

# **Citizens, Loopholes and Maternity Tourists: Irish Print Media Coverage of the 2004 Citizenship Referendum**

***Michael Breen, Amanda Haynes and Eoin Devereux,  
University of Limerick***

## **Introduction**

On March 10<sup>th</sup> 2004 the Minister for Justice, Equality and Law Reform, Michael McDowell, signalled his intention of holding a referendum aimed at restricting citizenship rights. Following a mixture of rumour, speculation and debate, the cabinet decided on April 6<sup>th</sup> to hold the citizenship referendum on the same day as the Local Government and European Elections (June 11<sup>th</sup>). There were clear divisions between the political parties on the proposed referendum. Fianna Fáil and the Progressive Democrats were in favour of the change; Labour, the Socialist Party, Sinn Féin and the Greens were opposed, arguing that the proposed changes were racist in orientation. Fine Gael supported the amendment but decided not to campaign. The overwhelming passing of the referendum and the subsequent legislative change - in the shape of the Irish Nationality and Citizenship Act (2004) - meant that on January 1<sup>st</sup> 2005, the parameters of Irish citizenship were significantly narrowed. Hitherto, all children born in Ireland, irrespective of their parents' nationalities, were Irish citizens as of right. Since 1922, Irish citizenship had been defined by state law (and by Constitutional change since 1999) in terms of territory as well as descent. In the 27<sup>th</sup> referendum, the electorate were asked to insert a new clause into the constitution, which, if passed, would radically alter the way in which citizenship was defined in the Republic of Ireland.<sup>1</sup> The subsequent legislation meant that citizenship would now only be automatically granted to children who had at least one parent as an Irish citizen at the time of the child's birth. As a result of this constitutional change, automatic entitlement to Irish citizenship was redefined exclusively in terms of descent.

In this chapter we examine the nature of public discourse surrounding the Citizenship Referendum with particular reference to how the event was covered by two Irish broadsheets. As sociologists we are interested in the significance of the mass media's role in shaping public attitudes and beliefs. Their role is especially important when the focus of coverage is concerned with groups or individuals who are socially distant such as inward migrants, Travellers or ex-prisoners, for example. The 2004 Citizenship Referendum was no exception to this rule, with the many issues surrounding it being played out in both print, broadcast and on-line media. Late night radio phone-in shows, in Dublin and elsewhere, were the site of much racist discourse and mistaken beliefs about the reasons for the proposed amendment. Groups

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1. "1. Notwithstanding any other provision of this Constitution, a person born in the island of Ireland, which includes its islands and seas, who does not have, at the time of the birth of that person, at least one parent who is an Irish citizen or entitled to be an Irish citizen, is not entitled to Irish citizenship or nationality, unless provided for by law.  
2. This section shall not apply to persons born before the date of the enactment of this section."

and individuals who were anti-immigrant, racist and/or in favour of restricting citizenship were strongly in evidence on late night radio phone-in shows in particular. There was a plethora of misinformation and urban myths about the 'rights' that were believed to be accruing to mothers-to-be. These beliefs were debated with individuals, representatives of political parties and NGOs who were in favour of the status quo and who recognised the complexities and realities of inward migration.

In this chapter we examine how the broadsheet media reported on the Citizenship Referendum<sup>2</sup>. We focus specifically on how the issues surrounding the Citizenship Referendum were covered by two quality Irish owned newspapers, as typically representative of a presumed liberal, pluralist discourse. We are interested in examining the understanding of citizenship used within these examples of media discourse. The stories on which our data are based were published in *The Irish Times* and *The Sunday Tribune*, the former widely recognised as the newspaper of record and both seen as highly respectable and reputable publications. The editorial positions adopted by both newspapers was one which favoured the *status quo*. We ask how the papers in question managed to cover the debate surrounding the pros and cons of the Citizenship Referendum. In spite of their stated positions of being in favour of a 'No' vote, how were the viewpoints of those who were in favour of the constitutional change covered? To what extent can we see a slippage in terms of the individual newspaper's stated position vis-à-vis beliefs and opinions which ran contrary to these? We begin by looking at the nature of citizenship.

