *Women Workers and Global Restructuring*. USA: Cornell University Press.

Rees, N; Quinn, B. & Connaughton, B. (2009). *Europeanisation and New Patterns of Governance in Ireland*. Manchester : Manchester University Press.

Richter, M. (1995). *The History of Political and Social Concepts: a Critical Introduction*. New York: Oxford University Press.

RTÉ Ireland's National Television and Radio Broadcaster
September 22, 1995; Church of Ireland Outlines Attitude Towards Divorce
<http://www.rte.ie/archives/2015/0921/729322-Church-of-ireland-position-on-divorce/>

Scheper-Hughes, N. (2001). *Saints, Scholars and Schizophrenics: Mental Illness in Rural Ireland*. Berkeley: University of California Press.

Skinner, Q. (2017). Rhetorical and Conceptual Change. Accessed 20.5.2017.
<http://redescriptions.fi/media/uploads/yearbooks/1999/Skinner%20Q%201999.pdf>

Skinner, Q. (2002). *Visions of Politics: Volume 1, Regarding Method*. Cambridge University Press.

Vatican (2017). *Catechism of the Catholic Church*. Accessed 20.5.2017.
http://www.vatican.va/archive/ENG0015/_P87.HTM