



# COMMITTEE FOR HEALTH CONSULTATION: SEVERE FETAL IMPAIRMENT ABORTION (AMENDMENT) BILL

Response from Northern Ireland Humanists, May 2021



## ABOUT NORTHERN IRELAND HUMANISTS

Northern Ireland Humanists is part of Humanists UK, working with the Humanist Association of Ireland. Humanists UK is the national charity working on behalf of non-religious people. Powered by 100,000 members and supporters, we advance free thinking and promote humanism to create a tolerant society where rational thinking and kindness prevail. We provide ceremonies, pastoral care, education, and support services benefitting over a million people every year and our campaigns advance humanist thinking on ethical issues, human rights, and equal treatment for all.

We campaign in favour of sexual and reproductive rights, in particular with respect to abortion. Our position on abortion is 'pro-choice'. We are a member of the steering group of Voice for Choice, the coalition of UK pro-choice groups. We also work with and support Alliance for Choice in Northern Ireland, as well as other pro-choice groups across the UK such as BPAS, Abortion Rights, Brook, and the Abortion Support Network.

We have supported a number of legal cases which sought to extend abortion access in Northern Ireland. In these cases we provided legal and oral submissions to the court and shared our unique interdisciplinary expertise, at the intersection of medical ethics, moral philosophy and law. We provided philosophical evidence from our patrons supporting the concept of reproductive liberty including from Professor AC Grayling, Professor of Philosophy and Master of the New College of the Humanities; Professor John Harris, Professor Emeritus of Bioethics at the University of Manchester; Wendy Savage, gynaecologist and obstetrician, Honorary Professor at Middlesex University, and former elected member of the General Medical Council (GMC); and Professor Simon Blackburn, retired Professor of Philosophy at the University of Cambridge.

## SUMMARY RESPONSE

- We call on the Committee for Health to advise the Assembly against this Bill.
- We urge the Committee to do so as this proposed legislation seeks to curtail hard-fought abortion rights in Northern Ireland, override patient reproductive and sexual choice and



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medical expertise on these matters, and would likely put Northern Ireland in breach of its human right obligations, including in upholding the recommendations of the UN Committee on the Elimination of Discrimination against Women's report of the inquiry concerning the United Kingdom of Great Britain and Northern Ireland.

- We do not have any proposed amendments to the Bill.

## CALL FOR EVIDENCE RESPONSE

1. Northern Ireland Humanists is firmly opposed to the Severe Fetal Impairment Abortion (Amendment) Bill.
2. Although the Committee for Health is not taking a position on the principles of the Bill, we will first set out our response with our stance on abortion before examining the health impacts of the proposed legislation.
3. The right to reproductive health is well established as an integral part of the international human right to health. Abortion is a core element of this right, as outlined in the International Covenant on Economic, Social, and Cultural Rights<sup>1</sup>, Article 12 of the Convention on the Elimination of All forms of Discrimination Against Women<sup>2</sup>, and the UN International Covenant on Civil and Political Rights.<sup>3</sup>
4. We also call into question the extent to which the Bill could be implemented as it would contravene the Northern Ireland (Executive Formation etc) Act 2019. This Act requires the following in Section 9 (1):

*'The Secretary of State must ensure that the recommendations in paragraphs 85 and 86 of the CEDAW report are implemented in respect of Northern Ireland.'*<sup>4</sup>

In turn, paragraph 85b of the CEDAW report recommends the adoption of legislation to:

*'provide for expanded grounds to legalize abortion at least in the following cases:...*  
*(i) Threat to the pregnant woman's physical or mental health without conditionality of 'long-term or permanent' effects;*  
*(ii) Rape and incest; and*  
*(iii) **Severe foetal impairment, including FFA, without perpetuating stereotypes towards persons with disabilities and ensuring appropriate and ongoing***

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<sup>1</sup> International Covenant on Economic, Social and Cultural Rights  
<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

<sup>2</sup> The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)  
<https://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

<sup>3</sup> International Covenant on Civil and Political Rights  
<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

<sup>4</sup> Northern Ireland (Executive Formation etc) Act 2019.  
<https://www.legislation.gov.uk/ukpga/2019/22/section/9/enacted>



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***support, social and financial, for women who decide to carry such pregnancies to term***<sup>5</sup> [emphasis added]

5. Turning to the question of the health impact of the proposed Bill, we fundamentally believe that abortion should be regulated as a medical, not a legal, matter, and that the decision regarding which medical conditions are severe enough to warrant an abortion is best decided between patients and their healthcare providers.
6. The Royal College of Obstetricians and Gynaecologists (RCOG) warns of the difficulty for medical professionals in diagnosing between a 'severe fetal impairment' and a 'fatal fetal disability'. This means that, if introduced, this legislation could result in a short painful life for children whose true conditions in utero were not identified, heartbreak for parents, as well as the inherent risks and harm of childbirth.
7. Beyond this, the difficulties outlined above could be open to human rights challenge. The Supreme Court in June 2018 concluded that Northern Ireland's laws that ban abortion in almost all circumstances are incompatible with UK human rights law, in the cases of women with pregnancies where the foetus cannot survive birth, and women whose pregnancies arise from rape or incest. Therefore, if medical professionals are unable to accurately determine between a 'severe fetal impairment' and a 'fatal fetal disability', this could leave this law open to legal question.
8. This Bill would reintroduce the need for those seeking an abortion to travel to Great Britain to have their healthcare needs met, as is currently the case where a similar law exists in the Republic of Ireland. This would come with significant cost, administrative and emotional burdens, and elevate those with financial means to have more control over their reproductive health than others. It would also once again mean that those in Northern Ireland are denied the same healthcare rights as those in the rest of the UK.
9. The RCOG further warns that the Bill could force patients to take a decision to abort an otherwise wanted pregnancy without the full information and/or enough time to reflect on options due to imposed deadlines to come to a decision. This is because an ultrasonic fetal anomaly scan is taken from week 20 of pregnancy, and further testing and results can take a few more weeks to be returned, which reduces the amount of crucial time for reflection and for difficult decisions to be made. This is not ideal in any scenario and does not uphold conditions for best medical practice.

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<sup>5</sup> Committee on the Elimination of Discrimination against Women. *Report of the 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*. 2018. [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/GBR/INT\\_CEDAW\\_ITB\\_GBR\\_8637\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/GBR/INT_CEDAW_ITB_GBR_8637_E.pdf)



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