### **The nature of citizenship**

Citizenship is a mechanism for defining the boundaries of political society. The criteria that determine eligibility for citizenship are criteria for inclusion in or exclusion from this collectivity. To have citizenship is to have political status as a member of a given nation-state. Attached to this status are a myriad of rights and entitlements, to which the non-citizen has more limited or no access. Moreover, the rights and entitlements of citizens are much more secure because of their recourse to the State as members of political society.

In effect, citizens are differentiated from non-citizens by their access and recourse to the rights and resources proffered by that State. Because not all members of a nation-state's civil society are citizens of that State<sup>3</sup>, citizenship creates a hierarchy of rights & entitlements between those members of civil society who are citizens and those who are resident non-citizens.

### **2004 Citizenship Referendum**

The referendum was held on June 11<sup>th</sup>, 2004. There was a 59.95% turnout on the day – a significant increase on previous referenda. The

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<sup>2</sup> cf . A. Haynes, M.J. Beeen and E. Devereux, "'Smuggling Zebras for lunch": Media framing of asylum seekers in the Irish print media', *Etudes Irlandaises*, 30-1, 2005.

<sup>3</sup> F. Anthias, and N. Yural-Davis, *Racialized boundaries: Race, nation, gender, colour and class and the anti-racist struggle*. Routledge: New York, 1992, p. 30.

referendum was passed in all constituencies, with 79.17% voting 'yes' and 20.83% voting 'no'. The total valid poll was 1,346, 207, with a total of 20,219 votes being spoilt.<sup>4</sup> The constituency with the highest 'yes' vote was Longford (84.37%) and Dunlaoghaire/Rathdown returned the highest 'no' vote (29.09%).

The overall increase in the number of people voting on the day was as a result, we would argue, of higher-than-usual levels of motivation amongst the general public vis-à-vis the referendum. Harris notes that more votes were cast in the referendum than in the European or local elections<sup>5</sup>. Furthermore, she suggests that: "Anecdotal evidence from political activists and returning officers in a number of electoral wards<sup>6</sup> revealed high numbers of missing ballot papers because people who voted in the citizenship referendum walked out of the polling station with their local and European ballot papers thereby spoiling their votes." Tallaght South had the highest level of spoilt votes in the local elections at 3.4%. Harris also reports that an average of 2% of votes (N=36, 682) were spoiled in the local elections; and 3.3% (N= 60, 587) were spoiled in the European elections. This is in contrast to the referendum poll where only 1.1% (N=20, 219) were deemed to be spoiled. This serves as a very strong indicator that a significant group of people were motivated to vote in relation to the referendum issue more so than in the European and local elections.

One reading of events on June 11<sup>th</sup> is that members of the public were not voting on the technicalities of how citizenship is defined per se but rather were expressing an oppositional view towards inward migration in general. Upwards of 18,000 persons applied for residency rights prior to the constitutional change. Voters' understanding of who these individuals are, what their motivations were and whether granting them residency rights would impact positively or negatively on Ireland, were, we argue, strongly shaped by the media. We turn now to examine two examples of print media coverage of the Citizenship Referendum.

### **Referendum Coverage in the Media**

In examining coverage of the referendum in both broadsheets the search term used was for all variants of the word 'citizen' in headlines exclusively between the dates of January 1<sup>st</sup> 2004 and June 11<sup>th</sup> 2004<sup>7</sup>. The initial search yielded 219 stories of which only 90 related to the citizenship referendum. Twelve of these came from the Sunday Tribune and 78 from the Irish Times.

These reputable journals covered the debate in some detail, and were very factual in their reporting. The Irish Times carried three editorials during this period dealing with the referendum, on April 8, March 12 and June 8. A further 9 articles were Opinion & Analysis pieces and another 11 made the front page. The Sunday Tribune carried no editorials on the issue, two

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4 [www.referendum.ie](http://www.referendum.ie)

5 C. Harris, C. 'Changing turnout trends?' - an analysis of the 2004 citizenship referendum, European and Local Elections. <http://www.tascnet.ie>, 2005.

