

WOMAN AND WORK – HAS IT BEEN RESOLVED?

Talk given to the International Women's Club by Rosemarie Rowley, 14 October 2008

It is 40 years this year since Valerie Solanas went to Andy Warhol's studio and shot him for not treating her work seriously. She was famous at the time for writing the SCUM manifesto, or Society for Cutting Up Men. Her play script was later found in the bottom of his lighting trunk and premiered in New York in 2000, twelve years after her death, derelict and homeless, in 1988. Next year, 2009 will be the sixtieth anniversary of Simone de Beauvoir's treatise *The Second Sex*, which also inspired Germaine Greer's *The Female Eunuch*, in 1970 – both women writers had their roots in communism and anarchism. The first feminist, Mary Wollstonecraft, published her "Vindication of the Rights of Women" in 1792 after the French Revolution. She found out that equality did not apply to the sisters, and she ended up marrying for the sake of her child, a position which is still with us today, despite efforts of reform and changes in the law by among others Mary Robinson, our first woman President. After Wollstonecraft died in childbirth, there was none to succeed her, save her daughter Mary, who became one of the key writers of the Romantic movement. There followed a century of quietism in the Victorian era, when women were so modest that the sight of piano legs had to be covered. But perhaps the feminist who has impacted most on women's life is a housewife, turned writer Betty Friedan

Betty Friedan believed she had been fired from a journalist job because of a pregnancy. This may indeed be the case, and is still with us today, a point I will come to later. Betty Friedan found housework and the domestic sphere to be suffocating, and wrote articles about it. She then decided to rework and expand this topic into a book, *The Feminine Mystique*. Published in 1963, it depicted the roles of women in industrial societies, especially the full-time homemaker role, which Friedan deemed stifling. Friedan speaks of her own 'terror' at being alone, and observes in her life never once seeing a positive female role-model who worked and also kept a family. She provides numerous accounts of housewives who feel similarly trapped. With her psychology background, Friedan also attempts to offer some answers to those women who wished to pursue an education. The book became a bestseller, which some people suggest was the impetus for the second wave of feminism, and significantly spurred the women's movement. Today the majority of women in western democracies work outside the home, but however, despite all the rhetoric and deep shift in cultural values, the question of women and work is to some extent unresolved.

Women and Work are still in the news. As I write this, on Tuesday 23 September, Ruth Kelly the British Education Secretary has resigned, giving her reasons as a wish to spend more time with her family. On Friday, 28 September, *The Irish Times* reported that Heather Lane was awarded more than 56,000 Euro because she was discriminated against at work in a credit card company because of her pregnancies.

The Equality Authority welcomed the decision, describing pregnancy-related discrimination as a "very blunt, overt form of discrimination".

Equality Authority chief executive officer Niall Crowley said it received about 300 complaints of pregnancy-related discrimination every year but they amounted to the "tip of the iceberg", given the number of women who do not complain.

"We have cases of women not getting promotion or of finding a deteriorating position in the workplace. Other cases relate to women being made redundant or their positions finished or squeezed out of their job," Mr Crowley said.

"It is an area that has been legislated for over the last 30 years and we should be seeing a reduction in cases like this, but we're not."

Although there is legislation in place to protect women from discrimination in relation to sex,

all the signs are, as I have said, that the whole women and work issue has not been entirely resolved. Since the 1970s, women for the first time in history on a mass scale, have been in the workforce.

As recently as last month, September, there was a report in the British press that women were asked to stay in the home for the benefit of their children and society. The journalist, Sarah Cassidy, wrote a piece for the UK "Independent" about a think tank chaired by the former Conservative leader, Iain Duncan Smith. This think-tank report stated that many of society's problems, such as knife and gun crime among teenagers, alcohol and drug abuse and poor mental health can be traced back to parental neglect when children were very young, said the Centre for Social Justice. Its recommendations was based on "compelling" research in psychology and neuroscience over the past decade which has suggested that a close bond between parent and child is vital to a child's future health and happiness.

What happens if that close bond is not made with the child due to pressures at work? A recent survey about young people, which was published on our national broadcaster's RTE's site, reported on teenagers from a wide variety of backgrounds.

