

Evangelical Alliance in Northern Ireland Submission to the NI Health Committee on consideration of the Severe Fetal Impairment Abortion (Amendment) Bill

1. The Evangelical Alliance represents and joins together hundreds of organisations, thousands of churches and tens of thousands of individuals to make Jesus known. Representing our members since 1846, the Evangelical Alliance is the oldest and largest evangelical unity movement in the UK. United in mission and voice, we exist to serve and strengthen the work of the church in our communities and throughout society.
2. We have been working in Northern Ireland for around 35 years and engage across a wide range of policy issues from poverty and sustainability to reconciliation and issues of human dignity. We are also a co-founder of the Both Lives Matter campaign and some of the references in our evidence overlap with their response.
3. We advocate for the dignity and protection of both women and children before and after birth. Just last summer alone, we appeared before both the Education and Justice Committees of the Northern Ireland Assembly advocating for improved services for children with profound special education needs and increased protection for women impacted by domestic violence.
4. So we reject a harmful dichotomy that pitches women against their unborn children in a tug of war for human rights. We are troubled by this approach which dehumanises both women and children, before and after birth.
5. Our starting point when it comes to abortion in Northern Ireland is that both women and unborn children are valuable members of our families and communities and worthy of mutual protection as far as possible. Our refusal to choose a side and to advocate instead for both together is considered an increasingly radical idea by many at the extremes of this sensitive debate.
6. We are very clear that our views are deeply shaped by the Christian belief that every human being is made in the image of God. However the idea that both lives should be protected as far as possible is not limited to those of faith. We do not seek to impose our beliefs on anyone, but to advocate for and with those who are vulnerable and marginalised, for the flourishing of everyone in our society.
7. We continue to oppose the imposition of the Northern Ireland Abortion Regulations laid in 2020, and believe that they introduced prenatal disability discrimination which was not there before. Previously, women could receive an abortion based on the threat to their own life or health, which was real and serious and permanent or long term. Now, the law allows for an abortion, without gestational limit, where a severe fetal impairment has been diagnosed (see point 20).

8. In GB, ground E of the Abortion Act 1967 contains a similar provision to the law introduced here in 2020 and it's similar language, 'seriously handicapped' continues to be interpreted each year to include abortions for diagnoses of cleft lip and palate, club foot and many other minor and correctable disabilities.
9. We support the Severe Fetal Impairment Abortion (Amendment) Bill and its objective to amend the law on abortion, in the case of non-fatal fetal disability.
10. We stand with the majority of MLAs who have expressed their support¹ for protection in law for disabled children before birth and with the majority of the population of Northern Ireland² who oppose prenatal disability discrimination, enabled by abortion for disability up to birth.
11. The British government has acknowledged in s7.7 of the explanatory memorandum to the Abortion (Northern Ireland) Regulations 2021 that the recommendations in paragraphs 85 and 86 of the CEDAW Report "*are not binding and do not constitute international obligations.*"³ Northern Ireland's abortion regulations are the recommendations of a non-binding CEDAW Committee report which have been crudely transplanted into domestic legislation.
12. The Minister for Northern Ireland, Robin Walker has made clear that the Northern Ireland Assembly can amend the regulations, "*subject to the usual Assembly and other procedures, including compliance with the European convention on human rights.*"⁴
13. When it comes to abortion, the European Court of Human Rights has consistently applied a wide 'margin of appreciation' to countries within it's jurisdiction. This is in recognition of the sensitives around abortion law and the competing claims for protection under human rights legislation. The protection of children before birth, particularly those with disabilities is a legitimate and proportionate aim. It is an appropriate application and mitigation of any claimed international law within a local cultural and legal context, such as outlined above.
14. Both local and national court rulings have found against a human rights argument for abortion in cases of disability and supported legal protections for preborn disabled babies.

In the UK Supreme Court judgement 2018, Lord Mance stated⁵, "*in principle a disabled child should be treated as having exactly the same worth in human terms as a non-disabled child... This is also the consistent theme of the United Nations Committee on the Rights of Persons with Disabilities, expressing concerns about the stigmatising of persons with disabilities as living a life of less value than that of*

¹ <http://aims.niassembly.gov.uk/plenary/details.aspx?&ses=0&pn=0&sid=vd&doc=301351>

² <https://www.newsletter.co.uk/health/abortion-poll-finds-majority-ni-opposes-new-law-termination-disabled-babies-2883994>

³ https://www.legislation.gov.uk/uksi/2021/365/pdfs/uksiem_20210365_en.pdf

⁴ <https://hansard.parliament.uk/commons/2020-06-04/debates/6919CB43-4007-4B85-889B-79B1D216295D/AbortionRegulationsNorthernIreland>

⁵ <https://www.supremecourt.uk/cases/docs/uksc-2017-0131-judgment.pdf>

others, and about the termination of pregnancy at any stage on the basis of foetal abnormality, and recommending States to amend their abortion laws accordingly.”