6 Specifically referring to discussions held with electoral officers in Dublin and Cork.

7 The stories in question were selected using the Lexis-Nexis database

Opinion & Analysis pieces and two front-page articles. The time spread of the articles is also interesting: there were 13 articles in March, 38 in April, 25 in May, and 12 in June, suggesting that there was a substantive debate, at least in terms of media coverage, in the months preceding the referendum rather than an accumulation of coverage and subsequent information overload in the immediate time before the actual referendum. The final Irish Times editorial on the matter was utterly unambiguous: there was no gain from voting 'yes' in the absence of a full, unhurried debate and the leader strongly urged a 'no' vote. Only three of these op-ed pieces, by Michael McDowell, Brian Lenihan and Paul Cullen, argued in favour of a 'yes' outcome. Generally these pieces were thoughtful, balanced, and the majority of them carefully urging a 'no' vote so that a greater debate could take place before the issue was put to the electorate, if at all.

The front-page articles were most prominent in April, well before the referendum, with 7 in the Irish Times and 2 in the Sunday Tribune. The Tribune articles focused on the Northern Ireland dimensions and the lack of support for the referendum amongst 'Health bosses' indicating that the Health managers wanted improved resources for all maternity hospitals rather than a restrictive constitutional change that would affect non-nationals alone without increasing care or quality. The Irish Times front page articles in that month headlined the opposition of Dr. Diarmuid Martin, the Archbishop of Dublin and Bruce Morrison of Morrison visas fame, as well as the support of the British government for the referendum. It also highlighted the myth of the maternity figures and twice gave prominence to the size of the anticipated 'yes' vote, the latter of these on June 7<sup>th</sup>, just four days before the actual poll. The significance of this poll and the publication of its findings are not researched, but there is good reason to believe from previous constitutional ballot and public opinion poll research that the indication of a definitive result has the effect of diminishing the turnout from those who might vote in the opposite direction.<sup>8</sup>

There is, of course, much more to the discourse than front-page stories, opinion pieces and editorials. In January, Arthur Beesley of the Irish Times reported on the Government's legal advice to the effect that the constitutional right to Irish citizenship for all children born on the island of Ireland should be withdrawn. This was suggested on the grounds that a Supreme Court ruling in 2003, stating that the non-national parents of an Irish-born child could not automatically claim the right to live in Ireland, had not had the effect of stopping non-national women from presenting late in their pregnancies to give birth at Irish maternity hospitals. The result of this was that their children were automatically Irish citizens and, therefore, had a right to an EU passport.<sup>9</sup> In the same issue, Mark Brennock, the paper's chief political correspondent, cited a briefing document from the Department of Justice:

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7.D. Chaney, Public opinion and social change: The social rhetoric of documentary and the concept of news. In E. Katz & T. Szecsko (Eds.), *Mass media and social change*. London: Sage Publications, 1981; L. Peer. The practice of opinion polling as a disciplinary mechanism: A Foucauldian perspective. *International Journal of Public Opinion Research*, 4(3), 1992, p. 230-242.

9 Irish Times, p. 7, 1/1/2004

The fact remains that a non-national becoming the parent of a child born in Ireland attracts greater entitlements than would be the case if they were present in any other member-state of the European Union - in terms of the child's entitlement to Irish and European citizenship and the perceived benefits of this for the parents now or in the future.

Brennock wrote that Ireland was 'the EU state with the most liberal regime in relation to citizenship rights of children of non-national parents, and the only state offering an unqualified right to citizenship' before giving precise figures on the numbers of persons granted residency on the basis of parenting Irish-born children in 2001 and 2002. No breakdown of the nationalities of the persons seeking such citizenship was given.