Among the findings were:

- 42% would be as likely to live with someone instead of getting married.
- 81% felt exam pressure too great
- 78% felt pressure to have a lot of money
- 95% feel they live a happy meaningful life
- 70% are afraid of street crime which figure rises to 78% in small/medium towns
- 46% go to a church, in cities 28%
- 82% believe family are more important than friends
- 38% have been bullied
- 47% know someone who has attempted or succeeded in suicide
- 64% feel that the legal age for sex is just right
- 52% have had sex..37% of 15 to 17 yr olds
- 90% have drunk alcohol../.87% of 15 to 17 yr olds
- 32% have taken drugs
- 80% say drugs are freely available
- 20% wish their parents drank less

These are worrying trends in relation to alcohol and drug abuse. This development in society has taken place over the number of years that have coincided with the rise of the number of women in the workforce. Nowadays the majority of teenagers come home to an empty house, where there is no comforting presence and the absence of a carer can create a situation where alcohol can be abused and pornography too easily available.

It is true that for some time now people have been uneasy that the Celtic Tiger, far from presenting a uniform picture of happiness and prosperity, actually concealed from us a state of social chaos and psychological disturbance in our young people. Are these phenomena linked? And how would we go about proving this? For there are other factors involved, such as pressure for examinations, pressure from one's peers, and exposure to the extremes of a consumer society which Ireland has been experiencing for the first time.

Another very vulnerable group are the young men and women in their twenties and thirties who work from dawn to dusk just to pay for their homes and living expenses, while their children suffer from a constantly changing rota of carers, so that the young, if we are to

believe the think-tank, are unable to build up any sense of trust and dependability. Children as young as three years of age have been reported as being depressed. Yesterday's newspaper reported that girl teenagers were more violent than boys in the home. The most worrying statistics is that, although most teenagers claim to be happy, nearly half know someone who has attempted or committed suicide.

What lies behind the figures for depression and suicide?

There have been disturbing incidences in society which were previously unknown. These are cases where a parent, usually the father, kills his partner and children and then kills himself. These sorts of stories are quite new and have shocked local communities to the core, as in Wexford and Donegal, and across the water in the UK.

Does the crisis in the environment show us we have not been handling change well? Irish society is experiencing not only a financial crisis, along with the other western democracies, but perhaps that may be solved easier than an emotional crisis some are experiencing. The stress levels are extremely high for women who both work at their career and are mothers – the phrase juggling a work and life balance is heard everywhere. But for some, the emotional crisis may be very deep, and high stress levels may have a bearing on women's health.

However, there has been no over-all study on how the huge changes since the sixties have affected health, taking in both environmental and societal factors. The evidence is now conflicting, coming from different sources. We badly need a study where all these things can be factored in a deep level report to be written and made available.

There are other factors too, which would have to be studied and computed before we made any verifiable judgements on trends affecting women and families.

In looking back at the changes since the 1960s – the difference between then and now – it seems we are continually in a state of crisis. Before we can rush to judgement as to women and work in our society, we could ask how the change happened, if it happened to quickly, and who is it now affecting, women mostly, but also men and children.

And above all we could ask the question: why did it take so long for information to reach the mainstream? Are we in fact experiencing Fire Brigade politics, when the problems are not diagnosed at source, but have to amount to critical mass before they are reported in the media and politicians react rather than act. Are the media to blame for this delay in reporting matters of vital concern?

Feminism arose out of a perceived injustice against women, which was largely cultural, but also was part of the legal system. The changes were largely brought about by women working in the media, using ideology to change public opinion. The majority of women are now reported as happy about women's new role in the workplace, while a recent poll about men in one of our national newspapers, The Irish Times, reported that the vast majority were happy with their lives. But the suicide figures tell a different story, some stories telling of male dissatisfaction over how their traditional role has been eroded, and how the radical feminists took no account of men, or of children either. Now that the rate of change is happening much faster, and with unexpected results in some cases, perhaps it is not untimely to look at the situation today in relation to Irish women and work.

It is quite extraordinary, that despite significant changes in law and society, that the fundamental law of this country, the Irish Constitution, remains unchanged in certain key areas relating to women. . I am sure some of you here don't need to be reminded of Article 41.2.1. In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved.

So today, although some of us may feel that the sex wars are largely in the past, we will take a look the Irish Constitution in this regard.

