



**Submission to Women and Equalities Committee:
Abortion Law in Northern Ireland Inquiry**

10 December 2018

The Abortion Rights Campaign (ARC) is an all-island grassroots movement for choice and change. Since 2012 we have been raising awareness and advocating for change to Ireland's abortion laws. We organise the annual March for Choice, which sees thousands of people take to the streets of Dublin to demand free, safe and legal abortion access for all who need or want it. ARC was a founding member of the "Together For Yes" campaign which secured a resounding Yes vote in the recent referendum to repeal the 8th Amendment. We aim to ensure that the health and dignity of reproductive rights-holders across the island of Ireland are protected in line with international best practice and human rights standards.

Introduction

On the 27th December 1967, Westminster passed the Abortion Act, allowing pregnant people in Great Britain to access abortion in certain circumstances. The Act was never extended to Northern Ireland. Over 50 years later, on the 25th May 2018, 1,429,981 people in the Republic of Ireland voted to repeal the 8th amendment from the Irish Constitution, paving the way for the introduction of abortion services. This development leaves people in Northern Ireland the only people on the island of Ireland and the only people in the United Kingdom without the right to access abortion care at home. While waiting for change, 28 people must travel each week from Northern Ireland to England for abortion care, while many more risk prosecution by importing safe but illegal abortion pills.

While the Irish Minister for Health has confirmed that women in Northern Ireland will be able to access abortion services in the Republic of Ireland, this is no substitute for free, safe, legal and local abortion services in the North. While the Abortion Rights Campaign welcomed the commitment by Minister Harris, allowing access to abortion services in the Republic does not solve the problem of access for those who live in Northern Ireland. While it might be easier to travel across the border than to Liverpool, many women will not be able to travel or will be stymied by the mandatory three-day waiting period and the cost of abortion care and will be forced to continue with a pregnancy against their will.

We hope that this submission will assist the Women and Equalities Committee in its inquiry into abortion access in Northern Ireland. We believe that in order to secure and vindicate the human rights of women, girls and all pregnant people, abortion must be free, safe, legal and available locally. People in Northern Ireland have been treated as second-class citizens in

the UK for too long. This inquiry provides a unique opportunity to put an end to that discrimination.

We make this submission in solidarity with groups such as Alliance for Choice and all pregnant people residing in Northern Ireland.

Voices of those affected

We believe that the voices of those affected by the near total ban on abortion will make a crucial contribution to this inquiry. We are pleased to see that rights-holders have been asked to submit responses on the current law, and urge the Committee to give careful consideration to the perspectives of those with direct experience of abortion in Northern Ireland.

Decriminalisation

In order to provide the best standard of care for pregnant people, abortion must be fully decriminalised. Both the United Nations and the World Health Organisation endorse the removal of criminal sanctions from abortion care¹². Currently, Northern Irish abortion law lags over a century behind its counterparts in the rest of the UK. While the 1861 Offences Against the Person Act is quite an old law, it is still very much an active one. In the past two years, we have seen several prosecutions of women, both those directly seeking an abortion and those assisting them — even a mother who wanted to help her own daughter. These individuals have been punished for accessing a service which is broadly available in the rest of the UK. Northern Irish citizens and residents are unfairly disadvantaged when it comes to accessing reproductive healthcare. Those who lack financial or other resources to travel suffer the most from the extreme criminal sanctions imposed in Northern Ireland.

The solution to this is not to extend the 1967 Act to Northern Ireland, however, as this Act allows for the continued criminalisation of those who access abortion outside of the law (as we saw with the prosecution of a woman in Durham in December 2015³). Rather, in line with current moves in Parliament, we advocate for the full decriminalisation of abortion across the UK. We have recently seen the Isle of Man enact a law which includes the full decriminalisation of abortion⁴. We would urge Westminster to follow the Isle of Man's lead, starting with repealing sections 58 and 59 of the Offences Against the Person Act.

Decriminalisation of abortion is essential to provide the best healthcare and health outcomes for pregnant people. Keeping abortion in criminal law creates a chilling effect on providers that can lead to them interpret the law overly conservatively, which in turn has a detrimental impact on the physical and mental health of the pregnant people in their care. Situating abortion in criminal law maintains the stigma surrounding a procedure which should be seen

¹ World Health Organisation (2012) "Safe abortion: technical and policy guidance for health systems. Second edition." Geneva: World Health Organisation, p.8.

² United Nations Convention on the Elimination of All forms of Discrimination against Women (2018) "Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women." Geneva: United Nations.