Twenty-one stories used the word 'abuse' in a variety of contexts: 'abuse of our citizenship laws', 'asylum abuse', 'abuse of Irish citizenship', and 'abuse of our law'. Only in two articles was the term 'abuse' qualified as 'potential abuse' or 'alleged abuse'. The term was also applied to the referendum process itself, as an abuse of the procedure, in just one article.

The term 'loophole' was used in 15 of these articles. Stephen Collins, political editor at the Sunday Tribune, referred to the 'Agreement loophole'.<sup>10</sup> Paul Cullen of the Irish Times referred to the 'citizenship loophole as a pull-factor for immigration'.<sup>11</sup> An article by Peter Finlay SC headlines the L-word – "Equality should be cornerstone of law on citizenship: The referendum on Citizenship might close a loophole, but only by creating an inequity..." although it was not used at all by him in the body of the text.<sup>12</sup> US politician Bruce Morrison attacked the Government for referring to the proposed constitutional change as 'just a small loophole-closing measure', stating explicitly and somewhat in isolation, that there was no loophole.<sup>13</sup> Mary Coughlan, Minister for Family & Social Affairs, saw a need 'to close the citizenship loophole'.<sup>14</sup> The Taoiseach referred to 'rampant abuse' which necessitated the referendum as 'the loophole should not exist'.<sup>15</sup> Mary Harney spoke about how important it was to 'plug the loophole'.<sup>16</sup> Later she stated that it was 'Government's duty to close the loophole'.<sup>17</sup>

Thirty stories refer to maternity and maternity hospitals as an issue in the context of the referendum. Five of these reference a crisis in the maternity hospitals. The maternity issue surfaced early in the debate and, although much of the data was acknowledged as questionable, did not quite go away. In March Minister McDowell painted a picture of pregnant "citizenship tourists" placing great strain on the State's maternity services and explicitly stated that the Masters of Dublin's maternity hospitals had come to him to express grave concern, and had pleaded with him to change the law. The Masters of the maternity hospitals challenged McDowell's version, saying they neither sought

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10 Sunday Tribune, p. 9, 25/4/2004

11 Irish Times, p. 18, 3/6/2004

12 Irish Times, p. 20, 4/6/2004

13 Irish Times, p. 18, 8/6/2004

14 Irish Times, p. 13, 10/6/2004

15 Irish Times, p. 6, 31/3/2004

16 Irish Times, p. 8, 8/4/2004

17 Irish Times, p. 7, 21/8/2004

a meeting, nor did they plead for a change in the law. Despite early recognition that the numbers of non-nationals using the maternity system was much less than originally suggested, the myth persisted and appeared to defy correction, a phenomenon common enough in relation to myths about non-nationals in Ireland. In March, Mary Harney stated that there was 'enormous concern about what's happening' and that she had been told privately 'if the trend continues we'll need another hospital facility in the greater Dublin area'<sup>18</sup>. Despite the dearth of accurate figures regarding the nationalities of those utilising maternity services, there was an implicit assumption in much of the discourse that it was non-nationals from outside the EU or the accession states who were involved: this is evidenced by the frequency of references to asylum. Some racist websites greatly exaggerated the issue and purported that it was particularly a phenomenon associated with people of colour, especially Nigerians. Diarmuid Doyle analysed the Government's use of a specific statistic, that one in four births in Dublin hospitals last year was to a non-national mother: it transpired out that "these mothers were from the United Kingdom, the United States, France, Germany, Nigeria, New Zealand and a whole host of other countries, and that the vast majority of them were living entirely legally in Ireland.' No Dáil report ever indicated that this was subsequently highlighted in the debate.

There are 44 references to 'asylum', including 'asylum abuse', 'asylum mismanagement', and 'asylum problem'. References to 'exploitation' number 22 in all, 8 of which are references to exploitation of the law by 'non-nationals' but the remainder of which are directed at politicians: 'exploiting ignorance, bigotry and racism', 'exploiting the fears of the electorate', 'exploiting the race issue' and 'exploit public unease'. A further 13 articles refer to 'citizenship tourism', 6 to 'citizenship tourists' and 1 to 'passport tourists'.