The Constitution has a liberal-democratic threshold whose real provenance is natural law. The sum of the liberal idea is that every man (note, 'man') enjoy the same rights as are granted to other men, and this idea is expression in the notion of the citizen. The idea of the citizen can be traced as far back as Plato, even beyond. To combine therefore, the Catholic state and the liberal-democratic inheritance was the task of the drafters of the Constitution. These drafters of the Constitution, de Valera and Archbishop McQuaid, left their mark on the Constitution in a fundamental way that affected women, and this part is still in place, under the section of rights and "The Family".

Looking at the Constitution overall, however, our first impressions are favourable. The Constitution refers to sex discrimination as early as article 9.1.3. when it states "no person may be excluded from Irish nationality and citizenship by reason of the sex of such person". It is quite clear that the word 'citizen' refers to women and men equally.

Throughout the Constitution the word 'citizen' can therefore be taken to include both men and women. In a similarly non-sexist way, the President, Taoiseach, Attorney General and head of the defence forces are citizens, and there is no bar as regards sex in the Council of State. This is as it should be, and many people are satisfied that the Constitution per se is not a sexist document. We in Ireland have had the privilege of our last two Presidents being women, and the 1937 Constitution specifically allowed for that in its notion of the citizen. However, for all the bravado about the citizen, a fear of secularism, as I have mentioned, is evident in the Constitution. When it came to the section of fundamental rights, and the family, the Constitution, a balance was sought in individual freedoms, and control was achieved through a conservative approach to the family. This fear of secularism is evident in the Kinder, Kuche, Kirche, view in relation to women and human rights. Ireland, in common with the revolutions in France, the Soviet Union, and the United States, had been brought into being by a rebellion. Saorstát Eireann, as it was first known, or the Free State, did not want to jettison the traditional values which had such an emotional power over the population. Due to the fact that in the struggle for freedom the church had been principal in giving a positive sense of identity to the emerging Irish nation, a cautionary attitude against excesses in dismantling the past was the mark of our early statesmen.

There was a conscious effort to bring together the Gaelic inheritance and the Catholic constructs, since they had been supports for one another in times of oppression. The woman was subsumed under the family, in the name of protecting individual freedoms against state control. The new state of Ireland, idealising a masculinist Gaelic past, cast her image of womanhood in relation to the family, in powerlessness, a woman revered above reason, loved beyond question, and above all pure – with no public role to play. Thus the attenuated Gaelic past was resurrected in the Christian woman, whose life, ever open to the possibilities of transmission, was passive. The right of married women to work was not established explicitly until 1982 in *Murphy v. The Attorney General* 1982 IR 241. The protectionist attitude towards women and work, however, is reflected in our night-work legislation, which was challenged in the courts in the 1980s and upheld.

However, the use of the word "woman" in relation to "life within the home" is problematic. Since women had no voice in the Constitution, every mention of them in the Constitution could be looked upon a male fiction. It was irrational in the extreme, not to speak of wishful thinking, to oversimplify women and their place in society in such a way. The idea of woman, however, under the fundamental rights section, was based on an emotional consensus: what woman appears to be to men. The rhetorical character of the language, with its sly imperatives shows no understanding of the complexities involved. Woman is thus

summoned from her polymorphous integrity to display only those attributes essential for male survival, wellbeing and self-esteem, in the name of society and the common good

Is woman the citizen different from woman-in-the-home and can she be the same person?

First, I would like to point out that 'woman' is a generic, and when the generic is used, it is important to realise that it implicates all women, as it stands for each woman and every woman. The generic here is entailed to 'life within the home;' so that it is not only closely identified with it, but depends for its meaning on the entailing phrase. Since the word 'woman' is generic, it follows that its meaning is substantive and essentialist, rather than related to capacity. The entailment here to 'life-within-the-home' links the idea of what is essential, and what is related to capacity, too closely. Feminists have challenged the idea of essentialism in relation to women, preferring itself to see women as a construct of social identity, this also has its roots in Marxism. For all intents and purposes, it is their wish to see women genderless, that is, not suffering injustice because of their gender. Note that the word 'life' is used, and not 'work'- thus, an all-encompassing sexual difference, not a physical capacity or function, is intended. There is confusion here between what 'woman' is, and what 'woman' does.