³ <https://www.bbc.co.uk/news/uk-england-tyne-35121524>

⁴ <http://calmiom.org/2018/11/18/abortion-reform-bill-2018-to-be-signed-by-tynewald-on-20-november/>

and treated like any other medical care. It also makes those who access abortion outside the law less likely to seek medical help in the extremely rare instances of complications for fear of prosecution.

Devolution

The matter of whether or not to provide essential healthcare in Northern Ireland can no longer be considered a devolved issue. Mounting evidence and opinion condemn the ongoing disregard for the human rights of pregnant people.

Earlier this year, the UN Committee on the Elimination of Discrimination Against Women found that the UK is violating the rights of women and pregnant people in Northern Ireland by restricting their right to access safe and legal abortion.⁵ The Committee concluded that the near total ban on abortion in Northern Ireland amounts to cruel, inhuman and degrading treatment in violation of several articles of the Convention on the Elimination of Discrimination against Women. The Committee also held that the question of devolution did not and must not absolve Westminster of responsibility to rectify these wrongs. Institutions within the UK also recognise that the status quo is no longer tenable. In June 2018 the UK Supreme Court ruled that Northern Ireland's current laws were incompatible with Article 8 of the European Convention on Human Rights — on respect for private and family life — in cases of fatal foetal abnormality, rape and incest.⁶ This ruling has paved the way for individual lawsuits to be brought by women, putting mounting pressure on the system.

While we do not think that human rights should be the subject of opinion polls, it is worth noting that the general public in Northern Ireland overwhelmingly believe that there should be no criminal sanctions for people who access abortion.⁷ Residents in the rest of the UK agree, with 78% of respondents to an Amnesty International poll stating that abortion in Northern Ireland should be decriminalised.⁹ It is clear that politicians are out of step with the general public on this issue.

Free, Safe, Legal & Local

Although Northern Irish people who travel to England are now able to access abortion for free on the National Health Service, they still have to bear the costs of their journey. Further,

⁵ United Nations Convention on the Elimination of All forms of Discrimination against Women (2018) "Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women." Geneva: United Nations.

⁶ Supreme Court Judgement "In the matter of an application by the Northern Ireland Human Rights Commission for Judicial Review (Northern Ireland) Reference by the Court of Appeal in Northern Ireland pursuant to Paragraph 33 of Schedule 10 to the Northern Ireland Act 1998 (Abortion) (Northern Ireland)." 7th June 2018.

⁷ Northern Ireland Life and Times survey 2016

⁸ Bloomer, F., Devlin-Trew, J., Pierson, C., MacNamara, N., Mackle, D., (2017) "Abortion as a Workplace Issue: Trade Union Survey - North And South Of Ireland." Dublin: UNITE the Union, Unison, Mandate Trade Union, the CWU Ireland, the GMB, Alliance for Choice, Trade Union Campaign to Repeal the 8th.

⁹ Amnesty International (2018) "Northern Ireland abortion: 75% of UK public want government to change law - new polls" Available at: <https://www.amnesty.org.uk/press-releases/northern-ireland-abortion-75-uk-public-want-government-change-law-new-polls>

many face challenges in addition to cost which prevent them from travelling, for instance, disabilities or caring responsibilities. Being forced to travel to another country in order to access medical care in no way meets the basic standard of care that Northern Irish residents need and deserve. It also creates an unfair two-tier system where Northern Irish people are treated as inferior to those in other parts of the UK (and indeed, the Irish Republic). The general public in other parts of the UK agree: 85% of English, Scottish and Welsh residents feel that Northern Irish residents should have access to abortion at home, and 75% believe that Westminster have a duty to provide this.¹⁰ In Northern Ireland itself, there has been a marked shift in public attitudes towards abortion. In less than two decades, the number of people who have come to believe that abortion is “acceptable” has risen by 30%, according to a report¹¹ by Ulster and Queens Universities which tracked the findings of the Northern Ireland Life and Times Survey over time. In 1998, just half of the Northern Irish population stated that abortion was “acceptable” in cases of fatal foetal anomalies. By 2016, this had risen to more than 80% of people, with 63% stating “it is a woman’s right to choose whether or not to have an abortion”.