Of significance is the manner in which Irish citizens of non-national parentage were referred to in media coverage. The term 'Irish-born children' was that most commonly used to signify this group. Through this use of language, the citizenship of these children was not merely questioned but actively denied in the media discourse, because under the existing law and constitution such children were already Irish citizens. This term of reference supported the idea of 'closing a loophole' by placing a question mark over the legitimacy of these children's citizenship. In light of these descriptions of the media coverage, we turn now to the issue of citizenship from a sociological perspective.

## **Conclusion**

The debate on the citizenship referendum was for the most part rushed, under-analysed and highly polarised, driven by a panic-type reaction to the phenomenon of inward migration, as recognised by the newspapers' editors. It is very evident from the media content which we have analysed that the editorial stances of the two broadsheets were above reproach, balanced and nuanced, as manifested most clearly in the Irish Times' final editorial on

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<sup>18</sup> Irish Times, p. 6, 24/3/2004

the topic which questioned the validity of holding a referendum in such circumstances and called for a 'no' vote.

Outside of the editorial contributions, the general coverage represents an altogether different discourse. Whilst the Referendum Commission and a wide range of groups working with immigrants in the NGO sector attempted to explain the implications of voting 'yes' or 'no', much of the factual media coverage was in terms of Government comments; these framed the debate in three ways: the need to close a perceived loophole in the Irish constitution; the maternity hospitals crisis; the citizenship of children born to non-national parents as an abuse of the system; and their parents' application for residency rights as its exploitation. All of these frames have been identified as problematic and were strongly challenged by groups opposed to the referendum.

The consistent use of direct quotations from politicians directly in favour of the proposed constitutional change, without analysis or challenge, served to amplify and reinforce that one point of view above all others. These quotations, carried in the Dáil reports, served to set the agenda for the public debate which followed. The same level of coverage is not given ordinary citizens or groups like NGOs working on behalf of those seeking refugee status, for example. In that sense, politicians are privileged sources with direct access to the mass media by the simple mechanism of speaking in the Dáil. Given that there was a majority consensus in the Dáil on the topic, the singular source of Dáil reports set a significant and highly directional frame for the public debate. The voice of the Opposition was heard only in terms of polemic against the Government. Fine Gael, for example, stated explicitly that it 'shares the objective of closing off' ... 'a potential for the abuse of Irish citizenship'.<sup>19</sup> The term 'loophole', for example, became part of the normalised vocabulary or lexicon in common usage. Precisely because these are Dáil reports, they are reported directly, and without comment. Such reportage, however, is only a sample of the actual Dáil debate, not the complete Dáil record. Such journalistic practice tends to offer these reports hallowed status, and any rejection of the claims made only comes later, and often in a different story or opinion piece. A typical example of this is seen in the reporting of Minister McDowell's Dáil references to the maternity hospital crisis.

It is therefore valid to point out that the media discourse itself, taken as a whole, reproduced and disseminated a debate that was flawed, prejudiced, and inadequate, perpetuating public misinformation and failing to make any significant interventions in challenging public xenophobia beyond the relatively weak strategy of editorials and opinion pieces. To be fair, the media discourse was not assisted by the xenophobic and discriminatory interventions of many politicians, including government ministers, who were clearly determined to reinforce a vision of Ireland that was stuck in the past, ignorant of the present and inimically opposed to a multicultural future. In so far as such political interventions are newsworthy, the media rightly reported the news. But insofar as such interventions require a response from the mass media who can hold

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<sup>19</sup> Irish Times, p. 8, 22/4/2004

politicians to account, this discourse on the referendum was lacking in analysis, and was significantly marked by the media's uncritical reproduction and tacit acceptance of politicians' often-xenophobic comments surrounding citizenship, editorial and op-ed pieces to the contrary notwithstanding.