From time to time, a majority of women have worked in the home, usually since the work in the home has tied in with duties as a mother. It is quite clear that it is essential for a young infant's survival that he or she has access to the mother or childminder. But it is not essential for a woman to be a mother. But it is certainly a big part of most women's life.

In the Constitution written in 1937, the mother's work is given the social sanction of the state, in that the state has an interest in the health and wellbeing of its young citizens, but we must remember that this is work for a period, and it is work that does not define all of a woman's life, or part of the life of very many women at all.

But the article in the Constitution still stands. The private sphere of choice has been selected to typify and generalise for all women, work in the home which is not essential to them at all, and which for a large number takes up only part of their adulthood and sphere of interest. By giving women the sanction of the community, a bias has been created in that women are accepted for choices made in the private sphere of the family when indeed they may be endowed with gifts more suited to a public arena. If men and women are seen to differ so essentially, so that the exercise of capacity creates a whole spectrum of possibilities which may or may not seem suitable for one sex, how should this idea of capacity relate in general to equality of rights between men and women? If such difference were found and accepted, would it include all women? The word 'woman' in this Article would make it very likely. We are assured by Article 45.2, which sets out the right to work in explicit terms: 'The State shall, in particular, direct its policy towards securing that the citizens (all of whom, men and women equally have the right to an adequate means of livelihood) may through their occupations find the means of making reasonable provision for their domestic needs.'

If, on the other hand, our concern is for the welfare of mothers and young children, we find the right principle in Article 41.2.2., in that it recognises the dependence of young children on the mother. If mothers want to be with their young children and not to have other duties heavily in conflict with this: '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.'

Though with the use of the word 'therefore' following on directly from the preceding Article in relation to 'woman', 'mothers' here would seem to include all mothers, married or no. It may be seen to be a practical measure in relation to the duties of motherhood since it is essential, we have stated, for the infant to have access to the mother, or substitute, it does not per se create a conflict about the right to work for women, since many women are not mothers of young children, many mothers will not want to work while their children are

young while other mothers who need to work for immediate pecuniary gain will be able to secure the proper care. The Article there is a protection against being forced to work through economic necessity, and I would like to point out it does not make the presumption of a life within the home as Article 41.2.1 does.

However, we are again left with Hobson's choice, as the very conditions holding in the marketplace and in work today make it essential for many women to work in order to pay for their mortgages. Mortgages at one time were contracted on the basis of one person, usually the man, earning one wage for both, now both partners at work are needed to keep up with the cost of living, especially if the couple wish to own their home. It is interesting that there has been no Constitutional case taken on the basis of mothers not being forced by economic necessity to go out and work and leave their children. In the present difficult climate, it may be interesting to ponder, if such a case would be taken, what the outcome would be

The problem has become more acute since the introduction of tax individualisation by the then Minister of Finance, Charlie McCreevy in 2,000. Under this system, a married couple where both partners worked gained more tax relief than a married person whose partner did not work outside the home and whose aggregate income was the same.

Truer, there are also carer's allowances, which only run into small amounts when compared to that kind of individualisation, and the children's allowances, but all in all, a married couple benefit more when both work outside the home than when only one partner does. This indeed has the effect of encouraging more women into the workplace but some people have voiced the idea that this in fact lessens the choice for a woman who wants to care for her own children in the home.

It may be that, despite the empowerment and education of women, and the language of choice in which this debate has taken place, many women who are mothers do not have a real choice. Some news sources have estimated that by the time they are forty, a quarter of all women will have no children. And this number is rising as women become first educated, then established in their careers. There has not been enough research done on how these women feel about giving up being mothers, whether they regret it, or whether they had sufficient choice in the matter.

Becoming a mother is also seen by some to be a choice, where in a former era it was looked upon as a natural outcome of relations between the sexes. But if would be a pity of the language of the Constitution was entirely construed in the language of choice, since that word essentially relates to the market place. There are other considerations, such as priority for one's children, and the desire to be educated and pursue one's talents, that differ. From generation to generation there are different interpretations on the role of women but we must not deny the reality of biology for most women and find the best ways of accommodating that in our law and working conditions.

