



Submission to the Oireachtas Committee on Justice and Equality on the Urgent Need to Abolish Direct Provision and Promote the Health and Human Rights of People Seeking Asylum

31 May 2019

The Abortion Rights Campaign (ARC) is a grassroots all-volunteer group dedicated to achieving free, safe and legal abortion care across the island of Ireland, for everyone who wants or needs it. ARC was one of the three core groups that formed the civil society organisation Together for Yes, which successfully campaigned for a Yes vote in the referendum to repeal the 8th Amendment to the Irish constitution in May 2018.

ARC is founded on principles of individual bodily autonomy and decision-making, equality and non-discrimination, with a strong commitment to health and human rights. The Direct Provision system contradicts all of these values. The living conditions in Direct Provision and emergency accommodation undermine individuals' well-being, as does the unduly long and arbitrary process of reviewing asylum claims. ARC strongly recommends a swift end to the system of Direct Provision and implementation of safe, humane housing and support for international protection applicants in the community, as well as speedy and transparent processing of their claims to asylum.

ARC recommends that the Irish Government take immediate action to:

- Abolish the Direct Provision system;
- Increase transparency in the adjudication of asylum claims;
- Give people seeking asylum accessible homes in local communities, not in segregated institutions, and provide them with health, social, and legal support to integrate into Irish society and participate meaningfully in the review of their case;
- Give people seeking asylum access to the healthcare they need, including mental healthcare, reproductive healthcare, and disability services; publish clear procedures for accessing abortion care and give this information to all asylum applicants, in a language they can understand, as well as to General Practitioners and maternity hospitals.

Asylum Seekers' Right to Abortion Care

ARC advocates for free, safe, legal, and local abortion for everyone who needs it, including undocumented people and people in the Direct Provision system. We have seen no public

information regarding the ability of people in Direct Provision or emergency accommodation to access abortion care. ARC is especially concerned that it is simply too difficult for people in these groups to obtain an abortion, as many Direct Provision centres are on the outskirts of cities or in rural areas, where abortion providers are scarce. People in Direct Provision must use their meagre weekly allowance to pay for transportation, or risk having to divulge personal information if they request funding for transportation to a healthcare provider.

Moreover, General Practitioners in rural and outlying areas are often closed to new patients, and asylum applicants who go directly into emergency accommodation¹ instead of through Reception may miss out on getting a medical card.² Compounding the lack of local medical services is the legal requirement to visit a doctor, wait three days, and then go to the doctor again. The obstacles to early abortion care quickly add up, even more so for people with disabilities who may require assisted transportation, sign language interpretation in a language other than English or Irish, or other essential accommodations that the system does not provide. Should a pregnant individual need an abortion after nine weeks, they will have to obtain care in a hospital, and only 10 of 19 maternity hospitals currently provide abortion care. This shortage of doctors and hospitals is particularly troubling for those in the northwest region of the country.³

One reason that people make the profoundly difficult decision to leave their country and seek asylum elsewhere is because they have been subjected to political persecution in the form of sexual and gender-based violence. Rape is one such form of violence, which can be particularly prevalent in conflict regions. Although the Health (Regulation of Termination of Pregnancy) Act 2018 permits abortion up to twelve weeks without specific indication,⁴ partly to provide opportunity for people who have been raped to obtain care without having to disclose their experience, the timeline may be too short for someone who has only recently arrived in Ireland and may not speak English or know what their rights are. Should someone in this situation miss the cut-off, they would face the arduous process of applying for costly travel documents in order to access care outside the country, if they are legally able to leave the country at all. This is too great a burden for someone who has been physically and emotionally traumatised to be expected to endure.

For those who may manage to access early abortion care, privacy is a paramount concern. Medical abortion is the norm in Ireland, a process that involves taking medication 'at home' in order to bring on what is essentially a miscarriage. This process is painful, can last a long time, and involve a good deal of bleeding, depending on the individual. In almost all cases, a

¹ Wide disparities exist in the standard of services across Direct Provision centres in Ireland and most are operating at nearly full capacity. Peter Tyndall, "The Ombudsman and Direct Provision: the story so far," Office of the Ombudsman, January 2018. Direct Provision Centres were 93% full at the end of 2017. Reception and Integration Agency, "Reception and Integration Agency Annual Report," December 2017. Five of the 40 Direct Provision centres in Ireland are currently oversubscribed, according to the Department of Justice.

² Testimony of Rosemary Hennigan, Irish Refugee Council, Oireachtas Committee on Justice and Equality, 29 May 2019.

³ Samantha Libreri, "Concerns raised about implementing new abortion laws," RTE News, 10 May 2019.