People are coming to recognise the cruel realities caused by exporting pregnant people’s healthcare to other jurisdictions. Earlier this year, Alliance for Choice and the British Pregnancy Advisory Service¹² collected testimonies documenting the harm suffered by women and pregnant people in Northern Ireland from being forced to go to England to avail of basic healthcare. In these testimonies, women spoke about the difficulties of being forced away from home in order to access abortion. Some spoke about the impact of being away from their families, while others talked about the injustice of being forced to get on a plane just hours after undergoing a medical procedure. In August 2018, England followed its counterparts in Wales and Scotland and ruled that pregnant people undergoing medical abortions should be able to take the second pill — misoprostol — at home.¹³ This decision rightly acknowledged the inconvenience and distress endured by pregnant people, who risked cramping and bleeding on public transport on their way home after taking the second pill in the clinic. It is completely inequitable that Northern Irish residents should be the only people in the UK put in this situation by being forced to travel to another country. Residents of Northern Ireland are entitled to free, safe, legal and *local* abortion provision.

Abortion on Request

ARC advocate for an on request model of provision, in which a pregnant person is able to access abortion for whatever reason they want or need one. A barrier-free model would provide access to abortion in a safe and legal context in accordance with international

¹⁰ Amnesty International (2018) “Northern Ireland abortion: 75% of UK public want government to change law - new polls.” Available at: <https://www.amnesty.org.uk/press-releases/northern-ireland-abortion-75-uk-public-want-government-change-law-new-polls>

¹¹ ARK (2018) “Recording Social Attitudes and Informing Social Policy in Northern Ireland: Key Findings from 20 Years of ARK’s Life and Times Surveys”. Available at: http://www.ark.ac.uk/ARK/sites/default/files/inline-files/20-Years_ARK_surveys.pdf

¹² Alliance for Choice (2018) “Northern Irish women directly affected by abortion ban tell Westminster to support reform - as MPs launch historic bill.” Available at: <http://www.alliance4choice.com/repeal-58/59/2018/10/pce8x6eiwftl4marruapnmt0mz7be63>

¹³ BPAS (2018) “Home use of misoprostol.” Available at: <https://www.bpas.org/get-involved/campaigns/briefings/home-use-of-abortion-drugs/>

reproductive health guidelines. International experts have acknowledged that access to reproductive health care is paramount to ending discrimination against women and pregnant people.¹⁴ This is a far cry from the current situation in Northern Ireland, where abortion is withheld in virtually all circumstances. Although the laws in the rest of the UK are far more liberal, the continued criminalisation of abortion and (albeit broad) criteria for accessing the procedure is at odds with much of Western Europe, where abortion on request in the early stage of pregnancy is standard practice.

Evidence has consistently demonstrated that countries where abortion is illegal have similar rates of abortion to countries where it is legal, but much *higher rates of unsafe* abortion.¹⁵ Dr. Bela Ganatra of the World Health Organisation testified to an Irish parliamentary committee in 2017, saying: “Our information shows that rates of abortion do not vary owing to the degree of restrictiveness of the law. The statistics show that the level of safety changes as the restrictiveness of the law increases.”¹⁶ While legal barriers do not stop most women from accessing abortion, they make it more difficult and less safe, and subject women and pregnant people to financial and logistical challenges they would never face with any other kind of healthcare. At a population as well as individual level, accessible abortion is good for overall public health. Furthermore, accessible abortion saves lives: a report by the World Health Organisation in 2012 found that where countries impose few restrictions on abortion, maternal deaths and illnesses decrease dramatically.¹⁷ Permitting abortion in only certain circumstances adds to the stigma surrounding abortion and perpetuates the myth that there are ‘good’ and ‘bad’ types of abortion. The reasons people choose to end a pregnancy are diverse, individual and all equally valid. This validity should be reflected in the service they receive from healthcare providers and the laws which govern their place of residence.

Conclusion

The ability to access free, safe, legal and local abortion is a fundamental human right which all people are entitled to, regardless of their ability, ethnicity, income level or geographic location. We, as international human rights bodies and the Northern Irish public have done, implore Westminster to decriminalise abortion across the UK and to legislate for the provision of on-request services within Northern Ireland. The people of Northern Ireland need and deserve healthcare at home. They have waited long enough.

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¹⁴ UN Working Group on Discrimination Against Women (2016) *ibid* p.5

¹⁵ Guttmacher Institute (2018). “Abortion Worldwide 2017: Uneven Progress and Unequal Access”. Available at: <https://www.guttmacher.org/report/abortion-worldwide-2017>

¹⁶ Proceedings of the Joint Oireachtas Committee on the Eighth Amendment of the Constitution Debate - Wednesday, 11th October, 2017. Available at: https://www.oireachtas.ie/en/debates/debate/joint_committee_on_the_eighth_amendment_of_the_constitution/2017-10-11/2/

¹⁷ World Health Organisation (2012). “Safe abortion: technical and policy guidance for health systems.”, p.2.