The role of women in society and women in the home are often seen as opposites or contraries, when in fact, over a certain time-span, these two roles may be the reality of one woman, and thousands more. It is estimated that almost fifty per cent of women work outside the home, while fifty per cent prefer to care for their own children at home. But at different times, the woman may elect to do one or the other, but she may lose out on both counts. If she goes to work, she may find it impossible to have the children she wants when she wants them, and to opt to care for them while they are young, while later on, she may want to use her education and talents and must not lose her foothold on the career ladder because of those child caring years, that she that she can return to the workforce when the time is right for her. Some may feel this is asking for the moon, but the reality of the situation and the difficulty of the choice has been underestimated over the years.

There remains, therefore, the unresolved issue of Article 41.1.2 on women in the home, still in the Constitution, still unchallenged. There are some groups in Ireland working for a civil

society, and who want to emphasise the role of married women in the home, and who may at one time resort to a challenge defending the Constitutional position of women. So it might behove us to have a more serious scrutiny of Article 41.1.2.

We shall have to examine the questions it raises more closely, I believe, if we are to arrive at a complete understanding of the substantive justice obviously intended by the men who were responsible for the language of the Constitution. As we have noted, there is a difficulty in assessing whether the generic 'woman' is being used in the essential sense, or whether capacity is involved. This may be important if we consider a moral imperative is intended by the Article.

This moral imperative has found its most complete expression so far in the judgment of O'Higgins J., which was a dissenting judgement in the *de Burca v. the Attorney General* 1976 IR 38, III TR 37:

"Article 40 permits the State to have regard in its laws to differences of capacity, physical and moral, and of social function. It does not seem incongruous or inappropriate for the State, under this Article, to temper or cushion obligations generally imposed in so far as they affect women. In particular, one would expect this to be done under a Constitution which expressly recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved: see Article 41.1.2. Where, therefore, as in the case of jury service, the State imposes on all citizens an obligation to serve, the discharge of which necessarily takes the citizen concerned away from his occupation and home, special provision obviously must be made in respect of women. In my view, such special provision is permissible under the second sentence of Article 40.1.. and is almost mandatory under Article 41.2.. I cannot see how this can be regarded as an invidious discrimination.

When one considers the special recognition of women and mothers in Article 41 of our Constitution, it does not appear inappropriate that the state in its laws should give some preference to woman; particularly when the exercise of her right in relation to jury services also involves the acceptance of a burden. As I have stated, this is a discrimination is not invidious because it does not amount to an exclusion and because some preferential treatment of women citizens seems to be contemplated by the Constitution."

There are many women who would consider jury service a privilege, and not a burden. The women who took the case won the right of women to serve on juries. However, the O'Higgins's judgement which did not win the case, is a dissenting judgement but is nevertheless interesting. The moral imperative in the sense that it is vague, all encompassing and immeasurable, is a clear appeal to the emotionalism of a woman's duty in the home, and it is felt all the more so when a man's duties are so clearly understood as not to be stated at all.

It is part of the mystification process that women, who bear the responsibility for the achievement of the common good, are not given explicit capacity in Article 41.1.2, but the indirect traditional one of influencing the home. This points to a cultural bias, that women's life and work is not important, and therefore the sad truth is that in the past, women in the home lacked status and were powerless. In other words, at all times women were subsumed under the public role of their husbands and fathers, and if good will and good faith did not come from their men-folk, women were powerless to change their circumstances, even if such circumstances were harming themselves and their children. It is true that before the introduction of divorce in 1996, many women suffered at the hands of their husbands, were not free to work, and had to remain in a marriage because of economic necessity.

A marriage bar existed for women in the civil service and was not repealed until we joined the European Economic Community in 1973. We could also note that the state does now give recognition to work or life within the home in the form, of a very inadequate carer's allowance, and it also gives to those women who are bringing up children alone, whether deserted wives, widowed, or unmarried, and in this way they are honouring the spirit of Article 41.2.2., and the use of the word 'mother's here the problem is, to some extent, avoided.