⁴ 'Up to twelve weeks' refers to the time since the last menstrual period and is in reality around ten weeks, a considerably shorter timeframe. Health (Regulation of Termination of Pregnancy) Act 2018.

person in Direct Provision or emergency accommodation shares a room with other people, be they family members or perfect strangers. Anyone undergoing an abortion deserves privacy, dignity, and comfort. More doctors should be trained and encouraged to offer vacuum aspiration abortion so that their patients can have a choice between taking medication and having an abortion procedure in the doctor's office. Having this choice is paramount to safeguard individual dignity, which is essential for asylum seekers' long-term integration into the country.

Asylum seekers needing abortion care have been mistreated in the past. We need reassurance this will not happen again, even now that the law on abortion has changed. The Ms Y case of 2014 is a stark reminder of what can happen when the State violates the reproductive rights of people in its custody. As a young woman who was suicidal as a result of becoming pregnant from rape, Ms Y should have been entitled to an abortion under the Protection of Life During Pregnancy Act (PLDPA) 2013. Instead, she was denied abortion care and mental health care until her foetus reached viability, at which point she was subjected to a cesarean delivery. A cesarean is major surgery, imposing serious mental, physical, and emotional risks, which Ms Y should not have had to bear.⁵

ARC is concerned that a situation similar to that of Ms Y could occur again under Ireland's new abortion law. The criteria for accessing an abortion after 12 weeks are both vague and extremely limited. A person is only able to access abortion on health grounds if there is deemed to be a "risk of serious harm" to their health. However, "serious harm" is not defined anywhere in the law and is not a standard medical term with a shared meaning. Past experience with the PLDPA shows that even those who met the extremely demanding threshold were not guaranteed access to abortions.⁶ Given the subjectivity inherent in interpreting vague, non-evidence-based provisions and the continued criminalisation of abortion in the new law, the rights of vulnerable people such as those in the Direct Provision system are at risk. Asylum seekers and their advocates need assurance that such violations of human rights will never happen again. Assurances must include clear publicly available procedures for people in Direct Provision to access abortion, with guarantees of confidentiality and coverage of transportation and all related costs.

Asylum Seekers' Right to the Highest Attainable Standard of Health

While ARC's main focus is on access to abortion, our concerns do not stop there. ARC works in solidarity with other civil society organisations, especially grassroots organisations, to promote the health, human rights, and dignity of everyone living in Ireland. Accordingly, we encourage the Committee and the Irish State to take seriously its human rights obligations to asylum seekers, including the right to the highest attainable standard of health. The human right to health is broadly understood as more than the absence of disease and encompasses living conditions, disability accommodation, and mental and emotional well-being. People living in Direct Provision have long advocated for the right to cook their

⁵ Amnesty Ireland, *Ms Y's case: denied a lawful abortion in Ireland*, 2016. Available at: <https://www.amnesty.ie/ms-ys-case/>

⁶ Irish Family Planning Association, *Irish Family Planning Association presentation to the Citizens Assembly*, 5 March 2017. Available at: <https://www.citizensassembly.ie/en/Meetings/IFPA-s-Paper.pdf>

own meals, along with expanded rights to work and the right to third level education. The status quo not only denies individuals the ability to reach their potential, it also denies Irish society of the contributions that asylum seekers can make.

Furthermore, the often long drawn-out process of waiting for a claim to be reviewed taxes people's mental health. People seeking international protection have, by definition, already experienced dislocation and trauma. They deserve a decision in a reasonable amount of time so that they are not living in a constant state of anxiety.

Finally, ARC firmly opposes the privatisation of administrative and other services related to asylum applicants. We oppose private companies making profits from human vulnerability, in this case, from people seeking safety and protection through the asylum process. Just as the Government recognised that abortion care should be free and provided through the regular public health system if it is to be safe and available equitably to as many as possible, so should the Government recognise that housing, food, and other core needs should be provided by state and local authorities or mission-driven non-governmental organisations, not private for-profit companies.

ARC recommends that the Irish Government take immediate action to:

- Abolish the Direct Provision system;
- Increase transparency in the adjudication of asylum claims;
- Give people seeking asylum accessible homes in local communities, not in segregated institutions, and provide them with health, social, and legal support to integrate into Irish society and participate meaningfully in the review of their case;
- Give people seeking asylum access to the healthcare they need, including mental healthcare, reproductive healthcare, and disability services; publish clear procedures for accessing abortion care and give this information to all asylum applicants, in a language they can understand, as well as to General Practitioners and maternity hospitals.

ARC encourages the Committee to give great weight to the testimony and specific policy recommendations of those directly affected by the current system, whose lived experiences in Direct Provision can best inform the Irish Government on ways to improve the treatment of asylum seekers.

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