15. Medical care for those with disabilities has improved dramatically over the past 50 years. Medical care of babies in the womb with particular disabilities and conditions has now reached the point where surgery can be carried out on babies while inside the womb. Social attitudes and legislation to protect people with disabilities has also been strengthened in the past 50 years: the Disability Discrimination Act 1995; the Northern Ireland Act 1998 and the Disability Discrimination (Northern Ireland) Order 2006 all aim to advance equality and introduce legal provisions against disability discrimination in Northern Ireland. These laws reflect the fact that every person, regardless of ability, is of value and worth. However the regulations introduced just last year in 2020 which permit abortion on the basis, not of a threat to the life or health of the woman, but a perceived disability in the child, show that there is a long way to go.
16. The CEDAW report, which the 2020 regulations attempted to implement as legislation, simultaneously condemn abortion for disability, yet also recommend that it is provided, “without perpetuating stereotypes towards persons with disabilities and ensuring appropriate and ongoing support, social and financial, for women who decide to carry such pregnancies to term.” It is difficult to understand how introducing abortion specifically for disability cannot but perpetuate negative stereotypes and discrimination.
17. At this stage is it important to state that the answer to addressing this discrimination however is not, as is the end goal of some pro-choice activists, to offer abortion in any pregnancy for any reason at any stage up to birth. This simply removes the scant existing legal protections which remain for children before birth, while offering no further support for women who feel their best or only option is abortion in these circumstances or any others. There is an urgent requirement for better support and services pre and post birth for women and families who receive a prenatal diagnosis of disability.
18. A report by a number of leading Down’s syndrome charities found that 69 per cent of pregnant women who were given diagnostic test result indicating their baby had Down’s syndrome were offered a termination in the same conversation. The report also found that where parents had received a diagnosis of Down’s syndrome in their unborn child and stated that they wished to continue with the pregnancy, 46 per cent had termination mentioned again⁶. One mother, Emma Mellor, shockingly relays in a BBC news article that she was offered a termination 15 times during her pregnancy despite making it clear she did not want one⁷. This is indicative of the attitudes than can prevail when protections for the most vulnerable are removed.
19. Babies with correctible disabilities such as cleft palate and club foot are aborted every year with their disability cited as the principal condition for their termination. While the DoHSC are reluctant to release data on club foot, data reported by Eurocat showed that 205 babies with club foot were aborted in England and Wales between 2006 and 2010⁸.
20. To speak personally at this point, I myself, David Smyth, head of the Evangelical Alliance in Northern Ireland was born with a cleft lip and palate⁹. I have never even considered

⁶ <https://www.downsyndromeuk.co.uk/flipbook.html>.

⁷ <https://www.bbc.co.uk/news/uk-england-beds-bucks-herts-51658631>

⁸ <https://www.dailymail.co.uk/news/article-2272783/Dozens-abortions-carried-foetuses-minor-imperfections-cleft-lip-club-foot.html>

⁹ <https://www.belfasttelegraph.co.uk/life/features/ni-man-david-smyth-born-with-a-cleft-lip-and-palate-urges-support-for-campaign-to-close-abortion-law-loophole-39245262.html>

myself to have a disability, yet my condition is one that would no doubt qualify for an abortion under the current legislation on the grounds of a 'severe fetal impairment'. I am happy if the Committee, or indeed the Department of Health could confirm that this is not the case. I am thankful that when I was in my mother's womb the law protected both my life, and the life of my mother about as far as possible. Any assessment for an abortion was made carefully and in limited circumstances based on the threat to my mother's life or health, not on the basis of my perceived 'severe fetal impairment'. As far as I know I am the same human being today, as I was when in my mother's womb, just a little bigger. This bill would reintroduce a degree of protection for people like me and many others.

21. Finally the Evangelical Alliance represents many churches and members who care pastorally, spiritually and practically for women and girls and families in situations like these. I know many Church leaders and members who have walked with women through difficult circumstances involving pregnancy crisis, baby loss and difficult diagnoses. Our research¹⁰ during Covid-19 shows that 90% of Evangelical Alliance member churches surveyed are providing support for vulnerable people, and around 75% of these are working collaboratively with either other churches, charities or local authorities. Some Churches have been running clubs for those with disabilities, offering their buildings to special schools and providing volunteers. Churches still have a long way to go in fully understanding the needs of those with disabilities, and meeting them, but we are on this journey because they are our friends and neighbours, sisters and fellow church members. So are the women who receive these diagnoses, and that's again why we advocate for the protection of both lives, and this bill as an important step in the right direction.
22. We would be delighted to clarify anything or indeed give any of this evidence in person to the Committee if that is helpful.

¹⁰ <https://www.eauk.org/assets/files/downloads/Changing-church-Responding-to-the-coronavirus-crisis.pdf>