Does this mean that the logic of O'Higgins J. can be applied to another set of circumstances. In the past, women were technically free to marry, or not to marry, but a sacrifice of their talents had to be made. Now we have a situation where women are free to work and have children, but we must not forget that from time to time their situation is extremely difficult, that many cannot afford to have the children they would like to have, many other women use childcare services when they would prefer to bring up their children themselves, and many other women feel their children are neglected while they themselves are out of work. In a way, it is a reversal of the situation that went before, when women were forced to stay at home, and had no choice. Today, while nominally being free to make a choice, it may be the case that women are able to use their education and their talents denied to them before, but the cost to them is very high if they have children, so it may not be a free choice at all. Particularly, they may not be able to have children at the time when they are most suited biologically to have children. And just at the time when they should be consolidating their careers, the biological questions become more urgent

In a way, the language of choice, or the word itself, is not quite appropriate, one does not go shopping in a supermarket among a similar array of goods and merchandise, when one is looking for a job and family support. The fact is that women were allowed into the workforce on equal terms with men, but in practice they were treated as surrogate men, and no allowances were made for the very important role in biology that most women want and need. Pregnancy rights and maternity leave had to be fought for stage by stage, and as we see from the case of Heather Lane last month, when she was discriminated against when she was pregnant, even when such rights are granted, a case like hers is not unusual, but is the tip of the iceberg.

So while women have been making progress at work and in the professions, there are questions about the kind of choices they make and have to make. The Lane case is proof that feminism has not succeeded in the wider society, that women are still being discriminated against because of their gender, in this case, pregnancy. Not to speak of those women who had to make a hard choice, and who took the boat to England because they could not juggle the life work balance. There is not sufficient information about the reasons women take this course and opt for termination – we only know statistically of the number of Irishwomen who give Irish addresses. It may be that overall the figure is much higher.

These women have been largely silent. The problem was that equality was perceived to be identity, females were supposed to be identical with males, and everyone was surprised when women got pregnant. While we share aspiration for justice and equality with males, we are not identical to them.

This could be the heart of the problem, with the advancement of Marxist thought into the ideology of feminism, and how this ideology has led to a situation where women, and men, consider themselves not only equal, which is fair, but identical, which is impossible. The idea of equality of rights is often presented as equality of identity with males, with the result that women have been accepted into the workforce as surrogate males, and the burden of inequality has been passed on to the next helpless group, children.

The population graphs are worrying. For the first time since records began, the latest statistics

show that the ageing and older population exceeds the number of births. Young people now in their twenties may find the weight of supporting the older generation not only stressful but impossible when they also have the social and financial burden of children. However, some politicians have been quick to seize the nettle. Angela Merkel, the German Chancellor, in 2007 initiated a maternity benefit to mothers, at the rate of 1,500 Euros per month paid until the child reached eighteen months – this has encouraged women to have children in what has become a dangerously volatile market place, and as is seen by the Equality Authority, unfair to women, case by case, and may only be the tip of the iceberg. It is time, perhaps, that a full study was undertaken in relation to women and childcare, and how best to fit these interests in with the opportunities and rewards of the workplace. It is also time for feminism to extend its scope to include the majority of women who will become mothers, and work out ways of helping them and supporting them to make the choices right for them. Free market entrepreneurs must make conditions equitable and fair, and have a sense of social responsibilities when employing mothers, just as government supporting those principles of both equality and fairness in our Constitution must offer some tangible benefits for those mothers who want to care for their very young children at home – given the evidence of the need for bonding by John Bowlby and others, this may cost less to society in the long run. And above all, we need to do more research and arrive at definite findings at how our children are doing in this relatively new situation – our teenagers must not end up being just a costly experiment, but must be guaranteed the best possible environment for their wellbeing and happiness. And for those career women who do so well, we must not make the personal cost to them too high, but most support them in their work and honour their achievements realistically and wholeheartedly.

It is thanks to Angela Merkel that the new generation of women may have both the time to raise their children, and to hold down those interesting jobs when they themselves are happy to do so, when it suits them, and not only a company interested in profit and nothing else on the balance sheet. There are important things to factor in on life's balance sheet, such as quality of life, real freedom to pursue both family and career goals. Nature does not do well with short cuts. This is especially so since the real cost may be borne by the next generation, and it may be prohibitively high, not only emotionally, but in the healthcare costs of our young people. Some aspects of our children's life, particularly teenagers, are particularly worrying, and this question demands a full and responsive answer from everyone in our society, including government policy advisors and women's groups from every shade of opinion.