

Constitutional Rights and Legislation

- Express rights
- Implied rights
- Legislative limitation of rights
- Courts' role in assessing legislative limitations

The Right to Life of the Unborn

- Pre-1983 position
- Judicial statements and binding case law
- Prior to the adoption of the Eighth Amendment, there was a body of opinion that the right to life of the unborn was protected by the Constitution, even though not expressly stated there.

Possible Options

- Retain Article 40.3.3 in its present form
- Repeal Article 40.3.3
- Amend Article 40.3.3

Constitutional Implications of Repeal

- Form of abortion legislation exclusively a matter for the Oireachtas, or
- Pre-1983 position revives, or
- A right to choose to have an abortion.

Amendment Options (I)

- Amend so as to increase constitutional protection given to the unborn
- Amend so as to allow more freedom to the Oireachtas to permit abortion but only in defined circumstances

Amendment Options (II)

- Amend so as to expressly remove the right to life of the unborn
- State that the Oireachtas shall have full power to decide on the scope of permissible abortion
- Repeal but provide in Constitution for law which could not be amended without Referendum